

April 27, 2022

The Honorable Maxine Waters
Chairwoman
House Committee on Financial Services
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
House Committee on Financial Services
Washington, D.C. 20515

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of the American Financial Services Association (AFSA)¹, we appreciate the House Financial Service Committee (HFSC) for hosting a hearing entitled, “*Consumers First: Semi-Annual Report of the Consumer Financial Protection Bureau.*”

Today’s hearing with Consumer Financial Protection Bureau Director (CFPB) Rohit Chopra comes at a time when Americans should be able to rely on a fair and transparent financial marketplace to make informed choices. Given the economic fluctuations since the onset of the COVID-19 pandemic and the rising costs of goods and services due to inflation, it is imperative that regulators find an appropriate balance to help Americas expand their financial choices while not adding overly complicated guidelines for American businesses that are driving the economy beyond pre-pandemic levels.

AFSA appreciates the opportunity to provide comments on the following consumer finance-related issues outlined in this letter. We look forward to working with the House Financial Services Committee and the CFPB to protect consumers and maintain access to safe, responsible credit.

Access to Safe and Affordable Consumer Credit:

AFSA strongly opposes H.R. 5974 – *the Veterans and Consumers Fair Credit Act*. This legislation, as written, will have drastic economic effects on millions of consumers by restricting their ability to access affordable credit from highly regulated financial institutions, including traditional installment lenders.

The structure of a loan is best judged by its quality, affordability, and soundness, not its “all-in” APR calculation. This is because the “all-in” annual percentage rate (APR) on small amounts can be a misleading indicator of the true cost of a loan for a consumer. For example, if you borrow \$100 today and charge \$1 in interest; if you pay back the loan in one year, the APR is 1 percent; pay it back in a month, the rate is 12 percent, pay back the loan tomorrow, the APR is 365 percent. Same dollar in interest, vastly different APRs.

In 2020, the Federal Reserve found with an “all-in” 36% rate cap, consumers would not be able to receive a loan for less than approximately \$3,000.² Unfortunately, rate caps force consumers to

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 direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance.

² Federal Reserve, [The Cost Structure of Consumer Finance Companies and Its Implications for Interest Rates](#) (2020).

borrow more money than they need or want, resulting in higher finance charges, longer repayment periods, and higher overall costs, despite having a lower APR.

Earlier this year, the Congressional Black Caucus Institute's (CBCI) 21st Century Council published its 2022 Annual Report and highlighted the importance of maintaining a financial marketplace that allows Americans to access small-dollar credit. The report cited "proposals to protect consumers from predatory practices through a 36% rate cap would cause more harm than help by limiting consumer access to credit."³

While we commend the bill sponsors for highlighting the need to protect consumers from unlicensed predatory lenders and minimize consumers in a cycle of debt, implementing a nationwide APR restriction alone will limit consumer choice and their ability to address unique economic situations.

Addressing the Indirect Vehicle Finance Guidance Gap Under Dodd-Frank Section 1071:

As the CFPB finalizes its Small Business Lending Data Collection proposed rule under Dodd-Frank section 1071, we encourage the CFPB to ensure small financial institutions are not overburdened with sharp increases in operational and compliance costs that would hamper access to credit for many small businesses. More specifically, we recommend the Bureau apply an exception to the 1071 rule for the indirect vehicle financing market.

Under section 1071, covered financial institutions would be required to compile, maintain, and report information concerning credit applications made by women-owned, minority-owned, and small businesses. As proposed, specific data points such as race, ethnicity, sex, business size, application number, application date, the amount applied for, the amount approved, loan type, loan purpose, annual gross revenue, census tract, and possibly others would be required by an array of financial institutions to collect and report to the CFPB.

Vehicle finance companies generally do not interact with small business applicants directly; instead, the finance companies purchase contracts from auto dealers, so the vehicle finance companies cannot collect Section 1071 information themselves when a small business (e.g., catering businesses, florists, moving companies) applies for credit at the dealership. Vehicle finance companies must rely on auto dealers to collect 1071 information. However, auto dealers are prohibited from collecting information of this nature until the Federal Reserve promulgates a rule allowing them to do so. Therefore, vehicle finance companies will be unable to compile, maintain, and submit Section 1071 as required under the proposed rule.

To correct this issue, the CFPB should exclude indirect vehicle financing from the Section 1071 rulemaking until the Federal Reserve issues its 1071 rulemaking for auto dealers. When the Federal Reserve issues its rule, which should conform to the Bureau's, the CFPB should then provide vehicle finance companies the same implementation period as granted in the final rule.

³ Congressional Black Caucus Institute, [21st Century Council Annual Report](#) (p.65) (2022)

The Rulemaking Process at the CFPB:

The CFPB has recently issued several blog posts and press releases focused on the financial services industry. Some have been accompanied by short guidance documents or, in one case, changes to the exam manual. As financial institutions that provide consumer credit to millions of Americans, we understand how important the CFPB's rules and procedures are for consumers and businesses alike. However, new compliance guidelines without specificity can be complex and time-consuming for the average financial institution. For example, while the CFPB updated its examination manual, these changes were not highlighted or specifically noted. Additionally, new terms were added to the manual, but not defined. The CFPB's recent guidance bulletin on auto repossessions lacked detail, especially how it relates to state laws.⁴ We encourage Congress to work with the CFPB to ensure that policy changes are done through rulemaking with notice and comment.

AFSA appreciates the opportunity to provide written comments to the House Financial Services Committee for its hearing about the Consumer Financial Protection Bureau's Semi-Annual Report to Congress. Please contact me by phone, at 202-776-7300, or email, at cwinslow@afsamail.org, with any questions.

Sincerely,



Celia Winslow
Senior Vice President
American Financial Services Association

⁴ CFPB, [Bulletin 2022-04: Mitigating Harm from Repossession of Automobiles](#) (February 28, 2022)