



**Americans for Financial Reform**  
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April 17, 2012

Ms. Monica Jackson  
Office of the Executive Secretary  
Bureau of Consumer Financial Protection  
1700 G Street NW  
Washington DC 20006

Re: Defining Larger Participants in Certain Consumer Financial Product and Service Markets  
(Docket No. CFPB-2012-0005 or [RIN 3170-AA00](#))

Dear Ms. Jackson,

Americans for Financial Reform and the undersigned consumer, civil rights and community organizations offer the following comments on the Consumer Financial Protection Bureau's (CFPB) proposed rule defining the "larger" debt collectors and consumer reporting agencies (CRAs) subject to supervision by the CFPB.

### **Overarching Comments**

The CFPB's power to supervise nonbanks that offer consumer financial products and services is a critical part of its mission to protect consumers. Supervision enables the CFPB to detect problems early, prevent or resolve violations quickly, and have a better understanding of the consumer products and services it regulates.

As the CFPB defines the entities that will be subject to examination in this and future rulemakings, it should:

- **Define "larger" broadly** so that the CFPB has the flexibility to examine a range of entities that may pose different risks for consumers. The CFPB needs to examine not only the "largest" entities but also those that have a disproportionate impact in particular niche markets or on particular population (such as minority groups, military, students or seniors). Different entities may have different business models and pose different risks. The CFPB is not obligated to actually examine every "larger" participant and can tailor its resources to an evolving understanding of where risks emerge.
- **Prevent evasions** by including counting the revenues of affiliated companies *and also* firms that act as agents or are under contract to another firm. The CFPB should also enact an anti-evasion or anti-circumvention rule.

- **Examine all of an entity’s consumer financial products and services** even if it is a larger participant in just one market. Many products and services are interrelated, and the CFPB must get a clear picture of a firm’s entire operations in order to understand the risks to consumers. Firms that offer more than one product or service may pose different risks to consumers than mono-line firms.

### “Larger” Debt Collectors

Year after year, debt collectors are the industry that generates the most complaints to the Federal Trade Commission. It is essential that the CFPB have the flexibility to examine a broad range of firms. Some of the worst abuses, affecting millions of consumers, may occur at firms that do not have high annual receipts and lack adequate compliance systems or specialize in older, undocumented or disputed debt that sells for pennies on the dollar.

The proposed rule catches only 4% of the nation’s debt collectors, far too few. The threshold should be expanded by:

- Including any firm that has annual receipts **from any source of \$7 million or more** (thus excluding small businesses), as long as at least \$3.5 million are related to the collection of debts related to consumer financial product or service.
- Counting the receipts of, and potentially examining, not just affiliated companies but **also companies that are under contract to a central firm**. For example, a debt buyer should not escape examination by employing a series of third party collectors, each of which is below the threshold.
- Proposing a **subsequent rulemaking**, soliciting small business input, to consider a lower threshold that permits the CFPB to **spot check debt collectors who are below the small business threshold but affect millions of consumers**.

### “Larger” Consumer Reporting Agencies

Consumer reporting agencies (CRAs) control access to credit, and often employment and insurance, for nearly every single American. We support examination of the “big three” CRAs and the other agencies covered by the CFPB’s proposed threshold of \$7 million in receipts. However, the 30 agencies covered represent only 7% of the nation’s CRAs. The CFPB must have the flexibility to examine other significant CRAs, especially if they have a disproportionate impact in niche markets or communities. As with debt collection, the threshold should be expanded to include any firm that has annual receipts of \$7 million or more **from any source** as long as at least \$3.5 million of receipts are from consumer reporting.

Furthermore, we **strongly oppose the carve-out for furnishers** of information to consumer reporting agencies. The CFPB must ensure that major furnishers of information to CRAs are examined. While many furnishers, such as banks or payday lenders, are subject to examination for other reasons, some important furnishers are not included, such as debt collectors who exclusively engage in the collection of medical debt. These debt collectors have a

huge impact on the financial lives of consumers precisely because of their status as furnishers to the Big Three nationwide CRAs and should be supervised.

As discussed above, we also urge the CFPB to establish a **wide scope of supervision** and supervise all consumer financial products and services in which a company engages. For consumer reporting, the CFPB should at least have the ability to supervise all aspects of the company that deal with consumer information, because the same data, procedures and systems are often used. At a minimum, the CFPB should be able to examine the use of data *collected* for consumer financial products or services even if the *usage* is not for a financial product or service. For example, many employers are now using credit reports from the Big Three CRAs in screening job applicants. The CFPB should have the ability examine the systems and policies of the nationwide CRAs when they issue credit reports for employment purposes.

Finally, we urge the CFPB to state explicitly in the proposed rule that it covers **credit scoring providers** as either service providers or consumer reporting agencies.

## **Conclusion**

Thank you for considering these comments and for protecting consumers in the areas of debt collection and credit reporting.

Yours very truly,

Americans for Financial Reform  
Consumer Action  
Consumer Federation of America  
Consumers Union  
Demos  
Empire Justice Center  
The Leadership Conference on Civil and Human Rights  
NAACP  
National Association of Consumer Advocates (NACA)  
National Community Reinvestment Coalition  
National Consumer Law Center (on behalf of its low income clients)  
National Council of La Raza  
National Fair Housing Alliance  
Public Citizen  
Reinvestment Partners  
SEIU  
U.S. PIRG  
Woodstock Institute

## **Following are the partners of Americans for Financial Reform.**

*All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.*

- A New Way Forward
- AFL-CIO
- AFSCME
- Alliance For Justice
- Americans for Democratic Action, Inc
- American Income Life Insurance
- Americans United for Change
- Campaign for America's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Media and Democracy
- Center for Responsible Lending
- Center for Justice and Democracy
- Center of Concern
- Change to Win
- Clean Yield Asset Management
- Coastal Enterprises Inc.
- Color of Change
- Common Cause
- Communications Workers of America
- Community Development Transportation Lending Services
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO Mobile
- CTW Investment Group
- Demos
- Economic Policy Institute
- Essential Action
- Greenlining Institute
- Good Business International

- HNMA Funding Company
- Home Actions
- Housing Counseling Services
- Information Press
- Institute for Global Communications
- Institute for Policy Studies: Global Economy Project
- International Brotherhood of Teamsters
- Institute of Women's Policy Research
- Krull & Company
- Laborers' International Union of North America
- Lake Research Partners
- Lawyers' Committee for Civil Rights Under Law
- Move On
- NASCAT
- National Association of Consumer Advocates
- National Association of Neighborhoods
- National Community Reinvestment Coalition
- National Consumer Law Center (on behalf of its low-income clients)
- National Consumers League
- National Council of La Raza
- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National Nurses United
- National People's Action
- National Council of Women's Organizations
- Next Step
- OMB Watch
- OpenTheGovernment.org
- Opportunity Finance Network
- Partners for the Common Good
- PICO National Network
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council
- Public Citizen
- Sargent Shriver Center on Poverty Law
- SEIU
- State Voices
- Taxpayer's for Common Sense
- The Association for Housing and Neighborhood Development
- The Fuel Savers Club
- The Leadership Conference on Civil and Human Rights
- The Seminal
- TICAS
- U.S. Public Interest Research Group

- UNITE HERE
- United Food and Commercial Workers
- United States Student Association
- USAction
- Veris Wealth Partners
- Western States Center
- We the People Now
- Woodstock Institute
- World Privacy Forum
- UNET
- Union Plus
- Unitarian Universalist for a Just Economic Community

### *List of State and Local Signers*

- Alaska PIRG
- Arizona PIRG
- Arizona Advocacy Network
- Arizonans For Responsible Lending
- Association for Neighborhood and Housing Development NY
- Audubon Partnership for Economic Development LDC, New York NY
- BAC Funding Consortium Inc., Miami FL
- Beech Capital Venture Corporation, Philadelphia PA
- California PIRG
- California Reinvestment Coalition
- Century Housing Corporation, Culver City CA
- CHANGER NY
- Chautauqua Home Rehabilitation and Improvement Corporation (NY)
- Chicago Community Loan Fund, Chicago IL
- Chicago Community Ventures, Chicago IL
- Chicago Consumer Coalition
- Citizen Potawatomi CDC, Shawnee OK
- Colorado PIRG
- Coalition on Homeless Housing in Ohio
- Community Capital Fund, Bridgeport CT
- Community Capital of Maryland, Baltimore MD
- Community Development Financial Institution of the Tohono O'odham Nation, Sells AZ
- Community Redevelopment Loan and Investment Fund, Atlanta GA
- Community Reinvestment Association of North Carolina
- Community Resource Group, Fayetteville A
- Connecticut PIRG
- Consumer Assistance Council
- Cooper Square Committee (NYC)

- Cooperative Fund of New England, Wilmington NC
- Corporacion de Desarrollo Economico de Ceiba, Ceiba PR
- Delta Foundation, Inc., Greenville MS
- Economic Opportunity Fund (EOF), Philadelphia PA
- Empire Justice Center NY
- Empowering and Strengthening Ohio's People (ESOP), Cleveland OH
- Enterprises, Inc., Berea KY
- Fair Housing Contact Service OH
- Federation of Appalachian Housing
- Fitness and Praise Youth Development, Inc., Baton Rouge LA
- Florida Consumer Action Network
- Florida PIRG
- Funding Partners for Housing Solutions, Ft. Collins CO
- Georgia PIRG
- Grow Iowa Foundation, Greenfield IA
- Homewise, Inc., Santa Fe NM
- Idaho Nevada CDFI, Pocatello ID
- Idaho Chapter, National Association of Social Workers
- Illinois PIRG
- Impact Capital, Seattle WA
- Indiana PIRG
- Iowa PIRG
- Iowa Citizens for Community Improvement
- JobStart Chautauqua, Inc., Mayville NY
- La Casa Federal Credit Union, Newark NJ
- Low Income Investment Fund, San Francisco CA
- Long Island Housing Services NY
- MaineStream Finance, Bangor ME
- Maryland PIRG
- Massachusetts Consumers' Coalition
- MASSPIRG
- Massachusetts Fair Housing Center
- Michigan PIRG
- Midland Community Development Corporation, Midland TX
- Midwest Minnesota Community Development Corporation, Detroit Lakes MN
- Mile High Community Loan Fund, Denver CO
- Missouri PIRG
- Mortgage Recovery Service Center of L.A.
- Montana Community Development Corporation, Missoula MT
- Montana PIRG
- Neighborhood Economic Development Advocacy Project
- New Hampshire PIRG
- New Jersey Community Capital, Trenton NJ
- New Jersey Citizen Action
- New Jersey PIRG
- New Mexico PIRG
- New York PIRG
- New York City Aids Housing Network

- New Yorkers for Responsible Lending
- NOAH Community Development Fund, Inc., Boston MA
- Nonprofit Finance Fund, New York NY
- Nonprofits Assistance Fund, Minneapolis M
- North Carolina PIRG
- Northside Community Development Fund, Pittsburgh PA
- Ohio Capital Corporation for Housing, Columbus OH
- Ohio PIRG
- OligarchyUSA
- Oregon State PIRG
- Our Oregon
- PennPIRG
- Piedmont Housing Alliance, Charlottesville VA
- Michigan PIRG
- Rocky Mountain Peace and Justice Center, CO
- Rhode Island PIRG
- Rural Community Assistance Corporation, West Sacramento CA
- Rural Organizing Project OR
- San Francisco Municipal Transportation Authority
- Seattle Economic Development Fund
- Community Capital Development
- TexPIRG
- The Fair Housing Council of Central New York
- The Loan Fund, Albuquerque NM
- Third Reconstruction Institute NC
- Vermont PIRG
- Village Capital Corporation, Cleveland OH
- Virginia Citizens Consumer Council
- Virginia Poverty Law Center
- War on Poverty - Florida
- WashPIRG
- Westchester Residential Opportunities Inc.
- Wigamig Owners Loan Fund, Inc., Lac du Flambeau WI
- WISPIRG

### ***Small Businesses***

- Blu
- Bowden-Gill Environmental
- Community MedPAC
- Diversified Environmental Planning
- Hayden & Craig, PLLC
- Mid City Animal Hospital, Pheonix AZ
- The Holographic Repatterning Institute at Austin
- UNET



