

# CONSUMER ACTION NEWS

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## Rules at Risk Report

### Consumer protection progress at risk?

By Ruth Susswein

Consumers have seen some major improvements in consumer protections, particularly in the past year. Many of these gains have been made by various government agencies that have passed rules to help protect our personal safety, our privacy online, our dispute resolution rights, our financial future and much, much more.

Here's some of the progress that's been achieved for American consumers. Many of these protections are now at risk of repeal.

**Privacy online:** Consumers gained the right to protect their privacy online in October, when the Federal Communications Commission (FCC) voted to put consumers in control of their online information sharing. Internet service providers (ISPs) are now required to get customer consent before using or sharing their personal information (e.g., location, health data and browsing history) with a third party online. The FCC rule also requires companies to tell customers what data they collect and why.

**Safe rental cars:** Consumers no longer have to risk driving a rental car with dangerous defects because of neglected recall repairs. Rental car companies must repair any safety defects prior to renting a car to unsuspecting drivers. The National Highway Traffic Safety Administration's (NHTSA) rule applies to fleets of rental cars under recall for safety problems. Unfortunately, no law prevents the sale of used cars with outstanding recalls. (*For more on that controversy, see "FTC's crucial—and possibly changing—role" at right.*)

**Retirement advice:** Thousands of dollars in retirement savings can quietly, legally be lost from retirement accounts, over time, because of conflicts of interest. Conflicts can arise when a broker focuses more on profits than providing independent financial advice. The U.S. Department of Labor's fiduciary rule, adopted last year, eliminates many of those conflicts because it requires financial advisers to put their clients' best interests first when offering advice about retirement funds.

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### FTC's crucial—and possibly changing—role

By Monica Steinisch

Before the existence of the Consumer Financial Protection Bureau (CFPB), the Federal Trade Commission (FTC) carried the biggest "stick" in town in the fight against unfair and deceptive practices in the marketplace. The FTC is charged with protecting consumers, collecting complaints, conducting investigations, suing violators, refunding money to aggrieved individuals, creating rules for a fair marketplace, and educating consumers and businesses.

With a new administration, however, the winds may be changing for the agency that has brought us such notable results as a Volkswagen buyback of emissions-violating cars and the establishment of a National Do-Not-Call Registry.

#### Debt collection

The FTC has aggressively fought "phantom debt collection" cases, where collectors broke the law by collecting on debts that do not exist. In 12 debt collection cases last year, the FTC obtained \$70 million in judgments and banned 44 compa-

nies or individuals from working in debt collection. Money has been returned to consumers who became victims of these schemes.

The student loan debt collector GC Services will pay a \$700,000 fine to the FTC for hounding consumers for debts not owed and illegally disclosing information about debts in phone messages.

#### Contact Lens Rule

In 2003, Congress passed a law requiring prescribers to give patients a copy of their contact lens prescription (whether they ask for it or not) and to verify or provide the pre-

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### Web bonus!

Find more in this series online at [bit.ly/Rules\\_at\\_risk](http://bit.ly/Rules_at_risk).

- Retirement savers' "best interest" rule in jeopardy
- Relief for defrauded student loan borrowers
- Take Action! Make your opinion heard!

### Consumer access and control online at the FCC

By Alegra Howard

When it comes to internet access and privacy, the Federal Communications Commission (FCC) served up some big wins for consumers over the past year. Under a new administration, consumers cannot rely on keeping these gains.

#### Broadband privacy

The websites you visit and the apps you use can reveal a great deal of personal information about you, such as health conditions, sexual preference, political associations and religious practices. In October 2016, the FCC voted to give broadband customers the right to make choices to protect their privacy online. The FCC's landmark privacy ruling, championed by former Chairman Tom Wheeler, requires

internet service providers (ISPs) to give clear notice and get explicit consent before sharing subscribers' personal information for purposes other than providing broadband service. User information is highly valuable to advertisers and other third parties.

The FCC's decision requires providers to get opt-in consent from subscribers to share sensitive information, which includes the content of communications, location information, and web browsing and mobile app usage history for the subscriber and anyone in the home. However, in the final days of February, new FCC Chair Ajit Pai announced plans to freeze the part of the new internet privacy rule requiring customer consent.

Opponents of the rule—mostly online broadband providers—argue

that the FCC lacks the authority to protect broadband customers' privacy, and that broadband providers should be free to use and share their customers' data, particularly browsing history. Consumer Action and its allies have argued that the FCC is the guardian of subscribers' personal information with respect to broadband providers. The FCC reclassified broadband providers as "common carriers" under the Communications Act of 1934, which requires that they protect the confidentiality of customer information. However, the FCC has no jurisdiction over large internet companies like Google, Netflix and Facebook.

#### Lifeline

Late last year, the FCC expanded its Lifeline program to include broadband internet access for qualified low-income households. The Lifeline program has provided a discount on phone service, since 1985, for qualifying low-income consumers to be able to connect to jobs, family and emergency services. The program now allows people who are

on certain federal benefit programs or qualify based on their income the option to apply a \$9.25 monthly credit toward discounted broadband internet service instead of landline or wireless phone service.

The goal of Lifeline's expansion is to bridge the digital divide. While most Americans have internet access, only 48 percent of those earning less than \$25,000 per year have internet service at home, according to the FCC. Under the change, qualifying low-income consumers would have increased access to employment opportunities, educational resources, like homework help and class assignments, and government social services for veterans and seniors.

#### New leadership

Chairman Pai revoked the participation of nine new providers of Lifeline's subsidy for internet access last month. This action is a blow to low-income consumers, seniors, students, businesses and schools. While

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## Consumer Action www.consumer-action.org

Consumer Action has been a champion of underrepresented consumers nationwide since 1971. A non-profit 501(c)(3) organization, Consumer Action focuses on financial education that empowers low- and moderate-income and limited-English-speaking consumers to financially prosper.

By providing financial education materials in multiple languages, a free national hotline and ongoing financial services research, Consumer Action helps consumers assert their rights in the marketplace and make financially savvy choices.

### Advice and referral hotline

Submit consumer complaints to our hotline:

[www.consumer-action.org/hotline/complaint\\_form](http://www.consumer-action.org/hotline/complaint_form)  
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# Risks to progress in consumer protection

By Lauren Hall

With the speed and purpose of a wrecking ball, many in Congress and the new administration have kicked off 2017 with attacks on critical consumer and environmental protections. The actions seem mostly an effort to reduce regulations considered overly burdensome to business. Using a little known tool called the Congressional Review Act (CRA), lawmakers are able to streamline repeal of recent rules and ban federal agencies from ever crafting substantially similar rules.

Right now, anti-consumer lawmakers are using the CRA in an attempt to eliminate dozens of rules, including the Consumer Financial Protection Bureau's prepaid card rule. If Congress votes to disapprove the rule, the legal protections on prepaid card fraud losses, error resolution and fee disclosures will no longer apply.

The Federal Communications Commission's (FCC) rules on internet privacy and net neutrality (a free and open internet) are also under attack. These FCC mandates strengthen consumer protections by prohibiting internet service providers (ISPs) from using customers' information without their explicit consent, and banning telecommunications companies from blocking or slowing access to the internet for certain consumers by not delivering information in an equal or neutral way. However, new FCC Chairman Ajit Pai has begun to roll back these rules. (For more, see "Consumer access and control online at the FCC" on page 1.)

A multitude of advocacy organizations, including Consumer Action, have long urged the FCC to protect consumers' privacy online

([bit.ly/2ICL9KE](http://bit.ly/2ICL9KE)). One ally, Susan Grant of the Consumer Federation of America, cited Verizon's "super cookie" tracking system as a type of behavior these rules were designed to stop. Through the program, Verizon was keeping close tabs on its wireless customers' website activity without providing any choice in the matter.

Lawmakers have also introduced dangerous new bills like the Midnight Rules Relief Act, which would allow Congress to bundle federal agency rules together and ban them, and the Regulations from the Executive in Need of Scrutiny (REINS) Act, which would require votes by both the U.S. House and Senate to approve each significant rule issued by a federal agency. This would undoubtedly slow or stop most regulations and reduce agency authority.

While Consumer Action and its allies are busy battling current attacks on consumer protections, we simultaneously are keeping a close eye on those yet to come, such as President Trump's threats to repeal the Affordable Care Act (ACA). Despite the flashpoint of the administration's dislike of the ACA, a record number of people (nearly 6.4 million) recently signed up for 2017 insurance coverage through the federal healthcare exchange. Unfortunately, experts agree that a wholesale repeal of the law without replacement would lead to losses of healthcare coverage for 20 million or more people. According to an Urban Institute report, "The number of uninsured people would rise from 28.9 million to 58.7 million in 2019, an increase of 29.8 million people (103 percent)." Ironically, many of the counties that voted for Donald Trump in the election also had bigger increases in ACA health

insurance coverage than that of the national overall rate, according to the *Wall Street Journal*.

At particular risk of repeal is a planned Medicaid expansion; cost-sharing reductions that lower the cost of ACA coverage for consumers; and the individual mandate that requires nearly all Americans to have health insurance.

Last, but certainly not least, are lawmakers' endless and increasingly hostile attacks on the Consumer Financial Protection Bureau (CFPB). The federal Bureau's sole mission is to protect consumers from bad actors in the financial marketplace (like predatory lenders, big banks that charge consumers exorbitant and unfair fees, harassing debt collectors and much more). The reason the Bureau is under attack? It has proposed rules that would rein in payday lending, where small-dollar loans (with 300-plus-percent interest rates) are often oversold to vulnerable consumers, trapping them in an endless cycle of debt, and forced arbitration (a legal practice that blocks consumers from taking companies to court). Learn more about mandatory arbitration here: [www.fairarbitrationnow.org/](http://www.fairarbitrationnow.org/). The CFPB's proposed rule would preserve the rights of consumers to participate in class action lawsuits, an opportunity that is often blocked by companies as a condition of service.

As Consumer Action's Ruth Susswein points out ([bit.ly/2ICT3nm](http://bit.ly/2ICT3nm)), certain lawmakers and the administration "want to cripple the CFPB or starve it by draining its funding... These lawmakers also seek to replace its one accountable director with a weaker, politically-appointed leader to dilute the agency's effectiveness."

Susswein continued, "No matter whom we voted for in November, consumers must reach their representatives to stand together and stand up for the one agency that has had our backs time and again: the CFPB." ■

# Healthcare protections have grown under ACA

By Lauren Hall

Prior to the passage of the Affordable Care Act (ACA), commonly known as Obamacare, health insurers could deny consumers coverage for health issues the consumer experienced prior to the date of coverage. These pre-existing conditions ranged from cancer to pregnancy. Under the ACA, insurance companies are no longer legally permitted to deny coverage—or charge individuals more—for pre-existing conditions. This change alone has put millions of Americans at ease, knowing they can receive, and afford, crucial healthcare coverage.

The ACA also mandated that insurers would be required to cover certain critical services that were sometimes considered elective. For instance, the National Women's Law Center reported that in 2013, maternity benefits were included in a mere 12 percent of individual plans. Once the ACA went into effect, all

new healthcare plans were required to include maternity and newborn care, as well as other critical services, like mental health treatment and children's dental and vision care.

Prior to the ACA, health insurers typically dropped young people (dependents) from their parents' plans at the age of 19 or upon graduation from college. The ACA mandated that dependents could stay on their parents' health insurance plans until age 26. The law was straightforward on this: Regardless of marital status, educational pursuits or financial status, dependent coverage would stay the same until age 26.

Another major benefit of the ACA has been that it prohibits health plans from putting annual or lifetime dollar limits on most of the benefits you receive. This is particularly valuable to those who are diagnosed with a costly chronic medical condition. Insurers must continue to pay for ongoing treatment without capping coverage or cost.

The ACA allows millions of low-income families to afford health insurance because it offers robust subsidies for those who enroll in its marketplace plans but cannot afford the standard premiums.

Congress and the Trump Administration have said they will repeal the Affordable Care Act, but no replacement plan had been released by press time. While very popular with much of the public, it is unclear if these essential healthcare protections will remain. Consumer Action hopes they survive, and we'll fight to keep them. ■



### Help protect these rules!

Use Consumer Action's free Take Action! Center ([www.consumer-action.org/action](http://www.consumer-action.org/action)) to email your elected officials.

# Risk

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The rule's April start date has been delayed for additional review. Read more about the Department of Labor rule at <http://bit.ly/2mBLEhG>.

**Healthcare coverage:** Americans are required to obtain at least a minimal level of health insurance coverage under the Affordable Care Act, or Obamacare, to ensure access to health care. The law brought popular reforms to the health insurance industry, such as allowing 20-somethings to remain on their parents' plans, automatic approval for those with pre-existing conditions, and subsidies to help low-income families pay health insurance premiums. But conservatives strongly oppose the law and have vowed to repeal it. (For more, see "Healthcare protections have grown under ACA" on page 2.)

**Online reviews:** The Consumer Review Freedom Act now protects consumers who choose to criticize a company online in such popular forums as Yelp and Angie's List. The Act prevents companies from using "gag clauses" in customer contracts to prevent public criticism and protects consumers from being fined or sued by companies when they post honest, yet negative, reviews online.

**Class action lawsuits:** The Consumer Financial Protection Bureau (CFPB) has proposed a plan to eliminate mandatory bans on class action lawsuits in consumer contracts. Class action suits are brought on behalf of a group—or "class"—of consumers seeking to stop a corporate practice, when each person's claim would be too small to justify the cost of an individual lawsuit. Class action suits bring accountability to the market by challenging unfair, deceptive or predatory corporate practices. This proposed rule is now targeted for termination.

## Rules at risk

Many of these consumer protections are now at risk of being dismantled under a new administration and Congress. President Donald Trump and Republican congressional leaders have promised to "repeal and replace" Obamacare, leaving many consumers fearful about future access to health care.

Both bodies have threatened to abolish the Obama Administration's cornerstone of financial reform, the Dodd-Frank Wall Street Reform and Consumer Protection Act, which created the only federal consumer financial watchdog agency, the CFPB.

In his second week in office, the new president issued an executive order to review Dodd-Frank with an eye toward significantly scaling back federal regulations designed to make the financial industry more accountable. The president also directed the Department of Labor to review and consider repeal of the new rule protecting consumers' retirement savings. For more about the Department of Labor rule, read "Retirement savers' 'best interest' rule in jeopardy," at <http://bit.ly/2mBLEhG>.

"Regulation has actually been horrible for big business, but it's been worse for small business," the president told reporters.

Some GOP members of Congress have had the CFPB on their hit lists for as long as the Bureau has existed,

believing that the consumer financial regulator is too powerful and independent. (To learn more about the Bureau's successes, see "Gains for consumers' financial protection" on page 4.)

The Congressional Review Act (CRA) gives Congress the ability to strike down dozens of rules that were issued to protect the public. With little debate and no opportunity for appeal, the CRA allows lawmakers to repeal rules that date as far back as June 2016. While a president can veto congressional actions, President Trump has signaled he supports efforts to use the CRA to further the conservative agenda. Worse, the CRA prevents regulators from issuing rules that are "substantially similar" to those repealed by the act. The Senate's first use of the CRA was to file a resolution to repeal the CFPB rule to ensure that prepaid card users' money is safe and sound. The long-awaited rule requires card issuers to provide fraud protection, fee disclosures and error resolution for cardholders.

Rules at risk of repeal cover financial, environmental, health and safety protections. Examples include the:

- FCC's new privacy protections that prevent online tracking without consumer permission;
- updates to the Nursing Home Reform law to prevent exploitation, abuse and neglect; and
- Department of Education's "Borrower Defense" rule allowing students to apply for loan forgiveness when their colleges have defrauded them or closed.

Time will tell how many of these regulatory rollbacks will happen and what their impact will be. Consumer Action is part of a coalition strongly opposing repeal of these critical consumer protections. To learn more about the protections that are at risk, read the articles in this newsletter and visit [RulesAtRisk.org](http://RulesAtRisk.org). ■

## FTC

Continued from page 1

scription to authorized third parties, like contact lens sellers. The goal was to make it easier for consumers to comparison shop for contact lenses while ensuring that lens sales were made only with a valid prescription.

After finding widespread disregard of the Contact Lens Rule, the FTC decided to require contact lens prescribers to keep a copy of a patient's prescription with the patient's signature of receipt on file for at least three years. In a national poll this January, Consumer Action, like the FTC, found that many contact lens wearers had no idea they were supposed to be given a copy of their lens prescription at the eye doctor's office. Consumer Action submitted its poll results and comments to the FTC and joined a coalition letter with consumer groups and companies united in support of the FTC amendments.

## Cramming victims

The FTC has filed charges against companies that "cram" charges onto bills for horoscopes, celebrity gossip, ringtones, "love tips" and other

subscription text messages.

In December, the FTC announced that 2.7 million AT&T customers would share \$88 million in compensation, representing the most money ever recouped for victims of mobile cramming. Mobile cramming is when unauthorized third-party charges are added to customers' wireless bills. Checks and credits were issued to affected customers earlier this year.

In February, the FTC also mailed refund checks totaling nearly \$20 million to more than 617,000 T-Mobile customers who had third-party charges placed on their bills but did not participate in T-Mobile's refund program.

## DeVry student redress

The FTC announced a \$100 million settlement with DeVry, a for-profit vocational training college. The lawsuit charged that the school misled prospective students with ads touting high employment rates and income levels upon graduation. DeVry will pay \$49.4 million in cash to students who were harmed by the deceptive ads, and will provide \$50.6 million in debt relief.

The debt being forgiven includes the full balance owed—\$30.35 million—on all private unpaid student loans that DeVry issued to undergraduates between September 2008 and September 2015, and \$20.25 million in student debts for tuition, books and lab fees. See Consumer Action's Class Action Database ([www.consumer-action.org/lawsuits](http://www.consumer-action.org/lawsuits)) to learn more or make a claim.

## Used-car buyers

The FTC's Used Car Rule requires car dealers to display a window sticker, known as the Used Car Buyer's Guide, on all cars they sell. The Guide discloses whether the dealer is offering to sell the used car "as is" (without a warranty) or with a warranty. If the sale is with a warranty, the Guide discloses the length of coverage, percentage of repair costs the dealer will pay, and vehicle systems the warranty covers.

The FTC recently revised the Guide. It now directs consumers to:

- obtain a vehicle history report (from NMVTIS, at [www.vehiclehistory.gov](http://www.vehiclehistory.gov)),
- learn if a car has a history of severe damage or a tainted title, and
- check for open safety recalls that would need repair.

The window sticker also changed the description of an "as is" sale to more accurately reflect state warranty law and to advise Spanish-speaking consumers to ask for the Buyer's Guide in Spanish.

## Demanding more

Rental cars with safety defects are generally prohibited from being rented to consumers until the defects are repaired. But beware: That is not the case for used cars being sold.

In the last year, the FTC filed complaints against CarMax and other large used car dealers for touting their rigorous inspections of their "certified" used cars despite not clearly disclosing unrepaired safety recalls to customers. However, in late 2016, the agency proposed settlements with CarMax, Asbury Automotive Group and West-Herr Automotive Group that would allow

the dealers to advertise recalled used cars, even "certified" vehicles, with serious safety defects as being "safe" or "subject to a rigorous inspection" without repairing the problems. The FTC proposed that dealers include a disclaimer in their advertising that clearly states they sell cars that "may be subject to recalls for safety issues that have not been repaired." Dealers would also be required to remind consumers in writing, at the point of sale, to check for unrepaired safety recalls.

Advocates have long argued that disclosing the need to check for safety recalls was not enough to protect used-car buyers. If the agency was not going to require car dealers to make safety repairs prior to selling used cars under recall, a coalition of advocates, including Consumer Action, urged the FTC in formal comments ([bit.ly/2mTXbjL](http://bit.ly/2mTXbjL)) to withdraw the proposed agreements in order to prevent consumers from having to deal with insufficient and contradictory information prior to purchase. The groups stated that it can be dangerous and confusing to buy a so-called "certified" used car that remains unrepaired for safety defects.

In February, Consumers for Auto Reliability and Safety (CARS) and five other advocacy groups sued the FTC for failing to protect consumers from used car recall dangers. The consumer advocates are seeking to overturn the agency's proposed consent orders.

## Future in flux

With two open seats (out of five) on the Commission, President Trump has the opportunity to give the FTC a Republican majority for the first time since the Bush administration. Indeed, Trump's appointment of Republican Maureen Ohlhausen as the FTC's acting chair may offer some indication of what we can expect. Ohlhausen, while supportive of the FTC mandate to protect consumers from fraud, deception and unfair practices, is a critic of undue government regulation and expressed "worry that the FTC imposes unnecessary and disproportionate costs on business" in a recent speech.

The FTC is headed by five Commissioners, nominated by the president and confirmed by the Senate, each serving a seven-year term. No more than three Commissioners can be of the same political party. Democratic Commissioner Terrell McSweeney was appointed by President Barack Obama and sworn in in April 2014. President Trump will have the opportunity to choose three new commissioners although one of them will have to be a Democrat or an Independent.

While it's impossible to predict exactly what changes and challenges are to come, the FTC climate appears to be changing focus. With the recent exit of Jessica Rich, director of the FTC's Bureau of Consumer Protection, after 26 years, consumer advocates have expressed concern that the agency might be entering a period where consumer protection and privacy take a back seat to the interests of big business.

To review more of the FTC's recent actions, see the FTC's "Commission Actions" page ([www.ftc.gov/news-events/commission-actions](http://www.ftc.gov/news-events/commission-actions)). ■

# Gains for consumers' financial protection

By Ruth Susswein

The one federal financial regulator created to protect consumers—the Consumer Financial Protection Bureau (CFPB)—is in the fight of its brief life. Following the Great Recession, it was designed by Congress as an independently funded agency with a sole director in order to be free of political maneuvering.

Over the past five-and-a-half years, the CFPB has prevented predatory practices; defined how to understand the terms of a mortgage, student loan and credit card in its Know Before You Owe campaigns; and held companies accountable for unfair and deceptive behavior.

Its supporters, including Consumer Action, say the Bureau's multipronged approach toward consumer protection—supervision, enforcement, regulation, research and consumer education—has led to safer financial contracts, more transparent lending and fewer deceptive practices. The CFPB has returned \$12 billion to about 29 million aggrieved consumers.

Recently, the CFPB slapped Wells Fargo with a noteworthy \$100 million fine for opening two million unwanted bank accounts and charg-

ing consumers fees on the phony accounts.

The Bureau filed suit against the nation's largest student loan servicer, Navient, for "cheating" borrowers out of their right to lower loan repayment options.

The CFPB required (non-bank) mortgage servicer Ocwen to pay \$2 billion in home loan modifications and \$125 million to borrowers who had lost their homes to foreclosure because of the unfair actions of lenders and servicers.

The agency created mortgage-servicing rules, including a process to help prevent lenders and servicers from completing unfair foreclosures. For one, servicers can no longer sell a home while a borrower is being considered for a loan modification.

The CFPB also created rules that require lenders to reasonably determine a borrower's ability to repay a mortgage and servicers to correct errors quickly.

Thanks to the CFPB and the U.S. Department of Justice, more than 200,000 minority borrowers who were charged higher interest rates on auto loans for no reason were paid \$80 million in damages stemming from discriminatory pricing by auto lender Ally Financial.

The CFPB issued a rule to protect

prepaid card users (effective October 2017) that requires card issuers to disclose fees, limit charges for fraud and unauthorized withdrawals, and include a process to resolve errors. The new rule enacts protections that are substantially similar to those that exist for ATM and debit cards.

CFPB investigations found that most of the top credit card issuers had misled consumers into paying for expensive "add-on" credit card protection plans. The Bureau ordered Citi, Bank of America, Chase and American Express to return \$3.48 billion to affected consumers.

The Bureau has created a consumer complaint system that helps regulators spot patterns of problems through customers' firsthand accounts. It provides individuals with a way to resolve financial disputes and allows consumers to evaluate a business's performance using the CFPB's public complaint database. More than one million consumers have reported their mortgage, credit card, student loan, payday, money transfer, bank/credit union, car loan, credit report and debt collection complaints to the CFPB.

The CFPB's director, Richard Cordray, has said his goal is to help create a marketplace "where prices are clear up front, risks are visible, nothing is buried in fine print, and everyone plays by the rules."

But not all see the consumer bureau's achievements as a benefit to the public. Republican congressional leaders have complained since

its inception that the CFPB is too independent, since its budget comes automatically from the Federal Reserve, not at the behest of Congress. Some Republicans claim the CFPB has over-regulated businesses, particularly smaller ones. U.S. House Financial Services committee chair Jeb Hensarling (R-TX) authored the Financial Choice Act, which would change the structure of the CFPB by replacing its director with a political appointee who could be fired at will. The legislation would further reduce the Bureau's independence by placing its budget under congressional control, where its funding could be slashed and its authority to rein in abusive practices diminished by political whim.

As a further attack on the CFPB's independence, opponents would like to see the president fire the Bureau's director. At press time, legal wrangling continues over whether the president has the authority to do so.

Many issues that the CFPB has begun to tackle, from payday lending to redlining (denying minorities loans and housing access in certain geographic areas), could be derailed in the days ahead by choices made on Capitol Hill. Congress has already proposed to repeal the CFPB's prepaid card rule and dozens of other important consumer protections. Consumer Action and its allies have pledged to preserve the consumer financial watchdog and the improvements it has fostered on behalf of U.S. consumers. ■

## Help on the home front

By Ruth Susswein

The U.S. Department of Housing and Urban Development (HUD) has been nudging communities to become more inclusive and improve fair housing opportunities for residents.

HUD's Affirmatively Furthering Fair Housing (AFFH) Rule requires "meaningful action" to help end housing discrimination by fostering inclusive communities where all people have access to fair housing and equal opportunity.

The AFFH Rule requires HUD-funded program participants (cities, counties, public housing agencies) to:

- identify factors that have impeded local fair housing choices,
- set fair housing goals and
- act to overcome obstacles.

HUD then evaluates participants' fair housing priorities and goals.

While the rule does not require communities to take specific actions, it does expect a meaningful

action plan with locally-based solutions. In some areas, furthering fair housing will mean rezoning for additional affordable housing units; in other areas it will include changing public transportation schedules to meet the needs of that community.

But new legislation, the Local Zoning Decisions Protection Act (HR 482 and S 103), has been introduced that would repeal the fair housing rule and ban funding of data on racial disparities in affordable housing. The bills, introduced by Rep. Paul Gosar (R-AZ) and Senator Mike Lee (R-UT), are intended to have local communities retain full control of housing and zoning decisions.

### Credit access

Increased mortgage lending to underserved borrowers, housing counseling services and greater use of alternative credit scoring models are some of the top expectations the Federal Housing Finance Agency (FHFA) has for Fannie Mae and Freddie Mac. (Fannie and Freddie

buy mortgages from lenders to free up funding for lenders to make additional loans.) FHFA's latest Scorecard gives the housing finance giants guidelines for their core activities for the upcoming year. With the end of HAMP, the government's voluntary mortgage modification program, FHFA expects Fannie and Freddie to implement new ways to help homeowners avoid foreclosure.

FHFA will also be evaluating Fannie and Freddie's efforts to expand access to credit for consumers with limited English proficiency (LEP). So far there have been no threats to dismantle FHFA's guidelines, but it's too early to tell if priorities will be refocused in the days ahead.

Housing counselors will be required to take an exam over the next three years to become certified to operate as a HUD-approved housing counselor (no word on whether the new criteria will change under the new administration). Consumers who work with HUD-approved housing counselors have greater savings, better credit histories and less likelihood of foreclosure, according to independent studies. ■

## FCC

*Continued from page 1*

many other providers are eligible to offer subsidized internet access, the FCC does not currently know of any who are offering the service. While the chairman insists that he intends to close the digital divide, he explained that his decision to pull new participation would allow time to address any potential waste or fraud in the program.

There are also concerns for the future of a free and open internet. Net neutrality rules were a key win for consumers during the Obama Administration because they ensure equal access to internet content. Pai has strongly and consistently opposed the ISP privacy rules and the net neutrality order.

Pai also shut down multiple net neutrality inquiries into carriers' "zero rating" programs. These programs allow only AT&T, Verizon, T-Mobile and Comcast subscribers to benefit from free streaming and downloads that do not affect their data-caps, and appear to run counter to the FCC net neutrality ban on paid prioritization.

Most concerning is the risk of repeal of the FCC's new internet privacy rule. Pai has previously argued that the agency's rule to protect the confidentiality and security of customers' online information "disproportionately burdens ISPs" instead of companies like Google, Netflix and Facebook, whose use and collection of consumer information is regulated by the Federal Trade Commission. Consumer Action has urged the FCC to maintain the rule that gives consumers a measure of control over their sensitive information online. ■

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