

Americans for Financial Reform
Civil Rights Policy Paper Comparison Matrix

AFR Civil Rights Policy Paper	Administration's Proposal	Filling the Gap
Each program and function of each regulatory agency must be assessed for compliance with civil rights statutes.	<p>What does the plan say about agencies conducted self-evaluations??</p> <p>The Administration's proposal calls for the establishment of the Consumer Financial Protection Agency as well as the implementation of a single federal regulator to oversee financial institutions with a federal charter.</p>	<ul style="list-style-type: none"> • The CFPA, Federal Reserve, FDIC, and Federal Regulator must have a Civil Rights Office that will analyze the agency's own operations, programs and policies for compliance with civil rights statutes.
Regulators must enhance their oversight and enforcement of civil rights compliance and ensure that regulated entities are in compliance with civil rights statutes.	<p>Proposes to form Consumer Financial Protection Agency, which will have sole responsibility for ensuring compliance with and enforcement of fair lending laws. The Consumer Financial Protection Agency would be mandated to report its findings to the prudential regulator, but the program and functions of the prudential regulators would not be overseen by the CFPA.</p> <p>"While the prudential regulators should have the authority to decide applications for institutions to merge, the CFPA should be responsible for determining the institution's record of meeting the lending, investment, and services need of its community under the CRA, which would be part of the merger application." (70)</p>	<ul style="list-style-type: none"> • CFPA needs to have clear authority to impose mandates on institutions found to be out of compliance with fair lending and civil rights statutes. • The CFPA must work in tandem with the Regulator to monitor compliance with any mandate or requirements placed on a financial institution. There must be stiff penalties assessed for non-compliance. All penalties must further the work of the CFPA and benefit the public. • The CFPA must have sign-off authority before the regulator can grant emergency or other assistance to regulated institutions. • The CFPA must have sign-off authority before the regulator can approve any merger, acquisition, branch opening or branch closing for a regulated institution.
Regulators must ensure that entities have clear guidance on how to comply with statutes	<p>"CFPA should be able to promote compliance by publishing supervisory guidance indicating how it intends to administer the laws it implements. The CFPA should also be able to use other creative tools to promote compliance, such as publishing best and worst practices based on surveys, mystery shopping, and information collected from supervision and investigations." (60)</p>	<ul style="list-style-type: none"> • The CFPA must work in tandem with the Regulator to provide training opportunities for financial institutions to help educate them about compliance with civil rights statutes and regulations. • The CFPA should work cooperatively with HUD in the implementation of the national fair housing education initiative under the Fair Housing Initiatives Program.

Americans for Financial Reform
Civil Rights Policy Paper Comparison Matrix

<p>President should re-implement President's Fair Housing Council</p>	<p>Not the Fair Housing Council, but includes this snippet:</p> <p>-the CFPA should establish an outside advisory council akin to Fed's CAC and work with other agencies through the Council to "promote consistent treatment of similar products and to help ensure that no product goes unregulated merely because of uncertainty over jurisdiction. Through this Council, the CFPA should coordinate its efforts with the SEC, the CFTC, and other state and federal regulators to promote consistent gap-free coverage of consumer and investor products and services. These agencies will report to Congress on their work and will be responsible for joint initiatives where appropriate." (60)</p> <p>Much of the work of the CFPA appears to track recommendations that we made concerning the reconvening of the President's Fair Housing Council, including bridging the gap between regulators and enforcement, but it does it in a less broad way than the President's Fair Housing Council would be able to do.</p>	<ul style="list-style-type: none"> • The President's Fair Housing Council should be re-convened. The President's Fair Housing Council is comprised of the heads of all federal agencies, regulatory agencies and enforcement agencies. The Council has the responsibility and obligation to see that all units of the federal government work cooperatively to ensure that each program related in any way to housing or urban development is carried out in a manner that affirmatively furthers fair housing. • The President's Fair Housing Council must report annually to Congress on its activities and accomplishments. • The CFPA Consumer Advisory Council must be comprised of representatives of the consumer advocacy and civil rights community and must employ a mechanism for assuring that the CFPA CAC has influence over the decision-making of the Agency. • The Federal Reserve's Consumer Advisory Council must be re-structured so that it is truly a Consumer Advisory Council and is comprised primarily of representatives from the consumer advocacy and civil rights fields.
<p>Each agency should develop a senior position with appropriate staff charged with ensuring civil rights compliance</p>	<p>The Consumer Financial Protection Agency will be in charge of compliance and enforcement, and will cooperate with DOJ. It will oversee "insured depositories and the range of other firms not previously subject to comprehensive federal supervision." CFPA will assume from all other prudential regulators the responsibility for ensuring civil rights compliance. Jurisdiction will extend to affiliates currently not under federal regulation.</p>	<ul style="list-style-type: none"> • The CFPA, Federal Reserve, FDIC, and Federal Regulator must have a Civil Rights Office that will analyze the agency's own operations, programs and policies for compliance with civil rights statutes. • All of the agencies must work together to coordinate civil rights compliance, to ensure that no agency is perpetuating discrimination, and to guarantee that each agency is affirmatively furthering fair housing. • Every agency must refer any potential violation of a fair

Americans for Financial Reform
Civil Rights Policy Paper Comparison Matrix

	<p>The Plan further states that the “core” of the CFPA can be “assembled reasonably quickly from discrete operations of other agencies.” It goes on to say that the rule-writing and compliance divisions from the various regulatory agencies can be carved out of those agencies and re-housed within the CFPA.</p> <p>Opening fair credit access is an affirmative goal of the CFPA, as detailed in the section re: CRA. By housing all of the compliance work in one single agency, however, CFPA risks not having its voice heard because there will not be appropriate civil rights positions in the other regulatory agencies.</p>	<p>lending statute or regulation to CFPA and the CFPA must coordinate its activities with DOJ and HUD to investigate complaints. (A determination must be made as to what role, if any HUD will play in the enforcement of fair lending violations.</p> <ul style="list-style-type: none"> • The CFPA and other agencies will need to create a seamless complaint system so that if a consumer registers a fair housing complaint with HUD or the FTC and that complaint has fair lending implications, the complaint will be seamlessly referred to CFPA and, if appropriate, DOJ. • Currently, fair lending complaints made by consumers who live in a state where there is a state statute that has been deemed to be substantially equivalent to the federal statute may have their complaint referred to a state agency. This process will need to change so that all fair lending complaints remain with the CFPA.
<p>Agencies must be fully transparent and accountable to the public. This includes reporting on their actions and on market participants. Agencies must disclose noncompliance within the agency and within the industry.</p>	<p>The Obama plan calls for CFPA to disclose “major” non-compliance to other regulators, but not necessarily to the public.</p> <p>The plan requires an accountability study of regulations at least every three years. It is unclear if that would require these types of disclosures.</p> <p>CFPA will be given broad data collection/processing availability. Mute on how it will be shared.</p> <p>“To promote fair lending enforcement, as well as community investment objectives, the CFPA should have authority to collect data on mortgage and small business lending. Critical new fields should be added to HMDA data such as a</p>	<ul style="list-style-type: none"> • There must be a reporting system whereby the public can have access to information about non-compliance. While reporting non-compliance issues to the financial institution’s regulator is important, it is critical that the public have access to this information as it may well impact community reinvestment issues. • All non-compliance must be reported to regulators and in a public format, not just “major” non-compliance issues. • When the CFPA issues its accountability study, there should be an opportunity for the public to weigh in. • There should be a public data office/department housed within the CFPA to assist the public with obtaining and accessing data and information. There should be an emphasis on providing data in a user-friendly format. • Non-private data collected by the CFPA should be reasonably available to the public in an accessible

Americans for Financial Reform
Civil Rights Policy Paper Comparison Matrix

	<p>universal loan identifier that permits tying HMDA data to property databases and proprietary loan performance databases, a flag for loans originated by mortgage brokers, information about the type of interest rate, and other fields that the mortgage crisis has shown to be of critical importance.” (70)</p> <p>The CFPA will not look into ways in which the prudential regulators comply with civil rights laws or whether prudential regulators take civil rights violations seriously as they make decisions.</p>	<p>format.</p> <ul style="list-style-type: none"> • Regulators, including the Fed and FDIC (as they will be newly constructed) must make information available to the public on their analysis of their internal operations and their own compliance with civil rights statutes. • CFPA needs to have clear authority to impose mandates on institutions found to be out of compliance with fair lending and civil rights statutes. • The CFPA must work in tandem with the Regulator to monitor compliance with any mandate or requirements placed on a financial institution. There must be stiff penalties assessed for non-compliance. All penalties must further the work of the CFPA and benefit the public. • The CFPA must have sign-off authority before the regulator can grant emergency or other assistance to regulated institutions. • The CFPA must have sign-off authority before the regulator can approve any merger, acquisition, branch opening or branch closing for a regulated institution.
<p>Consumer Protection Paper</p>		
<p>Re-regulate financial products – reform mortgage market, address overdraft and other abuses, adopt a federal cap on high cost credit, update consumer protection statutes to account for inflation and technological changes</p>	<p>Proposed Consumer Financial Protection Agency will have sole rule-making authority for consumer financial protection statutes, including TILA, HOEPA, RESPA, CRA, ECOA, HMDA, FDCPA, future consumer protection laws. CFPA should be granted broad authority to adopt tailored protections.</p> <p>CFPA will define standards for “plain vanilla” products and financial services products must prominently market them. CFPA also will be authorized to warn consumers about potentially</p>	

Americans for Financial Reform
Civil Rights Policy Paper Comparison Matrix

	dangerous products.	
Create separate agency with jurisdiction over all bank and payment products and services, debt related services, debt collection, and credit reporting. Should have enforcement mandate, not reporting mandate. Agency should be forward looking and responsible for fair lending compliance. Should be funded in a way to shield from political/industry influence	<p>Suggests creation of Consumer Financial Protection Agency, which will cover consumer financial services and credit, savings and payment products and related services. Leaves funding open, but suggests funding in part from fees assessed on entities and transactions across financial sector. Provided “full range of enforcement powers over [non-banking] institutions, including subpoena authority for documents and testimony, with capacity to compel production by Court order.”</p> <p>“With respect to enforcement, the CFPA will cooperate closely with the Department of Justice. As in other areas of the law, the Department of Justice will also have independent authority to enforce violations of the statutes administered by the CFPA as well as other statues, such as civil rights statutes, enforced by the Department.”</p>	<ul style="list-style-type: none"> • Not only should the CFPA have responsibility for conducting fair lending compliance among financial institutions, but the CFPA must also have a Civil Rights Officer who reports to the head of the agency regarding the agency’s own compliance with civil rights statutes and regulations. • The role of HUD must be fleshed out and further defined with respect to enforcement of the Fair Housing Act. If all fair lending enforcement responsibilities will be housed within the CFPA, HUD and CFPA must coordinate to refer complaints and, when necessary, to collaborate on investigations. • A new process must be implemented so that fair lending complaints or fair housing complaints with fair lending implications do not get referred to state agencies, most of whom, do not have the capacity to undertake a systemic fair lending investigation.
Office of the Consumer Advocate for each regulator	It is unclear as to whether or not regulators will retain an Office of the Consumer Advocate with the creation of the new agency.	<ul style="list-style-type: none"> • Each regulator should have an Office of the Consumer as well as a Civil Rights Office. See notes above. This is important for coordination among the agencies.
Establish an Office of Consumer Affairs in the White House		
Charter an Independent Consumer Organization	Mute.	
States should not be preempted.	States should not be preempted.	
Outlaw compensation terms that incent lenders and brokers to steer borrowers into higher	CFPA will have the authority to do this.	

Americans for Financial Reform
Civil Rights Policy Paper Comparison Matrix

cost or less sustainable loans; hold “all participants in the loan supply chain” accountable		
Provide consumers with redress	CFTA should be given authority to restrict or ban mandatory arbitration clauses. The proposal suggests that legislation will be introduced to increase statutory minimums for violations of lending laws.	