Thursday October 28, 2023

Expression of support for regulatory stability provided by the CFPB in the context of SCOTUS's upcoming consideration of *Consumer Financial Protection Bureau, Petitioners v. Community Financial Services Association of America, Limited.*

The National Community Reinvestment Coalition and financial technology firms in NCRC's Innovation Council believe it is in the best interest of both consumers and the financial services marketplace to preserve the Consumer Financial Protection Bureau's (CFPB's) ability to maintain rules and enforce anti-discrimination laws and regulations,[1] as well as the other statutes and regulations that provide rules of the road for the financial services industry. As the Court moves forward, we urge it to consider the importance of maintaining this regulatory stability for the sake of consumers, innovation, and market participants.

In the wake of the financial crisis, Congress gave the CFPB authority over consumer financial laws, with the intent that the CFPB would form a clear national foundation for financial businesses and generate consumer trust in the safety and security of transactions and contracts. It gave the CFPB both supervisory and enforcement authority over anti-discrimination laws, among other laws.

Because we believe consumers and market participants benefit from prohibitions against discriminatory lending practices, members of the Innovation Council published statements[2] on the need for guidance supporting the application of disparate impact laws for the CFPB's anti-discrimination rules for algorithmic underwriting and to consider how gathering demographic data could improve fair lending compliance.

If the Bureau's rulemaking authority is thrown into question, there are broad implications for the regulatory certainty of not only federal fair lending laws but also other consumer financial laws and regulations implemented and enforced by the CFPB.

Financial companies rely on regulatory stability. When financial regulation changes drastically, it becomes harder for financial institutions to make long-term investments, raise capital, make staffing

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[1] See previous statements, i.e. "Statement on the Need for An Interpretive Rule Concerning the Solicitation of Demographic Data for the Purposes of Fair Lending Self-Testing," June 2022. https://ncrc.org/statement-on-the-need-for-an-interpretive-rule-concerning-the-solicitation-of-demographic-data-for-the-purposes-of-fair-lending-self-testing; and "Statement on Request for Guidance on Implementation of Disparate Impact Rules under ECOA," June 2021. https://ncrc.org/statement-on-request-for-guidance-on-implementation-of-disparate-impact-rules-under-ecoa
[2] *Id.*

decisions, and develop products and strategies that can be pursued over multiple years. This uncertainty is particularly destabilizing for innovative businesses utilizing emerging technologies, including algorithmic underwriting and digital marketing.

We value the CFPB's role in establishing clear "rules of the road" that protect consumers and our businesses from a race to the bottom, providing businesses with clarity and enabling pro-consumer innovations to develop and compete fairly.