



Consumer Federation of America

September 7, 2017

Dear Representative,

Consumer Federation of America¹ (CFA) writes to express our opposition¹ to the Department of Interior, Environment and Related Agencies Appropriations Act of 2018 (H.R. 3354). In particular, we are opposed to Division D which includes the Financial Services and General Government appropriations bill which rolls back important consumer protections and undermines the ability of crucial agencies to fulfill their missions of protecting consumers.

Division D of H.R. 3354 incorporates many provisions of H.R. 10, the Financial CHOICE Act, which CFA vigorously opposes. The CHOICE Act repeals many of the significant achievements in the Dodd-Frank Act and other critical laws designed to ensure consumers, investors, and honest market participants are appropriately protected from harm in the marketplace. This bill would put our financial marketplace in a weaker position than it was before the crisis, making American consumers more vulnerable and more at risk. Contrary to its name, this bill would not create better financial choices for consumers; rather, it would create a financial marketplace of no fair choices. It would foster a financial marketplace with higher risk, without a regulator with the authority, resources and independence to minimize risks for consumers. This is not a choice that any consumer would knowingly make.

Below, we discuss provisions that raise the most serious concerns. They do not, however, represent all of the concerns that CFA has with this legislation.

We also urge support for three Amendments and urge opposition to one, as discussed below, though we reiterate our strong opposition to H.R. 3354.

I. The bill would eviscerate the Consumer Financial Protection Bureau and increase the likelihood of rampant abuse in the marketplace by eliminating the majority of the agency's tools to hold financial institutions accountable.

Division D of H.R. 3354 incorporates some of H.R. 10's worst provisions and would weaken the Consumer Financial Protection Bureau's (CFPB's) ability to protect consumers from abusive financial practices. For five years, the CFPB has proven itself to be a transparent, deliberative, and data-driven agency. The CFPB has worked closely with consumers and the financial services industry to develop sensible safeguards against harmful and discriminatory products and practices

¹ Consumer Federation of America (CFA) is a national organization representing more than 250 nonprofit organizations at the state, local and national level that conducts public education and policy analysis on behalf of consumers, with a particular focus on low- and moderate-income consumers.

like abusive payday lending and aggressive debt collection tactics that have harmed consumers and servicemembers. To date, the CFPB has returned \$11.8 billion in relief to more than 29 million harmed consumers.²

The bill would eliminate the CFPB's authority in significant ways. The bill would completely eliminate the CFPB's authority to create competition and sensible safeguards for payday and auto title loans, industries plagued by problems. The bill would significantly scale back the CFPB's supervisory authority. Supervision of non-banks is essential to ensuring a fair marketplace where banks and nonbanks are subject to oversight.

The bill seeks to undermine the CFPB's forced arbitration rule which restores consumers' right to join together in group lawsuits. The bill would remove the CFPB's Unfair Deceptive or Abusive Acts and Practices (UDAAP) authority. This provision appears to protect companies that cheat their customers. This is critical authority that the CFPB has used, for example, to stop companies such as Wells Fargo from opening sham accounts in customers' names.

The bill would also eliminate the CFPB's independence from the Congressional appropriations process, which would give the worst elements of the financial services industry endless opportunities to deny the CFPB the funding to do its job and inhibit the agency from keeping pace with rapid changes in our financial markets.

II. This bill would undermine progress on housing finance reform.

This bill would require congressional appropriations for all Federal Housing Finance Agency (FHFA) expenses. Current law finances FHFA operations through assessments on its regulated entities without appropriations approval. This provision will weaken FHFA's oversight ability and constrain its ability to fully discharge its responsibilities in a timely and efficient manner.

This bill creates significant exemptions to the CFPB's Qualified Mortgage rule. The bill would weaken protections for purchasers of manufactured housing who are already routinely more subject to high-pressure sales tactics and higher costs than other housing consumers, would exempt any loan held by a depository lender in its portfolio from the basic consumer protections in Title XIV of Dodd-Frank, including the basic requirement that creditors base a loan decision on a reasonable expectation that the consumer can repay the loan; and would exempt depositories from prohibitions against steering customers into loans if they merely *tell* the consumer that they plan to hold the loan on their balance sheet. This provision would exempt *any* depository without regard to asset limits from the basic ability to repay requirements that have been so important in reestablishing appropriate alignment of interests between creditors and mortgage applicants.

The bill would exempt institutions with less than \$10 billion in assets from the escrow requirements for mortgage loans in current law. Failure to properly account for and assure timely payment of required tax and other amounts typically escrowed by mortgage lenders can be very injurious to consumers. In addition, the bill would exempt some depository institutions from the mortgage data collection and reporting requirements of the Home Mortgage Disclosure Act (HMDA) and would eliminate the CFPB's authority to examine compliance with HMDA. Without such authority the

² CFPB, Standing up for you, <http://bit.ly/2tNs4Lu> Data updated on 2/28/17.

government would have less ability to monitor compliance with these reporting requirements, potentially weakening the regime and confidence in the data.

III. This bill would continue to underfund the SEC.

This bill continues a long-term practice of underfunding the U.S. Securities and Exchange Commission's (SEC's) oversight of the capital markets. As a result, the agency's resources have failed to keep pace with its growing workload, particularly with regard to investment adviser oversight. Funding long-term capital investments in information technology poses a significant challenge for the agency, which could and should be addressed by retaining the SEC's Reserve Fund. The bill, however, permanently rescinds this fund. Without access to these resources and the ability to make technology upgrades, the SEC will be at a continued disadvantage relative to industry.

IV. In addition to undermining financial regulator's ability to protect consumers in the financial marketplace, this bill also would undermine regulators' ability to protect consumers in the consumer product marketplace.

The bill would prevent the U.S. Consumer Product Safety Commission (CPSC) from promulgating a rule to establish critical safety standards for recreational off-highway vehicles (ROV). The ROV industry has had years to work on an effective voluntary standard. ROVs have been associated with 335 deaths and 506 injuries from January 2003 to April 2013. CFA and its partners documented at least 75 fatalities associated with ROVs from January 2015 through December 2015.³ The CPSC must be able to move forward with this important safety standard.

The bill would prevent the CPSC from finalizing a table saw rule that seeks to decrease blade contact injuries. The CPSC estimates that in 2015, there were an estimated 33,400 table saw emergency department-treated injuries. 30,800 (92 percent) are likely related to the victim making contact with the saw blade. The CPSC must be able to finalize this rulemaking and we oppose this provision that strips them of that authority.

V. Amendments

We **support** the following Amendments that seek to remedy just a few of the problematic provisions in Division D:

- We urge support for **Amendment #201 (Ellison)**, that would strike a provision eliminating the authority of the Consumer Financial Protection Bureau (CFPB) to prevent abuses in payday and car title lending, either by writing new rules or enforcing existing law. This Amendment is important because it would prevent the weakening of Federal authority over these loans. The CFPB was granted this authority by Congress to ensure that borrowers can repay small dollar loans without financial hardship, and without being forced into a cycle of debilitating repeat borrowing.

³ CFA Press Release, January 7, 2016, available on the web at http://consumerfed.org/press_release/more-than-500off-highway-vehicle-deaths-in-2015/.

- We urge support for **Amendment #199 (Ellison)**, to preserve the independence of the CFPB. This amendment would strike the provision that would eliminate CFPB's funding stream. Independent funding for financial regulators is critical to protecting those agencies from those who seek to weaken consumer protections.
- We urge support for **Amendment #200 (Ellison)**, to strike a rider that would weaken protections for purchasers of manufactured housing who are already routinely more subject to high-pressure sales tactics and higher costs than other housing consumers. The current protections, which are designed to discourage predatory lending by manufactured housing dealers and their affiliated finance companies, provide important consumer protections that should be maintained.

We **oppose Amendment 208 (Sensenbrenner and Duffy)** which seeks to prohibit the U.S. Consumer Product Safety Commission from using any FY 2018 funds to finalize the proposed rule to limit carbon monoxide emissions from portable generators. Especially when the United States is in the midst of enduring strong hurricanes that knock out power to many Americans' homes and which create periods of increased portable generator use, it is contrary to public health and safety to prevent the CPSC from moving forward with a rule to prevent the harms caused by portable generators.

VI. Conclusion

We strongly urge you to oppose H.R. 3354 which rolls back important gains for consumers and markets and puts consumers at risk of financial and physical harm. Further, we urge you to oppose all ideological policy riders in the context of the appropriations process.

Sincerely,



Rachel Weintraub
Legislative Director and General Counsel



Barbara Roper
Director of Investor Protections



Micah Hauptman
Financial Services Counsel



Michael Best
Director of Advocacy Outreach



Susan Grant
Director of Consumer Protection and Privacy



Barry Zigas
Director of Housing Policy