



Americans for Financial Reform
1629 K St NW, 10th Floor, Washington, DC, 20006
202.466.1885

March 5, 2012

Mr. Raj Date,
Special Advisor to the Secretary of the Treasury on the Consumer Financial Protection Bureau
1500 Pennsylvania Avenue NW (Attn: 1801 L Street NW)
Washington, DC 20220.

Re: Streamlining Inherited Regulations, Docket ID: CFPB-2011-0039)

Dear Mr. Date:

Americans for Financial Reform and its undersigned members hereby submit these comments in response to the request by the Consumer Financial Protection Bureau (CFPB) for ideas to streamline regulations. Americans for Financial Reform (AFR) is an unprecedented coalition of over 250 national, state and local groups who have come together to reform the financial industry. Members of our coalition include consumer, civil rights, investor, retiree, community, labor, faith-based and business groups.

Our top priorities are:

1. Establish a single, fair, uniform method of ordering bank account transactions that minimizes overdraft fees. Some banks have manipulated payment order to increase overdraft fees by clearing transactions from highest to lowest in amount. The regulators have different rules, and banks do not have clarity about what methods are permitted. The CFPB should adopt a rule that specifies a single, simple processing order for checking accounts. This rule should categorically prohibit clearing transactions in order from highest to lowest in amount.
2. Treat all single payment loans the same for purposes of APR calculations and authorization/unauthorized charge rules. If all single payment loans like payday loans, deposit advance loans, and overdraft loans were deemed to be closed-end credit, it would make compliance easier, and manipulations designed to avoid consumer protections would be avoided. Disclosures for open-end credit are not required to include fees, which often comprise the most expensive components of these high cost loans. Treating single payment loans as closed-end credit would make the disclosures more meaningful.

In addition, we oppose the following suggestions in the CFPB's notice, which will weaken consumer protections:

1. *Consistent and Sufficient Definitions.* Protections under statutes such as the Equal Credit Opportunity Act, the Electronic Funds Transfer Act, and the Fair Credit Reporting Act should not be narrowed by restricting the individuals or types of credit protected to mirror narrower definitions under other statutes that serve different purposes. However, we support proposals to make definitions consistent if that expands consumer protection.

2. *Annual Privacy Notices.* Annual privacy notices should not be eliminated even if the privacy policy has not changed. The notices remind consumers of their rights and how to exercise them if consumer preferences or awareness have changed.

3. *ATM Fee Disclosure.* A number of AFR members have not yet had the time to develop a position on this question; some may submit an additional comment on the issue.

4. *Coverage/Scope of Regulation B (Equal Credit Opportunity) and Regulation C (Home Mortgage Disclosure Act).* Exemptions from data collection and reporting requirements under the ECOA and HMDA should not be expanded. Data is critical to fair lending compliance and enforcement. Even smaller entities are banned from discrimination, and records are critical to showing violations. HMDA aggregate data from multiple sources, even institutions that make smaller numbers of loans, can show patterns of discrimination that would otherwise escape notice. In addition, all consumers deserve prompt notice of decisions on their credit applications and the reasons for denials.

5. *Coverage/Scope of Regulation Z (Truth in Lending) and Real Estate Settlement Procedures Act.* The CFPB should not weaken the protections of TILA or RESPA by expanding exemptions, which will only lessen the uniformity of disclosures and protections that consumers get. Foreclosure rescue scammers and predatory lenders already exploit the existing TILA exemptions for lower volume lenders. RESPA has its own narrower scope of coverage and layering the TILA definitions on top of those would add complexity, not eliminate it. Similarly, calculating volume with separate thresholds for different types of credit transactions would also lead to evasions and more complicated calculations.

6. *Credit Card Ability-to-Pay.* The CFPB should not weaken the ability-to-pay requirement for credit cards by permitting use of household income to which the consumer does not have legal access. Whether consumers are a stay-at-home spouse, an adult child living at home, or a roommate, they should not be granted credit that they cannot afford to repay, without the knowledge or responsibility of the person on whose income they are relying. The principle of ability-to-pay is more important than permitting department stores to approve “instant credit” at point-of-sale.

7. *Electronic Disclosures:*

a. The CFPB Should Not Permit Electronic Disclosures or Statements to Substitute for Paper Ones without Consumer Consent

The CFPB should not permit statements, notices or disclosures for bank accounts, credit cards and other products to be delivered in electronic form unless the consumer has consented to electronic delivery following the requirements of the E-Sign Act. Electronic notices are easy to overlook, and logging into an account is more cumbersome than opening a paper envelope. Additionally, some consumers find it safer and more convenient to receive notices and monitor accounts in paper form. It is simply too important that consumers receive and actually see critical notices and information about their accounts to permit that information to be delivered electronically to a consumer who has not chosen that method.

b. The CFPB Should Not Permit Electronic Alternatives for Mobile Banking Without Careful Study and Full Consumer Protections.

The CFPB should not waive or alter legal requirements for mobile banking applications piecemeal without a full consideration of all of the issues and careful study of the most effective ways for consumers to receive information. The requirement in the E-Sign Act that a consumer must be able to retain an electronic notice before that notice can substitute for a paper one is a critical consumer protection. Consumers need the ability to keep records of important information. It is possible that text messages, coupled with emails, annual paper statements, or some other retainable record, could meet the spirit of the E-Sign Act. But the issue should be considered in the larger context of regulation of mobile banking and more research on the best methods of reaching consumers with the information they need.

Sincerely,

Americans for Financial Reform
California Reinvestment Coalition
Center for Responsible Lending
Consumer Action
Consumer Federation of America
Consumers Union
National Association of Consumer Advocates (NACA)
National Consumer Law Center
National Fair Housing Alliance
NEDAP
The Greenlining Institute
U.S. PIRG

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

