



## Consumer Federation of America

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### **House Hearing Considers Eleven Bills that Would Weaken the Consumer Financial Protection Bureau and Consumer Protections**

WASHINGTON, D.C. – Today at a hearing of the House Subcommittee on Financial Institutions and Consumer Credit of the House Committee on Financial Services, eleven bills will be discussed that will weaken the Consumer Financial Protection Bureau and make it harder to protect consumers in the financial marketplace.

The Consumer Financial Protection Bureau has proven itself to be a transparent, deliberative and data-driven agency that has worked closely with consumers and the financial services industry to develop sensible safeguards against unsafe mortgage lending practices, abusive credit card practices, and unfair and discriminatory financial practices that have harmed consumers and servicemembers. The Bureau has made the financial market place more fair for consumers since it became operational in 2011 and much work remains to be done.

“Unfortunately the eleven bills being discussed today by the House Subcommittee on Financial Institutions and Consumer Credit of the House Committee on Financial Services ignore the reality that the CFPB is effectively helping consumers and ensuring that our market place is more fair,” stated Rachel Weintraub, Legislative Director and Senior Counsel of Consumer Federation of America. “These bills will thwart the progress that CFPB has made and will tie its hands in the future.”

“These bills are part of yet another effort to attempt to roll back the Dodd Frank Act which created an effective CFPB,” stated Tom Feltner, Director of Financial Services at Consumer Federation of America. “The CFPB must be able to regulate arbitration and have critical tools at its disposal without burdensome requirements in order to protect consumers. These bills do just the opposite.”

The eleven bills discussed in today’s hearing include:

- The **“Bureau Arbitration Fairness Act”** would repeal the CFPB’s authority to ban or regulate the use of arbitration provisions in contracts for consumer financial products or services. Forced arbitration clauses eliminate consumers’ access to the court system by requiring consumers to instead, proceed to a private and secret dispute settlement system. The Dodd-Frank Act required the CFPB to conduct a study on the use of forced arbitration. In December of 2013, CFPB released preliminary data showing the

pervasiveness of forced arbitration clauses and class-action bans. Rescinding the agency's authority to restrict the practice of forced arbitration provisions is contrary to consumers' interests. This bill would weaken consumers' ability to deter wrongdoing and hold wrongdoers accountable.

- H.R. 4262, the “**Bureau Advisory Commission Transparency Act,**” would apply the provisions of the Federal Advisory Committee Act (FACA) to the CFPB, which would require that all advisory committee meetings be made public. The CFPB has already implemented much of the FACA voluntarily, and recently the CFPB increased its longstanding substantial conformance with the FACA.
- H.R. 4383, the “**Bureau of Consumer Financial Protection Small Business Advisory Board Act,**” would establish a Small Business Advisory Board that would meet at least twice a year and would be made up of at least twelve representatives of the small business community. This proposal is unnecessary and duplicative because the CFPB is already required to take small business concerns into account when issuing rules.
- H.R. 4539, the “**Bureau Research Transparency Act,**” would require that publicly available CFPB research papers include all related studies, data, and analyses. This bill creates burdensome and impractical demands that could force the CFPB to release trade secrets or other materials specifically protected by contracts with companies providing data, as well as potentially requiring them to release confidential supervisory information.
- H.R. 4604, the “**CFPB Data Collection Security Act,**” would require an opt-out list for consumers who do not want the CFPB to collect personally identifiable information (PII) about them. This bill is unnecessary and misleading: the CFPB does not collect PII, unless it is voluntarily provided with affirmative consent and the Bureau collects much of its information from commercial vendors, which do not provide PII. CFPB consistently and effectively protects consumer privacy.
- H.R. 3389, the “**CFPB Slush Fund Elimination Act of 2013,**” would get rid of the Bureau's Civil Penalty Fund by directing the Federal Reserve to transfer existing funds and future penalties to the Treasury. The CFPB's Civil Penalty Fund is intended to help consumers who have been harmed in the financial marketplace by providing remediation to consumers when the company that defrauded them is insolvent and by funding financial literacy. This bill would thwart CFPB's ability to protect and educate consumers.
- H.R. 3770, the “**CFPB-IG Act of 2013,**” would create a separate, independent inspector general (IG) for the CFPB and would require the IG to appear at semi-annual hearings of the House Financial Services Committee and the Senate Banking Committee. This legislation is unnecessary because the CFPB already has an IG, shared with the Federal Reserve, within which the CFPB is housed.

- H.R. 4662, the “**Bureau Advisory Opinion Act,**” would establish a process for certain people to submit inquiries concerning the conformance of prospective products and services with consumer financial laws. The bill requires the Director of the CFPB to issue a confidential opinion in response to each such inquiry. This bill would create an unprecedented and impractical procedural requirement—one that is not imposed upon any other agency within the United States government.
- The “**Bureau Guidance Transparency Act**” would require the CFPB to provide a public notice and comment period before issuing any guidance in final form and to publicize any studies, data, and analyses it relied upon for preparing and issuing the guidance. Guidances are not currently subject to the Administrative Procedures Act (APA). This bill would reduce the CFPB’s ability to clarify compliance expectations and would make it harder for CFPB to act in a timely way to facilitate compliance.
- The “**Preventing Regulatory Abuse Act of 2014**” would require the CFPB to go through a formal rulemaking process before publishing a final rule that provides guidance on the agency’s definition of an “abusive” act or practice. The bill would also institute a moratorium on any enforcement action using the CFPB’s “abusive” authority until the final rule is published; and would repeal the CFPB’s authority to prohibit “abusive” acts or practices if it fails to conform to specified rulemaking timelines. The Dodd-Frank Act already provides parameters as to what constitute “abusive” practices and it would be impractical to construct a rule that could effectively apply to all industries and circumstances where there is abusive conduct.
- The “**Bureau Examination Fairness Act**” would prohibit the CFPB from including enforcement attorneys in examinations, regulate data requests, and place time limitations on the completion of examination field work and the issuance of exam reports. This bill is somewhat redundant as the CFPB has already removed enforcement attorneys from examination practices. CFPB should retain the flexibility to include enforcement attorneys if necessary.

“We urge opposition to these bills that weaken consumer protections, weaken the CFPB and weaken our financial marketplace,” stated Weintraub.

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