



## **AFR Consumer Finance Priorities for 2021**

Strengthening consumer financial protections and working to reverse the damage caused by systemic racism and products and systems that amplify inequality is critical to building an economy that works for all people. An equitable and sustainable financial system requires effective federal consumer protections so that everyone can access financial products and services that meet their needs and allow them to attain and maintain economic stability and build wealth. The following reforms are critical to protecting people's homes, cars, wages, and finances to provide consumers with a pathway to economic recovery after the COVID-19 pandemic. These reforms will also provide people with the ability to invest in their families and communities to build a more just and thriving economy. These reforms are necessary to strengthen our collective ability to fight discrimination, dismantle the systemic racism embedded in the financial marketplace, and disincentivize products and services that amplify inequality by targeting lower-income families with abusive products or exploitative prices, or excluding them from opportunities.

### COVID-19 Response

- Prioritize statutory and regulatory changes to help struggling consumers mitigate negative economic consequences from the continuing COVID-19 crisis, including protections from evictions, mortgage default and foreclosure, car repossessions, predatory loans, overdraft fees, garnishment, offsets and debt collection, and negative credit reporting. These protections should stay in place for as long as is needed for families to weather the emergency and rebuild.
- Review all actions taken by the Department of Treasury, the CFPB and other financial regulators during the COVID-19 emergency that relaxed standards for the financial services industry and put consumers at greater risk. Make necessary changes to align regulatory actions to consumer needs and the public interest, such as restoring enforcement and supervision of loss mitigation rules for mortgage servicers and enforcement of time limits for credit bureaus to investigate disputes.
- Institute effective oversight of the pandemic response, including immediately devoting CFPB and other banking regulatory agency resources to oversight of how regulated entities are responding to the pandemic, the impact on families and individuals, especially those most impacted by the crisis, and their compliance with consumer protection laws and regulations. This oversight must include demographic data collection and public reporting regarding mortgage and other loan performance,

## Renew Regulatory Focus on Consumer Financial Protection:

- Nominate a CFPB Director with a demonstrated commitment to consumer financial protection, racial justice, and holding big banks and financial industry actors accountable if they violate the law, and immediately remove Director Kraninger and put in place an Acting Director who can move this agenda.
- Nominate a Comptroller of the Currency who will work towards strengthening the lending and banking system to be safer for everyone, reverse OCC and FDIC actions that eviscerate state protections against predatory lending, uphold the integrity of the national bank charter, and prioritize consumer protection in the banking agencies' work. Immediately remove Brian Brooks and replace him with an acting Comptroller aligned with these priorities. Similarly, nominate Treasury officials and heads of the banking agencies who will prioritize consumer protection.
- Center all of the CFPB's work on protecting consumers and preventing harm and prioritize fighting discrimination and preventing abuses that hurt economically vulnerable people and communities, and that reinforce and amplify existing inequalities.
- Restore the powers and role of the CFPB Office of Fair Lending, including enforcement, and use all of the CFPB's statutory functions to fight discrimination and adverse effects on people and communities of color.
- Hold financial institutions accountable for harmful policies and practices by revitalizing enforcement activity at the CFPB and across regulatory agencies with a renewed focus on the scope of impact and meaningful consumer relief and redress. Specifically within the CFPB, permanently abandon the proposed reorganization to Division of Supervision, Enforcement, and Fair Lending (SEFL) and strengthen supervisory authority, including supervision of installment loans, buy-here-pay-here auto dealers and Military Lending Act (MLA) compliance.
- Move forward expeditiously with key consumer protection rulemakings and similar actions that have been slowed, stopped, or reversed, with renewed dedication to their consumer protection goals at the CFPB, including reversing the payday repeal rule, harmful parts of the debt collection rules, and the QM seasoning rule, restoring previous HMDA thresholds, and progressing with rulemakings on small business data collection, overdraft fees, PACE loans, and control of consumer data. Similarly, at other banking regulators, focus on restoring and strengthening consumer protections by reversing the true lender and valid when made rules that permit rent-a-bank practices, reverse the OCC's CRA rule, and work together on a CRA framework that centers communities of color and LMI families.
- Restore the value of the CFPB's consumer complaint database by improving transparency of the narratives, analyzing data, trends, and complaint details, sharing this information with the public, and using it as a resource to guide the CFPB's work.
- Immediately take action across regulatory agencies to protect consumers during the COVID crisis as described above by using all available tools, including increased information collection and sharing about COVID impacts and experiences, supervision and enforcement necessary to prevent lawbreaking and profiteering, and to make sure banks, lenders, debt collectors, credit bureaus, and other actors are complying with all

applicable laws and regulations; emergency guidance or rulemakings where needed; and reversal of inappropriate deregulatory steps taken under the cover of COVID response.

### Fair Lending and Racial Justice

- Convene an interagency working group to develop novel, cross-cutting programs to address the racial wealth gap, including through expanded access to homeownership and foreclosure prevention, sustainable lending, and remedies for discrimination and abusive lending.
- Affirm the use of the historic disparate impact doctrine under ECOA and FHA to challenge discriminatory policies, including discriminatory outcomes from the use of algorithms.
- Preserve and expand loan level data collection, including disaggregated race and ethnicity data, for all mortgage, auto, consumer and small business loans, and undo HMDA reporting rollbacks. Special attention should be paid to loan performance and loss mitigation in connection with COVID-19.
- Increase language access for LEP consumers through tracking and transferring language preference, expanding the availability and use of translated notices and documents, providing oral interpretation, and requiring credit reports to be provided in multiple languages.
- Prioritize fair lending enforcement across all regulatory agencies.

### Access to Justice

- Prohibit forced arbitration clauses and class action waivers in contracts and restore access to the justice system for harmed consumers, workers, and small businesses to obtain relief and keep companies accountable for corporate wrongdoing through legislation and rulemaking.

### Auto Lending

- The FTC and other regulators should put in place rules that rein in predatory auto lending practices, with particular focus on the exploitative practices common at buy-here/pay-here dealerships. The CFPB and other regulators should take action against persistent discrimination in auto lending markets.
- Identify and dismantle barriers to car ownership for low-income people and people of color, bring fairness to card sales and finance through transparency and consistency, and ensure cars sold are safe and reliable.

- Improve options for consumers to enter into affordable repayment plans and to prevent repossessions.

### Credit Reporting

- Enact comprehensive credit reporting reforms to improve accuracy, fix the broken dispute system, shorten time limits for negative information, and ban reporting of medical debt for medically necessary procedures.
- Provide consumers with free credit scores and easier access to their data.
- Significantly restrict the use of credit reports for employment, insurance, immigration, and other non-credit purposes.
- Give consumers stronger control of their own data, such as an automatic security freeze that would require consumers to affirmatively consent to use of their credit or consumer reports.
- Overhaul aspects of the credit reporting and scoring system that reinforce existing racial disparities and perpetuate the racial wealth gap: build a more equitable system, including a public option credit registry, that increases access to safe and affordable credit for all people.

### Debt and Debt Collection:

- Enact greater protections from offsets and garnishment for wages, bank accounts, and other income needed for food, medicine and other necessities.
- Strengthen federal debt collection protections by closing loopholes, increasing penalties, and requiring collectors to have accurate information.
- Improve protections against unaffordable medical debt.
- Reverse the harmful parts of the CFPB debt collection rule and promulgate regulations that meaningfully protect consumers from harassment and prohibit lawsuits for zombie debt.

### Fintech/Innovation/Privacy:

- Enact legislation restricting the collection, use, and sharing of personal data and prohibiting the use of personal information as a basis for discrimination.
- Reverse federal attempts to expand regulatory charters that permit preemption of state consumer protection laws, and stop loopholes for fintech companies to expand financial services without adequate consumer protections
- Promulgate rules giving consumers greater control over their data.

- Stop payment fraud by enacting protections for faster payments and other new payment systems.
- Prohibit the use of no-action letters, interpretive rules or advisory opinions to avoid supervision and enforcement of certain products or responsibility for legal violations.

### High-Cost Loans

- Extend the 36% interest rate cap in the MLA to veterans and all consumers nationwide to protect them from high-interest loans with abusive terms.
- Reverse OCC and FDIC rent-a-bank rules and crack down on banks that allow predatory lenders to evade state interest rate caps by laundering loans through banks; end plans for a nonbank “fintech” bank charter; put a moratorium on new industrial loan charters (ILCs) until Congress closes the ILC loophole, as well as on banking-as-a-service charters.
- Prohibit high overdraft fees and abusive overdraft practices that exploit financially vulnerable accountholders and perpetuate a dysfunctional checking account market, and close loopholes that permit evasions of the overdraft fee provisions of the CFPB’s prepaid accounts.
- Restore the CFPB payday loan rule and prohibit unaffordable, high-cost longer term loans that take advantage of borrowers and trap them in cycles of debt.

### Homeownership (housing-focused document forthcoming)

- Increase sustainable homeownership opportunities and access to safe, affordable and responsible mortgage credit for borrowers of color and other underserved communities.
- Protect homeowners from foreclosure and preserve long-term homeownership during and after the COVID-19 pandemic by extending foreclosure moratoria and forbearances, and requiring servicers to provide eligible homeowners with payments they can afford prior to the start of a foreclosure.
- Prevent the use of abusive home loan products, including predatory rent-to-own contracts and PACE loans and ensure any home lending programs, including those to promote energy efficiency, are consistent with robust consumer protections and actually achieve stated goals.
- Prevent the sale of loans and properties, including manufactured homes, to corporate entities, require notice to residents and homeowners before their loan or property is sold to any new owner, and enact protections after sale that foster continued tenancy and homeownership.
- Develop new programs and policies to support sustainable homeownership by improving mortgage modification rules and procedures and making resources available to bridge short term crises.

## Public Banking and Payment Options

- Accelerate implementation of “Fednow” payments system to enable a fast, privacy respecting public option for bank settlement of payments in real time that includes robust protection against payments fraud and overdraft fees.
- Create a central bank digital currency with wallets or accounts open to the public. Currently the Federal Reserve provides secure accounts and digital currency services only to banks and selected large financial institutions. These basic financial services should be made broadly available to individuals and businesses in a manner that is affordable and respects privacy rights
- Change rules for banking licenses and deposit insurance to support and encourage state and local public banks. Current rules on bank supervision and deposit insurance unfairly discourage and discriminate against banks that are owned by state and local public entities. This should be changed to encourage responsible state and local public banks committed to public interest goals.

## Student Lending

- Use the Secretary of Education's authority under the Higher Education Act to cancel federal student loans on day one.
- Cancel all outstanding federal student loans related to Corinthian and ITT Tech, including any loans from borrower defenses previously denied or granted partial relief.
- Grant all borrower defense applications from state attorneys general and cancel loans of applicants who have been waiting for more than 100 days for a decision on their borrower defense application.
- End punitive measures for people in default on their student loans, including banning the garnishment of wages and offsets of Social Security, EITC and child tax credits for those in default on their student loans.
- Bring accountability to the recidivist for-profit colleges industry.
- Protect student borrowers from predatory behavior abetted by forced pre-dispute arbitration and class action bans.
- Restore the statute of limitations on federal student loans and the dischargeability in bankruptcy of student loans.
- Regulate the new shadow student loan marketplace, including by regulating income share agreements as credit.
- Restore the CFPB's role as the primary federal regulator for the student loan industry and empower the Bureau to take immediate action to halt abuses by student loan servicers and for-profit colleges.
- The CFPB should prioritize a student loan servicing rulemaking on the agency's regulatory agenda. This rulemaking should set standards for how student loan servicers handle borrowers' payments, communicate with borrowers about repayment options, and provide assistance to borrowers in distress.

- Direct the Treasury Secretary to immediately designate a new CFPB Student Loan Ombudsman to replace Trump Administration appointee, and former student loan industry executive, Robert Cameron.