National Office
Raul Yzaguirre Building
1126 16th Street, NW
Washington, DC 20036

TEL 202.785.1670
FAX 202.776.1792
www.nclr.org

April 25, 2017

The Honorable Paul Ryan
H-232 The Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
H-204 The Capitol
Washington, DC 20515

Dear Speaker Ryan and Leader Pelosi:

On behalf of the National Council of La Raza (NCLR), the largest national Hispanic civil rights and advocacy organization in the United States, I am writing to express our grave concerns about the "Financial CHOICE Act" ("The Act") and to urge you to oppose this bill. This legislation would undermine crucial enforcement and compliance actions provided by the Dodd-Frank Wall Street and Consumer Protection Act, de-regulate financial institutions and expose average American consumers to the greatly heightened risk of abuse within the financial system, and our economy to heightened risk of instability and crisis.

Dodd-Frank was enacted following the financial crisis to put in place needed financial reforms that were essential for ensuring a stable economic recovery for all Americans and to avoid future economic catastrophe. In the years following the Great Recession, Latino families, for example, lost 66% of net household wealth[1]. The law has helped to ensure individuals and families hardest hit by the financial crisis can build wealth and have access to safe and affordable credit without being exposed to predatory and illegal practices. Dodd-Frank also created the Consumer Financial Protection Bureau (CFPB), an agency dedicated solely to advocating for consumers within the federal government. Since its creation, the CFPB successfully enacted strong rules protecting Americans from predatory practices that will lead to another financial crisis. For every $1 of funding, the CFPB has returned approximately $5 to victims of financial wrongdoing; to date, it has returned nearly $12 billion to 29 million wronged Americans.[2]

Each prong of Dodd-Frank's financial stability reforms is directly related to clear and unmistakable lessons learned in the financial crisis, but the The Act demonstrates a malicious disregard of those very lessons. It reopens the door to known predatory practices, and returns Americans to a regulatory environment similar to the risky conditions that led to the financial crisis. If enacted, the The Act would:

- Exempt a wide range of mortgages from new "Qualified Mortgage" rules designed to prevent the consumer abuses seen in the subprime mortgages that contributed so greatly to the 2008 financial crisis, and exempt mortgages held on bank portfolios from consumer protections;
- Eliminate the CFPB's ability to prevent and address financial wrongdoing by ending its supervision authority;

[1] http://www.pewhispanic.org/2011/07/26/the-toll-of-the-great-recession/
[2] Consumer Financial Protection Bureau, "Consumer Financial Protection Bureau: By the numbers", July 2016, CFPB, http://www.consumerfinance.gov/documents/643/07132016_cfpb_By_the_numbers_factsheet.pdf

- Remove the CFPB's authority to stop unfair, deceptive, and abusive acts and practices in consumer finance;
- Rescind the CFPB's rulemaking, enforcement, or other authority with respect to payday loans, vehicle title loans, or other similar loans;
- Rescind CFPB guidance that prevents discrimination in auto lending;
- Repeal the Department of Labor fiduciary rule to update the definition of "fiduciary" for retirement investment advisers;
- Make the directors of the CFPB (and deputy director) and director of the Federal Housing Finance Agency (FHFA) removable at will by the President;
- Eliminate the Financial Stability Oversight Council and the Office of Financial Research, which would limit necessary oversight of and threaten the stability of the U.S. financial system.

Exempts a wide range of mortgages from the new "Qualified Mortgage" rules prevent consumer abuses in the subprime mortgage market. Along with the significant loss of wealth, leading up to the financial crisis Latino borrowers were disproportionately steered toward subprime loans even when they had good credit. Compared with whites, Latinos were 30% more likely to receive high-cost loans at the height of the housing bubble.[3] From 2005 to 2009, the median level of home equity held by Latino homeowners declined by half – from $99,983 to $49,145. At the same time, homeownership rates among Hispanics fell from 51% to 47%. These trends were exacerbated by geographic location as a disproportionate share of Latinos live in California, Florida, Nevada, and Arizona, the states that experienced the steepest declines in housing values during the crisis. In the aftermath, there was a palpable sense that the financial system was fundamentally unsound. Action, in the form of Dodd-Frank legislation, was needed to prevent a future crisis of the same magnitude.

Eliminates the CFPB's ability to prevent and address financial wrongdoing by ending its supervision authority. The Act would end the agency's ability to identify and address financial wrongdoing by ending its supervision authority. Among the tangible ways that the CFPB has been able to proactively prevent and address financial harm, the agency's ability to monitor the market through research and consumer education activities, as well as populate the consumer complaint database is crucial. Eliminating these functions would greatly shrink and inhibit the agency's its enforcement and regulatory authority.

Removes the CFPB's authority to stop unfair, deceptive, abusive acts and practices in consumer finance. The Act would literally strike the prohibition on abusive acts and practices from the U.S. Code. The Act would enable reckless financial actors engaged in unfair, deceptive, or abusive practices, and scale back enforcement powers to exclude cash compensation for victims. Particularly important for communities of color is being able to access financial services without being targeted or profiled. In an effort to make the financial marketplace more equitable, the CFPB has filed about a dozen actions[4] against providers that demonstrated clear evidence of

---

[3] Bocian, Debbie Gruenstein, Keith S. Ernst, and Wei Li. 2006. ***Unfair Lending: The Effect of Race and Ethnicity on the Price of Subprime Mortgages***. Durham, NC: Center for Responsible Lending.

[4] See: http://www.consumerfinance.gov/policy-compliance/enforcement/actions/?form-id=0&filter0_title=&filter0_topics=Fair+lending&filter0_topics=redlining&filter0_topics=Discrimination&filter0_from_date=&filter0_to_date=

restricting access to—or charging minority borrowers more for – products and services. As a result of these actions, approximately $30 million has been assessed in civil money penalties and more than $400 million in restitution has been ordered to approximately 1.4 million affected minority consumers.

Rescinds the CFPB's rulemaking, enforcement, or other authority with respect to payday loans, vehicle title loans, or other similar loans. The Act eliminates the CFPB's authority to regulate or enforce regulations of payday lending and similar loans. Countless studies and articles show the damage payday lending has done to the Latino community. For example, A. Saavedra,[5] an Idaho mother of three, was badly in need of car repairs and turned to the only place where she could get cash quickly. Saavedra took out loans from three different lenders, ranging from $700 to $1,000. They each gave Saavedra a loan without any regard for her financial situation or discussing what a loan with such interest rates might mean for her and her family. She renewed these loans multiple times, and is now buried under crippling debt that has led to bankruptcy, closed bank accounts, and harassing phone calls. The typical payday loan carries an exorbitant 391% annual percentage rate (APR) and is given to borrowers without consideration of their ability to pay back such a loan. Communities of color, including Latinos, are heavily targeted.[6] Coupled with the high percentage of communities of color that do not have access to traditional banks,[7] this targeting creates a financially stressful combination where vulnerable borrowers have few options.

Rescinds CFPB's guidance that prevents discrimination in auto lending. According to the 2007 Survey of Consumer Finances, 86% of all U.S. households and 76% of minority households own a car.[8] Since vehicles represent the second-largest purchase for most consumers, relatively few car buyers can afford to pay cash. This means that most consumers are vulnerable to subjective markups and predatory lending that can damage a family's credit and finances for decades. Since its creation, the CFPB has reached settlements with Honda, Toyota, and others for charging higher interest rates on loans to minority car-buyers. In total, auto lenders have paid close to $200 million for charging discriminatory interest rates, with millions of dollars returned to harmed consumers.[9] Perpetuating these practices would be detrimental to all Americans and Latino families in particular. Even though some low-income and Latino families might have thin or no credit, and are therefore deemed hard to serve, there are better loans available for them. NCLR opposes legislation that would undermine the CFPB's guidance that would curb discrimination in auto lending.

Repeals the Department of Labor's fiduciary rule. The Act would block implementation of the Department of Labor's finalized rule which requires all retirement financial advisers to act in the best interest of their clients, and closes a 40-year-old loophole that is expected to save retirees $17 billion annually.[10] In addition, The Act prohibits any future actions by the

---

[5] See: http://blog.nclr.org/2016/03/16/truth-payday-lending-aydes-story/
[6] See: https://www.teamupturn.com/reports/2015/led-astray
[7]See: http://publications.nclr.org/bitstream/handle/123456789/1203/bankingincolor_web.pdf?sequence=1&isAllowed=y
[8] U.S. Bureau of the Census, Most of Us Still Drive to Work, news release, June 13, 2007, http://www.census.gov/Press-Release/www/releases/archives/american_community_survey_acs/010230.html (accessed October 9, 2009).
[9] Driving a Hard Bargain: Improving the Auto Market for Latino Families. http://publications.nclr.org/handle/123456789/524
[10] Joe Valenti, "A Secure Retirement Demands Limiting Conflicts of Interest," Center for American Progress, April 6, 2016, available at https://www.americanprogress.org/issues/economy/news/2016/04/06/134883/asecure-retirement-demands-limiting-conflicts-ofinterest/

Department to update regulations on retirement investment advice until after the Securities and Exchange Commission (SEC) promulgates their own rule. The Act erects barriers to SEC action, preserving the status quo, and permits retirement financial advisors to continue giving conflicting advice that may not be in the best interest of hardworking Americans saving for retirement. NCLR has supported the rule-making effort by the Department of Labor, which is out of the scope of this legislation, and opposes any attempts to undermine the rule's integrity or impede its implementation.

Make the directors of the CFPB (and deputy director) and director of the Federal Housing Finance Agency (FHFA) removable at will by the President. The Act would give the President the authority to remove the directors of CFPB and FHFA. No president has removed an appointee for cause, and most presidents have not attempted it. The three times a president has tried to remove an official with statutory protections – like the directors of CFPB and FHFA – the courts stopped the president from doing so. The Act provides the President with such authority, which is not only unprecedented but misguided. The removal of both directors – particularly CFPB's director, whose agency has returned more than $11 billion to wronged consumers in its first five years of existence – would greatly harm American consumers and open the floodgates to rampant deceptive and abusive lending acts.

Eliminates the Financial Stability Oversight Council and the Office of Financial Research, which would limit necessary oversight of, and threatens, the stability of the U.S. financial system. The Act would eviscerate the authority and funding of the Financial Stability Oversight Council (FSOC) and the Office of Financial Research (OFR). The FSOC and OFR fill in two key gaps that contributed to the financial crisis. The FSOC serves as a forum to bring diverse financial regulators together to meet, share information and discuss risks to the country's financial stability. It also monitors potential risks posed by the asset management industry using data and research from OFR. If the FSOC finds a financial institution to pose a grave threat to U.S. financial stability, it has the authority to break it up. By eliminating these two agencies, the Act frees financial institutions that pose a threat to U.S. financial stability from any federal oversight and regulations that would hold them accountable to their reckless actions.

NCLR appreciates the complexity of regulatory reform and the importance of Dodd-Frank. Rather than repealing and replacing Dodd-Frank, Congress should build on its successes to ensure that our American economic engine – U.S. workers and consumers – are protected. The CFPB should move forward with strong regulations to protect consumers and end discriminatory practices rather than focus only on what is good for Wall Street, and Congress, where applicable, should strengthen the law and support these efforts. Thank you for your consideration.

Sincerely,

Eric Rodriguez
Vice President, Office of Research, Advocacy, and Legislation