United States House of Representatives

Committee on Financial Services

Subcommittee on Financial Institutions and Consumer Credit

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Hearing On:

Examination of the Federal Financial Regulatory System and Opportunities for Reform

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Thursday, April 6, 2017

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Statement for the Record

By The

American Financial Services Association

The American Financial Services Association (AFSA) is pleased to submit this testimony to the Subcommittee on Financial Institutions and Consumer Credit on the occasion of its hearing on the Examination of the Federal Financial Regulatory System and Opportunities for Reform. Founded in 1916, AFSA is the only national association that is solely focused on consumer credit issues.

Over a hundred years ago, hardworking Americans had difficulty getting small personal loans. Commercial banks generally limited personal loans to the more affluent and to their bank depositors. State usury laws often set limits that made it unprofitable for other legitimate lenders to make small cash loans. With few borrowing options available, many consumers resorted to loan sharks. A group of lenders decided to change this situation. They formed the American Association of Small Loan Brokers, now known as AFSA. The association worked with the Russell Sage Foundation to draft the Uniform Small Loan Law, a version of which was adopted by many states to ensure that consumers had access to affordable credit at a rate that provided a sustainable profit for lenders. Today, AFSA members provide consumers with many kinds of credit.

As the Federal Reserve notes, consumer credit balances, exclusive of mortgage, stand at roughly 2.5 trillion dollars.[1] Banks account for originating roughly 60 percent of this credit, but finance companies account for almost one third. It is imperative that the subcommittee understands that banks and finance companies represent very different business models. Federal regulators have a long history of effectively supervising banks. Finance companies, though, are creatures of state law and have been supervised and examined at the state level for close to 100 years. Trying to supervise banks and finance companies as if they are the same could prove disastrous for the consumers they serve and for the health of the economy.

To that point, while he was still a member of Congress, Rep. Barney Frank, one of the authors of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), wrote to Raj Date, the then-acting director of the Consumer Financial Protection Bureau (CFPB or Bureau) in 2011, "I urge the staff to pay close attention to the difference among products offered by nonbank institutions, and to be mindful of Congress' intent in financial reform that state consumer protection laws be preserved to the extent possible."[2] Rep. Frank went on to state, "For example, there are key differences in product characteristics between payday, car title, and other high-cost secured loans, and more traditional closed-end, unsecured lending and related products, and the products are often regulated differently by the states."[3] Rep. Frank concluded, "To the extent that state regulation has worked to protect consumers with regard to financial products offered by nonbank institutions, I encourage the Bureau to coordinate and work with the states to preserve such protections."[4]

AFSA strongly believes that credit should be available to everyone who can manage it. Credit should not be limited to the wealthy or those with perfect credit scores. Credit should be made available to the single mom who needs a loan to purchase a car seat and crib for her new baby – regardless if she has a few dings on her credit, so long as she can still afford the monthly payments

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[1] *See Appendix I.*
[2] *See Appendix II.*
[3] *Ibid.*
[4] *Ibid.*

of an installment loan. Credit should be made available to the recent college grad who may not have a good credit record yet, but needs financing to purchase a car to get to his first job.

It is not apparent that the Consumer Financial Protection Bureau (CFPB or Bureau) shares this philosophy. The CFPB seems to believe that credit should only be extended to those borrowers who do not present any risk.

The CFPB's ostensible mission is to help consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. AFSA supports that goal one hundred percent. When the CFPB takes actions that follow that mission statement, AFSA generally supports those actions. However, not all of the CFPB's actions seem to support that mission.

The Dodd-Frank Act granted the CFPB broad authority and gave it an expansive jurisdiction. Still, as CFPB Director Cordray has emphasized many times, the Dodd-Frank Act places limits on what the CFPB can do. Incredulously, the CFPB manages to exceed its vast authority. There are several examples of this overreach: (1) the CFPB's use of disparate impact theory in the vehicle finance market; (2) regulation by enforcement; (3) a flawed supervision process; (4) the CFPB's attempt to impose rate caps; (5) the CFPB's proposal to ban pre-dispute arbitration agreements, despite the CFPB's findings that they benefit consumers; (6) the CFPB's expansive definition of "larger participant" in rulemaking; and (7) the CFPB's insistence on relying on a flawed complaint database.

I. The CFPB's Use of Disparate Impact Theory in the Vehicle Finance Market

The Equal Credit Opportunity Act (ECOA) makes it unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction, on the basis of race, color, religion, national origin, sex, marital status, or age. AFSA and its members fully support the ECOA.

However, the CFPB's view of the ECOA is overly expansive and not supported by logic or the law, notably in the vehicle finance space. In March 2013, the CFPB issued a bulletin that allegedly provided guidance about compliance with the fair lending requirements of the ECOA. The bulletin is four and a half pages. Far from providing guidance, the CFPB was actually issuing new rules using a questionable legal theory, without going through any notice and comment period. The CFPB blatantly ignored the lack of congressional intent to provide for disparate impact theory under the ECOA.

The CFPB's March 2013 bulletin attempted to hold indirect auto lenders liable for discrimination resulting from dealer compensation policies. Not only is this contrary to the Dodd-Frank Act which prohibits the CFPB from regulating dealers, but it demonstrates the CFPB's fundamental misunderstanding of the vehicle finance market – a retail interest rate offered by a dealer and voluntarily accepted by a car buyer is different from a wholesale rate offered by a finance company or bank to a dealer.

Furthermore, the methods employed by the CFPB to proxy for the demographics of borrowers is deeply flawed and the CFPB has known this for years. As revealed in the report prepared by the Republican staff of the House Financial Services Committee, *Unsafe at Any Bureaucracy: CFPB Junk Science and Indirect Auto Lending,*[5] CFPB employees were aware that the Bureau's proxy methodology was deeply flawed. Despite these problems, the CFPB brought several enforcement actions against banks and indirect auto finance companies.

For example, in December 2013, the CFPB stated that at least 235,000 consumers were alleged to have been discriminated against by Ally Financial and Ally Bank, even though at the time, the CFPB did not know the race of a single borrower in any vehicle finance contract purchased by Ally. In fact, the CFPB knew that factors other than discrimination were causing the disparities they observed, but refused to control for such factors in their statistical analysis. Moreover, internal documents reviewed by the Republican staff of the House Financial Services Committee showed that CFPB officials knew that in order to generate a sufficient number of check recipients, they would have to remove a number of safeguards from the claims process, including confirming the race of claimants alleged to have been discriminated against.

The third installment of the report, *Unsafe at Any Bureaucracy,* states, "Bureau employees conceded, however, that 'damages will go to many non-Hispanic White borrowers …' In other words, the Bureau considered remunerating borrowers in proportion to their statistical probability of being a minority, rather than simply asking borrowers to verify their race, which demonstrates the Bureau's extraordinary aversion to testing the accuracy of BISG's[6] assignments by comparing them to borrowers' actual races."[7] Consumers returning the participation form they were sent as part of the settlement were not required to supply any kind of oath or affirmation. Moreover, the form contained no warnings about perjury or penalties for misrepresenting one's race. In fact, and perhaps incredulously, the form did not even require borrowers to indicate the protected minority race/ethnicity to which they belong.

One reason for this decision was that if remunerated borrowers were limited to actual minorities, it could turn out that the CFPB inflated the harm caused by the alleged disparate impact. Bureau employees said that if borrowers had to opt-in to get remuneration, only 36,000 – 143,000 consumers would receive settlement checks. However, Director Cordray had claimed publicly that Ally had harmed 235,000 minority borrowers.[8]

While the CFPB was bringing these actions, and despite numerous requests, the CFPB did not publish the methodology it used for determining if disparate impact existed for over a year and a half. This is equivalent to a cop pulling over a driver for speeding without posting the speed limit.

In short, the CFPB pursued a disparate impact case without a valid legal basis, issued "guidance" designed to function as rulemaking without due process of law, employed a statistical proxy

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[5] Staff of H. Comm. on Fin. Serv., 115th Cong., *Unsafe at Any Bureaucracy: CFPB Junk Science and Indirect Auto Lending*, Jan. 18, 2017. Available at http://financialservices.house.gov/uploadedfiles/1-18-17_cfpb_indirect_auto_staff_report_iii.pdf.
[6] Bayesian Improved Surname Geocoding or BISG, is the flawed disparate impact methodology used by the CFPB.
[7] *Ibid*. p. 10
[8] *Ibid*. p. 14-15

methodology it knew was flawed, refused to consider non-discriminatory factors that could explain alleged pricing disparities, tried to force finance companies to regulate dealers because the CFPB is prevented by Dodd-Frank from doing so, and employed a remuneration process that was designed to achieve political ends.

SOLUTION: Congress should preclude the CFPB explicitly from using disparate impact liability theory under the ECOA.

II. Regulation by Enforcement

The CFPB has the authority to write rules governing the consumer finance industry. Despite this authority, the CFPB chooses to govern the industry by issuing enforcement orders and then telling the financial services industry it has to figure out how to comply with those orders. Director Cordray recently said, "Indeed, it would be 'compliance malpractice' for executives not to take careful bearings from the contents of these orders about how to comply with the law and treat consumers fairly."[9]

But it is often difficult for financial services companies to comply with the orders, especially when they are not consistent. For example, does the CFPB expect vehicle finance companies to comply with: (1) the enforcement order against American Honda Finance Corporation, in which Honda agreed to reduce dealer discretion to mark-up the interest rate to only 1.25 percent above the buy rate for auto loans with terms of 5 years or less, and 1 percent for auto loans with longer terms; or (2) the enforcement order against Ally, in which Ally agreed to implement a compliance monitoring program?

In other enforcement orders, the CFPB claims that practices that are permitted under both federal and state law are "unfair." For example, the debt collection practices employed by EZCORP were consistent with federal and state law, but the CFPB did not like them, so it took an action against EZCORP and labeled the practices as "unfair."

The CFPB is so anxious to issue enforcement orders, it does so even when there is no consumer harm. The First Investors' consent order does not show any resulting consumer harm – neither does the press release or prepared remarks. The CFPB claimed only that First Investors *potentially* harmed customers.

SOLUTION: The CFPB should be limited to enforcing federal consumer financial laws and regulations. The Bureau's unfair, deceptive, or abusive acts or practices (UDAAP) authority should be removed. The Federal Trade Commission will retain its unfair or deceptive acts or practices authority.

III. Flawed Supervision Process

[9] Consumer Financial Protection Bureau, Prepared Remarks of CFPB Director Richard Cordray at the Consumer Bankers Association. March 9, 2016. Available at https://www.consumerfinance.gov/about-us/newsroom/prepared-remarks-of-cfpb-director-richard-cordray-at-the-consumer-bankers-association/.

The CFPB's supervision process is flawed. First, the CFPB makes liberal use of the UDAAP doctrine to find violations during examinations. Second, the CFPB does not always understand the markets of the companies that it is supervising. Third, supervision examinations often start as a fishing expedition.

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 common state audit examinations. In particular, the CFPB makes liberal use of the UDAAP doctrine to find violations. While UDAAP commonly refers to types of laws that are intended to prevent businesses from engaging in deceptive practices, the CFPB emphasizes the first prong of UDAAP, i.e. the "unfair" prong, which is not commonly used. The CFPB examiners use the "unfair" prong of UDAAP to claim that companies that, while in full compliance with all applicable laws in an examined area, are still in violation of the CFPB requirements because the practice or conduct is subjectively deemed by the examiners to be "unfair" to consumers. The examined company's compliance is thus subject to being judged by the particular whim of the examiner, rather than based upon express, objective statutory law. Therefore, the CFPB's examination practices make it impossible for a company to style its compliance model with an assurance that it will pass muster in the examination.

Not only are the CFPB's examination practices inconsistent with state law, but it is clear that some examiners do not even understand the businesses of the companies they are examining. Time and again, examiners have demonstrated their confusion over the difference between "loans" and "retail installment sales contracts." Indirect auto finance companies do not make "loans." They are not selling money. They purchase retail installment sales contracts from dealers. Dealers are not agents of the finance company; they are completely separate entities. While it is understandable that those not in the finance industry do not understand the complexities of the market, the examiners undoubtedly should.

The fact that the Bureau misunderstands the business is evident on page 1 of the exam manual in the examination objectives which state, "To identify acts or practices that materially increase the risk of violations of Federal consumer financial law, and associated harm to consumers, in connection with an entity's automobile loan or lease origination business or automobile servicing business."[10] There is no mention of indirect auto finance. The exam procedures do go on to explain indirect lending, but it is clear that the market is still misunderstood. For example, the examination manual lists the Fair Debt Collection Practices Act as an applicable law, but that law is only applicable to debt collectors, not creditors. In another example, the word "loan" which is not relevant to indirect auto financing occurs 57 times, but the phrase, "retail installment sales contract," can only be found twice.

Because of these misunderstandings, examiners have initially given failing marks to indirect auto finance companies, even when they do not find a specific violation. The examiners just do not like certain practices. For example, examiners have held that a violation occurs when a finance company does not provide a refund on an ancillary product, such as credit insurance, when there is an early pay-off. State law is very clear that it is almost always the dealer which must provide

[10] Consumer Financial Protection Bureau, *Automobile Finance Examination Procedures*. June 2015. Available at http://files.consumerfinance.gov/f/201506_cfpb_automobile-finance-examination-procedures.pdf

the refund, not the finance company. But examiners fail to understand that the dealer is not an agent of the finance company.

Examiners are so anxious to find violations that many, if not most, exams begin with a fishing expedition. An examiner shows up at a financial institution with a thumb drive and asks to copy all the company's files. The examiners then dig through the files until they find some violation. (A similar procedure is also used in civil investigative demands.)

SOLUTION: Congress should remove the CFPB's supervisory authority and return it to the prudential regulators or the states. The state examiners have had decades of experience examining finance companies and understand the industry. They are also closer to the situation and understand better what financial products and services their constituencies need and want. Because they know the market and the consumers, they can better strike a balance between appropriate access to financial products and services and the need to protect consumers from harmful products and services.

Contrary to many news reports, the recent problems at Wells Fargo provide a good example of how states are ahead of the CFPB. Los Angeles City Attorney Mike Feuer submitted testimony stating that he first learned of the fake accounts at Wells Fargo when he read the *Los Angeles Times*' lengthy Dec. 22, 2013, investigative article. Within days, his office had started an investigation that resulted in his office's May 2015 lawsuit. He, in turn, notified the OCC and the CFPB after the suit was filed. The three agencies then worked together on the settlement package, announced Sept. 8, 2016.[11] The CFPB had been examining Wells since 2011. Director Cordray claimed that he knew of the problem from a whistleblower in 2013, but that just begs the question, why did he wait two years to do anything?

IV. The CFPB's Attempt to Impose Rate Caps

The CFPB is statutorily prohibited from imposing rate caps. Yet, that is just what it is trying to do in its small-dollar rulemaking. The proposed small-dollar rule imposes substantial and burdensome underwriting requirements on loans with a total cost of credit that exceeds 36 percent. Because these additional underwriting requirements are so costly, many lenders will not make such loans and charge such interest rates. It is irrelevant that the proposed rule does not categorically prohibit covered loans with a total cost of credit in excess of 36 percent. The Proposed Rule imposes a de facto usury limit by making it uneconomical for many lenders to comply with the new underwriting requirements.

SOLUTION: The CFPB should not finalize the proposed small-dollar rule.

V. The CFPB's Proposal to Ban Pre-Dispute Arbitration Agreements

The Dodd-Frank Act authorizes the CFPB to "prohibit or impose conditions or limitations on the use of a pre-dispute arbitration agreement between covered persons and consumers, only if the CFPB finds that doing so is in the public interest and for the protection of consumers." It has not

[11] James Rufus Koren, "Wells Fargo to pay $185 million settlement for 'outrageous' sales culture," *Los Angeles Times* (Sept. 8, 2017), http://www.latimes.com/business/la-fi-wells-fargo-regulators-20160.

been determined that the CFPB's proposed arbitration rule is in the public interest, or that it will protect consumers. In fact, there is abundant information that arbitration serves these goals better and more effectively than other options, such as class actions. And to ignore this information would conflict with the CFPB's statutory duties. Until additional factors are considered, the CFPB does not have the authority to prohibit or impose conditions or limitations on the use of pre-dispute arbitration agreements.

In March 2015, the CFPB published a study of arbitration clauses in connection with the offering or providing of consumer financial products or services. Contrary to what the CFPB has claimed, a careful reading of the 728-page study shows that arbitration benefits consumers.

- Arbitration is quicker and more cost effective for consumers than litigation. Unlike in civil litigation where a consumer faces uncertain attorney fees, arbitration fees are modest and disclosed. Consumers paid an average of $206 in fees in arbitration cases reviewed by the CFPB. In some of those cases, consumers' final fees were modified by the arbitrator's decision. In addition, needy consumers may seek a waiver of fees.

- Arbitration is a convenient option for consumers. Most arbitration clauses reviewed by the CFPB required hearings to take place close to the consumer's residence. The study estimated that consumers traveled an average of 15 miles to attend in-person hearings.

- Arbitration provides consumers with fairly quick resolutions to their disputes. According to the CFPB study, telephone arbitrations were resolved in a median five months, and in-person hearings were resolved in a median seven months. By contrast, class action settlements received final court approval after an average of 690 days, or close to two years.

- Arbitration leads to higher monetary relief for consumers than lawsuits. The CFPB found that the average consumer relief in an arbitration was $5,389. Many consumers in class actions will not receive any benefit. For those that do receive something, the CFPB found that the average settlement a class member receives is $32.

- Class action settlements yield high awards for attorneys. While class members who are entitled to awards frequently fail to obtain them, the CFPB showed that class action attorneys are the real winners, raking in $424,495,451 in fees awarded in settlements during the period studied.

As noted by the U.S. Supreme Court in a 1995 decision upholding arbitration: "The advantages of arbitration are many: it is usually cheaper and faster than litigation; it can have simpler procedural and evidentiary rules; it normally minimizes hostility and is less disruptive of ongoing and future business dealings among the parties; it is often more flexible in regard to scheduling of times and places of hearings and discovery devices."[12]

SOLUTION: The CFPB should not finalize the arbitration rule.

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[12] ***Allied-Bruce Terminix Cos. v. Dobson***, 513 U.S. 265 (1995).

VI. Expansive Definition of "Larger Participant" in Rulemaking

Under Dodd-Frank, the CFPB has authority to define larger participants of certain consumer financial product and service markets and then supervise those larger participants. By any common sense description, "larger participants" would mean those participants in a market who are at least large in size. But that is not the case. There are auto finance companies who meet the Small Business Administration's definition of a small business, but yet still qualify as "larger participants" according to the CFPB.

The CFPB is not including just the large players, but in a vast overreach, the overwhelming majority of the players in each market. For example, in the debt collection market, the larger participant rule covers 63 percent of the market. In the consumer reporting agency rule, 94 percent of the market is covered. The larger participant rule for auto finance covers approximately 90 percent of the market.

SOLUTION: The CFPB's authority should be limited to rule writing and enforcement. The authority to supervise financial institutions should be left to the prudential regulators and the states.

VII. Complaint Database

There are a number of significant problems with the CFPB's Complaint Database, including the fact that it does not provide any meaningful information to the public. The CFPB does not verify the validity of the complaints posted and does not have robust security systems in place to safeguard consumers' personal identifiable information and financial data.

SOLUTION: The CFPB should halt the use of the complaint database.

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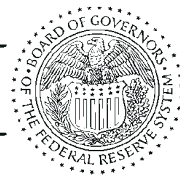
The CFPB is tasked with helping consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives.

Unfortunately, that's not what the CFPB does. The CFPB has greatly expanded its mission, and needs to be reined in. Congress should: expressly prohibit the CFPB from using disparate impact theory in the vehicle finance market, limit the CFPB's enforcement authority, remove the CFPB's supervision authority, prohibit the CFPB from finalizing the small-dollar and arbitration rules, and halt the use of the CFPB's complaint database.

APPENDIX I

FEDERAL RESERVE statistical release



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Consumer Credit

January 2017

For release at **3 p.m.** (Eastern Time)
March 7, 2017

In January, consumer credit increased at a seasonally adjusted annual rate of 2-3/4 percent. Revolving credit decreased at an annual rate of 4-1/2 percent, while nonrevolving credit increased at an annual rate of 5-1/2 percent.

Consumer Credit Outstanding[1]

Seasonally adjusted. Billions of dollars except as noted.

						2015	2016						2017
	2012	2013	2014	2015	2016[r]	Q4	Q1	Q2	Q3	Q4[r]	Nov[r]	Dec[r]	Jan[p]
Total percent change (annual rate)[2]	5.9	6.0	7.2	7.0	6.5	6.2	5.6	6.4	7.2	6.2	8.3	4.7	2.8
Revolving	0.5	1.4	3.9	5.2	6.5	5.9	4.8	7.2	5.3	8.1	15.8	4.3	-4.6
Nonrevolving[3]	8.3	7.9	8.4	7.7	6.5	6.3	5.9	6.1	7.9	5.5	5.7	4.9	5.5
Total flow (annual rate)[2,4]	164.1	175.8	221.8	232.7	229.0	216.3	196.7	228.9	261.4	228.8	310.1	177.1	105.5
Revolving	4.2	12.0	33.8	46.4	61.0	54.6	44.7	68.7	51.0	79.7	154.9	43.0	-45.5
Nonrevolving[3]	159.9	163.9	188.0	186.4	167.9	161.8	152.0	160.2	210.4	149.0	155.2	134.1	151.0
Total outstanding	2,920.4	3,096.2	3,318.0	3,535.7	3,764.7	3,535.7	3,584.9	3,642.1	3,707.5	3,764.7	3,749.9	3,764.7	3,773.5
Revolving	845.7	857.7	891.5	937.9	998.9	937.9	949.1	966.2	979.0	998.9	995.3	998.9	995.1
Nonrevolving[3]	2,074.6	2,238.5	2,426.5	2,597.9	2,765.8	2,597.9	2,635.9	2,675.9	2,728.5	2,765.8	2,754.6	2,765.8	2,778.4

Terms of Credit

Not seasonally adjusted. Percent except as noted.

	2012	2013	2014	2015	2016[r]	Q4	Q1	Q2	Q3	Q4[r]	Nov[r]	Dec[r]	Jan[p]
Commercial bank interest rates[5]													
New car loans													
48-month	4.91	4.43	4.24	4.19	4.30	4.00	4.17	4.33	4.25	4.45	4.45	n.a.	n.a.
60-month	4.82	4.46	4.25	4.20	4.14	4.05	4.11	4.15	4.25	4.05	4.05	n.a.	n.a.
Credit card plans													
All accounts	12.06	11.91	11.87	12.09	12.35	12.22	12.31	12.16	12.51	12.41	12.41	n.a.	n.a.
Accounts assessed interest	12.96	12.95	13.19	13.66	13.56	13.70	13.51	13.35	13.76	13.61	13.61	n.a.	n.a.
Personal loans													
24-month	10.71	10.20	10.22	9.75	9.69	9.66	10.03	9.65	9.64	9.45	9.45	n.a.	n.a.
Finance companies (new car loans)[6]													
Interest rates	4.6	4.7	4.9	5.1	5.0	5.0	5.2	5.0	5.0	4.9	n.a.	4.9	n.a.
Maturity (months)	62	63	64	65	66	65	66	66	66	67	n.a.	67	n.a.
Amount financed (dollars)	25,341	25,586	26,288	27,472	28,601	27,986	28,140	28,127	28,667	29,469	n.a.	29,469	n.a.

This release is generally issued on the fifth business day of each month. See the Statistical Release Schedule for more information.
Footnotes appear on the second and third pages.

Consumer Credit Outstanding (Levels)
(Billions of dollars)
Not seasonally adjusted

						2015	2016						2017
	2012	2013	2014	2015	2016[r]	Q4	Q1	Q2	Q3	Q4[r]	Nov[r]	Dec[r]	Jan[p]
Total	2,920.4	3,096.2	3,318.0	3,535.7	3,764.7	3,535.7	3,538.8	3,604.3	3,692.2	3,764.7	3,732.1	3,764.7	3,770.8
Major holders													
Depository institutions	1,218.6	1,271.6	1,343.1	1,428.3	1,532.1	1,428.3	1,405.8	1,446.6	1,475.7	1,532.1	1,505.6	1,532.1	1,510.0
Finance companies	679.8	679.1	684.1	681.7	667.2	681.7	669.3	666.8	673.4	667.2	669.5	667.2	666.8
Credit unions	243.6	265.6	302.8	342.3	382.0	342.3	345.1	357.8	373.5	382.0	380.3	382.0	386.2
Federal government[7]	622.2	735.5	846.2	949.7	1,050.1	949.7	989.7	1,001.1	1,036.7	1,050.1	1,044.7	1,050.1	1,077.4
Nonprofit and educational institutions[8]	58.0	51.8	47.6	44.2	38.7	44.2	42.8	41.4	39.9	38.7	39.2	38.7	38.3
Nonfinancial business	48.0	43.4	44.4	43.6	42.8	43.6	41.7	41.9	42.2	42.8	42.2	42.8	42.5
Pools of securitized assets[9,10]	50.0	49.1	49.8	46.0	51.8	46.0	44.4	48.7	50.8	51.8	50.5	51.8	49.7
Major types of credit, by holder													
Revolving	845.7	857.7	891.5	937.9	998.9	937.9	902.7	930.5	946.1	998.9	971.9	998.9	974.3
Depository institutions	676.5	693.5	731.6	786.8	845.1	786.8	756.2	782.2	796.7	845.1	821.3	845.1	821.7
Finance companies	71.4	67.1	60.3	54.9	53.3	54.9	53.2	53.6	53.4	53.3	53.3	53.3	55.3
Credit unions	38.9	43.4	46.8	49.4	53.1	49.4	48.7	49.7	50.9	53.1	52.0	53.1	52.5
Federal government[7]	...	...	...	...	...	...	...	...	...	...	...	...	...
Nonprofit and educational institutions[8]	...	...	...	...	...	...	...	...	...	...	...	...	...
Nonfinancial business	27.8	23.2	24.0	23.2	22.4	23.2	21.3	21.5	21.6	22.4	21.8	22.4	21.9
Pools of securitized assets[9,10]	31.2	30.5	28.9	23.5	25.0	23.5	23.3	23.5	23.5	25.0	23.5	25.0	23.0
Nonrevolving	2,074.6	2,238.5	2,426.5	2,597.9	2,765.8	2,597.9	2,636.1	2,673.9	2,746.1	2,765.8	2,760.2	2,765.8	2,796.5
Depository institutions	542.1	578.1	611.6	641.5	686.9	641.5	649.6	664.4	679.0	686.9	684.3	686.9	688.3
Finance companies	608.4	612.1	623.8	626.7	613.9	626.7	616.1	613.2	620.0	613.9	616.1	613.9	611.5
Credit unions	204.8	222.2	256.0	292.9	328.9	292.9	296.4	308.1	322.7	328.9	328.4	328.9	333.7
Federal government[7]	622.2	735.5	846.2	949.7	1,050.1	949.7	989.7	1,001.1	1,036.7	1,050.1	1,044.7	1,050.1	1,077.4
Nonprofit and educational institutions[8]	58.0	51.8	47.6	44.2	38.7	44.2	42.8	41.4	39.9	38.7	39.2	38.7	38.3
Nonfinancial business	20.2	20.2	20.4	20.4	20.4	20.4	20.4	20.4	20.6	20.4	20.5	20.4	20.6
Pools of securitized assets[9,10]	18.8	18.6	20.9	22.5	26.8	22.5	21.1	25.3	27.3	26.8	27.0	26.8	26.7
Memo													
Student Loans[11]	1,055.2	1,146.5	1,236.3	1,320.4	1,406.9	1,320.4	1,357.8	1,364.5	1,397.3	1,406.9	n.a.	1,406.9	n.a.
Motor Vehicle Loans[12]	809.2	878.8	957.9	1,038.8	1,110.5	1,038.8	1,046.4	1,070.4	1,100.1	1,110.5	n.a.	1,110.5	n.a.

Footnotes

1. Covers most credit extended to individuals, excluding loans secured by real estate.
2. The series for consumer credit outstanding and its components may contain breaks that result from discontinuities in source data. Percent changes are adjusted to exclude the effect of such breaks. In addition, percent changes are at a simple annual rate and are calculated from unrounded data.
3. Includes motor vehicle loans and all other loans not included in revolving credit, such as loans for mobile homes, education, boats, trailers, or vacations. These loans may be secured or unsecured.
4. Flow data represent changes in the level of credit due to economic and financial activity, and exclude breaks in the data series due to changes in methodology, source data, and other technical aspects of the estimation that could affect the level of credit.
5. Interest rates are annual percentage rates (APR) as specified by the Federal Reserve's Regulation Z. Interest rates for new-car loans and personal loans at commercial banks are simple unweighted averages of each bank's most common rate charged during the first calendar week of the middle month of each quarter. For credit card accounts, the rate for all accounts is the stated APR averaged across all credit card accounts at all reporting banks. The rate for accounts assessed interest is the annualized ratio of total finance charges at all reporting banks to the total average daily balances against which the finance charges were assessed (excludes accounts for which no finance charges were assessed).

Consumer Credit Outstanding (Flows)
(Billions of dollars, annual rate)
Not seasonally adjusted

						2015	2016						2017
	2012	2013	2014	2015	2016[r]	Q4	Q1	Q2	Q3	Q4[r]	Nov[r]	Dec[r]	Jan[p]
Total	164.1	175.8	221.8	232.7	229.0	277.5	12.2	262.2	351.5	289.9	352.0	390.5	73.9
Major holders													
Depository institutions	28.1	52.9	71.5	100.2	103.7	238.9	-90.2	163.2	116.5	225.4	286.5	317.3	-265.1
Finance companies	-7.8	-0.6	5.0	-2.4	-14.5	-30.3	-49.6	-10.0	26.5	-24.9	-19.5	-27.8	-4.9
Credit unions	20.6	21.9	37.2	39.5	39.7	35.7	11.0	51.0	62.9	33.8	18.9	19.6	50.6
Federal government[7]	127.5	113.3	110.7	103.4	100.4	52.5	160.3	45.6	142.1	53.8	71.4	64.4	327.7
Nonprofit and educational institutions[8]	-9.1	-6.2	-4.2	-3.4	-5.4	-5.3	-5.6	-5.6	-5.7	-4.8	-4.3	-5.6	-5.3
Nonfinancial business	1.0	-4.6	0.9	-0.8	-0.8	-5.9	-7.5	0.9	1.0	2.6	1.4	6.9	-3.9
Pools of securitized assets[9,10]	3.8	-0.8	0.6	-3.8	5.8	-8.1	-6.3	17.2	8.2	4.0	-2.4	15.7	-25.2
Major types of credit, by holder													
Revolving	4.2	12.0	33.8	46.4	61.0	186.2	-140.9	111.3	62.4	211.4	274.9	324.0	-295.3
Depository institutions	12.6	17.0	38.1	55.3	58.3	199.3	-122.4	103.8	58.3	193.5	263.4	285.4	-281.3
Finance companies	-11.6	-4.3	-6.8	-5.4	-1.6	-10.7	-7.1	1.6	-0.7	-0.3	-0.4	-0.4	23.5
Credit unions	0.9	4.5	3.4	2.6	3.6	7.6	-3.1	4.2	4.6	8.9	9.9	13.5	-6.6
Federal government[7]	...	...	...	...	...	...	...	...	...	...	...	...	...
Nonprofit and educational institutions[8]	...	...	...	...	...	...	...	...	...	...	...	...	...
Nonfinancial business	0.9	-4.6	0.7	-0.8	-0.8	-5.2	-7.5	1.0	0.3	3.2	2.1	7.5	-6.4
Pools of securitized assets[9,10]	1.4	-0.7	-1.6	-5.4	1.5	-4.7	-0.7	0.6	0.0	6.0	0.0	18.1	-24.4
Nonrevolving	159.9	163.9	188.0	186.4	167.9	91.3	153.1	151.0	289.0	78.6	77.1	66.5	369.2
Depository institutions	15.5	35.9	33.5	44.9	45.4	39.6	32.2	59.4	58.2	31.9	23.2	31.9	16.3
Finance companies	3.8	3.6	11.7	2.9	-12.9	-19.6	-42.5	-11.6	27.2	-24.6	-19.0	-27.5	-28.4
Credit unions	19.7	17.4	33.8	36.9	36.0	28.1	14.1	46.8	58.3	24.9	9.0	6.1	57.2
Federal government[7]	127.5	113.3	110.7	103.4	100.4	52.5	160.3	45.6	142.1	53.8	71.4	64.4	327.7
Nonprofit and educational institutions[8]	-9.1	-6.2	-4.2	-3.4	-5.4	-5.3	-5.6	-5.6	-5.7	-4.8	-4.3	-5.6	-5.3
Nonfinancial business	0.1	0.0	0.2	0.0	0.0	-0.6	0.1	-0.2	0.7	-0.6	-0.7	-0.6	2.5
Pools of securitized assets[9,10]	2.4	-0.2	2.2	1.6	4.3	-3.4	-5.6	16.7	8.2	-2.1	-2.4	-2.4	-0.8
Memo													
Student Loans[11]	94.2	91.3	89.8	84.1	86.5	32.6	149.8	26.6	131.1	38.4	n.a.	38.4	n.a.
Motor Vehicle Loans[12]	60.0	69.5	79.1	80.9	71.8	34.5	30.4	96.1	119.0	41.6	n.a.	41.6	n.a.

6. Covers most of the captive and non-captive finance companies. The series of finance company new car loan terms included in previous releases are discontinued. They remain available from the Data Download Program.
7. Includes student loans originated by the Department of Education under the Federal Direct Loan Program and the Perkins Loan Program, as well as Federal Family Education Program loans that the government purchased under the Ensuring Continued Access to Student Loans Act.
8. Includes student loans originated under the Federal Family Education Loan Program and held by educational institutions and nonprofit organizations.
9. Outstanding balances of pools upon which securities have been issued; these balances are no longer carried on the balance sheets of the loan originators.
10. The shift of consumer credit from pools of securitized assets to other categories is largely due to financial institutions' implementation of the FAS 166/167 accounting rules.
11. Includes student loans originated under the Federal Family Education Loan Program and the Direct Loan Program; Perkins loans; and private student loans without government guarantees. This memo item includes loan balances that are not included in the nonrevolving credit balances. For additional information, see public documentation. Data for this memo item are released for each quarter-end month.
12. Includes motor vehicle loans owned and securitized by depository institutions, finance companies, credit unions, and nonfinancial business. Includes loans for passenger cars and other vehicles such as minivans, vans, sport-utility vehicles, pickup trucks, and similar light trucks for personal use. Loans for boats, motorcycles and recreational vehicles are not included. Data for this memo item are released for each quarter-end month.

r=revised. p=preliminary. n.a.=not available. ...=not applicable.

APPENDIX II

SPENCER BACHUS, AL, CHAIRMAN

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

BARNEY FRANK, MA, RANKING MEMBER

October 26, 2011

Mr. Raj Date
Acting Director
Consumer Financial Protection Bureau
Washington, DC

Dear Acting Director Date:

I remain frustrated by Senate Republicans' continuing abuse of the Constitution's advice and consent provisions regarding the nomination of Richard Cordray to be the Bureau's first Director. This delay means that the Bureau is for now unable to exercise authority regarding non-bank financial firms. This authority is crucial in two ways: it not only will provide a uniform level of protection for consumers, it also will allow bank and nonbank providers to compete on equal regulatory footing in the marketplace – no longer will some entities be subject to lighter consumer regulation.

As you know, I support the Bureau's vigorous use of all of its powers. As the Bureau prepares for the day that it is able to exercise authority over nonbank financial firms, I urge that the staff pay close attention to the differences among products offered by nonbank institutions, and to be mindful of Congress' intent in financial reform that state consumer protection laws be preserved to the extent possible. For example, there are key differences in product characteristics between payday, car title, and other high-cost secured loans, and more traditional closed-end, unsecured lending and related products, and the products are often regulated differently by the states. To the extent that state regulation has worked to protect consumers with regard to financial products offered by nonbank institutions, I encourage the Bureau to coordinate and work with the states to preserve such protections.

I look forward to working with the Bureau as it continues to develop a nonbank regulatory structure.

BARNEY FRANK
Ranking Member