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May 2, 2017

The Honorable Jeb Hensarling
2228 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
2221 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

On behalf of the National Community Reinvestment Coalition (NCRC) and our more than 600 member organizations, I am writing to express our strong opposition to the Financial CHOICE Act of 2017 (H.R. 10). The bill would dismantle key systemic safeguards included in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), expose consumers to a heightened risk of unfair and abusive practices in lending, and undermine the ability of the nation's financial regulators to monitor and respond to systemic risk, excessive risk taking and fair lending violations by the nation's financial institutions.

**H.R. 10 Undermines the Consumer Financial Protection Bureau (CFPB)
– Its Mission and Efficacy: *The Agency's Structure Set-up Post-Crisis
Protects Against Political Obstruction and Industry Capture***

The CFPB was created after the 2008 financial crisis to enforce consumer financial laws so that “all consumers have access” to products and services and to ensure that markets “are fair, transparent, and competitive.”¹ The agency has been very successful in carrying out its statutory charge, without undue political interference or concerns about industry capture. During its short tenure, the agency has returned close to \$12 billion in relief to 29 million consumers through their supervisory and enforcement work; proposed rules to put an end to payday debt traps; is developing rules on harmful debt collection practices; has brought fair lending actions against lenders discriminating in the marketplace; and much more.² The need for a strong CFPB to protect consumers from risky or unscrupulous financial servicers can be seen from the sheer number of complaints the agency has

had to address. As of April 1, 2017, the CFPB has handle over a million consumer financial products and services complaints – topped by those relating to debt collection, credit reporting, and mortgage issues³ - all reflected the agency’s regulatory focus.

Despite to the CFPB carrying out the job it was created to do post-crisis, and importantly, as it was structured to do effectively, the agency has had to withstand almost constant siege from the industry and their allies in Congress. The Financial CHOICE Act now seeks to strip the CFPB of most of its supervisory authority, undermine its single-director structure and its funding, eliminate the agency’s enforcement authority over depository institutions and its market monitoring authority, repeal its authority to stop unfair, deceptive, and abusive acts and practices in consumer finance, and undercut key rulemaking authority including over small-dollar or “payday” loans.

We urge the Committee to reject this unwarranted attack on the CFPB, on the nation’s consumers they seek to protect, and on the agency’s appropriate regulation and oversight of the nation’s financial system.

H.R. 10 Would Undermine Good Data about Financial Markets, Including Loan-Level Mortgage Data and Small Business Lending Data That Are Key to Fair Lending

While limiting access to quality data about the nation’s financial markets may seem to be an easy giveaway to lending institutions seeking to lighten their regulatory burden, policymakers should recall that the lack of data on consumer financial products and services hindered federal oversight of mortgages and fair lending in the run-up to the housing crisis.

H.R. 10 Would Limit the Collection and Disclosure of HMDA Data

Section 576 of the bill would exempt depositories originating fewer than 100 closed-end mortgage loans or 200 open-ended lines of credit in each of the last two years from the mortgage data collection and reporting requirements of the Home Mortgage Disclosure Act (HMDA). In 2015, for example, of the 6,913 reporting institutions, 3,071 had fewer than 100 loans.⁴ Current law and regulations provide sufficient flexibility for smaller lenders, and the 2015 HMDA rule eased reporting requirements for small banks and credit unions. The elimination of much of the CFPB’s supervisory authority in Section 727 includes examining for compliance with HMDA. Without such authority the government would have much less ability to

monitor compliance with HMDA reporting requirements, potentially undermining the quality of the data and fair lending enforcement.

Section 571 of the bill would delay loan-level data disclosures under HMDA – key data needed to ensure financial institutions are extending mortgage credit in their communities in a fair and non-discriminatory manner. Prior to the financial crisis, a 2004 GAO report found that, “Serious data limitations make the extent of predatory lending difficult to determine.”⁵ The lack of information on the various types of loan products being offered and the credit history of applicants left regulators and advocates without the tools needed to discourage lenders from offering high-cost mortgage loans with abusive terms and conditions to vulnerable consumers. The Dodd-Frank Act contained specific provisions relating to HMDA addressing those data limitations, and the CFPB’s final rule in 2015 is designed to fill the previous gaps.⁶

H.R. 10 would require a GAO report on privacy risk be submitted to Congress in advance of disclosures under the new HMDA rule. The draft would also delay the disclosure of new data elements passed as part of the Dodd-Frank Act that pose no privacy concerns, such as those on total points and fees at origination and prepayment penalties. There simply is no need to suspend or delay the public release of HMDA data needed to ensure proper federal oversight of mortgage products and fair lending, given the extensive steps the CFPB has taken in its HMDA rulemaking and the seriousness it has evinced in its communications with the GAO and Congress about protecting the privacy interests of mortgage applicants.

Small Business Lending Data - Repeal of Section 1071 of the Dodd-Frank Act

Section 561 of the bill would repeal Section 1071 of the Dodd-Frank Act, which requires the CFPB to centralize the collection and public release of lending data on small, women-owned, and minority-owned businesses. In 2015, over 80 members of the House of Representatives and 13 members of the House Financial Services Committee reaffirmed support for Section 1071, and the CFPB has been working diligently on the provision since finalizing its HMDA rulemaking in the fall of 2015.

A 2008 U.S. Government Accountability Office report found that studies using data collected by the Federal Reserve Boards suggested discrimination may play a role in small business lending, but that the data was limited overall.⁷ The report noted that the data available was unable to give a full picture of small business lending and only looked at data from borrowers. By comparison, HMDA data is comprehensive enough to identify discriminatory practices by lenders as well as lenders that might be at high risk of engaging in possible mortgage lending discrimination.⁸ HMDA data allows for a fuller view of lending that helps regulators better prioritize fair lending laws. With the importance of small businesses in the U.S. economy and the role discrimination appears to play in that segment, a full and comprehensive view of

small business lending is needed.



Qualified Mortgage Rule

The Financial CHOICE Act also seeks to exempt a wide range of mortgages from the CFPB's Qualified Mortgage (QM) rule. The CFPB's Qualified Mortgages and ability-to-repay standards directly addressed the abuses that led up to the 2008 financial crisis. Those rules were specifically designed to reorient the market towards safe and sustainable, non-predatory lending. Among other provisions, the bill would weaken protections for purchasers of manufactured housing, extend QM liability protections for loans held on portfolio, and expand exemptions for small servicers. The QM rule supports sustainable homeownership and wealth building, and early HMDA data bears out that the rule has not curtailed credit availability.⁹

Volcker Rule

H.R. 10 also repeals the Volcker Rule, which prohibits insured depositories and any company affiliated with an insured depository from engaging in proprietary trading and from acquiring or retaining ownership interests in or having certain relationships with a hedge fund or private equity fund.¹⁰ The rules essentially prohibit them from acting like hedge funds and engaging in risky bets with their customers' deposits and savings. It is yet another example of the bill drafters ignoring the lessons of the financial crisis. The repeal provision paves the way for banks to once again resume proprietary trading putting the system at risk.

Conclusion

The Financial CHOICE Act favors Wall Street at the expense of sound systemic safeguards and consumer protection. This legislation would be a major setback to the effective oversight of the nation's financial markets. We strongly urge you to oppose the Financial CHOICE Act and to continue the promotion of a fair, transparent, safe and sound financial system.

Sincerely,

John Taylor

President and CEO

NCRC

¹ Dodd-Frank Act, Section 1021.

²CFPB, *CFPB by the Numbers*.

http://files.consumerfinance.gov/f/documents/201701_cfpb_CFPB-By-the-Numbers-Factsheet.pdf

³ CFPB, Monthly Complaint Report: April 2017, Vol. 22..

<https://www.consumerfinance.gov/data-research/research-reports/monthly-complaint-report-vol-22/>

⁴ Federal Reserve Bulletin, *Residential Mortgage Lending from 2004 to 2015: Evidence from the Home Mortgage Disclosure Act Data*, November 2016, see Table 10. https://www.federalreserve.gov/pubs/bulletin/2016/pdf/2015_HMDA.pdf

⁵ GAO, *Federal and State Agencies Face Challenges in Combating Predatory Lending*, GAO-04-280,. <http://www.gao.gov/assets/160/157511.pdf>

⁶ CFPB, *CFPB Finalizes Rule to Improve Information About Access to Credit in the Mortgage Market*, October 2015. <http://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-to-improve-information-about-access-to-credit-in-the-mortgage-market/>

⁷ United States Government Accountability Office, *Fair Lending: Race and Gender Data Are Limited for Nonmortgage Lending*, June 2008, p. 11.

<http://www.gao.gov/assets/280/277533.pdf>

⁸Ibid.

⁹ FEDS Notes, *Effects of the Ability to Repay and Qualified Mortgage Rules on the Mortgage Market*, December 29, 2015.

<https://www.federalreserve.gov/econresdata/notes/feds-notes/2015/effects-of-the-ability-to-repay-and-qualified-mortgage-rules-on-the-mortgage-market-20151229.html>

¹⁰ <https://www.federalreserve.gov/bankinforeg/volcker-rule/faq.htm>