

# Congress of the United States

Washington, DC 20515

January 22, 2024

The Honorable Rohit Chopra  
Director  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

Dear Director Chopra:

As Members of Congress who share the Consumer Financial Protection Bureau's (CFPB) goals of ensuring consumers are protected from illegitimate or discriminatory practices as well as ensuring a well-regulated and more competitive marketplace, we write to express concerns with the CFPB's *Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination* procedural rule.

Since implementation of the rule, we have heard from industry that the rule does not adequately define "risk to consumers," which is critical to successfully accomplishing the CFPB's supervisory authority and ensuring financial institutions are in compliance.

As you know, nonbank financial institutions provide critical services to consumers across the credit spectrum, including low-income individuals. The CFPB found last year that 29 percent of consumers whose household income was \$80,000 or less (a group that includes more than half of all U.S. households) report being denied or not given as much credit as they originally requested. Similarly, about 33 percent of consumers whose household income was \$80,000 or less did not apply because they were worried that they would be denied.<sup>1</sup>

Under this new rule, nonbank entities serving these critical consumer groups can be labeled as "risky" even before an examination is completed, despite complying with existing stringent local and federal regulations. This could lead to confusion in the marketplace about specific entities and have unintentional consequences, including deterring potential consumers and further limiting already tenuous credit access to at-risk consumer groups.

As acknowledged in the final rule, CFPB did not address industry's calls to clearly define "risks to consumers" in this procedural rulemaking.<sup>2</sup> However, we believe providing a clear definition or specific examples is critical to educating both consumers and financial institutions, such as small, mid-size, and emerging operators, on what the CFPB considers inappropriate conduct. This will also assist the CFPB in efficiently allocating its resources to supervise truly risky businesses.

While we believe strong oversight by financial regulators is important to a functioning consumer lending marketplace, we are concerned that this rule will negatively affect a broad range of nonbank financial institutions, including small businesses, that provide tailored financial services to millions of Americans.<sup>3</sup> Having clear rules and expectations around limiting "risks to consumers" is critical to ensure financial institutions are able to continue to provide credit access in all communities. That is why we urge you to clearly define or provide clear examples of what CFPB considers "risk to consumers" to be.

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<sup>1</sup> CFPB, [Making Ends Meet in 2022: Insights from the CFPB Making Ends Meet survey](#) (December 21, 2022)

<sup>2</sup> *Id.*

<sup>3</sup> CFPB, [Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination: Public Release of Decisions and Orders Final Rule](#) (November 10, 2022)

Thank you for your attention to this important matter and for your cooperation. We look forward to your response.

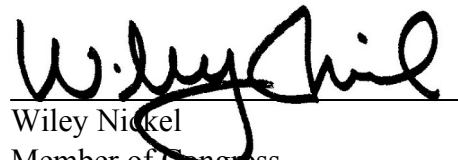
Sincerely,

Sincerely,



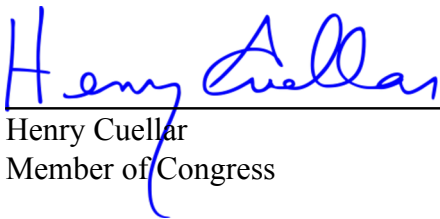
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Vicente Gonzalez  
Member of Congress



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Wiley Nickel  
Member of Congress



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Henry Cuellar  
Member of Congress



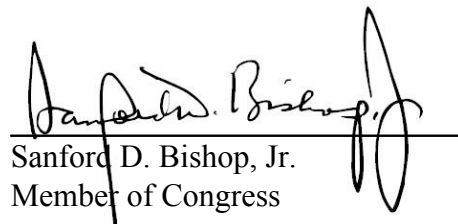
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Gregory W. Meeks  
Member of Congress



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Donald G. Davis  
Member of Congress



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Sanford D. Bishop, Jr.  
Member of Congress



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Mike Flood  
Member of Congress



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David Rouzer  
Member of Congress