



Americans for Financial Reform
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February 15, 2013

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, DC 20552

Re: Policy to Encourage Trial Disclosure Programs, Docket No. CFPB-2012-0046

Dear Ms. Jackson:

Thank you for the opportunity to submit comments on the proposed policy to encourage trial disclosure programs. We write on behalf of the undersigned organizations.

While we support the concept of testing a variety of alternative consumer disclosures, we think the Bureau's proposal for trial disclosures does not contain sufficient consumer protections, and we are concerned that it will not achieve the goal of developing better disclosures. If corporations are going to be permitted to provide selectively non-standard disclosures to segments of the market there must be rigorous accountability and transparency. And there must be careful oversight to ensure that companies are not being provided with incentives – or immunity – for creating disclosures that conceal the cost of credit. In thinking about the design of effective real world testing, disclosures provided by only one market participant may be of limited utility in helping consumers compare products; testing across multiple market participants could help address this and other problems. It is also fundamentally important that any results from testing be available for open review by independent researchers.

If the CFPB goes forward with trial disclosures, it should institute protections for consumers and the marketplace:

- Individual waivers should be issued only after a notice-and-comment period on the specific trial disclosure plan.
- The CFPB must require public disclosure of all test results.
- Market-based testing of trial disclosures should only be permitted after lab-based testing, in order to identify the most promising improvements and minimize the risk of harm.
- The CFPB should clearly articulate a set of consistent metrics for evaluating the consumer testing. These metrics must directly observe consumer understanding of the document, using consumers from a wide variety of backgrounds. The current disclosures must be tested using a similar approach, in order to ascertain whether

consumers are better off. Consumers are not good self-reporters of whether or not they have understood complex information.

- The initial trial disclosure programs should only be permitted in situations where the provision of incorrect or misleading disclosures does not subject the creditor to any civil penalties. Otherwise, the temptation is strong to create trial disclosures that permit creditors to evade statutory penalties for misdisclosure. Only after the CFPB has established a protocol for evaluating the success of trial disclosures and protecting consumers from harm should trial disclosure programs involving disclosures linked to statutory damages be run.
- The CFPB must itself monitor the test data to see if harm is being done to consumers who receive alternative disclosures, whether in terms of the price of the credit provided, the privacy afforded, or otherwise. It must allow consumers, their advocates, and independent researchers opportunities to review de novo that data. And, where harm is done to consumers by the use of trial disclosures, the CFPB must ensure that creditors make full restitution to consumers.
- Consistent with ethical standards for the use of human subjects, consumers must be permitted to choose whether or not to participate in the testing, and allowed to receive standard disclosures if they prefer.
- In approving proposals, the CFPB should consider only whether the creditor's proposal is likely to enhance consumer understanding and further the basic purpose of disclosure law, not whether the trial disclosure will save the creditor money over the statutorily-mandated disclosure. Only if a trial disclosure conveys all statutorily mandated information as clearly as the existing disclosures, and is determined to do consumers no harm, should cost-effectiveness of the disclosures be considered.
- Trials must be limited in size to the minimum scope necessary to achieve meaningful results, so they do not become a pretext for broad use of potentially misleading disclosures.

A pilot project, instituted with sufficient safeguards and controls, across multiple market participants, could provide useful information about disclosures. Disclosures need continuous improvement; testing often fails to replicate real-world conditions. Carefully designed lab testing could provide the CFPB with important information. Corporate-driven trial disclosures with limited disclosure and no protections for consumers, however, are too risky, and promise too little benefit.

Thank you for consideration of our concerns.

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
- American Income Life Insurance
- American Sustainable Business Council
- Americans for Democratic Action, Inc
- 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
- Home Defender's League

- 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
- NAACP
- 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 Council of Women's Organizations
- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Resource Center
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National Nurses United
- National People's Action
- National Urban League
- 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 Affiliates

- 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

