



**Americans for Financial Reform**  
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May 17, 2013

The Honorable Richard Cordray  
Director  
Bureau of Consumer Financial Protection  
1700 G Street NW  
Washington DC 20006

Dear Director Cordray:

The diverse member organizations of Americans for Financial Reform would like to congratulate you and the Consumer Financial Protection Bureau staff for the excellent work that has been accomplished since July 2011 and following your appointment, to get the agency up and running, and to meet statutory mandates effectively and on time, identify initial priorities, and begin assisting consumers. The CFPB offers a model of what a federal agency should be in its transparency, responsiveness to the public and drive to accomplish its consumer protection mission.

Now that the agency has largely completed its initial statutory mandates under the Dodd-Frank Act, it is critical that it accelerate its response to other consumer protection issues under its authority. We write to urge the CFPB to act swiftly to protect consumers from harmful or abusive practices that our member organizations have collectively identified as particularly serious. Below we identify a set of problems which we believe require urgent action.

We note also that some of these actions are supported by significant players in the financial services industry; indeed, in several cases, responsible larger firms are choosing not to use harmful practices that are quite lucrative. We are concerned that, if the CFPB does not act quickly to require a high, uniform level of consumer protection, these responsible industry players will find it hard to compete with those who are using harmful practices.

**Urgent priorities:**

- **Arbitration:** Strong laws and strong agency enforcement have never been enough to police the financial marketplace. Yet, recent court decisions have all but eliminated private enforcement in consumer financial contracts. It is critical that the CFPB complete the study required under the Dodd-Frank Act as soon as possible, which will allow it to begin action on a final rule to eliminate forced arbitration in consumer contracts. The lack of protection in this area worsens the effect on consumers of unfair practices in every other area. Action here will have a massive multiplier effect to improve markets and make consumers better off.
- **Payday Lending:** The CFPB's excellent report on payday loans identifies serious concerns that need attention. The CFPB must ensure that banks, credit unions and payday lenders do not extend loans that customers cannot repay without repeat loans. The CFPB should stop internet and tribal payday lenders,

and the banks and payment processors they use, from collecting illegal loans; stop mandated electronic payments for single payment loans; and ban the use of remotely created checks. Working closely with the Department of Defense (DOD), the CFPB should enforce the Military Lending Act and help the DoD close loopholes that leave servicemembers vulnerable to abusive practices.

- **Mortgage and Servicing Rules:** We are disappointed that the Bureau has re-opened for comment the settled issue that mortgage originator compensation should be fully included in the points and fees cap for Qualified Mortgages and high-cost loans under the Dodd-Frank Act. Compensation fueled the abuses that led to the recent crisis and the statute clearly requires full inclusion of non-duplicative payments in the points and fees analysis. Yield spread premiums (YSPs) encouraged brokers to push unaffordable and overly expensive loans. The CFPB must absolutely count YSPs in determining whether a loan exceeds the QM cost threshold. In addition, while the final mortgage servicing rules improve the original proposal, more needs to be done to end dual tracking and require servicers to offer modifications. We need rigorous supervision and oversight to make sure rules are followed and servicer behavior actually changes.

- **Overdraft Lending:** The CFPB must issue rules based upon work already conducted by the FDIC to prevent reordering of any payment type that increases overdraft fees; prohibit overdraft fees on debit and ATM cards; ensure that overdraft fees are reasonable in size; and prohibit excessive numbers of overdraft fees, which the FDIC has identified as more than six extended in a twelve-month period. In addition, to stopping banks from profiting off of overdraft fees and payday products, the CFPB must ensure that these unfair practices do not migrate to prepaid cards.

- **Prepaid Cards and Emerging Payment Systems:** The CFPB should issue rules that extend EFTA protections to prepaid cards (including those used for needs-based benefits) regarding dispute resolution, fraud and theft. These rules should also protect consumers from issuer insolvency, forbid credit features or charges, improve fee disclosures, ensure access to statements and account information, and prohibit unfair, abusive or deceptive fees. The CFPB must also extend basic protections to emerging mobile payment systems.

- **Student Lending:** The CFPB should take action to require school certification of all private education loans, develop sound student loan modification and underwriting requirements based on ability-to-repay, improve the fairness of student loan collections, collect and publish campus-level private loan data and stop predatory private lending by for-profit colleges.

- **Auto Lending:** The CFPB should continue to monitor and collect data regarding the auto financing industry's practices and issue rules to address unfair and discriminatory interest rate markups, "yo-yo" sales, unpaid liens, and buy-here pay-here abuses. It should collaborate with the FTC and state attorneys general on enforcement regarding auto scams, particularly ones that target military personnel and their families.

- **Debt Collection:** The CFPB must stop debt collectors and buyers from collecting debts without full information and documentation about the debt and prior communications with the consumer. It must stop debt collectors from bringing robo-signed cases in court. The CFPB must crack down hard on widespread use of threats, harassment, and embarrassment and make it easier for the consumer to demand a stop to

communications. The CFPB must prevent debt collectors from making robo-calls to cell phones, sending email or leaving messages in places where they might be seen or heard by others.

#### **Other Priorities:**

- **Fair Lending:** The CFPB should promulgate anti-steering regulations to eliminate incentives to steer borrowers into loans that are more expensive or more risky than the best loans for which the borrowers qualify. The CFPB should dedicate additional funds to monitor and review proposed and existing rulemakings and their implementation for fair lending implications. It should use its supervisory authority to ensure that loss mitigation options under HAMP and proprietary modifications along with the benefits of the NMS, IFR and other enforcement actions are made available to all eligible borrowers on a non-discriminatory basis, including those with limited English proficiency and disabilities. To accomplish this, the CFPB should collect from servicers information on the demographic characteristics and geographic location of borrowers requesting or eligible for loss mitigation, and the disposition of their loans.

- **Reverse Mortgages:** It is critical that the CFPB act to protect homeowners aged 62 or older, whose homes are owned free and clear—or nearly so—from a myriad of abuses in the reverse mortgage marketplace. We urge the CFPB to adopt policies that would, among other things, require lenders and brokers to ensure loans are suitable for borrowers, outlaw deceptive marketing, strengthen the quality and content of counseling, adopt stronger prohibitions on cross promotions and protect non-borrowing spouses and others living in a home encumbered by reverse mortgages.

- **Complaint database:** The CFPB Complaint Database is a success but needs to be made more user-friendly in the following ways: it must include actual complaint narratives, detailed complaint categories and subcategories, complaint resolution details, consumer dispute details, and protected class data (without personal information), along with features like definitions of terms, and instructions, to make it more usefully searchable. There should also be regular trend analysis and monthly detailed reports on most common complaints, resolutions, and disputes.

- **HMDA:** Finally, we urge the CFPB to move quickly to implement the new reporting requirements under HMDA and for small business lending and to continue strong HMDA and small business lending enforcement and supervision. Meanwhile the CFPB needs to work directly with community user groups to ensure that the existing data are revised to make them easier to use for less sophisticated groups and to provide support and encouragement for the use of these and all CFPB public disclosure data sets.

Thank you for your interest in our views. Please feel free to contact Erin Kilroy at [erin@ourfinancialsecurity.org](mailto:erin@ourfinancialsecurity.org) for additional information.

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.*

- AARP
- 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
- Center for Effective Government
- 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
- Lawyers' Committee for Civil Rights Under Law
- Main Street Alliance
- 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
- 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

