



Consumer Federation of America

January 16, 2018

Chairman Jeb Hensarling
Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

Ranking Member Maxine Waters
Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

This week, the House Financial Services Committee is scheduled to markup a series of bills related to oversight of the financial services industry. Rather than providing meaningful protections for consumers, these bills undermine important sensible safeguards put into place after the financial crisis that culminated a decade ago.

We are writing on behalf of the Consumer Federation of America (CFA)¹ to urge you to oppose legislation that undermines the rights of consumers. A common theme among the proposals are the creation of new loopholes that bad actors can exploit. In this letter, we have focused on the legislation related to consumer financial products and services. While many proposals will be considered, and others raise concerns,² we are particularly concerned about the following:

H.R. 1264 (Williams), the Community Financial Institution Exemption Act, creates a dangerous set of loopholes that will undoubtedly be exploited by bad actors. The bill would exempt insured banks with assets of \$50 billion or less – 99% of banks in the country – from Consumer Financial Protection Bureau (CFPB) regulations. This is simply a recipe for regulatory arbitrage, creating the same unlevel playing field that existed prior to the financial crisis. The proposal is dangerous and irresponsible.

H.R. 4550 (Gonzalez), the Practice of Law Technical Clarification Act of 2017, shields debt collectors operating under the guise of a law firm from the Fair Debt Collections Practices Act. According to the CFPB and the Federal Trade Commission (FTC), debt collection continues to rank among the top categories of complaints from consumers. In one example just last year, the CFPB took action against medical debt collection law firms that led to consumer restitution and

¹ The Consumer Federation of America is a national organization of more than 250 nonprofit consumer groups that was founded in 1968 to advance the consumer interest through research, advocacy, and education.

² CFA sent a letter separately on two anti-investor bills also being considered during this mark up:
<https://consumerfed.org/wp-content/uploads/2018/01/cfa-urges-no-vote-on-hr-4738-and-hr-4785.pdf>

penalties. The law firms allegedly falsified affidavits and engaged in inappropriate credit reporting practices. We are concerned that this exemption could lead to a flood of fraudsters teaming up with unscrupulous lawyers to evade accountability under the law. The legislation should be rejected.

H.R. 2226 (Barr), the Portfolio Lending and Mortgage Access Act, would undermine the carefully-considered exemptions provided by the CFPB under the Qualified Mortgage rule. By expanding these exemptions to larger financial institutions on more loans, the proposal creates incentives for the origination of riskier loans. This legislation lacks careful consideration and would have potentially dangerous consequences.

H.R. 3746 (Duffy), the Business of Insurance Regulatory Reform Act of 2017, creates special loopholes for insurance companies. Currently, insurance companies are subject to the oversight of state insurance regulators, except when they are engaged in an activity related to a consumer financial product or service. For example, the offering of mortgage title insurance is subject to the Real Estate Settlement Procedures Act, which is enforced by the CFPB. The legislation would create incentives for bad actors to partner with insurance companies to offer products and would potentially lead to illegal kickbacks to title insurers. The existing exemption provided by statute is adequate, and additional loopholes are unwarranted.

H.R. 4607 (Loudermilk), the Comprehensive Regulatory Review Act, would require agencies to review all regulations more frequently, every seven years instead of ten, and would prioritize reducing regulatory burdens within those reviews, rather than focusing on how to improve public protection.

With credit card, auto, and student loan debt all topping a trillion dollars, while new delinquencies are accelerating, it would be a grave mistake to create new loopholes for bad actors to escape oversight. This is precisely the type of mindset that created the conditions for the most severe financial crisis since the Great Depression. We urge you to oppose these bills.

Sincerely,

A handwritten signature in black ink that reads "Rachel Weintraub". The signature is written in a cursive, flowing style.

Rachel Weintraub
Legislative Director and General Counsel

Cc: Members of the House Financial Services Committee