



March 7, 2023

Chair Patrick McHenry
Ranking Member Maxine Waters
Honorable Members
U.S. House of Representatives Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chair McHenry, Ranking Member Waters, Chairman Andy Barr, and Honorable Members,

On behalf of more than 500,000 members and supporters of Public Citizen across the country, we provide the following statement for your consideration relevant to the House Financial Services Committee hearing entitled “Consumer Financial Protection Bureau: Ripe for Reform” scheduled for March 9, 2023. We specifically write in opposition to a selection of bills slated to be considered at this hearing because, if enacted, they will erode the core functions and effectiveness of the Consumer Financial Protection Bureau (CFPB).

Created out of the aftermath of the Great Recession with a mission of implementing and enforcing Federal consumer financial protection laws and ensuring that markets for consumer financial products are fair, transparent, and competitive, the CFPB has undertaken this directive in a manner that directly and positively impacts consumers’ lives.¹ As one of its core functions, the CFPB works to “root[] out unfair, deceptive, or abusive acts or practices by writing rules, supervising companies, and enforcing the law.”²

In the last five months alone, the CFPB has proposed a rule to rein in excessive credit card late fees.³ It has proposed a public registry of terms and conditions in non-bank contracts that waive

¹ To date, the CFPB has obtained approximately \$16 billion in financial relief. *See*, Consumer Financial Protection Board, CFPB Standing for You, CONSUMERFINANCE.GOV, *available at*, <https://www.consumerfinance.gov/>.

² *See*, Consumer Financial Protection Bureau, Our Core Functions, CONSUMERFINANCE.GOV, *available at*, <https://www.consumerfinance.gov/about-us/the-bureau/>.

³ Consumer Financial Protection Bureau, CFPB Proposes Rule to Rein in Excessive Credit Card Late Fees, CONSUMERFINANCE.GOV (Feb. 1, 2023).

or limit consumers' rights⁴ and a registry to detect non-bank repeat offenders of certain local, state, or federal consumer financial protection agency or court orders.⁵ The CFPB has issued guidance to root out which companies charge consumers fees for subscriptions they don't want⁶ and it released a report highlighting problems with tenant background checks⁷, to name a few pro-consumer actions.

Public Citizen forcefully opposes six of the nine bills⁸ to be considered at the impending hearing because they would undermine the structure of the CFPB, overburden the CFPB with onerous bureaucratic requirements and would severely limit the CFPB's ability to carry out its core functions. For instance, the "CFPB Dual Mandate and Economic Analysis Act," "Making the CFPB Accountable to Small Businesses Act" and the "Transparency in CFPB Cost-Benefit Analysis Act" would require the CFPB to engage a series of burdensome and delay-inducing requirements before issuing a rule or taking a pro-consumer action.

Other bills seek to drastically alter the leadership and financial structure of the CFPB. For instance, the "Consumer Financial Protection Commission Act" would do away with the CFPB's director altogether by replacing the director with a five-member commission. Moreover, the "Federal Reserve Loss Transparency Act" and the "Taking Account of Bureaucrats' Spending (TABS) Act" challenge the CFPB's funding. TABS specifically calls for the replacement of the CFPB's independent funding mechanism with annual appropriations by Congress, making the CFPB vulnerable to partisan efforts to stymie its work and weaken the agency's ability to consistently work to protect American consumers.

Instead of constraining the ability of the CFPB to protect consumers, Public Citizen has been working to ensure the agency takes additional action to address lingering harms. For example, our organization has worked extensively with hundreds of partner organizations to ensure that American consumers are afforded access to their day in court by limiting the ability of financial companies to force consumers into pre-dispute arbitration clauses.⁹

⁴ Consumer Financial Protection Bureau, CFPB Proposes Rule to Establish Public Registry of Terms and Conditions in Form Contracts That Claim to Waive or Limit Consumer Rights and Protections, CONSUMERFINANCE.GOV (January 11, 2023).

⁵ Consumer Financial Protection Bureau, CFPB Proposes Registry to Detect Repeat Offenders, CONSUMERFINANCE.GOV (Dec. 12, 2022).

⁶ Consumer Financial Protection Bureau, CFPB Issues Guidance to Root Out Tactics Which Charge People Fees for Subscriptions They Don't Want, CONSUMERFINANCE.GOV (Jan 19, 2023).

⁷ Consumer Financial Protection Bureau, CFPB Reports Highlight Problems with Tenant Background Checks, CONSUMERFINANCE.GOV (Nov. 15, 2022).

⁸ Public Citizen withholds comment on the "CFPB-IG Reform Act," the "CFPB Whistleblower Incentives and Protection Act," and the "Encouraging Innovation and Protecting Consumers Act."

⁹ Letter to The Honorable Rohit Chopra, Critical Need for Action to Limit Forced Arbitration, CONSUMERFINANCE.GOV (Sep. 13, 2022), *available at* <https://www.nclc.org/wp->

Pre-dispute binding arbitration clauses and class action waivers, together known as forced arbitration clauses, are typically buried in “take-it-or-leave it” agreements that waive an individual’s fundamental rights to seek redress in court when they are harmed or when their legal rights are violated. In July 2017, the CFPB issued a rule banning certain companies from using mandatory arbitration clauses to denied consumers their day in court. Unfortunately, in November 2017, the rule was disapproved under the Congressional Review Act. Public Citizen continues working closely with other organizations to support the CFPB in issuing a new rule protecting consumers from forced arbitration clauses.

Thank you for the opportunity to provide comment on this legislation. For questions, please contact Martha Perez-Pedemonti at mperezpedemonti@citizen.org or Lisa Gilbert at lgilbert@citizen.org.

Sincerely,

Public Citizen