July 12, 2017

House Committee on Appropriations	House Committee on Appropriations
Chairman Rodney Frelinghuysen	Ranking Member Nita Lowey
H-305, The Capitol	H-305, The Capitol
Washington, DC 20515	Washington, DC 20515

Dear Chairman Frelinghuysen, Ranking Member Lowey, and Members of the Committee,

Consumer Federation of America[1] (CFA) writes to express our opposition to the Financial Services and General Government appropriations bill. The Financial Services and General Government (FSGG) Appropriations Act of 2018 rolls back important consumer protections and undermines the ability of crucial agencies to fulfill their missions of protecting consumers.

The FSGG bill incorporates many provisions of H.R. 10, the Financial CHOICE Act, which CFA vigorously opposes. The CHOICE Act is, by and large, a deregulatory wish-list from special interests that 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. Without such protections, consumers and investors will be exposed to greater risk of being harmed in concrete ways and the financial system will be exposed to greater risk of instability and crises. 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.

The provisions discussed below are among those that raise the most serious concerns. They do not, however, represent all of the concerns that CFA has with this legislation.

[1] Consumer Federation of America (CFA) is a national organization representing approximately 300 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.

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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.

The FSGG's incorporation of some of H.R. 10's worst provisions 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 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, in section 928, would completely eliminate the CFPB's authority to create competition and sensible safeguards for payday and auto title loans, industries plagued by problems. This section ties the hands of the CFPB, banning the agency from taking any enforcement action when payday lenders break the law. Over the last several years, the CFPB has produced a voluminous body of research and worked closely with all stakeholders to propose commonsense consumer protections. This provision would thwart this critical work.

- The bill, in section 927, would significantly scale back the CFPB's supervisory authority. Much of the toxic mortgage lending that fueled the financial crisis was originated outside of the traditional banking system. While banks were subject to supervision and regular oversight, nonbanks operated in the shadows. Supervision of non-banks is essential to ensuring a fair marketplace where banks and nonbanks are t subject to oversight. This supervision is essential to stopping problematic behavior before consumers are harmed. This provision puts consumers at risk.

  Already, the CFPB has engaged in supervisory oversight of payday lenders, student loan servicers, debt collectors, and credit reporting agencies that has yielded major benefits to consumers. The bill would stall these reforms.

- The bill, in section 930, seeks to undermine the CFPB's forced arbitration rule which restores consumers' right to join together in group lawsuits. The CFPB submitted more than 700 pages of its research findings in a 2015 Report to Congress that analyzed the impact of forced arbitration clauses on consumers and competition. The agency did not seek to eliminate forced arbitration altogether. The CFPB's approach was grounded in extensive evidence. This provision is a gift to lawbreaking banks and financial companies.

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

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- The bill, in section 929, 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. CFPB enforcement that relies on this authority has returned billions of dollars to consumers. Stripping the agency of this authority would make the CFPB useless to consumers and the marketplace.

- The bill, in section 926, would eliminate the CFPB's independence from the Congressional appropriations process. Investors and taxpayers have suffered from subjecting the Securities and Exchange Commission and the Commodity Futures Trading Commission to the appropriations process, which has left them starved of resources needed to keep pace with rapid changes in our financial markets. Budget constraints have left these agencies out-gunned by the powerful firms they are expected to police, unwilling or unable to pursue an aggressive enforcement program, and years behind on meeting major rulemaking deadlines, all of which puts investors and market stability at risk. Subjecting the CFPB to these beltway antics would give the worst elements of the financial services industry endless opportunities to deny the CFPB the funding to do its job.

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

- This bill, in section 905, 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, in section 915, 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. This bill, in section 918, 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. Documented review of the most important factors is essential in this process. This section also 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. Creditors should not be subject to different standards of care or diligence in considering and approving credit decisions based simply on where the loan ultimately will be held. This provision would exempt *any* depository without regard to asset limits from the basic ability to repay requirements that have been so

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important in reestablishing appropriate alignment of interests between creditors and mortgage applicants.

- The bill, in section 920, 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.

- The bill, in section 924, would exempt depository institutions originating fewer than 100 closed end or 200 open ended residential mortgage loans from the mortgage data collection and reporting requirements of the Home Mortgage Disclosure Act (HMDA). Current law and pending regulations provide sufficient flexibility for smaller creditors to disclose pertinent information. The bill would eliminate the CFPB's authority to examine compliance with HMDA. Without such authority the government would have much 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. According to the SEC, its Reserve Fund has been "critically important in [their] efforts to keep pace with the rapid technology advancements occurring in [their] regulatory areas as well as meeting the challenges of cybersecurity."[3] The bill, in section 628, 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. Constantly struggling to detect wrongdoing will ultimately hinder the agency's ability to protect investors, foster market integrity and promote capital formation.

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 recreational off-highway vehicle industry has had years to work on a voluntary standard that adequately addresses the key hazards posed to consumers and which have been associated with 335 deaths and 506 injuries from January 2003 to April 2013, but has failed to do so. The CPSC must

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[3] U.S. Securities and Exchange Commission, Fiscal Year 2018 Congressional Budget Justification Annual Performance Plan, https://www.sec.gov/files/secfy18congbudgjust.pdf#page=4 at 4.

be able to move forward with this important safety standard. CFA and its partners documented at least 75 fatalities associated with ROVs from January 2015 through December 2015. This number may grow as more data becomes available about additional deaths.[4]

- 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. Currently available safety devices, do not adequately address the unreasonable risk of blade-contact injuries on table saws. The CPSC must be able to finalize this rulemaking and we oppose this provision that strips them of that authority.

V. Conclusion

We strongly urge you to oppose the Financial Services and General Government Appropriations bill 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

Cc: Member of House Committee on Appropriations

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