CONSUMER BANKERS ASSOCIATION

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Consumer Bankers Association

U.S. House Financial Services Committee

Hearing Entitled "Dodd-Frank Turns 15: Lessons Learned and the Road Ahead"

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Chairman Hill, Ranking Member Waters, and members of the Committee, I appreciate the opportunity to appear before you today.

I am the President and Chief Executive Officer of the Consumer Bankers Association ("CBA"). CBA is America's only member-driven trade association focused exclusively on retail banking. Since 1919, CBA has partnered with our member banks to promote sound policy, prepare the next generation of bankers to lead the industry, and enable consumers' individualized approaches to the American dream. Our members include the nation's largest retail banks, with the vast majority holding more than $10 billion in assets– meaning that they are subject to Consumer Financial Protection Bureau ("CFPB" or "Bureau") supervision and enforcement jurisdiction. CBA member institutions account for nearly two million employees in America, extend roughly $3.4 trillion in consumer loans, and provide approximately $173 billion in small business loans annually.[1]

The U.S. banking system is the most competitive and dynamic in the world, with nearly 4,500 banks and more than 4,400 credit unions who collectively provide loans and leases of more than $12 trillion. Importantly, the nation's leading retail banks provide the tools necessary to help consumers and small businesses thrive, all while adhering to stringent federal oversight and supervisory requirements enforced by a myriad of regulatory agencies.[2]

The collapse of the U.S. housing market in 2007 and 2008 had a profound and widespread impact on the global financial markets. Congress passed the Dodd-Frank Wall Street and Consumer Protection Act ("Dodd-Frank") in 2010, which aimed to address vulnerabilities in the U.S. financial system at that time.

The Dodd-Frank Act raised capital requirements for banks, heightened oversight of systemically important institutions, established enhanced mortgage underwriting requirements, and consolidated federal consumer protections through the creation of the CFPB.

When considering the lessons learned and road ahead, it is important to assess not just the many Dodd-Frank Act reforms, but also its unintended consequences. Overregulation of the banking system has led to disintermediation of credit, pushing more lending outside of regulatory perimeter. Federal regulators routinely enacted rules and regulations without considering their individual– or cumulative– impact on consumers' access to banking services and products. Furthermore, overly complex regulations have failed to address areas of true consumer harm and have often resulted in increased costs.

Promoting the safety and soundness of our banking system and consumer protections are critical imperatives. But competition, innovation, and well-functioning markets are just as important– and indeed statutory objectives for the CFPB.[3] Accordingly, before creating new regulations,

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[1] Analysis of 2024 FR Y-9C item BHCK4150, FFIEC Call Report items RIAD4150, RCON5570 - RCON5575, and SBA Monthly 7(a) activity reports. Consumer loans include UBPR Report on all loans to individuals for household, family, and other personal expenditures not secured by real estate plus total real estate 1-4 family loans. Figures rounded to the nearest trillion and hundred billion.
[2] https://www.congress.gov/crs-product/R44918
[3] 12 U.S.C. 5511(a)

policymakers should be expected to fulfill their statutory duties to examine the consumer impact of each rule as well as how the cumulative impacts of regulation[4] could threaten to push lending outside of the banking system to less regulated entities, and can add costs that are ultimately borne by consumers.[5] This balance requires policymakers who are apolitically steadfast in their mission, who operate within their statutory authority, and who base their regulation on facts and data.

While these concerns may extend more broadly to various sections of the Dodd-Frank Act, my testimony today focuses primarily on Dodd-Frank's creation of the CFPB.

Consumers– regardless of political affiliation– should be able to count on a regulator that is focused on executing its statutory mission, heeding the bounds of its statutory authority, and addressing true market failures and consumer harms.

On some level, CFPB policy will inevitably reflect differences in political philosophies and will change with Administrations.[6] This is particularly the case because, unlike many other agencies, the CFPB lacks a board or commission leadership structure and instead is led by a single Director with unilateral authority. However, as Federal Reserve Vice Chair Michelle Bowman recently made clear, "We live in a time when confidence in public institutions is waning. As such, the banking agencies should strive to demonstrate beyond doubt that they execute their duties in an independent manner, focusing on statutory obligations."[7]

We quoted then-Governor Bowman last year in our testimony before the Subcommittee on Financial Institutions and Monetary Policy because this has become our mantra. Regulators must follow the law.[8] And while policymakers are entitled to their own opinions, they aren't entitled to their own facts. Unfortunately, in countless instances under the previous Administration, the CFPB regularly strained– or flat out disregarded– the clear language of its legal authority to advance blatant political goals.[9] As CBA regularly documented using the CFPB's own data, the previous CFPB cut corners and increasingly relied on inaccurate information, incomplete data, or flat-out falsehoods to justify its actions or rulemakings. In its eagerness to score headlines and political wins, the CFPB regularly failed to consider the true impact to consumers of its policies.[10]

In January of this year, CBA released a white paper titled, "Reforming the CFPB into a Strong and Durable Regulator Americans Deserve."[11] In doing so, we set out a series of immediate, near-term, and long-term reforms that the CFPB could act on and, separately, legislation for Congress to prioritize. In the six months between then and now, the Administration and new

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4 https://www.federalreserve.gov/newsevents/speech/bowman20240510a.htm
5 https://www.federalreserve.gov/newsevents/speech/bowman20240212a.htm
6 See, e.g. Seila Law LLC v. Consumer Financial Protection Bureau, 140 S. Ct. 2183 (2020).
7 https://www.federalreserve.gov/newsevents/bowman-starling-insights-20240213.htm
8 https://docs.house.gov/meetings/BA/BA20/20240307/116927/HHRG-118-BA20-Wstate-JohnsonL-20240307.pdf
9 https://www.politico.com/newsletters/west-wing-playbook/2024/04/24/bidens-growing-junk-fee-movement-00154186
10 https://cfpbfactcheck.com
11 https://consumerbankers.com/wp-content/uploads/2025/01/CBA-CFPB-White-Paper-1-13-25-updated.pdf

leadership at the CFPB have accomplished a remarkable number of reforms– including many of the immediate and near-term issues that we had identified.

As we now turn the page to longer-term work, CBA hopes to work with the agency on three major areas of reform:

First, CBA has highlighted to the CFPB that its authority to impose civil money penalties for Unfair, Deceptive, or Abusive Acts and Practices (UDAAP) violations needs attention and reform.

- Accordingly, CBA urges Congress to reform the CFPB's authority regarding Unfair, Deceptive, and Abusive Acts and Practices by passing H.R. 1652, the *Rectifying UDAAP Act*.

  CBA also appreciates the Committee noticing draft legislation for this hearing to provide additional clarity on the CFPB's use of civil monetary penalties and provide incentives for the self-reporting of clearly defined violations. CBA looks forward to being a resource as this legislation continues to be developed.

Second, CBA encourages the CFPB to coordinate its examination activities with federal prudential regulators.

- To advance its statutory mandate under Section 1021 of the Dodd-Frank Act, the CFPB should enhance coordination with federal prudential regulators to reduce redundant examinations and ensure consistent application of consumer protection laws across the financial marketplace. Depository institutions already operate under rigorous supervision and a multi-layered compliance framework, including oversight from the Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), and Federal Reserve. Streamlining CFPB examination activities for these entities would alleviate duplicative regulatory burdens, conserve agency resources, and promote a more level playing field for consumers engaging with both bank and non-bank providers of financial services.

Third, CBA has raised concerns with the CFPB that expansive actions taken by the prior CFPB Director to encourage state enforcement of federal consumer protection laws must be permanently clarified.

- The proper interpretation of Section 1042 of the Dodd-Frank Act is critical to preserving the balance Congress intended between federal and state enforcement of consumer financial protection laws. While the statute permits state regulators and attorneys general to bring certain actions under Title X, it also includes important guardrails. State regulators must provide notice to the CFPB before bringing claims under Title X. And the statute makes clear that the Bureau can intervene in (or even appeal from) those proceedings, to ensure consistency in the interpretation and development of federal consumer financial law.

  A formal rulemaking clarifying the Bureau's current interpretation of Section 1042 would help empower the CFPB to monitor and guide how states interpret and apply federal consumer financial law in enforcement actions in courts across the country.

While it is imperative that Congress pass the *Rectifying UDAAP Act* to provide the needed clarity on the CFPB's use of its UDAAP authority in a more permanent way, the three reforms outlined above lie within the CFPB's own ability to execute. The work may require sustained effort over time– potentially spanning multiple rulemakings, judicial interpretations, and even changes in agency leadership. As such, we respectfully urge Congress to remain actively engaged, particularly through its critical oversight role over changes in leadership.

To create the most sustainable reforms, Congress should, on its own, enact reforms to reboot the agency into a credible, durable, and stable regulator that operates in an apolitical manner, heeds the law, and is data driven in its policymaking.

In particular, CBA urges Congress to maintain a thoughtful and sustained focus on three overarching priorities. First, the Bureau must operate within the boundaries of its statutory authority and follow established administrative procedures when exercising that authority. Second, the CFPB must more rigorously assess the impact of its actions– across both consumers and regulated entities– by grounding its work in accurate data, robust cost-benefit analysis, and meaningful interagency coordination. Third, the Bureau should prioritize issues that present genuine consumer harm, including the rise in fraud and scams, rather than pursuing actions driven by political headlines.

Each of these priorities is essential to promoting consumer trust, fostering market stability, and ensuring that the Bureau serves its mission as Congress intended.

First and foremost, a well-functioning market requires a regulator that heeds the law.

The CFPB has regularly reached beyond its statutory limits in an effort to achieve political wins. And in many cases, the CFPB has simply disregarded or blithely attempted to bypass rulemaking requirements set by Congress.

- <u>The prior Administration's Dodd-Frank Act Section 1033 rule exceeds the statutory language and should be repealed or significantly modified.</u>

  CBA urges the CFPB to withdraw and repropose a rule that stays within the bounds of the statute, promotes standardized data sharing formats, and ensures that all market participants share responsibility for protecting consumer data.

- <u>Dodd-Frank Act Section 1071– the small business data collection rule– has a number of significant flaws and should be reproposed.</u>

  The CFPB's final rule implementing Section 1071 imposes overly broad and burdensome data collection requirements that far exceed the statute's intent and risk discouraging small business lending. CBA urges the CFPB to repropose the rule in a more targeted and transparent manner and supports legislative efforts to narrow its scope and protect borrower privacy.

CBA also recommends that Congress pass H.R. 941, the *Small Lender Act* and H.R. 2885, the *Bank Loan Privacy Act.*

- The CFPB must follow the law and the Administrative Procedure Act (APA) requirements for its rulemakings.

  The CFPB has frequently made significant policy changes through guidance, press releases, and blog posts, failing to adhere to the required APA rulemaking procedures.

  CBA appreciates the Committee noticing draft legislation for this hearing that would require the CFPB to set formal procedures for issuing, amending, and revoking guidance with public input. Clear guidelines for determining civil monetary penalty amounts would be particularly helpful.

Second, the CFPB should be required to consider the true impacts of its rules on consumers and the broader market.

To truly serve consumers, the CFPB must ground its policymaking in a clear-eyed understanding of the real-world effects of its actions. Effective consumer protection cannot be achieved through well-meaning intentions alone– it requires rigorous, data-driven analysis of how rules will impact both the individuals they aim to protect and the institutions they regulate.

- Requiring a true cost-benefit analysis of CFPB actions and rules– on regulated entities and consumers.

  CBA recommends that Congress pass H.R. 2331, the *Transparency in CFPB Cost-Benefit Analysis Act*.

- Requiring the consideration of the cumulative impact of regulations across regulatory jurisdictions– both on regulated entities and on consumers.

  CBA appreciates the Committee noticing draft legislation for this hearing that would require federal regulators to jointly review every three years the cumulative impact of their regulations, assessing effects on consumer access, credit availability, and overall economic activity, and recommend ways to streamline or eliminate duplicative or burdensome rules.

  Further, Congress could require that an independent research agency examine the effectiveness of major financial rulemakings after a period of five to 10 years. If there is sufficient evidence that the rule has not been effective in meeting its objectives, the regulation could sunset after a period of time unless the agency reproposes it with changes to improve its effectiveness.

- Addressing small dollar lending policies that have limited consumer choice and pushed consumers into more expensive lending products.

  CBA recommends that Congress pass the *Small Dollar Loan Certainty Act.*

Third, the CFPB should commit to focusing on areas of true consumer harm, instead of chasing headlines or being motivated by political polling.

The CFPB should focus on issues that pose the greatest threats to consumers, beginning by heeding its own data regarding fraud and scams that harm millions of consumers each year. The American public deserves a regulator that understands markets and represents facts accurately.

- <u>Requiring the CFPB to be data driven and addressing structural flaws of the CFPB complaint database.</u>

  CBA appreciates that the Committee has noticed draft legislation for this hearing that seeks to improve the CFPB complaint database by removing duplicative, frivolous, and fraudulent complaints. CBA looks forward to being a resource as this draft legislation continues to be developed.

- <u>Prioritizing fraud and scams education and cross-agency coordination.</u>

  The CFPB should commit its focus to areas of true consumer harm, such as fraud and scams–educating consumers, informing industry, and collaborating with other agencies. CBA recommends that Congress pass H.R. 2978, the *Guarding Unprotected Aging Retirees from Deception (GUARD) Act*, and S. 2019, the *Taskforce for Recognizing and Averting Payment Scams (TRAPS) Act*.

[Executive Summary End]

CBA's Direct Engagement With the CFPB: Clarifying and Rebalancing the CFPB's Authority to Promote Fair, Consistent, and Transparent Enforcement

The CFPB's historical approach to enforcement of federal consumer financial protection laws– particularly under UDAAP, its coordination with prudential regulators, and its guidance to states– has too often lacked clarity, consistency, and guardrails. First, the Bureau's use of its UDAAP authority has swung dramatically from one Administration to the next, creating uncertainty and exposing institutions to retroactive penalties without clear guidance. Second, overlapping examinations by the CFPB and prudential regulators create redundancy for banks, especially when the Bureau devotes resources to areas already well-supervised by other agencies. Third, while the Dodd-Frank Act allows states to enforce Title X, it also imposes procedural safeguards that the previous CFPB leadership attempted to sidestep. Each of these areas would benefit from thoughtful rulemaking and Congressional oversight to ensure consumer protection is consistent, targeted to real harm, and not distorted by politics or regulatory duplication.

1. **The CFPB's Unfair, Deceptive, and Abusive Acts and Practices authority is vague, undefined, and in need of reform.**

Treating customers fairly and following consumer protection laws are core to banks' business models. However, the Bureau's approach to UDAAP enforcement and supervision has been largely undefined, ever-shifting, and closed to input from stakeholders.

The CFPB's approach to UDAAP is possibly the best and worst example of how widely the pendulum can swing from one Administration to another. In 2020, CFPB Director Kathy Kraninger attempted to provide clarity by establishing a framework[12] on how the CFPB would intend to apply the "abusiveness" standard in supervision and enforcement matters. But just a year later, Acting Director David Uejio stepped in and rescinded the policy.[13] Two years after the initial guidance framework was rescinded, Rohit Chopra then issued a brand-new policy statement on how the CFPB would analyze elements of abusiveness.[14]

Even worse, since the Bureau's creation by the Dodd-Frank Act, the CFPB regularly moved the goalposts mid-game, making novel declarations of what constitutes a UDAAP violation but then seeking civil monetary penalties retroactively. This means institutions are assessed civil monetary penalties without being provided advanced notice (via rulemaking or the ability to address certain activity) that they have violated any form of obligation to their consumers, much less any regulatory requirements.

And despite all of these changes, it is still unclear what, if any, "abusive" acts and practices are not already "unfair" or "deceptive."

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[12] https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-policy-regarding-prohibition-abusive-acts-practices/
[13] https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-rescinds-abusiveness-policy-statement-to-better-protect-consumers/
[14] https://www.consumerfinance.gov/compliance/supervisory-guidance/policy-statement-on-abusiveness/

Recommendation:

- Pass H.R. 1652, the *Rectifying UDAAP Act.* The *Rectifying UDAAP Act* would provide needed statutory clarity on the CFPB's use of its UDAAP authority, ensure greater transparency and adherence to clearly defined statutory requirements by the Bureau, and ensure high regulatory standards are maintained. Importantly, this legislation would prohibit the CFPB from retroactively assessing a civil money penalty for a practice that was not previously identified as being prohibited.

  Specifically, the bill would:

  - Restrict the CFPB's authority to deem a financial practice abusive for purposes of enforcement activities, including by requiring that the act or practice intentionally interfere with the ability of a consumer to understand a term or condition. Conduct would not be deemed abusive if consumers could reasonably avoid it; it is outweighed by countervailing benefits to consumers or to competition; or is otherwise prohibited under federal consumer financial law;

  - Limit the CFPB's ability to seek monetary relief for unfair, deceptive, or abusive acts or practices when covered persons establish a good faith effort to comply with requirements. The bill would also establish the right for providers to cure violations if they self-report; and

  - Require the CFPB to conduct a UDAAP rulemaking to clarify what is within the scope of UDAAP, including a cost-benefit analysis.[15]

2. **<u>The CFPB should reduce redundancy for entities with prudential supervision by fulfilling its statutory objectives to consistently enforce consumer protections under Section 1021 of the Dodd-Frank Act.</u>**

Given that banks are already subject to extensive examination by prudential regulators and are required to operate under three lines of defense risk management framework,[16] CBA encourages the CFPB to coordinate with other regulatory bodies in its examinations of banks.

This would streamline regulatory burdens on the marketplace, while maintaining effective and consistent oversight where consumers engage with financial products and services. CBA member banks have reported occasions when they faced three simultaneous examinations on the same topic from three different regulators. In other cases, it appears that agencies may coordinate on scheduling examinations, but do not share information gathered during the examination process with one another or their reports of such examinations.

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[15] CBA also appreciates that the Committee has included draft legislation in this hearing to provide additional clarity on the CFPB's use of civil monetary penalties and provide incentives for the self-reporting of clearly defined violations. CBA looks forward to being a resource as this legislation continues to be developed.

[16] See, e.g., https://www.occ.treas.gov/publications-and-resources/publications/comptrollers-handbook/files/corporate-risk-governance/pub-ch-corporate-risk.pdf

For example, if the OCC is interested in examining mortgage servicing practices, it should coordinate with the CFPB, which typically has jurisdiction over mortgage servicing. This would ensure banks are not producing the same content for two separate exams. Even more importantly, it isn't clear why the CFPB would need to examine the same bank that the OCC examined on similar issues.

This underscores a broader need to recalibrate the regulatory focus. Prudential regulators like the OCC, FDIC, and Federal Reserve have established authority and expertise in overseeing depository institutions. In contrast, non-bank financial companies– many of which now dominate key markets like mortgage lending, servicing, and personal lending– fall largely outside their jurisdiction. The CFPB, as the only regulator with supervisory authority over both banks and non-banks, should refocus its attention on these less-supervised sectors, where gaps in oversight are most acute and consumer harm is more likely to go unchecked.

As CBA has consistently emphasized,[17] ensuring that consumers receive consistent and robust protection, regardless of the type of institution providing the financial product or service, enhances trust and confidence across the entire financial system and enhances overall economic growth. Indeed, Section 1021 of Dodd-Frank explicitly states that the CFPB's objectives include ensuring that "Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition."[18]

To achieve this, the Bureau should apply a risk-based approach to supervision and enforcement that focuses on the nature of the activity and the degree of consumer risk, not just the type of entity offering the product. A rebalanced framework– where prudential regulators focus on bank supervision and the CFPB leads on non-bank oversight– would improve efficiency, reduce redundancy, and, as Congress directed, ensure that all market participants can compete based on the merits of their offerings, contributing to the overall soundness and integrity of the financial services ecosystem.

Recommendations:

- Congress should exercise its oversight authority to ensure the CFPB coordinates with other regulatory bodies to streamline examinations and reduce unnecessary burdens on financial institutions with prudential regulation, while maintaining effective and consistent oversight across the broader marketplace where consumers engage with financial products and services.

- The CFPB and the relevant prudential regulators should initiate a joint rulemaking to address these issues pursuant to Dodd-Frank Section 1025(b)(2).[19]

[17] https://consumerbankers.com/wp-content/uploads/2024/01/CBA-Comment-on-CFPB-2023-0053-1.pdf
[18] 12 U.S.C. 5511(b)(4)
[19] "To minimize regulatory burden, the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators and the State bank regulatory authorities, including consultation regarding their respective schedules for examining such persons") and 5512(e)(1)(A) (requiring coordination of scheduling of exams.

3. **<u>The CFPB should write a rule that helps ensure consistent application of federal consumer law by state regulators across the country.</u>**

Section 1042 of the Dodd-Frank Act explains: "[a] State regulator may bring a civil action or other appropriate proceeding to enforce the provisions of *this* title or regulations issued under *this* title with respect to any entity that is State-chartered, incorporated, licensed, or otherwise authorized to do business under State law (except as provided in paragraph (2)), and to secure remedies under provisions of this title or remedies otherwise provided under other provisions of law with respect to such an entity."

The Chopra-led CFPB bent the text of the law through a guileful but legally questionable contortion to dramatically broaden the limits set by Congress in the Dodd-Frank Act. The plain text of the Dodd-Frank Act is clear: state attorneys general can only bring federal consumer financial protection claims under Title X of the Dodd-Frank Act itself. If Congress meant for state regulators to be able to enforce "any provision of federal consumer financial protection law," it would have said so. Congress would not have pieced together a treasure hunt in the statute for regulators to parse. New leadership at the Bureau withdrew the May 2022 interpretive rule, an important first step.[20]

But Section 1042 includes important procedural guardrails to preserve the federal-state balance that Congress intended. Specifically, the statute requires state regulators to provide advance notice to the CFPB before bringing any claims under Title X and grants the Bureau the authority to intervene in, or even appeal, those proceedings. A new rulemaking could establish that states would be required to provide appropriate notice to the CFPB– 120 days, for instance. This would help ensure that the CFPB can appropriately participate and be heard in the interpretation and development of Title X regulations in state enforcement proceedings around the country.

Recommendation:

- The CFPB should formalize via a notice and comment rulemaking the correct statutory interpretation[21] of states' enforcement powers under Section 1042 of the Dodd-Frank Act.[22]

- CBA is supportive of the CFPB's current clarification of Section 1042 of the Dodd-Frank Act, and specifically agrees with the interpretation that (1) states shall only take enforcement actions for violations of the Consumer Financial Protection Act (CFPA) itself, not of all federal consumer financial protection laws; (2) the exclusions apply to state enforcement in addition to CFPB enforcement; states would be required to give the CFPB 120 business days' notice before taking independent action; and (3) the CFPA allows *joint* but not *concurrent* actions by states.

[20] https://www.federalregister.gov/documents/2025/05/12/2025-08286/interpretive-rules-policy-statements-and-advisory-opinions-withdrawal
[21] Authority of States to Enforce the Consumer Financial Protection Act of 2010; Rescission, 90 Fed. Reg. 20565 (May 15, 2025).
[22] 12 U.S.C. 5552

A WELL-FUNCTIONING MARKET REQUIRES A REGULATOR THAT HEEDS THE LAW.

In several high-impact rulemakings, the CFPB has exceeded its statutory authority, imposed sweeping mandates untethered to Congressional intent, and relied on mischaracterizations of the marketplace rather than sound data. These actions not only raise serious legal and procedural concerns– they also introduce unintended consequences for consumers, financial institutions, and the broader economy. Nowhere is this more evident than in the Bureau's recent rulemakings under Sections 1033 and 1071 of the Dodd-Frank Act.

4. **Dodd-Frank Act Section 1033– The prior Administration's final rule far exceeds the statutory language or intent for consumers to have access to their personal financial data and should be repealed or significantly modified.**

CBA and our member banks support consumer access to their financial data and a move to a more innovative marketplace for consumer financial services. Many banks have already invested heavily in developing open application programming interfaces (APIs), enabling outside parties to build consumer products that draw from their consumers' financial data. And, indeed, many banks rely on consumer-permissioned data provided by banks and other providers of consumer financial services.

Open banking is, however, a very different thing than Dodd-Frank Act Section 1033. The CFPB exceeded the parse statutory language set out in Dodd-Frank Act Section 1033. Former CFPB Director Rohit Chopra characterized Section 1033 as allowing "individuals to fire, or walk away from, their financial provider for whatever reason,"[23] yet the statute itself contains no such language and instead is clearly focused on consumer access to their own information.

CBA continues to strongly object to the former CFPB Director's inaccurate assertions that this rulemaking is needed to increase competition in the marketplace. The consumer credit card and deposit account markets are highly competitive, and the CFPB should not have relied on mischaracterizations of the marketplace to justify this rulemaking. Beyond just the consumer credit card and deposit account markets, the number of non-banks offering bank-like products and services– which could potentially fall under the scope of Section 1033 in the future– has skyrocketed. In 2021, one data aggregator surveyed Americans with the Harris Poll and boasted that more Americans regularly use non-bank fintechs than video streaming services or social media.[24] For example, as of May 2025, fintechs account for 49.8 percent of all personal installment loan balances.[25]

More importantly, the statute also makes no reference to fees, APIs, or other fundamental aspects of the final rule. Indeed, the only required mandate for the CFPB in connection with Section 1033 is found in the requirement that the CFPB "shall prescribe standards applicable to covered persons to promote the development and use of standardized formats for information, including through the use of machine readable files, to be made available to consumers under this

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[23] https://www.consumerfinance.gov/about-us/newsroom/director-chopra-prepared-remarks-at-money-20-20/
[24] https://plaid.com/blog/report-the-fintech-effect-2021/
[25] https://www.transunion.com/content/dam/transunion/global/business/documents/fs2025/may-monthly-snapshot.pdf

section."[26]

In May 2025, the CFPB filed a notice that new CFPB leadership has determined the final rule is unlawful.[27] The Bureau has said it intends to reconsider the rule. Should the current CFPB move forward with a version of its current rulemaking, CBA has significant concerns about a number of aspects of the prior CFPB's final rule.

Provisions in the final rule jeopardize consumers' control and security of their data. The prior Administration's final rule will increase fraud in a number of ways– (1) it requires "information to initiate payment to or from a Regulation E account" (account and routing numbers) to be shared with third parties; (2) data recipients will not be examined for compliance; (3) the final rule fails to prohibit screen scraping; and (4) it lacks a liability framework and ultimately threatens to leave banks and even consumers on the hook if a third party is breached, leading to unauthorized transactions from consumers' bank accounts. The existing liability framework places disproportionate responsibility on banks for the security and handling of consumer data even after it has been transferred to authorized third parties, without establishing clear oversight or accountability for those third parties in the data ecosystem. Third parties' use and protection of sensitive consumer data is outside of banks' control, which leaves banks unable to protect their customers from data breaches at third-party companies and from fraud that may result from these breaches.

If the CFPB wants to create an open banking ecosystem that fosters competition and benefits consumers, all participants in the market should be covered. The Congressional intent in Section 1033 is clear: it applies to "covered persons." The scope of covered accounts should be more than just asset accounts and credit cards– it should include auto loans and non-bank credit alternatives like Buy Now Pay Later (BNPL) and Electronic Benefit Transfer (EBT) cards. The final rule prohibits banks and other data providers from recovering costs from third parties who, themselves, often charge their own fees to other clients to access the consumer data. Such fees, which are now being contemplated in the European Union,[28] could be imposed by data providers on third parties in order to recover the costs of developing and maintaining new interfaces for third parties. Non-banks should share in the development and operational cost of setting up the data-sharing systems that they profit from. Moreover, such fees can be structured in such a way as to advance core principles, such as data minimization, that will protect consumers.

Recommendation:

- CBA would support the CFPB reproposing a Section 1033 rule that conforms to the confines of the statutory text set out by Congress, which obligates the CFPB to, through a rulemaking, "prescribe standard applicable to covered persons to promote the development and use of standardized formats for information, including through the use of machine readable files, to be made available to consumers." The CFPB should also extend the compliance deadlines to provide financial institutions with sufficient time to develop and implement the complex technical infrastructure and operational processes required for secure and effective data

[26] 12 U.S.C. 5533(d)
[27] https://storage.courtlistener.com/recap/gov.uscourts.kyed.106299/gov.uscourts.kyed.106299.57.0.pdf
[28] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023PC0360

sharing under the Section 1033 rule.

5. **<u>Dodd-Frank Act Section 1071– The small business data collection rule has a number of significant flaws and should be reproposed.</u>**

In March 2023, the CFPB released the final rule implementing Section 1071 of the Dodd-Frank Act.[29] Section 1071 requires lenders to compile, maintain, and report information regarding loan applications made by woman-owned, minority-owned, and small businesses. Implementation of these requirements is an enormous undertaking, so much so that some lenders may choose to terminate their small business lending programs altogether due to compliance costs. The CFPB has stated that it plans to repropose the rule. CBA encourages the CFPB to consider the following reforms in its reproposal:

- CBA urges the Bureau to collect only those data fields required under Section 1071. This adds significant complexity and cost for lenders; at the same time, the CFPB has not adequately demonstrated that adhering to the plain language of the statute would be insufficient for identifying and addressing fair lending issues.

- CBA urges the Bureau to adopt a definition for "small business" of $1 million in gross annual revenue. This threshold will more accurately capture the small businesses intended to be monitored under Section 1071. The rule, instead, defines a small business as one with annual revenue of less than $5 million. This significantly broadens the scope of required data collection to include businesses that may have vastly different credit needs and profiles than smaller entities, thereby increasing operational complexities and potentially impacting the relevance of the collected data for its intended purpose. Further, many of these businesses already have an existing relationship with a financial institution and typically do not experience difficulty accessing credit.

- The prohibition against discouraging applicants from providing the required data under Section 1071 raises concerns for lenders due to the lack of clear definition of what actions or conversations could be deemed "discouraging," potentially complicating necessary interactions during the application process between lenders and their customers.

- CBA strongly urges the CFPB to not make Section 1071 data publicly available. If it is, the CFPB must adopt detailed rules for collecting and releasing data and only after public notice and comment. Additionally, failure to inform the public about the availability of data will have a chilling effect on borrowers voluntarily providing information and could have a chilling effect on small business lending. Publication rules should specifically address the treatment of each Section 1071 data field subject to release as well as conditions on release outside government for research or other purposes.

Recommendations:

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[29] https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-to-create-a-new-data-set-on-small-business-lending-in-america/

- CBA recommends that Congress pass H.R. 941, the *Small LENDER Act*. This bill would reduce the definition of a small business for purposes of 1071 reporting from $5 million to $1 million. This would better focus the scope of Section 1071 reporting on small businesses that may experience difficulty accessing credit. Forthcoming changes to the bill are also expected to exempt more financial institutions from Section 1071 reporting, prohibit the CFPB from penalizing banks based on their customers' response rates, strike excessive data fields to be collected, and provide more time for compliance with these significant requirements.

- CBA recommends that Congress pass H.R. 2885, the *Bank Loan Privacy Act*. This bill would require the CFPB to conduct a notice and comment rulemaking on the 1071 balancing test before publishing 1071 data.

6. **The CFPB must follow the law and the Administrative Procedure Act (APA) requirements for its rulemaking.**

The CFPB has frequently made significant policy changes through guidance, press releases, and blog posts, failing to adhere to required APA rulemaking procedures.[30]

For example, in October 2023, the Bureau issued an advisory opinion on Section 1034(c) of the Dodd-Frank Act that created new regulatory requirements and entirely new categories of enforcement liability.[31] It contained specific new obligations and establishes new legal penalties, thereby introducing new regulatory expectations more than a decade after the statute was enacted. To the extent that the CFPB did have the authority to introduce any such new regulatory expectations, it should have done so via a rulemaking under an APA rulemaking, which includes requirements that the CFPB weigh the potential benefits of the rulemaking against its potential costs.

Similarly, in September 2024, the CFPB issued a consumer circular regarding overdraft opt-in practices.[32] This circular attempted to impose new regulatory obligations by increasing record retention requirements for overdraft services. This is yet another example of the CFPB issuing what should be a rule without going through the required APA rulemaking process. Financial institutions that offer overdraft services are required to have consumers affirmatively opt-in for overdraft services and are required to keep a record of that opt-in for two years. The CFPB tried to change this requirement via a footnote of the circular suggesting that absence of a record suggests that the bank never obtained consent. This wholly ignores the regulation's clear record retention requirements by effectively requiring financial institutions to keep records of overdraft opt-in forever.

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[30] Under recent leadership, there was documented history of the CFPB publishing and promoting press releases with language that lacked important context, intended to garner headlines rather than convey the facts. Such intentional dishonesty is especially unfortunate in those instances when the agency is announcing enforcement and voluntary supervision commitments. CBA urges the CFPB to stop the "gotcha" naming and shaming of covered persons, particularly releasing press releases that differ from the legal agreements the agency enters with settling parties.
[31] https://files.consumerfinance.gov/f/documents/cfpb-1034c-advisory-opinion-2023_10.pdf
[32] https://www.federalregister.gov/documents/2025/05/12/2025-08286/interpretive-rules-policy-statements-and-advisory-opinions-withdrawal; https://www.consumerfinance.gov/compliance/circulars/consumer-financial-protection-circular-2024-05/

Fortunately, the current Administration withdrew both the Section 1034(c) Advisory Opinion and overdraft opt-in circular.[33]

Recommendation:

- CBA appreciates that the Committee has noticed discussion draft legislation for this hearing that would require the CFPB to set formal procedures for issuing, amending, and revoking guidance with public input. CBA looks forward to being a resource on this or similar legislative efforts.

[33] https://www.federalregister.gov/documents/2025/05/12/2025-08286/interpretive-rules-policy-statements-and-advisory-opinions-withdrawal

THE CFPB SHOULD BE REQUIRED TO CONSIDER THE TRUE IMPACTS OF ITS RULES ON CONSUMERS AND THE BROADER MARKET.

Unfortunately, in several recent rulemakings, the previous Bureau failed to weigh the impacts of its rules on consumers and the broader market appropriately, resulting in policies that increased consumer costs, reduced access to credit, and weakened trust in the regulatory process. Reform is needed to ensure that CFPB actions are not only legally sound but economically and operationally sustainable– advancing consumer protection while preserving access, innovation, and fairness in financial markets.

7. **Require a true cost-benefit analysis of CFPB actions and rules– on regulated entities and consumers.**

Dodd-Frank requires the Bureau to consider the costs associated with rules but leaves the details largely up to the agency's discretion. This lack of consistency creates lopsided rules that may sound positive in concept but have damaging consequences– to regulated entities, and more importantly, to consumers. There are numerous rules done by the prior Administration that stood to harm consumers, by increasing their cost, or reducing their access to, credit. Not only do the costs of individual rules and regulations need to be considered, but so do the cumulative impact of rules being proposed.

Under the previous Administration, many of the CFPB's policies failed to consider potential harms to consumers, lacked appropriate analysis of costs and benefits, and exceeded the Bureau's statutory authority. In addition to the Dodd-Frank Act Section 1033 and Section 1071 rulemakings mentioned above, the CFPB's rulemakings regarding overdraft services and credit card late fees failed to appropriately weigh the costs they posed to consumers and the broader economy.

These rulemakings have been subsequently overturned or pulled back, but without appropriate reforms, a new CFPB could repeat the same mistakes.

Overdraft Services: On December 12, 2024, in the final days of his tenure, then-Director Chopra finalized a rule that would have created a one-size-fits-all, government-mandated banking service, that operated under a separate and more restrictive regulatory framework for banks and credit unions with more than $10 billion in assets, reducing access to checking services for customers at financial institutions.

The rule went well beyond the agency's statutory authority, all to advance the previous Administration's anti-inflation political campaign against "junk fees."

In issuing the final rule, former Director Chopra did not consider the rule's true impact on consumers, many of whom would have lost access to this important service if the rule had taken effect.[34] Further, former Director Chopra relied on data that did not include credit invisible

[34] https://consumerbankers.com/press-release/new-cba-survey-illustrates-consumer-harm-of-cfpb-overdraft-proposal/; https://consumerbankers.com/press-release/what-they-are-saying-setting-government-price-controls-on-overdraft-services-ignores-market-realities-harms-consumers/

consumers or consumers who lack traditional access to credit products. Accordingly, former Director Chopra failed to include the most critical one-fifth of Americans in its impact analysis, who would have been irreparably de-banked by this rulemaking.[35]

Additionally, the final rule would have hindered innovation, limited competition, and hampered financial institutions' ability to provide this essential service to the millions of consumers who rely on it.

Former Director Chopra also failed to meet the CFPB's statutory cost-benefit analysis requirements, as he relied on data that did not include overlooked credit invisible consumers who lack traditional access to financial institution-offered credit products.

Fortunately, Congress recognized the overdraft rule's fundamental flaws and passed a Congressional Review Act resolution to reject the overdraft rule, which the President signed into law in May 2025.[36]

Credit Card Late Fees: In March 2024, the CFPB finalized its proposed rule that would reduce the Federal Reserve Board's longstanding safe harbor for credit card late fees from $30 ($41 for subsequent late payments) to $8, without an inflation adjustment.[37] The CFPB's rule was, again, part of the Biden Administration's anti-inflation political campaign against "junk fees."

The Bureau attempted to justify the late fees rule by portraying the credit card market in ways that its own data shows are false. The former CFPB Director argued that late fees and, by extension credit cards, "aren't subject to the normal forces of competition."[38] According to the former Director, competition had been "undermined," so the CFPB needed to intervene to ensure the credit card market is fair and competitive."[39] But the CFPB's own CARD Act Report clearly shows a highly competitive market for credit cards. CBA detailed these findings in greater detail in a four-part "Facts Matter" series.[40] As an example of the hyper-competitiveness of the credit card market, the CFPB's CARD Act report shows that there were $53 billion of balance transfers in 2022.[41] To put that number in context, the amount of balance transfers that moved from one issuer to another is greater than the total holdings of all but the top seven credit card issuers.

The Bureau also claimed that this rule could help some credit card customers, in particular those who frequently pay late. However, the Bureau acknowledged that cardholders who never pay late– which the CFPB's own data indicates is 74 percent of all Americans with credit cards and

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35 https://consumerbankers.com/press-release/cba-statement-on-cfpbs-misleading-overdraft-press-release/
36 https://www.congress.gov/bill/119th-congress/senate-joint-resolution/18. CBA led litigation challenging the CFPB's overdraft rule. https://consumerbankers.com/press-release/cba-financial-trades-and-banks-file-lawsuit-against-cfpbs-overdraft-final-rule/
37 https://www.consumerfinance.gov/rules-policy/final-rules/credit-card-penalty-fees-final-rule/
38 https://www.consumerfinance.gov/about-us/newsroom/director-chopras-remarks-on-press-call-for-credit-card-late-fees-nprm/
39 Id. and https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-rein-in-excessive-credit-card-late-fees/
40 CBA detailed these contradictions in greater detail in a four-part series. https://www.consumerbankers.com/cba-media-center/media-releases/facts-matter-cba-uses-cfpb-data-set-record-straight-card-act-report
41 https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2023.pdf#page=116

47 percent of subprime cardholders[42]– will not benefit from the reduced fees and could experience "higher maintenance fees, lower rewards, or higher interest on interest-paying accounts," and increased costs could completely negate any benefits.[43] Further, the CFPB's rule threatened to limit overall access to credit. As card issuers adjust to manage the risk of more late payers, the rule presented risk that the supply of credit would constrict. This restriction of credit could have "de-banked" existing consumer cardholders, while also making it more difficult for consumers to get access to new credit.

CBA was a co-plaintiff on a lawsuit challenging the CFPB's credit card late fees rule. In April 2025, the court granted the CFPB's and co-plaintiffs' joint motion to vacate the rule.[44]

Recommendation:

- Pass H.R. 2331, the *Transparency in CFPB Cost-Benefit Analysis Act*.

- Cost-benefit analysis is an important guardrail, to ensure that regulators appropriately gauge the costs of implementing and complying with a regulation for all affected parties. Several executive branch agencies must conduct cost-benefit analysis as part of the rulemaking process, which is overseen by the Office of Information and Regulatory Affairs (OIRA). However, Section 1022 of the Dodd-Frank Act only requires the Bureau to "consider" the costs associated with rules and leaves the details largely up to the CFPB's discretion.

8. **Require the consideration of the cumulative impact of regulations across regulatory jurisdictions– both on regulated entities and on consumers.**

Further, the cumulative impact of regulations– especially when imposed by multiple agencies without coordination– can distort risk-based pricing, a foundational principle of sound and fair credit markets. When layered compliance costs, conflicting rules, or overly prescriptive mandates limit a financial institution's ability to differentiate pricing based on risk, the result can be higher costs for all consumers, reduced access for underserved borrowers, and ultimately, greater systemic inefficiency.

Two closely related policies that would have created deeply harmful cumulative impacts are the Federal Reserve's proposed revisions to Regulation II– which implements the Durbin Amendment's debit interchange fee cap– and the CFPB's overdraft rule. The Durbin Amendment led to devastating consequences for consumers: diminished access to free checking, higher costs, and more fraud.[45] Further reducing the fee cap could increase consumer costs by up to $2 billion.[46] When combined with the CFPB's rule that would have capped overdraft fees at

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[42] https://files.consumerfinance.gov/f/documents/cfpb_credit-card-late-fees_report_2022-03.pdf
[43] https://files.consumerfinance.gov/f/documents/cfpb_credit-card-penalty-fees_final-rule_2024-01.pdf#page=227
[44] https://consumerbankers.com/wp-content/uploads/2025/04/150-Order-and-Final-Judgment.pdf
[45] https://www.gao.gov/assets/gao-22-104468.pdf; https://www.federalreserve.gov/paymentsystems/2021-Interchange-Fee.htm
[46] https://consumerbankers.com/press-release/icymi-new-research-shows-consumers-could-pay-up-to-2-billion-more-under-regulation-ii-proposal/

$5, based on our analysis, these two proposals together could have resulted in 30 to 50 percent of consumers at a typical large regional bank losing access to low- and no-cost checking products.[47]

Recommendations:

- CBA is pleased that draft legislation is included for discussion in this hearing that would require banking regulators, including the CFPB, to conduct regular joint reviews of the cumulative impact of their rules, including effects on consumer access to financial services.

- CBA believes it would also be important to consider the cumulative impact of regulations on risk-based pricing and looks forward to being a resource as this draft legislation continues to be developed. Requiring regulators to assess cumulative effects across jurisdictions helps ensure that well-intentioned rules don't unintentionally undermine credit availability or push risk outside the regulated banking system.

- Further, as the number and scope of financial regulations increases, there is a lack of understanding as to how effective they are at meeting their stated objectives. The banking regulators currently put limited effort into understanding how their rules have improved outcomes for consumers and markets, skewed them, or resulted in little to no changes while increasing the regulatory burden. Congress can help the public better understand how effective financial regulations are by requiring regular lookbacks that examine the effectiveness of regulations after a period of time based on how they have either succeeded or failed to meet their primary objectives.

- Congress should work in a bipartisan manner on a legislative proposal intended to require an independent research agency– e.g., the Government Accountability Office ("GAO")– to examine the effectiveness of major financial regulations after a period of five to 10 years. If there is sufficient evidence suggesting the rule has not been effective in meeting its objectives, the regulation would sunset after a period of time unless the regulatory agency reproposes it with changes to improve its effectiveness moving forward.

9. **<u>Address small dollar lending policies that have limited consumer choice and pushed consumers into more expensive lending products.</u>**

Millions of Americans live paycheck to paycheck, leaving many consumers with little cushion for emergency expenses, strained credit scores, and limited credit options. The need for access to reasonably priced small dollar liquidity products has become more important than ever.

Historically, federal banking regulators and Congress have encouraged banks to help finance these needs because they can do so at lower costs and higher regulatory standards than other non-bank products. And while bank-issued small dollar loans are carefully designed with strong safeguards to protect customers, deviations in small dollar lending policy– based largely on political ideology and coupled with overly restrictive regulations– have precluded market

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[47] https://consumerbankers.com/blog/the-data-desk-cumulative-impact-what-do-reg-ii-and-overdraft-proposals-mean-for-consumers-and-consumer-banking/

stability and limited banks' ability to innovate small dollar products to meet their customers' short-term financing needs.

A 2022 bipartisan GAO report reaffirmed CBA's longstanding position that excessive and ever-changing policies are stifling innovation and product development and hampering the most vulnerable consumers' access to credit.[48] For these reasons, long-term certainty on small dollar policy is needed to facilitate more banks being able to make these consumer-friendly loans.

Empowering banks to offer viable short-term lending products will provide consumers with a valued emergency safety net and far greater protections than they might receive at other less regulated entities. Lending safeguards should be put in place to protect consumers and hold bad actors accountable. The answer, however, is not overly prescriptive rules that force consumers to borrow more money than necessary, stifle innovation, or place limitations on consumers who use these products responsibly and repay them on time. Small dollar loans offered by depository institutions have built-in controls intended to protect consumers– all designed to prevent reliance on such loans and support the ability to repay the loan. Most importantly, all of this is done within the well-regulated and well-supervised depository marketplace.

Recommendation:

- Pass the *Small Dollar Loan Certainty Act.*

  This legislation would provide long-term stability and certainty for banks that would like to participate in the small dollar lending marketplace by preventing swings of the regulatory pendulum between Administrations. In turn, this would benefit bank customers by fostering a robust small dollar lending marketplace with numerous consumer-friendly products for Americans to choose from. This legislation would provide a safe harbor for small dollar loans that (1) are issued by federally insured depository institutions, (2) are structured as installment loans or lines of credit with reasonable repayment terms, and (3) do not have balloon payments, prepayment penalties, overdraft fees, or nonsufficient funds fees. Importantly, this bill would establish these parameters as a safe harbor to ensure lenders that comply with the bill's provisions are not penalized with enforcement actions from the CFPB or the federal banking regulators under the Truth in Lending Act. This legislation does not prohibit lenders from offering products that are different from the types of loans described in the bill. As a result, the bill will not impede lenders or banking regulators from innovating new types of small dollar consumer loan products or policies.

[48] https://www.gao.gov/assets/gao-22-104468.pdf

THE CFPB SHOULD COMMIT TO FOCUSING ON AREAS OF TRUE CONSUMER HARM, INSTEAD OF CHASING HEADLINES OR BEING MOTIVATED BY POLITICAL POLLING.

The CFPB's singular focus must be protecting consumers from actual harm– grounded in data, not politics. Unfortunately, recent years have seen the Bureau devote disproportionate energy to politically popular topics that generate headlines, rather than directing its resources toward real, measurable harms facing consumers. This has led to misplaced regulatory priorities, policies based on flawed premises, and missed opportunities to address urgent threats like fraud, scams, and financial exploitation. If the Bureau is to fulfill its statutory mission, it must adopt a more rigorous, data-driven approach– one that prioritizes areas of genuine risk and fosters collaboration with other agencies to produce better outcomes for the public.

10. **Require the CFPB to be data driven. Address structural flaws of the CFPB complaint database.**

It is imperative that the CFPB focus its regulation on areas of true consumer harm, identify actual market failures, and be data driven in its approach to consumer protection regulation.

During the previous Administration, the CFPB attempted to justify its policies by publishing press releases, blogs, reports, and other public statements that misconstrued or mischaracterized its own data. This has raised questions about whether the CFPB's policy agenda was more focused on political wins than what is empirically best for consumers. In response, CBA launched a "Facts Matter" series, using the Bureau's own data and analysis, to ground the policy discussion around objective data.[49]

One way for the CFPB to turn the page is to focus its enforcement and supervisory efforts on areas of the greatest consumer harm. CBA has documented multiple instances where the rhetoric and press releases from former CFPB leadership have not matched the data and analysis from its own consumer complaint database. In that regard, after analyzing four years of consumer complaints submitted to the database required under the Dodd-Frank Act, CBA found that the complaint volume in the CFPB's complaint database did not align with the agency's efforts. Topics receiving comparatively low complaint volumes (e.g., credit card fees) garnered outsized attention in CFPB press releases while those with the highest or fastest growing complaint volumes (e.g., fraud and scams) went relatively unaddressed.[50]

Further, for the CFPB's complaint data to serve as a credible basis for enforcement priorities, it must first be vetted for duplicates, frivolous entries, and fraudulent submissions. Without meaningful quality control, the complaint database risks misrepresenting the actual issues facing consumers. Flawed data can mislead regulators, skew public perception, and ultimately drive enforcement actions away from where they're needed most. Ensuring the integrity of the database is essential to identifying patterns of harm and focusing supervision and enforcement where they will do the most good for consumers.

[49] https://cfpbfactcheck.com
[50] https://consumerbankers.com/blog/the-data-desk-complaints-part-i-im-not-complaining-but-refocusing-the-regulatory-lens-using-the-cfpbs-complaint-database/; https://consumerbankers.com/blog/the-data-desk-complaints-part-ii-im-not-complaining-but-what-about-fraud-and-scams/

Recommendation:

- CBA appreciates that the Committee has noticed discussion draft legislation for this hearing that seeks to improve the CFPB complaint database by removing duplicative, frivolous, and fraudulent complaints. CBA would encourage members of this Committee to consider specific definitions for terms like "duplicative, frivolous, unauthorized, or fraudulent," rather than letting CFPB or the courts determine how to interpret them.

11. **Prioritizing fraud and scams education and cross-agency coordination.**

The CFPB should commit its focus to areas of true consumer harm, such as fraud and scams– educating consumers, informing industry, and collaborating with other agencies.

America's leading Main Street banks have been raising the alarm about the rise in fraud and scams that are inflicting deep financial and emotional harm on American consumers and small businesses. Last summer, CBA contributed to the publication of a discussion paper exploring how industries could work together and with government to prevent fraud and other harms against consumers and businesses, "Stopping Scams Against Consumers: Roadmap for a National Strategy."[51] The document sets out an initial roadmap for cross-industry collaboration among financial institutions, technology companies, law enforcement, and the federal government.

In July 2024, CBA convened a cross-industry roundtable bringing together public and private leaders to discuss issues identified in the paper and begin alignment on the predicates for a national strategy for fighting fraud and scams.[52] We then went on to co-lead, with Microsoft, the Metrics Working Group of the Aspen Institute's Task Force on Fraud and Scams, which followed our own publications.[53]

In April 2025, the GAO released a report to Congress urging the development of a government-wide strategy– including collaboration across the CFPB and other federal agencies– to confront the fraud and scam epidemic that has affected millions of Americans across the country.[54] The GAO report calls for the establishment of a national scam estimate, a common definition of scams, and an evaluation of the outcomes of consumer education. The CFPB and other financial regulators can help address these issues by educating consumers on how to avoid fraud and scams and refraining from taking actions that make it more difficult for banks to combat them.

Recommendation:

- Pass H.R. 2978, the *Guarding Unprotected Aging Retirees from Deception (GUARD) Act*, and S. 2019, the *Taskforce for Recognizing and Averting Payment Scams (TRAPS) Act*.

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[51] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4897644
[52] https://consumerbankers.com/press-release/icymi-cba-convenes-cross-industry-public-private-roundtable-to-inform-whole-of-government-approach-to-combat-fraud-and-scams/
[53] https://fraudtaskforce.aspeninstitute.org/
[54] https://www.gao.gov/products/gao-25-107088

Conclusion

CBA is eager to work with this Committee, the broader Congress, and the Administration to create a credible, durable, and stable CFPB that appropriately heeds its authority under law and fulfills the agency's specific purposes, objectives, and functions, as set out by Congress. Ultimately, establishing long-term stability and credibility at the CFPB will greatly benefit consumers across the country.

APPENDIX: CBA SUPPORTS ADDITIONAL LEGISLATIVE REFORMS TO TRANSFORM THE CFPB INTO THE CREDIBLE, DURABLE REGULATOR CONSUMERS DESERVE

Congress has a pivotal opportunity to enact significant, lasting reforms to the CFPB that would reshape the Bureau into the trustworthy and resilient regulator for American consumers. Enacting these additional legislative changes would help protect against the political pendulum shifts of policy and regulation that have taken place over the last three Administrations and result in policies that are more measured and durable.

1. **H.R. 654, the *TABS Act***

The Bureau has historically exceeded the limits on its authority established by Congress because it is largely insulated from Congressional oversight. Subjecting the CFPB to the annual Congressional appropriations process would not only compel the Bureau to begin taking Congressional oversight seriously, it would also provide Congress with ongoing opportunities to review and adjust the CFPB's budget as needed so that it can appropriately regulate the products and services offered to consumers by financial services providers.

CBA urges Congress to enact the *TABS Act*.

2. **H.R. 3445, the *Bureau of Consumer Financial Protection Commission Act***

Unlike most other financial regulators, the CFPB is run by a single Director with unilateral authority. This leadership structure has led to political pendulum shifts between Administrations that do not benefit consumers or regulated entities.

Additionally, due to the Supreme Court's ruling in *Seila Law v. Consumer Financial Protection Bureau*, the CFPB Director is now removeable at will by the President. While CBA believes this result is positive in that it places a limit on the exhaustive powers of the CFPB Director, it also unfortunately subjects the Bureau to drastic policy shifts based on political ideology. A bipartisan commission would help create stability across Administrations.

CBA urges Congress to enact the *Consumer Financial Protection Commission Act*.

3. **H.R. 2513, the *CFPB-IG Reform Act***

Despite the CFPB being such a consequential regulator with significant power over the consumer financial services marketplace, it currently shares an Inspector General (IG) with the Federal Reserve. The CFPB deserves an independent, impartial, entity that is dedicated to overseeing the Bureau full-time. This will bring more accountability and transparency to the operations of the Bureau.

CBA urges Congress to enact the *CFPB-IG Reform Act*.