

Opportunity in America has never been evenly distributed, but the gains made over the last 100 years are at risk if a conservative Justice is added to the Supreme Court. Just like the many social issues already being covered in the wake of President Trump's Supreme Court nomination, the nine justices who fill the seats of America's highest court will profoundly impact the daily financial lives and futures of hardworking families.

In addition to healthcare access, reproductive rights, and many other issues, over the next several years the Supreme Court will make important and lasting decisions that affect every facet of our lives, including how we address rising income inequality and the racial wealth gap. The elevation of a far-right judge such as Amy Coney Barrett will heavily tilt the nation's economy to the interests of the rich and powerful and increase inequality in America. **The financial security of millions of individuals as well as communities and the entire economy are at stake.**

Key risks that a conservative addition to the Court poses to American fiscal policy and the financial security of millions include:

- Consumers experiencing housing and lending discrimination will have virtually no remedy.
- Consumers will lose important protections from big corporations as Congress and federal agencies find their ability to address important issues through regulatory action drastically limited.
- States will be unable to fully enforce their own consumer protection laws.

1. **Limiting protections against discrimination:** Fair housing and lending policies protect the rights of Black and Brown people, women, people with disabilities and families with children from discrimination in housing and credit access. A conservative Court places at risk the ability of government and citizens to enforce laws that protect against housing and financial discrimination. Critical among the protections at risk:

- *Disparate impact enforcement.* Disparate impact allows covert policies and practices with discriminatory effects to be challenged and remedied without having to prove that the policies and practices were specifically undertaken with the intent to discriminate- a very difficult requirement to prove. It is one of the most important civil rights enforcement tools today, but it is under attack, despite being upheld by the Supreme Court recently. In 2015, a narrow 5-4 majority of the -Court upheld the availability of disparate impact claims under the [Fair Housing Act](#) (FHA) noting its ability to help create inclusive communities.
- However, opponents continue to challenge disparate impact claims and its availability under other key laws, including the [Equal Credit Opportunity Act](#) (ECOA).
- Other challenges to civil rights that will come before the court are the authority of government to remedy past discrimination, including in higher education. These efforts are essential to addressing the harms caused by many decades of discrimination.

2. **Derailing the ability of government to provide protections for citizens.** A number of the current Supreme Court Justices seek to disrupt the general power of government to enact and implement protections to regulate powerful interests. For nearly 100 years Congress and the President have done this through the use of agencies that can craft the detailed and technical provisions necessary to regulate and oversee Wall Street, banks and other companies and

keep up with changing circumstances and industry's efforts to circumvent protections. These Justices today seek to block this critical work by agencies, similar to the initial opposition to New Deal reforms of the 1930s.

The conservative bloc of the Supreme Court has signaled its willingness to drastically limit this constitutionally defined power, including in decisions like [Gundy v. United States](#). Though he did not participate in that case, Justice Brett Kavanaugh later expressed his view that Congress cannot delegate "major policy questions" to federal agencies. Powerful economic interests constantly seek ways to skirt regulatory authority and plunder the pockets of ordinary Americans. Very soon the most powerful could have a Supreme Court that is primed to enable them to do so.

3. **Overriding states' power to provide and enforce consumer protection:** Powerful special interests have continually tried to block the ability of the states to protect their citizens by arguing that federal law preempts the state from providing needed consumer protections. These arguments are raised in a wide range of areas from privacy to environmental protections. A more conservative Supreme Court could further hamper states' abilities to protect their residents from threats including usurious loans and abusive student debt practices.
  - **On high-cost lending**, almost every state in the country provides limits on the amount of interest that lenders can charge, but many in industry seek to block these state laws with claims of preemption- that states are prohibited from enacting and enforcing laws on various issues. While numerous states have responded with ballot supported interest rate caps and local enforcement actions, the Supreme Court will likely soon rule on cases that could further open the door for predatory lenders to ignore state laws and prey on residents who would otherwise be protected from unaffordable debt traps.
  - **On student debt**, states have worked to prevent student loan servicers from failing struggling student borrowers have come under fire from Betsy DeVos' [Department of Education](#). However, student loan servicers have taken the opportunity to assert that states cannot scrutinize or regulate their practices under the law.

Judge Amy Coney Barrett's writings and rulings are more conservative than even her very conservative mentor, Justice Scalia, and her rulings have overwhelmingly favored [corporate interests over individuals](#). Confirming her to the Court to replace the seat of Justice Ginsburg will radically shift the Court and imperil critical consumer protections and fair lending obligations that ordinary Americans need and deserve, particularly during the ongoing COVID-19 public health and financial crisis. We need a Supreme Court that will ensure that the devastating impacts of this crisis are not worsened and dedicated to protecting ordinary Americans, not the companies eager to prey on them.