Consumer Federation of America

June 12, 2018

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

House Committee on Appropriations
Ranking Member Nita Lowey
H-305, The Capitol
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 (for the fiscal year ending on September 30, 2019) includes a large number of provisions that roll back important consumer protections and undermine the ability of crucial agencies to fulfill their missions of protecting consumers.

Importantly and problematically, this bill contains many ideological policy riders, many of which were previously contained in freestanding bills that we have previously opposed, that should not be included in appropriations bills, but rather should be discussed within the relevant substantive committees.

We oppose these policy riders, because of the circumvention of the committee process as well as because these riders repeal significant authority created by 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. This bill, if passed, would foster a financial marketplace with higher risk, without a regulator with the authority, resources and independence to minimize risks for consumers.

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

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[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 independence of 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 bill's extensive incorporation of policy riders would weaken the Consumer Financial Protection Bureau's (CFPB's) independence and ability to protect consumers from abusive financial practices. For six 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 $12.4 billion in relief to more than 31 million harmed consumers.[2]

The bill would eliminate the CFPB's authority in significant ways by eliminating the agency's independence regarding funding, leadership, rulemaking authority, and oversight. This bill eliminates the CFPB's independent funding by putting the agency's funding within the appropriation process, singling out the agency as the only banking regulator subject to the appropriation process (Section 943). The bill also weakens the CFPB's independence by giving the president the authority to remove the agency's director for any reason. It does so by seeking to overturn a recent appellate court decision upholding the constitutionality of the CFPB's structure, including its "for cause only" removal provision (Section 947). The bill would undermine the CFPB's independent rulemaking authority by establishing an unprecedented Congressional review and approval authority over CFPB rulemakings. This provision (Section 948) undermines the concept of an independent agency by giving Congress extensive authority to approve or thwart CFPB rulemaking. The bill, in Sections 939-942 (Subtitle W), further undermines the independence of the CFPB by giving authority to the president to appoint an Inspector General for the CFPB.

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

One of the key drivers of the financial crisis was the proliferation of mortgage loans with predatory terms, including complex and opaque fees that borrowers could not reasonably understand. Since then, there have been significant reforms designed to ensure that mortgage terms are transparent and do not include predatory terms, including with regard to title insurance premiums. However, this bill, in Subtitle D, would roll back these reforms and once again expose borrowers to the same types of harmful practices that were so devastating to them and to the broader economy.

III. This bill would weaken the authority of the SEC and put investors at risk.

Regarding investors and the Securities and Exchange Commission, the Financial Services and General Government Appropriations bill does not do anything to increase the likelihood that more private companies will choose to go public, nor to make it easier for investors to get

[2] CFPB, Standing up for you, http://bit.ly/2tNs4Lu Data updated on 6/12/2018.

reliable information on which to base their investment decisions. On the contrary, the provisions such as those in Subtitles E, F, and M undermine efforts to stem the decline in public companies, attack the transparency and efficiency so crucial to our markets' health and integrity, and minimize SEC's authority to protect investors from specific types of trading.

IV. In addition to undermining financial regulators' 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 be able to move forward with this important safety standard. CFA and its partners documented at least 118 fatalities associated with ROVs from January 2016 through December 2016 and have documented 357 fatalities associated with ROVs from 2013 through 2016. This number may grow as more data becomes available about additional deaths.[3]

V. Conclusion

We strongly urge you to oppose the Financial Services and General Government Appropriations bill which contains an extensive list of ideological policy riders that roll back important gains for consumers and markets, puts consumers at risk of financial and physical harm, and profoundly weakens the Consumer Financial Protection Bureau by eviscerating its independence. We also 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

Chris Peterson
Director of Financial Services

[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/.

Susan Grant
Director of Consumer Protection and Privacy

Barry Zigas
Director of Housing Policy

Cc: Member of House Committee on Appropriations