



Americans for Financial Reform
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Dear Members of Congress:

We write on behalf of Americans for Financial Reform, a coalition of 250 civil rights, consumer, labor, business, investor, faith-based, civic and community groups. Since the financial crisis of 2008, AFR members have worked to lay the foundation for a strong, stable, and ethical financial system – one that serves the economy and the nation as a whole. The continuing costs of the financial crisis, which exceed \$10 trillion in the U.S. alone, are a reminder of the dangers of inadequate oversight of the financial system.

We believe it is critical to ensure that potential international trade and investment agreements, such as the Trans-Pacific Partnership (TPP) or the Transatlantic Trade and Investment Partnership (TTIP), do not undermine hard-fought gains in re-regulating the financial sector or reduce U.S. sovereignty in creating future needed financial reforms.

It is disturbing to see many in the financial industry, and even some in Congress, call on the administration to permit the renegotiation of financial regulations in the secretive and undemocratic process of international commercial treaties. We are deeply concerned that should such renegotiation be permitted, commitments will be made that will effectively reverse the public and democratic decisions of the U.S. Congress concerning central issues of financial regulation. For example, we have seen both the financial industry and European entities call for trade agreements to include exemptions and other limitations on central elements of the Dodd-Frank Act such as the Volcker Rule and prudential capital regulations. Provisions in trade agreements could also affect U.S. freedom to enact needed financial protections in the future.

Some advocates for the inclusion of financial regulatory issues in trade agreements argue that such inclusion is necessary in order to coordinate or harmonize financial regulations between different national jurisdictions.

This argument ignores the numerous arrangements that already exist for international coordination. For example, the Financial Stability Board (FSB) includes representatives from financial regulators in dozens of nations, who cooperate in numerous working groups to assess and coordinate the global progress of financial regulations. The Bank of International Settlements (BIS), the International Organization of Securities Commissions (IOSCO), and the G-20 itself are also international bodies that regularly convene key global financial regulators to discuss and coordinate financial regulation across national borders. These international bodies

operate in a more open and transparent manner, specialize in financial regulatory matters, and are staffed by the actual financial regulators from member countries. This is a sharp contrast with international trade negotiations, which are secretive, range across a wide variety of topics, and are generally conducted by trade negotiators who are not financial regulators and likely have other negotiation priorities besides effective financial regulation.

We are furthermore concerned that simply replicating language from past trade agreements, negotiated at a time when financial deregulation was the norm, may permit global banks or foreign governments to challenge national financial regulations using supposed ‘free trade’ justifications. We believe such challenges are groundless. However, broad ‘market access’ and capital transfer rules combined with vague language in the ‘prudential exception’ protecting financial stability measures, especially when combined with ‘investor-state’ dispute resolution procedures permitting individual financial institutions to circumvent U.S. courts, would raise the possibility that these challenges could hinder needed regulation.

To protect the democratic process, as well as progress toward stronger financial regulations, we therefore strongly urge Congress and the Obama administration to do the following:

- **Maintain a firm position against negotiating new ‘disciplines’ on financial regulations in any U.S. – EU trade deal:** European Union Commissioner for Internal Market and Services Michel Barnier has echoed the calls of European banking institutions for elements of the Federal Reserve’s capital requirements for foreign banks, the Volcker Rule, and other U.S. financial regulations to be renegotiated in the context of trade talks. We are pleased that to date, the U.S. Treasury has made clear its position that new disciplines on financial regulation should not be included in TTIP. We urge Congress to support this position and the administration to maintain its commitment.
- **Reject investor-state dispute settlement.** In the TPP and TTIP, U.S. negotiators have favored ‘investor-state’ dispute resolution procedures that would give foreign banks the power to skirt domestic courts, drag the U.S. government before extrajudicial tribunals, and directly challenge domestic financial safeguards as violations of TPP or TTIP-created commitments. These tribunals, typically comprised of three private attorneys, would be authorized to order unlimited taxpayer compensation for financial regulations seen as threatening banks’ ‘expected future profits.’ Such extreme ‘investor-state’ rules have already been included in a series of U.S. ‘free trade’ agreements, leading to billions of dollars in corporate claims around the globe. We urge Congress to ensure that the numerous cross-registered financial institutions from TPP and TTIP countries will not have the ability to bypass U.S. courts to argue that U.S. taxpayers should compensate them for complying with U.S. financial regulations.
- **Ensure that any new trade agreements *do not* contain rules that could invite challenges of financial regulation and *do* contain an ironclad guarantee that**

sufficient national discretion is available for financial regulations. Negotiated in the early 1990s as many governments were deregulating finance, the World Trade Organization’s General Agreement on Trade in Services (GATS) contains provisions that could be used to challenge important financial safeguards, even when such safeguards apply equally to domestic and foreign firms. In addition, trade agreements have typically included language that bans capital controls, or limitations on international flows of ‘hot money,’ even though respected institutions like the International Monetary Fund have endorsed capital controls as a legitimate policy tool to prevent or mitigate financial crises. It is true that trade agreements have also generally contained a ‘prudential exception’ indicating that general provisions should not apply to regulations that protect financial stability and the safety of investors and depositors. However, while we believe a proper interpretation of the prudential exception should protect U.S. financial regulations, the current phrasing of the prudential exception still includes ambiguities that might lead foreign governments or financial institutions to challenge key safeguards. This threat becomes much greater if an investor-state dispute resolution process is permitted.

Congress should require that the base provisions affecting financial services in the TPP and TTIP be altered to reflect current awareness of the need for effective financial regulation, as well as the freedom to enact appropriate capital controls. Congress should also insist that the language of the ‘prudential exception’ that protects critical financial safeguards be made ironclad, with any possible ambiguities removed.¹

Replace ‘Fast Track’ trade authority with an inclusive process. In previous trade negotiations under ‘Fast Track’ authority, such as the authority which expired in 2007, Congress effectively delegated its exclusive constitutional authority to ‘regulate commerce with foreign nations’ to U.S. trade negotiators conducting secretive negotiations. Fast Track allowed U.S. negotiators to conclude trade agreements without consultation with or input from Congress. Instead, we urge you to ensure that the American people, through their representatives in Congress, have a central role in the formation and approval of trade agreements. Without such a step, it will be impossible to ensure that our national sovereignty to appropriately regulate financial institutions is properly protected in the manner outlined above.

If we act forcefully in these four areas, we can protect the progress of the United States and other nations in instituting needed financial regulatory reforms, and ensure that global banks are not able to reverse this process through trans-national commercial agreements negotiated and approved outside normal democratic procedures.

If you have any questions, please contact Marcus Stanley, the Policy Director of Americans for Financial Reform, at 202-466-3672 or marcus@ourfinancialsecurity.org. Thank you for your support.

¹ For language that rewrites the prudential exception to remove current ambiguities, see pp. 11-12 of Public Citizen Global Trade Watch, “[Key Elements of Damaging U.S. Trade Agreement Investment Rules that Must Not Be Replicated in TPP](#)”, February, 2012.

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
- Green America
- Greenlining Institute
- Good Business International

- HNMA Funding Company
- Home Actions
- Housing Counseling Services
- Home Defender's League
- Information Press
- Institute for Agriculture and Trade Policy
- 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 Partners

- 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

