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Statement for the Record

Hearing of the Senate Committee on Banking, Housing, and Urban Affairs: Assessing the Effects of Consumer Finance Regulations

Submitted by: National Fair Housing Alliance

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The National Fair Housing Alliance (NFHA) appreciates the opportunity to submit this statement for the record for the hearing of the Senate Committee on Banking, Housing and Urban Affairs on the effects of regulations as it relates to consumer finance. In the lead up to the foreclosure and financial crises, NFHA, along with many of our allies in the civil rights community, strongly urged the Congress and federal regulatory agencies to increase oversight of the financial industry by passing stronger legislation to stamp out abusive practices, step up regulation of the industry using then existing authority, and increase enforcement actions against bad actors. Thus, we are very supportive of current lending rules, implemented as a result of the Wall Street Reform and Consumer Protection Act (Dodd-Frank) to eliminate discriminatory and abusive lending practices, create safer products, improve consumers' understanding of financial products and services and implement sound rules to help the industry operate in a profitable and safe manner. We believe the CFPB has done an extraordinary job in accomplishing all of these goals but will focus our comments on the Bureau's fair lending work. NFHA also supports the remarks that have been submitted by our colleagues who are members of Americans for Financial Reform.

The foreclosure and financial crises and their impact on the global economy have been at the forefront of the country's domestic and foreign policy issues for years and for good reason. Moody's Chief Economist, Mark Zandi, estimates that over 7 million consumers will have lost their homes to foreclosure by the end of the crisis[1]. Reports vary on the cost to the American people of the foreclosure and financial crises but estimates range from $13 trillion to $20 trillion[2]. What has been greatly overlooked is how rooted the crises are in the historical discriminatory housing and lending practices in our nation. Bias in our housing and lending markets created a segregated society which has made it easy for unscrupulous

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[1] Garrison, Trey, "Moody's Analytics: Single-family rental growth will accelerate", HousingWire, July 1, 2015; available at: http://www.housingwire.com/articles/34369-moodys-analytics-single-family-rental-growth-will-accelerate

[2] One study conducted by Better Markets puts the estimate at $12.8 trillion. Another study by the GAO states that the crises, as of 2013, cost the American economy $22 trillion.

actors to exploit under-served communities and indeed was the catalyst for the explosive growth in the subprime lending market. From segregated banks and lending institutions who closed their doors to newly emancipated Black citizens, to federally created redlining maps to the perpetuation of a bifurcated lending system, borrowers of color have never been fully served by the financial mainstream. Indeed, subprime and fringe market lenders have always been the primary source of credit for consumers of color. This is why PayDay and fringe lenders are and always have been disproportionately located in communities of color.

Moreover, we have more proof than ever that subprime lenders, in large part due to a lack of regulation and misaligned incentives, preyed upon highly qualified consumers to provide them with high-cost lending products – not because the borrowers were risky but, rather because lenders sought ways to enhance their earnings. African-American and Latino borrowers were targeted by lenders for subprime lending products. Numerous fair lending cases have been brought by the Department of Justice, Department of Housing and Urban Development, the CFPB or a combination of these agencies addressing discriminatory lending practices. These cases reveal that borrowers of color who were in all pertinent points equal to their White counterparts were charged more for loans and/or were unduly placed in subprime loans. Some cases also demonstrated redlining practices by mainstream financial institutions[3]. In fact, the Wall Street Journal commissioned an analysis of several subprime loan vintages and found that most people who got subprime loans qualified for prime-rate, fully amortizing, fixed rate conventional loans. In one portfolio, 61% of the borrowers qualified for prime credit.[4]

Communities of color are still bearing a disproportionate burden of the financial crisis and are the slowest to recover making it all the more imperative for the CFPB to use all of the

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[3] For some examples see CFPB and United States of America v. Hudson City Savings Bank, F.S.B. https://www.justice.gov/crt/file/791046/download; CFPB and United States of America v. National City Bank https://www.justice.gov/sites/default/files/crt/legacy/2014/04/08/nationalcitybanksettle.pdf ; United States of America v. Countrywide Financial Corporation, et al https://www.justice.gov/sites/default/files/crt/legacy/2012/01/27/countrywidesettle.pdf ; United States of America v. First Lowndes Bank, Inc. https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/lowndessettlefinal.pdf ; United States and CFPB v. Provident Funding Associates https://www.justice.gov/sites/default/files/crt/legacy/2015/05/29/providentcomp.pdf ; United States of America v. Wells Fargo Bank, NA https://www.justice.gov/iso/opa/resources/9512012712113719995136.pdf ; United States of America v. Suntrust Mortgage, Inc. https://www.justice.gov/iso/opa/resources/313201253116253830420.pdf

[4] Brooks, Rick and Simon, Ruth, "Subprime Debacle Traps Even Very Creditworthy," *Wall Street Journal*, December 3, 2007 available at: http://www.wsj.com/articles/SB119662974358911035

tools within its bailiwick to provide relief for consumers still struggling to work, live in safe and stable housing and provide for their families.

The CFPB has taken great steps to create a more fair and balanced marketplace and improve the ability of consumers to operate in a safe environment and the Bureau's efforts in this regard have been critically important. The CFPB has been addressing issues that too long have been ignored and, thanks to the Dodd-Frank legislation, the Bureau has the authority it needs to regulate financial transactions in sectors of the market that have been too long left un-monitored.

Fair Lending Regulation and Enforcement

The CFPB issued its Supervision and Examination Manual which provides guidance to banks and financial institutions on how the Bureau provides oversight on fair lending and consumer protection laws. The manual provides not only the legislative backdrop for the Bureau's regulatory and examination activities but includes descriptions of the type of discriminatory conduct that is prohibited by fair lending statutes. The guidance walks lenders through the process of ensuring that institutions have the appropriate policies, product offerings, fair lending compliance programs, board and management oversight, training, consumer complaint and response systems, vendor management oversight, marketing and advertising protocols, application and underwriting processing systems, pricing protocols, servicing procedures, and ability to monitor and correct problems. The manual outlines the CFPB's examination process, which is thorough and helps ensure that all consumers have fair access to quality credit.

The CFPB has also issued a bulletin entitled Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act, which provides extremely critical guidance to lenders to reduce the level of discrimination experienced by borrowers of color who procure auto loans. Discrimination in this sector has been long documented and was the subject of much public furor when PrimeTime aired its groundbreaking investigation called **True Colors[5],** which featured two testers from a Chicago fair housing group. The African-American tester encountered discrimination on multiple occasions when trying to purchase a car, secure

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[5] See video clip showing differences in treatment at: https://www.bing.com/videos/search?q=abc+nightline+discrimination+segment+testing&view=detail&mid=E611CB52E8E8E6AC9349E611CB52E8E8E6AC9349&FORM=VIRE

housing and purchase everyday goods and services. When trying to purchase a car, the White and Black testers received completely different information over and over about financing requirements and the cost of the cars for which they were shopping. When PrimeTime reporter Diane Sawyer asked why there was a difference in pricing, the auto salesman only responded "They're all different." When pressed to explain the difference, the auto sales person walked away from her. National studies have borne out the differences that Blacks and Latinos pay for car loans as compared to their White counterparts, even when Latinos and Blacks make the same attempt as Whites to negotiate on car dealer loans[6]. Discrimination in this sector has been revealed by the number of fair lending enforcement cases brought by both the DOJ and the CFPB as well as civil rights organizations[7].

Prior to the establishment of the CFPB there was an obvious void in federal oversight of financial institutions operating to bring a panoply of financial products and services to consumers. This is evidenced by the sheer number of fair lending issues the Bureau is now able to address using its authority under Dodd-Frank. The millions of consumers who have received relief from discriminatory practices are a testament to the Bureau's necessity. NFHA fully supports the fair lending regulatory and enforcement work the CFPB has undertaken and urges the Committee to do everything within its power to ensure that the agency is fully equipped to continue its work to make our financial markets fair for America's consumers.

We are happy to answer any questions Committee members might have about our comments. Please feel free to contact Lisa Rice, Executive Vice President at lrice@nationalfairhousing.org or 202-898-1661.

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[6] Davis, Delvin, "Non-Negotiable: Negotiation Doesn't Help African-Americans and Latinos on Dealer-Financed Car Loans", Center for Responsible Lending, January, 2014.

[7] For some examples see United States of America v. Fifth Third Bank https://www.justice.gov/crt/file/783561/download ; United States of America v. Evergreen Bank Group https://www.justice.gov/sites/default/files/crt/legacy/2015/05/07/evergreencomp.pdf ; United States of America v. Toyota Motor Credit Corporation https://www.justice.gov/opa/file/818481/download