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Subcommittee on Financial Institutions and Consumer Credit

Legislative Proposals for a More Efficient Federal Financial Regulatory Regime: Part III

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Good afternoon Chairman Luetkemeyer, Ranking Member Clay, and Members of the House Committee on Financial Services' Subcommittee on Financial Institutions and Consumer Credit. Thank you for allowing me to testify today about legislative proposals regarding federal regulation of financial institutions and the need to ensure that all financial institutions are subject to responsible and reasonable regulatory oversight that maintains sensible consumer protections.

I am the Director of Federal Advocacy at the Center for Responsible Lending (CRL), a nonprofit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, a nonprofit community development financial institution. For thirty years, Self-Help has focused on creating asset building opportunities for low-income, rural, women-headed, and minority families. In total, Self-Help has provided over $6 billion in financing to 70,000 homebuyers, small businesses, and nonprofits and currently serves more than 80,000 mostly low and moderate-income families through 30 retail credit union branches in North Carolina, Virginia, Florida, California, Wisconsin, and Illinois.

This important hearing addresses federal financial regulation in the context of the Dodd-Frank Wall Street Reform and Consumer Protection Act,[1] which was passed in response to the financial crash of 2008. Dodd-Frank established a regulatory framework that corrected systemic gaps and sought to prevent future market failures, while also implementing crucial protections for consumers and the broader economy. Fortunately, today consumer lending is strong, and bank profitability is at record levels. However, we are still emerging from the catastrophic effects of the Great Recession, and the safeguards, put in place through legislation and regulation, are essential to preventing a financial crisis like the one in the last decade. They should be given time to work, and we should acknowledge that there is still work to be done to address abusive practices that target low-income and middle class borrowers and leave them worse off, threatening our economy.

[1] Public Law 111-203 (2010).

The Dodd-Frank safeguards are foundational for our financial markets to be strong, stable and competitive. In setting and implementing these protections, regulators have promulgated regulations that are tailored to the variety of actors in the financial marketplace, with numerous measures intended to decrease compliance costs for smaller financial institutions. This targeted and dynamic approach should be continued and expanded. In addition, there are proposed reforms that have broad support and that would benefit all banks, without harming consumers. Unfortunately, the proposals today are too broad to meet that standard.

The legislative proposals before the committee today are each a piece of a larger attempt to dismantle essential consumer protections and deregulate the financial industry. Proposals such as H.R. 1264, which impedes the Consumer Financial Protection Bureau's (CFPB) ability to supervise and regulate financial institutions; H.R. 4648, which prohibits the sharing and public availability of financial marketplace data — data that is the best tool we have to root out market discrimination and inefficiencies; H.R. 4725, which rolls back data driven regulatory policy by scaling back financial reporting; and Rep. Pearce's bill that amends the Truth in Lending Act, which broadens the exemption for potentially dangerous mortgage loan products. These bills as a collective will dramatically harm consumers, banks and the overall economy and lead us right back to the kind of financial crisis that we experienced so recently.

These proposals are serious attacks on consumer protections and the critical reforms that have been implemented, and with the exception of H.R. 2683, the Protecting Veterans Credit Act of 2017, CRL (and the broad civil rights coalition) strongly oppose them. H.R. 2683 is a step in the right direction to ensure that Veterans are provided necessary protections. The other bills rely on the unsubstantiated belief that Dodd-Frank has stifled economic growth, and that deregulation is the solution. However, data does not support this contention, and as explained below, the evidence in fact contradicts this assumption. Additionally, the lessons of the financial crash seem to have been forgotten. The targeted legislation of Dodd-Frank is being abandoned in favor of a problematic belief that an unregulated marketplace will provide access and affordability to all consumers — a market that when left to its own devices almost tanked the entire U.S. economy. Much of the legislation today does not represent targeted, dynamic and tailored reform, but instead rolls back oversight and consumer protections on a wholesale basis. CRL is opposed to any legislation that exposes consumers and the economy to the increased risk of pre-recession behaviors, or that disproportionately benefits the largest financial institutions. Responsible and sensible lending has promoted growth, ensured stability, and protected consumers and the market from the reckless behavior of pre-recession practices.

I. **History shows that responsible regulations are necessary for a healthy national market and economy.**

The proposed legislation must be considered in the context of the current financial marketplace and the market failures that significantly contributed to the Great Recession. The Great Recession of 2008 has already shown us the consequences of a lack of basic protections and oversight in the financial marketplace. Leading up to the financial crisis, mortgage lenders were motivated by extraordinarily high origination fees and loan flipping to offer mortgages with the lowest monthly payment and the least amount of underwriting. Because lenders quickly sold these mortgages into securities, they also had no reason to worry about long-term performance of the loans. Lenders first started offering mortgages that had such low monthly payments that they never reduced the actual principal balance of the loan. These loans were soon followed by loans that had “teaser rates” where monthly payments were even lower for a limited amount of time, but after a few years the monthly payment would significantly and abruptly increase (sometimes almost doubling). Finally, lenders pushed loans that had such staggeringly low payments, a few thousand dollars a month for a half million-dollar loan, that the loan balance actually *increased* by more than five percent every year. These practices started becoming so widespread that many lenders competed with each other primarily on the basis of reduced underwriting requirements and offering no documentation or “no-doc” loans which do not require any verification of borrower income. It was very difficult for responsible lenders to compete in this environment, and in order to maintain their businesses and some market share, they were forced to join this race to the bottom.

The end result of these practices is all too well known. In the wake of the financial crisis, 7.8 million Americans lost their homes through foreclosure.[2] The failure of the mortgage market, due to the lack of responsible and effective regulatory oversight, cost taxpayers $7 trillion to bail out financial institutions through loans, and according to some reports, an additional $22 trillion through the federal government's purchase of assets.[3] According to the Federal Deposit Insurance Corporation (FDIC), more than 500 banks failed and closed their doors — most of these institutions were community banks.[4] The devastation caused by the crash soon spread to the national economy, which plunged into a severe recession. People lost their jobs, small businesses went under, and many Americans—from small entrepreneurs to families—struggled to make ends meet while being unable to obtain the credit and capital they needed from financial institutions.

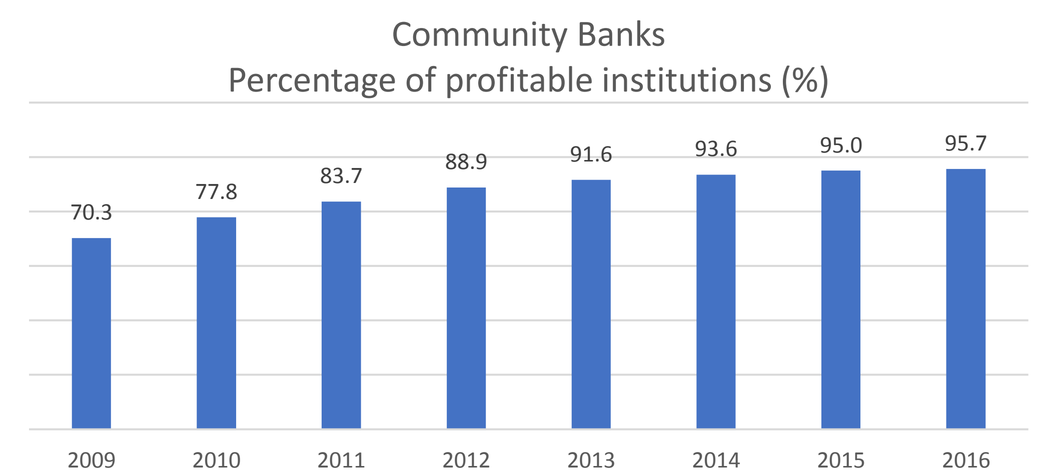
The lessons learned from the financial crash served as the basis for the protections created by Dodd-Frank.[5] All financial institutions, including community banks and credit unions, benefit from the underlying purposes of financial regulation: protecting consumers, ensuring the safety and soundness of institutions, protecting community financial institutions from unfair competition, and defending the nation's financial market from systemic risk.

II. Financial regulations are not slowing economic growth or preventing lending.

Financial institutions, including small banks, are continuing to recover from the worst financial downturn since the Great Depression of the 1930s. Mortgage lending in particular continues to gradually improve. Small banks are playing a central role in the recovery. Contrary to theories that Dodd-Frank has stifled growth, the financial sector has had record profits. In 2016, U.S. financial institutions had total

[2] CORELOGIC, CORELOGIC REPORTS, UNITED STATES RESIDENTIAL FORECLOSURE CRISIS, TEN YEARS LATER 3, *available at* http://www.corelogic.com/research/foreclosure-report/national-foreclosure-report-10-year.pdf.
[3] John Carney, The Size of the Bank Bailout: $29 Trillion, *CNBC*, (December 14, 2011), *available at* http://www.cnbc.com/id/45674390#.
[4] FEDERAL DEPOSIT INSURANCE CORPORATION, FAILED BANK LIST, *available at* https://www.fdic.gov/bank/individual/failed/ banklist.html.
[5] Public Law 111-203 (2010).

annual profits of $171.3 billion, the highest level since 2013.[6] In the second quarter of 2017 FDIC-insured institutions reported aggregate net income of $48.3 billion, up $4.7 billion (10.7 percent) from a year earlier.[7] Community bank profitability has also rebounded strongly and meets pre-recession levels. In 2010, less than 78 percent of community banks were profitable. By the end of 2015, over 95 percent of community banks were profitable.[8] A FDIC report from 2016 third quarter notes that the percentage of unprofitable community banks sunk to 4.6 percent, which is the "lowest percentage since the third quarter of 1997."[9] A FDIC report from 2017 third quarter notes that: "Of the 5,294 community banks reporting third quarter financial results, 67 percent saw an annual increase in net income. Quarterly net income rose 6.7 percent to $6 billion, reflecting an annual increase of 9.4 percent […] Community bank loan balances increased $26.3 billion (1.7 percent) to $1.6 trillion during the quarter, reflecting an annual increase of $106.7 billion (7.3 percent)."[10]



Federal Deposit Insurance Corporation. Quarterly Banking Profile, Community Bank Performance Section, Table 1-B (2015, 2016), retrieved from: https://www.fdic.gov/bank/analytical/qbp/qbpmenu.html, March 23,

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[6] Wall Street Journal, U.S. Banking Industry Annual Profit Hit Record in 2016 (Feb 28, 2017), *available at*: https://www.wsj.com/articles/u-s-banking-industry-annual-profit-hit-record-in-2016-1488295836.

[7] FEDERAL DEPOSIT INSURANCE CORPORATION ,QUARTERLY BANKING PROFILE: SECOND QUARTER 2017, *available at https://www.fdic.gov/bank/analytical/quarterly/2017-vol11-3/fdic-v11n3-2q2017.pdf*

[8] FEDERAL DEPOSIT INSURANCE CORPORATION, CORE PROFITABILITY OF COMMUNITY BANKS 1985-2015 1 (2016), *available at* https://www.fdic.gov/bank/analytical/quarterly/2016_vol10_4/article1.pdf.

[9] FEDERAL DEPOSIT INSURANCE CORPORATION, QUARTERLY BANKING PROFILE: THIRD QUARTER 2016 I, *available at* https://www.fdic.gov/bank/analytical/quarterly/2016_vol10_4/fdic_v10n4_3q16_quarterly.pdf.

[10] FEDERAL DEPOSIT INSURANCE CORPORATION ,COMMUNITY BANK PERFORMANCE THIRD QUARTER 2017, *available at https://www.fdic.gov/bank/analytical/qbp/2017sep/qbpcb.html*

Credit unions have also continued to grow while recovering from the financial crisis. Credit union membership has been steadily growing in recent years. In 2016, credit unions added 4.7 million new members, which amounted to "the biggest annual increase in credit union history and four times the pace set a decade earlier."[11] In 2017, total assets in federally insured credit unions increased by $86 billion, or 6.8 percent, over the year ending in the third quarter of 2017, to $1.36 trillion.[12] Operating costs for credit unions have also fallen in the period since Dodd-Frank was passed and were down to 3.1 percent in 2016 from a high of 3.59 percent in 2008.[13] At the end of the 2017 third quarter, credit union net income totaled $10.5 billion, up 7.8 percent from the same period a year ago.[14]

While the number of small lenders, including community banks and credit unions has decreased, this cannot be attributed to Dodd-Frank or CFPB regulations. The number of community banks has declined every single year since 1984.[15] FDIC research concludes that community bank profitability since 2008 has overwhelmingly been driven by macroeconomic conditions, not regulations.[16] The study states that "regulation is just one among many noneconomic factors that may contribute to structural change in community bank profitability," but concludes that 80 percent of variation in profitability is due to macroeconomic factors, and the other 20 percent includes not just changing regulations, but also "the rise of nonbank lending, competition from larger banks, and changes in loan portfolios and other business practices."[17]

Smaller lenders play an important role in extending access to credit, and it is noteworthy that lending has also rebounded from the depths of the crisis. After falling from June 2008 to November 2010,

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[11] CUNA MUTUAL GROUP, CREDIT UNION TRENDS REPORT (2017), *available at* https://www.cunamutual.com/resource-library/publications/credit-union-trends-report.

[12] NATIONAL CREDIT UNION ADMINISTRATION Q3 2017 CREDIT UNION SYSTEM PERFORMACE DATA, available at https://www.ncua.gov/newsroom/Pages/news-2017-dec-ncua-releases-q3-2017-credit-union-system-performance-data.aspx

[13] NATIONAL CREDIT UNION ADMINISTRATION, NCUA CHART PACK (2016), *available at* https://www.ncua.gov/analysis/Pages/industry/fact-sheets.aspx.

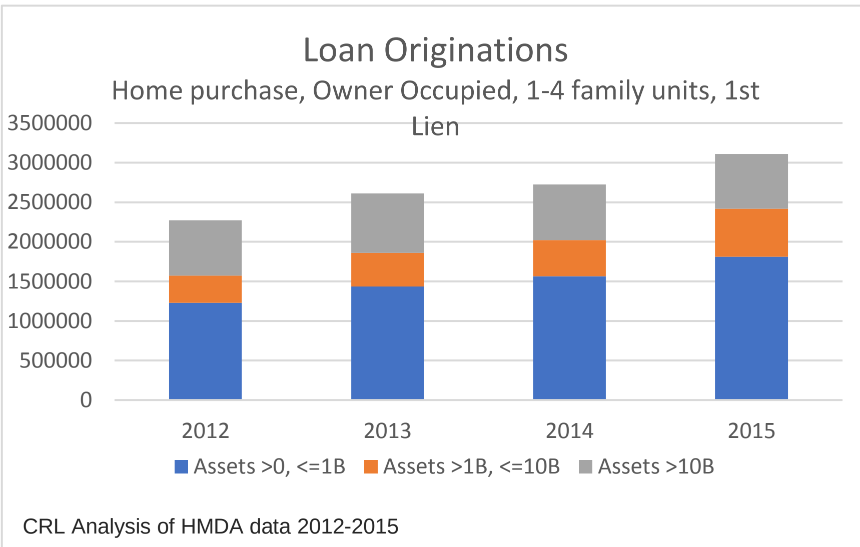
[14] Ibid.

[15] FEDERAL DEPOSIT INSURANCE CORPORATION, COMMUNITY BANKING STUDY 1 (2012), *available at* https://www.fdic.gov/regulations/resources/cbi/report/cbi-full.pdf.

[16] FDIC, Core Profitability of Community Banks *supra* note 6.

[17] Id at 42.

outstanding consumer loans have steadily increased at $3.7 trillion in December 2016, which well exceeds pre-crisis levels.[18] Small banks have posted increases in commercial lending in all but one quarter compared to levels when Dodd-Frank was passed in 2010.[19] Furthermore, the FDIC's quarterly community bank performance data for the fourth quarter of 2016 shows that community banks hold 43 percent of all small loans to businesses and that they increased lending by $6.4 billion (2.2 percent) compared to 2015, twice the rate of other banks.[20] Overall, loans originated by smaller lenders with assets under $1 billion saw the biggest increase during this period (48 percent) while the largest institutions with assets over $10 billion saw a 1 percent decline. Credit unions alone originated $41.7 billion in first-lien mortgage loans in the third quarter of 2016, an increase of 22 percent over the same period in the previous year.[21]



Small lenders also saw their market share in mortgage lending increase over this time period. The market share of the smallest lenders with assets under $1 billion increased from 54 percent in 2012 to 58 percent

[18] FEDERAL RESERVE, TOTAL CONSUMER CREDIT OWNED AND SECURITIZED, OUTSTANDING *available at* https://fred.stlouisfed.org/series/TOTALSL.
[19] FEDERAL RESERVE, TOTAL VALUE OF LOANS FOR ALL COMMERCIAL AND INDUSTRY LOANS, SMALL DOMESTIC BANKS *available at* https://fred.stlouisfed.org.
[20] FEDERAL DEPOSIT INSURANCE CORPORATION, QUARTERLY BANKING PROFILE, COMMUNITY BANK PERFORMANCE, FOURTH QUARTER (2016), *available at* https://www.fdic.gov/bank/analytical/qbp/2016dec/qbpcb.html.
[21] CUNA MUTUAL GROUP, CREDIT UNION TRENDS REPORT (2016), *available at* https://www.cunamutual.com/resource-library/publications/credit-union-trends-report.

in 2015. In contrast, the market share of the largest lenders with assets over $10 billion, decreased from 31 percent in 2012 to 22 percent in 2015.[22]

III. The legislation under consideration represents an unsubstantiated and dangerous reliance on deregulation as a driver of economic growth.

Considering the recovering and growing profitability and strength of smaller lenders, we must ensure that legislative reform to financial oversight is targeted, and based on sound and accurate assessments of risk, and the impact of regulations on economic growth and profitability. As mentioned above, the majority of the bills under consideration today, taken as a whole, are components of a broader push for scaling back consumer protection legislation and hamstringing the most effective and significant agency that consumers have ever had to defend them against the worst actors in the financial marketplace, the Consumer Financial Protection Bureau or CFPB.

- **H.R.1264, Community Financial Institution Exemption Act (Williams)**

H.R. 1264 substantially rolls back the CFPB's authority to protect consumers, the banking industry, and the American taxpayer.

The CFPB, the only agency whose central mission is to protect the American consumer, has been effective in policing the financial marketplace and fighting to protect and expand consumer rights. The data is unambiguous. The CFPB works. The CFPB has recovered nearly $12 billion for 29 million consumers who have been harmed by illegal practices of credit card companies, banks, debt collectors, mortgage companies, and others. The CFPB hears directly from Americans harmed by illegal financial practices through its searchable public complaints database, which has helped people resolve disputes and allowed the CFPB to identify patterns in predatory industry practices. The system has recorded more than one million consumer complaints.[23] Considering the success the CFPB has had in fighting for consumers, it is

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[22] CRL Analysis *supra* note 17.

[23] Consumer Financial Protection Bureau, CFPB Complaint Snapshot Spotlights Money Transfer Complaints: Bureau Marks Over One Million Consumer Complaints Handled (2016), available at https://www.consumerfinance.gov/about-us/newsroom/cfpb-complaint-snapshot-spotlights-money-transfer-complaints/.

troubling that H.R. 1264 would essentially exempt a large part of the banking industry from the CFPB's supervision. This is a radical break from the two-tiered regulatory structure put in place by Dodd-Frank.

Anticipating the need for dynamic regulation, Dodd-Frank grants broad discretion to the CFPB to tailor regulation based on such factors as asset size and capital (e.g. determining the best approach with community banks, CDFIs, and credit unions).[24] This legislation takes the opposite approach to consumer protection, and would essentially (if passed) exempt more than 99 percent of all banks, and all credit unions, except one, from the supervisory authority of the CFPB. The bill's narrow exception to this free-pass is an onerous procedural process whereby the CFPB must show a class of institutions "has engaged in a pattern or practice of activities that have been detrimental to the interests of consumers and are of a type that the specific rule or regulation is intended to address," and then garner approval by the Federal Reserve Board, OCC, and NCUA to revoke the exemption. This has the effect of essentially impeding an independent regulator from carrying out a large part of its mission on behalf of consumers.

The radical nature of this bill is even more suspect when considering the fact that Dodd-Frank subjects the CFPB to stringent rule making procedures and requirements shared by most other regulators, as well as additional agency specific requirements. For example, the CFPB is the only federal financial regulator that is required to conduct a Small Business Advocacy Review panel mandated by the Small Business Regulatory Enforcement Fairness Act of 1996 for certain rules. In addition, the Financial Stability Oversight Council ("FSOC") is authorized to halt or stay regulations promulgated by the CFPB, that it determines "would put the safety and soundness of the United States banking system or the stability of the financial system of the United States at risk." These are only two examples of numerous agency specific requirements that are meant to ensure the CFPB is accountable and subject to regular oversight during its rule making process.

[24] Section 1022(b)(3).

We oppose this bill that would exempt a large part of the banking industry from any and all regulation, and in no way can be described as a targeted and reasonable approach to ensure the financial marketplace operates in a transparent, equitable and efficient manner.

- **H.R.2683, Protecting Veterans Credit Act (Delaney-Hultgren)**

H.R. 2683, the "Protecting Veterans Credit Act" introduced by Representatives Delaney and Hultgren, amends the Fair Credit Reporting Act to delay medical debt from medical services received through non-VA medical care, including the Choice Program, from being reported to credit reporting agencies for one year. It also excludes from consumer report information a fully paid or settled veteran's medical debt that had been characterized as delinquent, charged off, or in collection. The bill defines a "veteran's medical debt" as debt from health care provided in a non-Department of Veterans Affairs (VA) facility under the laws administered by the VA, including medical debt that the VA has wrongfully charged a veteran. In addition, the bill provides for a dispute process for veteran medical debt.

The bill is intended to address the slow disbursement of Veterans Choice Program payments and the potentially thousands of veterans who may have inaccurate medical debts in their name as the VA and private providers work through billing issues. These reporting errors make it costlier for veterans to access credit, including purchasing a home or car.

CRL supports the bill and views it as a positive step forward to protect veterans from credit reporting errors. We further encourage Congress to consider legislation to protect the general population from the harms of inaccurate medical debts on credit reports as well as from debt collectors attempting to collect these inaccurate debts. Too many consumers are being wrongly pursued by debt collectors for medical debts that they do not owe, or for incorrect amounts due to billing or insurance disputes. The billing and payment process is confusing to consumers and there is no standard across the health care industry for when overdue medical debt is placed on a consumer's credit report, or sold to a debt collector. When health care providers sell consumer debt to third-party debt collectors, the lack of clarity for consumers is compounded even further. Consumer debt is often sold with limited, inaccurate or incomplete information about the consumer and their debts. Abusive collection tactics can result in harassment for debts that have already been paid, or are too old to be the subject of a lawsuit.

Indeed, medical debt accounts for more than half of all collection items that appear on consumer credit reports. As U.S. PIRG found in a recent report, analyzing CFPB complaint data, nearly two thirds of complaints about medical debt collection assert either that the debt was never owed in the first place, it was already paid or discharged in bankruptcy, or it was not verified as the consumer's debt.[25] Although some progress has been made, such as last year when the three major credit reporting agencies announced they would set a 180-day waiting period before including medical debt on a consumer's credit report, more should be done to protect all consumers from reporting errors and abusive debt collection practices.

- **H.R.4648, Home Mortgage Reporting Relief Act (Emmer-Hultgren)**

The Home Mortgage Reporting Relief Act of 2017 reduces transparency in the mortgage market and provides little relief

The Home Mortgage Disclosure Act is a critical tool in preventing discrimination in the mortgage market. As the mortgage market has changed and underwriting processes have become more sophisticated and automated, it is critical that publicly-available mortgage market data keeps pace and provides much-needed insight into who is getting mortgage credit and on what terms. The Home Mortgage Reporting Relief Act of 2017 (H.R. 4648) undermines this important effort by blocking recent efforts to improve mortgage market transparency, undermining ongoing fair lending efforts and providing little regulatory relief for covered financial institutions.

New data requirements are necessary to ensure a transparent mortgage market

The Home Mortgage Disclosure Act was created to serve three primary purposes: it helps show whether financial institutions are serving the housing needs of their communities; it assists public officials in distributing public-sector investment to attract private investment to areas where it is needed; and it assists

[25] U.S. PIRG Education Fund, Medical Debt Malpractice: Consumer Complaints About Medical Debt Collectors, and How the CFPB Can Help (Spring 2017), *available at* https://uspirgedfund.org/reports/usp/medical-debt-malpractice.

with the identification of potentially discriminatory lending patterns and enforcement of anti-discrimination laws.[26] Since the passage of Dodd-Frank, the CFPB has taken important steps toward fulfilling the mandate of HMDA. Most notably, the CFPB completed a final rule in 2015 designed to improve the transparency of the mortgage market by expanding HMDA data disclosure requirements to include additional data fields.[27] The CFPB granted a safe harbor period for institutions to comply with the new rule. Specifically, on January 1, 2017, the CFPB began excluding low volume depository institutions from coverage of the rule.[28] These additional data were not available in the run-up to the housing crisis and could have uncovered many of the most abusive practices before they became an industry-wide problem. To this end, beginning in 2018, covered financial institutions will be required to report additional data that will provide much-needed insight into who is getting access to mortgage credit and on what terms. These new data points include additional information on applicant or borrower age, credit score, the use of automated underwriting system information, property value, application channel, points and fees, borrower-paid origination charges, discount points, lender credits, loan term, prepayment penalty, non-amortizing loan features, and interest rate.[29] The new disclosure requirements also improve the collection and reporting of information on an applicant's or borrower's race and ethnicity and will permit applicants to self-identify their ethnicity and race rather rely on a limited set of race and ethnicity subcategories.[30] These expanded HMDA data fields help shed important light on aspects of the underwriting and origination process. The result will be a far better understanding of the mortgage market dynamics that contribute to ongoing fair lending concerns and will help explain persistent differences in denial rates by race and ethnicity.

Blocking these new transparency requirements undermines ongoing fair lending efforts

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[26] 12 U.S.C. § 2801(b).
[27] 12 C.F.R. §1003.
[28] For more information on the timeline and requirements of the 2015 Final Rule implementing Regulation C, see "HMDA Rule Key Dates Timeline," October 2015. https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_hmda-key-dates-timeline.pdf.
[29] 80 Fed. Reg. 66127, available at https://www.federalregister.gov/documents/2015/10/28/2015-26607/home-mortgage-disclosure-regulation-c.
[30] For more information on the timeline and requirements of the 2015 Final Rule implementing Regulation C, see "HMDA Rule Key Dates Timeline," October 2015. https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_hmda-key-dates-timeline.pdf.

The Home Mortgage Reporting Relief Act of 2017 would prohibit the public disclosure of any new HMDA data fields, including the new data fields required by the 2015 Final Rule described in the previous section.[31] This broad prohibition will have a chilling effect on fair lending efforts. It will eliminate the ability of policymakers, researchers, and the media to use these new data to understand the changes in mortgage underwriting practices and the mortgage market since the housing crisis. While non-depositories would ostensibly still be required to provide loan-level data under the 2015 Final Rule, this requirement would exempt depositories – nearly half the mortgage market – from disclosing the new data fields, according to 2016 HMDA data. Moreover, the exemption is overly broad. Rather than addressing specific compliance issues with the 2015 Final Rule, it prohibits the disclosure of any new HMDA fields implemented since the passage of the Dodd-Frank. As a result, any new data fields considered necessary in the future would not be publicly available because of the limitations put in place by this bill. The CFPB has implemented the final rule over an extended period of time, to ensure there was time to ensure industry compliance.

The data provided as a result of the Home Mortgage Disclosure Act is a public resource and must remain public to prevent abusive lending. Since its passage in 1975, it has gone through a series of improvements and expansions and, for over 40 years, has served as the primary way in which the public understands the availability of mortgage credit at the neighborhood level. Rather than prescribing or prohibiting specific home lending practices, HMDA has ensured a transparent market supported by industry-wide and publicly-available information. One of the earliest examples of the use of public information to improve industry practices was the landmark 1988 series of stories on redlining practices in Atlanta published by the Atlanta Journal-Constitution entitled "The Color of Money."[32] This series was carried out not by a federal agency relying on internal supervision data but by an investigative journalist using publicly available data. The series itself transformed the public understanding of redlining and led

[31] Home Mortgage Reporting Relief Act of 2017, H.R. 4648 115th Congress (2017). https://www.congress.gov/bill/115th-congress/house-bill/4648/text.
[32] Dedman, Bill. "The Color of Money." *Journal-Constitution*. May 1, 1988.

to major changes in the mortgage market and how it would serve low-wealth people and communities of color in the following decades.

The Home Mortgage Reporting Relief Act of 2017 does not achieve its aspired goal of providing regulatory relief

The Home Mortgage Reporting Relief Act of 2017 will do substantial harm to ongoing fair lending efforts and does not provide meaningful reporting relief. Rather it rolls back reporting processes that have been underway for over four years and will contribute to considerable market confusion. The expanded HMDA disclosure requirements are largely made up of data points that lenders already collected as part of their underwriting and origination process.[33] It also does not eliminate the need to collect any new data fields; it only eliminates the ability of policymakers, researchers, and the media to use these data. The bill also eliminates the obligation of a covered financial institution to respond to public requests for expanded HMDA data fields. This provision will provide little if any regulatory relief since the 2015 CFPB Final Rule has already transferred the obligation of responding to public data requests from covered financial institutions to the CFPB beginning in 2018 for data collected in 2017.[34] The Home Mortgage Reporting Relief Act of 2017's prohibition on publicly disclosing expanded loan-level data also conflicts with a years-long notice and comment process carried out by the CFPB to effectively balance the need for additional information to understand the mortgage market and the need to protect consumer privacy. We recognize the importance of protecting the privacy of mortgage applicants and borrowers. To that end, we applaud the important progress the CFPB has made in carefully weighing which new data fields to exclude from the public LAR. In 2014, we proposed several steps the Bureau should take to implement this "balancing

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[33] See Adam Levitin, Credit Slips Blog, "New HMDA Regs Require Banks to Collect Lots of Data…That They Already Have." available at http://www.creditslips.org/creditslips/2017/06/new-hmda-regs-require-banks-to-collect-data-they-already-have.html

[34] For more information on the disclosure requirements and obligations of covered financial institutions, see "Rule Summary: Home Mortgage Disclosure (Regulation C)." Accessed January 5, 2018.

test."[35] We also joined consumer, community, and civil rights groups in submitting additional comments when the CFPB issued its proposed "balancing test" for comment in 2017.[36]

Oppose the Home Mortgage Reporting Relief Act of 2017 and any similar proposal

The Home Mortgage Reporting Relief Act of 2017 represents a substantial rollback of important Dodd-Frank mandated data disclosure requirements and consumer protections necessary to ensure a well-functioning and transparent mortgage market. These protections were instituted in direct response to the housing crisis and widespread concern about violations of fair lending laws and targeting of abusive loans to low-wealth borrowers and communities of color. Eliminating the decades-old mandate to allow public scrutiny of the mortgage market is a clear attack on this mandate, and we urge the Committee to oppose H.R. 4648 and any similar proposal.

- **H.R. 4725, Community Bank Reporting Relief Act (Hultgren-Sewell)**

H.R. 4725 amends the Federal Deposit Insurance Act to direct federal banking agencies to issue regulations that allow a reduced reporting requirement for depository institutions who hold less than $5 billion in total consolidated assets when making the first and third report of condition and income, commonly known as "call reports," for a year. This bill is intended to reduce regulatory burden for community banks, however, federal banking agencies such as the Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and the Federal Reserve Board, have already taken steps to streamline various reporting requirements.[37] Federal banking regulators have expressed receptiveness to adjusting the new $1 billion threshold for the community bank call report form.[38] FDIC

[35] Center for Responsible Lending et al. "Consumer Financial Protection Bureau's Amendments to Regulation C," October 29, 2014. http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/HMDA-Comment-Final-10-29-14.pdf.
[36] NCRC et al. "Comment Letter on Public Dissemination of HMDA Data," November 29, 2017. https://ncrc.org/comment-letter-public-dissemination-hmda-data/.
[37] For example, in June 2017, the FDIC proposed additional revisions to the community bank call report form by reducing the required data by an additional seven percent, on top of the 40 percent data reduction achieved in creating the community bank call report form. https://www.ffiec.gov/press/pr062017.htm
[38] The EGRPRA Report noted one commenter suggested using the multi-factor definition of a community bank that FDIC designed in its 2012 community bank study. https://www.fdic.gov/regulations/resources/cbi/study.html

data from the third quarter of 2017, shows that depository institutions with assets under $5 billion would constitute a majority of institutions. Not requiring a majority of institutions to report condition and income would dramatically reduce the amount of data available to the Bureau of Economic Analysis for key economic statistics.

In the long run, this bill would put some of our nation's most vulnerable communities, specifically Americans that live in rural areas, at substantial risk. Community banks hold the majority of banking deposits in rural areas and in almost one out of every five counties in the United States, community banks represent the only banking presence.[39] Community banks are more likely to locate their headquarters and bank branches in rural areas than larger financial institutions. In 2011, 47 percent of community banks had their headquarters in a non-metro area, while only 17 percent of larger financial institutions were located in non-metro areas.[40] If this legislation is passed it will limit the data and that is available for these rural communities. Without the data from banks that serve these communities, it will become very difficult to implement economic policies that will best serve our rural neighborhoods, and leave millions of rural Americans vulnerable if there is a systemic downturn for community banks.

Data collection and oversight is particularly important as the economy moves through the business cycle and the recovery improves, and as a result, the important protections recently put in place will provide increased value. Real and nominal house prices now exceed pre-crisis trends and at the same time interest rates have been rising, and are expected to rise further. A consensus of experts agree that mortgage and other interest rates will increase in coming years. This will create pressure for lenders to bring back the exotic unaffordable mortgages of the recent past to again artificially reduce monthly mortgage payments. By scaling back supervisory tools, regulators will be ill-equipped to anticipate and remedy market gaps and

[39] "Community Banking Study", Washington, DC: Federal Deposit Insurance Corporation, December 2012. https://www.fdic.gov/regulations/resources/cbi/report/cbi-full.pdf. Page 3-5.
[40] Ibid.

problematic trends for individual banks and for the small and community banking sector as a whole. For these reasons we oppose H.R. 4725, Community Bank Reporting Relief Act.

- **H.R. ______, Seller Finance and Balloon Loans (Pearce)**

This bill would broaden a narrow exception to the Dodd-Frank mortgage loan originator compensation rules and would be particularly problematic for owners of manufactured homes. The loan originator compensation rules were created to end practices that encouraged risky and discriminatory lending. Dodd-Frank, however, created a narrow exception to the rule for those doing seller-financing on three or fewer properties. To qualify for the exception, the loans must be fully-amortizing.

This bill would eliminate the "fully amortizing" requirement and expand the number of properties, allowing for subprime balloon loans – a risky loan product that is even more harmful for owners of manufactured homes. Balloon loans on seller-financed manufactured homes tend to occur when a homeowner buys a used home directly from the park owner, who is the seller financer. The theory behind a balloon loan is that the borrower will refinance it or sell the property before the balloon comes due. But manufactured-home owners do not have that option. It is nearly impossible to refinance a purchase-money loan on a manufactured home and it is equally difficult to sell a used home. As a result, anyone with a balloon loan made under the proposed exception would have only two options: accept any onerous terms offered by the park owner, including selling the home well below market, in order to avoid the lump-sum payment coming due, or face foreclosure. Because of the risks created for consumers by these exemptions, CRL opposes this bill.

IV. Conclusion.

I would like to conclude these remarks with a restatement that CRL is strongly opposed to the bills under consideration, with the exception of H.R. 2683, because they widely scale back the CFPB's supervisory authority and abolish various consumer protections. The bills under consideration today abandon the approach of targeted and dynamic reform, and rely on blanket rollbacks of consumer protection. CRL is opposed to legislation that would expose Americans to financial practices similar to those that caused the economic meltdown and to legislation that disproportionately benefits the largest financial institutions. Responsible and sensible lending has promoted growth, ensured stability, and protected consumers and the market from the reckless behavior of pre-recession practices.

I look forward to continuing to work with this Committee, community banks and credit unions, their associations, and regulators to ensure that all of these objectives are satisfied through responsible legislation and regulation. Thank you for the opportunity to testify, and I look forward to answering your questions.