

The U.S. has a full history of evolving national consumer financial protection laws aimed at ensuring consumers are fairly and responsibly treated by financial institutions. Some 22 different federal laws, spanning eight different agencies, create a layered system of laws that protect consumers. The steady progression of these laws promotes a rich and diverse economy where consumers have tremendous choice in accessing a myriad of credit products from a wide variety of sources. Economic justice and opportunity for all Americans is best assured by a regulatory regime that provides consumer credit access. Proposals to “protect” consumers by limiting lending at a commercially profitable rate will limit credit availability and harm marginal consumers seeking to climb the economic ladder. As our economy continues to change and evolve, our consumer finance laws must keep up. With an eye toward improving our existing system, we offer the following priorities to improve the marketplace for today’s consumers:

RATE CAPS. AFSA strongly opposes efforts to impose harmful interest rate caps, which would severely limit access to safe and affordable credit for many Americans. Rate caps disproportionately harm the very people they are intended to help because they lead to increased overall cost, longer terms, less transparency, and less general credit availability. Additionally, calculations for rate caps should not include the cost of optional products.

VEHICLE FINANCE. Most consumers who finance a vehicle purchase opt for dealership financing, where credit is extended by the dealer and the resulting retail installment sales contract is then assigned to a finance company, bank, or credit union. AFSA encourages policymakers to support the current model of dealership financing, which promotes competition and enables the consumer to negotiate a fair deal.

SMALL-DOLLAR LOANS. Policymakers should preserve consumer access to traditional installment loans. For over a hundred years, well-regulated installment lenders have provided access to safe and affordable credit. AFSA opposes attempts to limit the use of clear and transparently marketed prescreened offers of credit or “live checks,” which offer a convenient way for creditworthy borrowers to obtain installment loans.

SERVING THE MILITARY AND VETERAN COMMUNITIES. AFSA seeks to maintain access to responsible credit for the military and veteran communities and is committed to educating servicemembers and their families to improve financial literacy. AFSA will continue to engage with policymakers regarding the Military Lending Act (MLA) and its implementing regulations. While AFSA supports the MLA’s goal to protect military families from harmful credit products, the association strongly believes that military families and veterans should be able to access safe and affordable credit and credit protection products.

COMMUNICATING WITH CUSTOMERS. Financial institutions should be encouraged to communicate effectively and efficiently with their customers, not prevented from doing so. Laws and regulations limiting these necessary communications that were enacted decades ago should be modernized.

CREDIT REPORTING. AFSA supports the voluntary furnishing of consumer information to credit reporting agencies (CRAs) in accordance with the Fair Credit Reporting Act (FCRA). AFSA also supports the proper handling of direct and indirect credit reporting disputes and encourages consumers to work with the furnisher or CRAs directly to address any concerns with information in their credit reports. AFSA asks that policymakers work to address the increasing number of meritless credit disputes that create needless compliance burdens by amending the Credit Repair Organizations Act. AFSA also cautions policymakers against suppressing negative information, which could result in borrowers getting loans they cannot afford.

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB). AFSA encourages the CFPB to provide clear rules of the road through rulemaking and to educate and empower consumers to make better-informed financial decisions. AFSA also supports the Bureau’s decision to end regulation by enforcement. The CFPB’s rulemakings should be based on data and include clear cost-benefit analyses. The CFPB’s internal, examination, and enforcement procedures must balance the needs of regulators, financial institutions, and consumers.

ARBITRATION. Arbitration is governed by the Federal Arbitration Act and has been approved by the U.S. Supreme Court. It is a fair and effective mode of settling disagreements between borrowers and financial institutions. The CFPB's own study shows that arbitration is inexpensive, fast, and beneficial to consumers. As such, it should be preserved.

ANNUAL PRIVACY NOTICE. Congress has provided relief to some financial institutions from the requirement to mail an annual privacy notice to their customers, so long as this disclosure has not changed and remains available electronically. Congress should expand this relief to include vehicle finance companies.

SMALL BUSINESS LENDING. The Dodd-Frank Act added extensive data collection requirements to the credit application process for small, minority-owned, or women-owned businesses, which will result in significant additional costs for financial institutions, as well as a reduction in credit and increased costs for borrowers, potentially without commensurate benefits. We are concerned about the impact the CFPB's rulemaking in this area will have on the availability of credit to small businesses, particularly in the indirect financing and credit card markets. The CFPB's rules should ensure that the collection requirements are reasonable and beneficial.

DEBT SETTLEMENT COMPANIES. Debt settlement companies often claim they can negotiate with creditors to reduce the amount the borrower owes. However, debt settlement generally leave borrowers deeper in debt. Most debt settlement companies will ask borrowers to stop paying their debts. On those debts that report to credit bureaus, this causes a negative effect on the borrowers' credit scores. If the borrower stops making payments on a loan, late fees and, often, interest will be added to the debt each month. AFSA supports policies that regulate these companies and better protect consumers through fee limitations, mandatory disclosures, and data collection.

DEBT COLLECTION. Debt collection laws and rules must continue to distinguish between creditors collecting their own debt and third-party debt collectors. Creditors and third-party debt collectors have different business models, as Congress recognized when it enacted the Fair Debt Collection Practices Act. Creditors have a very short window in which to reach their customers who have missed a payment to help them avoid damaging consequences.

CURRENT EXPECTED CREDIT LOSS (CECL) STANDARD. The Financial Accounting Standards Board issued a new accounting standard requiring financial institutions to estimate and reserve for expected life of loan credit losses upon origination. While the goal was to record credit losses earlier to reduce procyclicality, the new CECL standard will actually exacerbate procyclicality by requiring increased capital, resulting in reduced credit availability and higher costs of credit, effects that will likely be exacerbated for low- and moderate-income consumers. AFSA urges the repeal or amendment of CECL.

VOLUNTARY PROTECTION PRODUCTS. Credit insurance, debt cancellation, service contracts, GAP waivers, extended warranties, and other credit products play a critical role in delivering financial security to borrowers. AFSA resists efforts to limit consumer choice through misleading disclosures or other unfair regulatory requirements.

DATA PRIVACY/SECURITY. Financial institutions are subject to privacy and data breach notification requirements under federal and state laws. Yet, consumers remain vulnerable to identity theft and fraud because breaches of personal and financial data commonly occur at retailers and other businesses. Meaningful protections will require cooperation by all industries, and a comprehensive approach to securing sensitive information is long overdue. AFSA supports a nationwide standard that preempts state law to promote uniformity and coordination among all entities entrusted with private consumer data. Additionally, any nationwide standard should include a provision limiting private lawsuits.

INDUSTRIAL BANKS. Industrial banks serve an important role in consumer and commercial lending and are subject to the same consumer protection laws as other financial institutions. AFSA opposes legislation that impacts new or existing industrial bank charters by imposing restrictions on their ownership or regulatory agency structure.