



**Americans for Financial Reform**  
1629 K St NW, 10th Floor, Washington, DC, 20006

July 12, 2012

Dear Member of Congress,

On behalf of AFR, we are writing to urge you to oppose H.R. 4323, the misnamed Consumer Mortgage Choice Act. H.R. 4323 would unduly expand the “points and fees” definition that determines whether a residential mortgage loan satisfies the Qualified Mortgage (QM) standard. The impact of this would be to substantially weaken consumer protections and increase the amount of fees paid by families on their mortgages. This bill would also undercut the CFPB, which was specifically given the responsibility to determine the technical definition of “points and fees”, and it is in the midst of open rulemaking on this question.

Under Section 1412 of Dodd-Frank, a residential mortgage loan that meets the QM definition is presumed to satisfy the ability to repay requirements. A critical part of this provision is that a loan cannot have more than three upfront points charged (not counting third party fees and bona fide discount points) and meet the QM standard. The definition of points and fees also applies to the provisions for high-cost mortgages, which have a five point threshold. Standard loans typically have only one or two points. One of the dangers addressed by the Act is that some lenders could attempt to evade limits on points and fees by having these fees paid to affiliates, and then claiming these fees should not be included in the fee limits. Now defunct lenders Countrywide and Ameriquest often included high fees paid to affiliates as a way to hide fees from borrowers. To address this problem, Dodd Frank includes these affiliate fees in the limits on fees. To do otherwise would create an unlevel playing field and a large loophole.

Under H.R. 4323, a lender could charge high fees, but have them paid to an affiliate rather than directly to itself and still meet the QM standard, while a lender that charged fewer points and fees, but collected them directly, would not meet the QM standard. This would provide incentives for lenders to engage in the deceptive mechanisms that fueled the financial crisis. The Act encourages transparency and fairness, while H.R. 4323 would return us to the confusion and abuses of the recent past.

One of the largest fees in mortgage transactions is title insurance. This insurance is currently priced so that consumers pay eight times the amount of claims paid by the insurance, a ratio grossly out of line with other insurance products. Because of these high premiums, lenders try to capture all of this business for themselves through affiliated title insurance companies to which they steer their borrowers. The top six lenders currently control over two thirds of the entire mortgage market, with one lender having more than a third of the market by itself. With this market concentration, excepting affiliate title insurance fees from inclusion in points and

fees would enable these large banks to drive small businesses that offer title insurance out of the market.

Another provision of H.R. 4323 would exclude bonuses paid to mortgage brokers and loan officers from the definition of points and fees. Broker and loan officer salary and hourly wages are already explicitly excluded by Dodd-Frank. Bonuses for brokers and loan officers, however, can incentivize loans that are not in the lenders' or borrowers' interest, as they frequently did in the lead up to the mortgage crisis. In addition, to the extent that there are any technical issues regarding broker and loan officer compensation, the CFPB is specifically given the authority and responsibility to address these, they are in the midst of a rulemaking, and they have demonstrated an open and balanced approach to rulemaking. This process should not be disrupted through legislative intervention before the agency finalizes its rule.

Finally, H.R. 4323 would specify rules about escrow payments and their treatment in the points and fees threshold for QM loans. The Act already specifically excludes third party escrows from inclusion in the points and fees definition. Escrows paid to affiliates are appropriately included in points and fees, as excluding them would create a loophole and incentive to hide lender compensation in these fees and avoid the QM protections. Again, any technical definitional issues are properly being determined by the CFPB, and this process should not be short circuited.

For these reasons, Americans for Financial Reform opposes H.R. 4323 and its weakening of consumer protections. Our groups represent consumer, labor, and business organizations that believe that proper oversight of our housing and financial markets is crucial to economic stability and overall prosperity. We urge you to oppose H.R. 4323 and permit urgently needed mortgage reform to proceed.

Sincerely,

Americans for Financial Reform

## **Following are the partners of Americans for Financial Reform.**

*All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.*

- A New Way Forward
- AFL-CIO
- AFSCME
- Alliance For Justice
- Americans for Democratic Action, Inc
- American Income Life Insurance
- Americans United for Change
- Campaign for America's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Media and Democracy
- Center for Responsible Lending
- Center for Justice and Democracy
- Center of Concern
- Change to Win
- Clean Yield Asset Management
- Coastal Enterprises Inc.
- Color of Change
- Common Cause
- Communications Workers of America
- Community Development Transportation Lending Services
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO Mobile
- CTW Investment Group
- Demos
- Economic Policy Institute
- Essential Action

- Greenlining Institute
- Good Business International
- HNMA Funding Company
- Home Actions
- Housing Counseling Services
- Information Press
- Institute for Global Communications
- Institute for Policy Studies: Global Economy Project
- International Brotherhood of Teamsters
- Institute of Women's Policy Research
- Krull & Company
- Laborers' International Union of North America
- Lake Research Partners
- Lawyers' Committee for Civil Rights Under Law
- Move On
- NASCAT
- National Association of Consumer Advocates
- National Association of Neighborhoods
- National Community Reinvestment Coalition
- National Consumer Law Center (on behalf of its low-income clients)
- National Consumers League
- National Council of La Raza
- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National Nurses United
- National People's Action
- National Council of Women's Organizations
- Next Step
- OMB Watch
- OpenTheGovernment.org
- Opportunity Finance Network
- Partners for the Common Good
- PICO National Network
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council
- Public Citizen
- Sargent Shriver Center on Poverty Law
- SEIU
- State Voices
- Taxpayer's for Common Sense
- The Association for Housing and Neighborhood Development
- The Fuel Savers Club
- The Leadership Conference on Civil and Human Rights
- The Seminal

- TICAS
- U.S. Public Interest Research Group
- UNITE HERE
- United Food and Commercial Workers
- United States Student Association
- USAction
- Veris Wealth Partners
- Western States Center
- We the People Now
- Woodstock Institute
- World Privacy Forum
- UNET
- Union Plus
- Unitarian Universalist for a Just Economic Community

*List of State and Local Signers*

- Alaska PIRG
- Arizona PIRG
- Arizona Advocacy Network
- Arizonans For Responsible Lending
- Association for Neighborhood and Housing Development NY
- Audubon Partnership for Economic Development LDC, New York NY
- BAC Funding Consortium Inc., Miami FL
- Beech Capital Venture Corporation, Philadelphia PA
- California PIRG
- California Reinvestment Coalition
- Century Housing Corporation, Culver City CA
- CHANGER NY
- Chautauqua Home Rehabilitation and Improvement Corporation (NY)
- Chicago Community Loan Fund, Chicago IL
- Chicago Community Ventures, Chicago IL
- Chicago Consumer Coalition
- Citizen Potawatomi CDC, Shawnee OK
- Colorado PIRG
- Coalition on Homeless Housing in Ohio
- Community Capital Fund, Bridgeport CT
- Community Capital of Maryland, Baltimore MD
- Community Development Financial Institution of the Tohono O'odham Nation, Sells AZ
- Community Redevelopment Loan and Investment Fund, Atlanta GA
- Community Reinvestment Association of North Carolina
- Community Resource Group, Fayetteville A
- Connecticut PIRG

- Consumer Assistance Council
- Cooper Square Committee (NYC)
- Cooperative Fund of New England, Wilmington NC
- Corporacion de Desarrollo Economico de Ceiba, Ceiba PR
- Delta Foundation, Inc., Greenville MS
- Economic Opportunity Fund (EOF), Philadelphia PA
- Empire Justice Center NY
- Empowering and Strengthening Ohio's People (ESOP), Cleveland OH
- Enterprises, Inc., Berea KY
- Fair Housing Contact Service OH
- Federation of Appalachian Housing
- Fitness and Praise Youth Development, Inc., Baton Rouge LA
- Florida Consumer Action Network
- Florida PIRG
- Funding Partners for Housing Solutions, Ft. Collins CO
- Georgia PIRG
- Grow Iowa Foundation, Greenfield IA
- Homewise, Inc., Santa Fe NM
- Idaho Nevada CDFI, Pocatello ID
- Idaho Chapter, National Association of Social Workers
- Illinois PIRG
- Impact Capital, Seattle WA
- Indiana PIRG
- Iowa PIRG
- Iowa Citizens for Community Improvement
- JobStart Chautauqua, Inc., Mayville NY
- La Casa Federal Credit Union, Newark NJ
- Low Income Investment Fund, San Francisco CA
- Long Island Housing Services NY
- MaineStream Finance, Bangor ME
- Maryland PIRG
- Massachusetts Consumers' Coalition
- MASSPIRG
- Massachusetts Fair Housing Center
- Michigan PIRG
- Midland Community Development Corporation, Midland TX
- Midwest Minnesota Community Development Corporation, Detroit Lakes MN
- Mile High Community Loan Fund, Denver CO
- Missouri PIRG
- Mortgage Recovery Service Center of L.A.
- Montana Community Development Corporation, Missoula MT
- Montana PIRG
- Neighborhood Economic Development Advocacy Project
- New Hampshire PIRG
- New Jersey Community Capital, Trenton NJ
- New Jersey Citizen Action
- New Jersey PIRG
- New Mexico PIRG

- New York PIRG
- New York City Aids Housing Network
- New Yorkers for Responsible Lending
- NOAH Community Development Fund, Inc., Boston MA
- Nonprofit Finance Fund, New York NY
- Nonprofits Assistance Fund, Minneapolis M
- North Carolina PIRG
- Northside Community Development Fund, Pittsburgh PA
- Ohio Capital Corporation for Housing, Columbus OH
- Ohio PIRG
- OligarchyUSA
- Oregon State PIRG
- Our Oregon
- PennPIRG
- Piedmont Housing Alliance, Charlottesville VA
- Michigan PIRG
- Rocky Mountain Peace and Justice Center, CO
- Rhode Island PIRG
- Rural Community Assistance Corporation, West Sacramento CA
- Rural Organizing Project OR
- San Francisco Municipal Transportation Authority
- Seattle Economic Development Fund
- Community Capital Development
- TexPIRG
- The Fair Housing Council of Central New York
- The Loan Fund, Albuquerque NM
- Third Reconstruction Institute NC
- Vermont PIRG
- Village Capital Corporation, Cleveland OH
- Virginia Citizens Consumer Council
- Virginia Poverty Law Center
- War on Poverty - Florida
- WashPIRG
- Westchester Residential Opportunities Inc.
- Wigamig Owners Loan Fund, Inc., Lac du Flambeau WI
- WISPIRG

### ***Small Businesses***

- Blu
- Bowden-Gill Environmental
- Community MedPAC
- Diversified Environmental Planning
- Hayden & Craig, PLLC
- Mid City Animal Hospital, Pheonix AZ
- The Holographic Repatterning Institute at Austin

- UNET

