

May 1, 2017

The Honorable Jeb Hensarling
Chairman, Committee on Financial Services
U.S. House of Representatives
2228 Rayburn House Office Building
Washington, DC 20515

Re: H.R. 10, the Financial CHOICE Act of 2017

Dear Mr. Chairman:

The American Financial Services Association (AFSA)¹ is pleased to endorse your “Financial CHOICE Act of 2017.” On behalf of the consumer finance industry, our member companies wish to express our appreciation to you and your subcommittee chairs for your leadership in crafting this legislation.

Of particular interest to AFSA members are the many much-needed reforms to the Consumer Financial Protection Bureau (CFPB), renamed the Consumer Law Enforcement Agency (CLEA), contained in **Title VII**. Six years after its establishment in the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB has proven to be an agency that is not accountable to Congress, industry stakeholders or the American public.

AFSA supports the inclusion of **Section 733**, which would prohibit the CFPB from exercising rulemaking or enforcement authority over small-dollar credit. The CFPB’s proposed small-dollar rule would substantially restrict consumer access to traditional installment loans – one of the simplest, most predictable, and time-tested sources of credit available to consumers today. These loans are already successfully regulated at the state level. Those states should not be undermined by a federal regulator who would impose the most restrictive lending environment upon them, depriving their consumers of credit they want and need.

Additionally, AFSA supports **Section 734**, which would nullify CFPB Bulletin 2013-02, *Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act*. AFSA believes that the Bureau’s current approach to overseeing motor vehicle finance amounts to regulation by enforcement – denying due process to industry participants and causing disruption in the marketplace that risks increasing the cost of financing for all consumers, especially those whom fair lending laws aim to protect. Section 734 would provide an opportunity to replace the CFPB’s policy with one that considers stakeholder input,

¹ Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, direct and indirect vehicle financing, mortgages, payment cards, and retail sales finance.

reveals the evidence relied upon, and analyzes the costs and impacts of such policy on consumers, small businesses and rural areas.

AFSA welcomes the inclusion of **Section 727**, which would eliminate the CFPB's supervisory authority over financial institutions and return it to prudential regulators and the states. The standards the CFPB is using to examine its regulated entities for their level of compliance are far-reaching and not well grounded in comparison to audit examinations that financial institutions experience from states. A company's compliance is judged by the whim of the examiner, rather than being based on express and objective statutory law. These practices make it impossible for a company to style its compliance model with an assurance that it will pass the examination. State examiners have decades of experience examining financial companies and have a better understanding of the industry. Because they know the market and consumers, they can better strike a balance of between appropriate access to affordable borrowing options and the need to protect consumers from harmful products and services.

AFSA supports **Section 736**, which would repeal the CFPB's enforcement authority over unfair, deceptive, and abusive acts or practices. The Bureau's use of "abusive" and "unfair" practices has stifled innovation in the marketplace through its ambiguity. It has also created a catch-all authority that the CFPB and attorneys general may cite in prosecuting any business practice they find disagreeable. In fact, "abusive" is not a standard at all; it is an ill-defined tool that singularly expands the scope of regulators' power to determine which financial products and services pass muster.

Section 735 would repeal the Federal Reserve's authority to issue regulations setting interchange transaction fees and network fees. We believe the repeal of government price controls for debit transactions is a key provision that will enable millions of consumers to enter the banking system and reduce the cost of their critical financial transactions.

AFSA also applauds **Section 738**, which would repeal the CFPB's explicit authority to regulate arbitration clauses in financial services contracts. The Bureau has proposed to outlaw pre-dispute arbitration agreements, depriving financial institutions and their customers of an efficient process for resolving contractual disputes. Doing so could also substantially increase the cost of providing financial services due to the potential for greater legal expenses required to litigate disputes, and the Bureau's own research suggests this litigation is likely to reduce the monetary relief that will end up in the pockets of consumers.

AFSA supports **Section 725**, which prohibits the publication of information gathered for the CFPB's Complaint Database. The Bureau publicly publishes complaint data without verifying the validity of the complaints it receives. The data can negatively affect the reputation of a financial institution based on information that is not real or accurate, with no added value to the consumer. Additionally, the Bureau does not have robust security systems in place to safeguard consumers' personal identifiable information and financial data.

Also of interest to AFSA are the structural reforms to the CFPB contained in **Sections 711 and 713**. Enabling the president to remove the director of the agency at will and subjecting the agency to the regular Congressional appropriations process will ensure the CFPB is not self-regulated and that Congress has proper oversight and funding authority over the Bureau as it does other federal agencies. However, AFSA also believes that the Bureau should be reconstituted as a bipartisan commission to ensure fairness, transparency, and certainty. A bipartisan commission would preserve the Bureau's role regardless of electoral politics and promote better policymaking that weighs consumer protections against consumer credit.

Thank you very much for your consideration. If you have any questions, please do not hesitate to contact me at 202-466-8616 or bhimpler@afsamail.org.

Sincerely,

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

Bill Himpler
Executive Vice President
American Financial Services Association