The Honorable Patrick McHenry
Chairman
U.S. House Comm. on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
U.S. House Comm. on Financial Services
4340 O'Neill House Building
Washington, DC 20515

March 9, 2023

Dear Chairman McHenry and Ranking Member Waters:

On behalf of the undersigned national, state, and local organizations, we urge you to oppose the Taking Account of Bureaucrats' Spending Act, also known as the TABS Act. This bill would replace the Consumer Financial Protection Bureau's (CFPB) stable funding mechanism and instead, subject the agency to annual appropriations by Congress.

The CFPB, like most federal financial regulators, was given a stable funding stream to ensure the rules of the road that govern large sectors of our economy, such as mortgage lending and money transmission, were consistently monitored and enforced via a reliable funding stream. When Congress created the CFPB in the wake of the 2008 financial crisis, it transferred many of the powers from the prudential regulators such as the Federal Reserve, the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC), to the Bureau and thus wanted it to retain a similar funding stream as its sister agencies.

This bill represents the latest in the string of actions taken by the Bureau's opponents since its inception to limit the CFPB's effectiveness. Recently, the Supreme Court decided to review an appellate decision by the Fifth Circuit Court of Appeals that ruled the Bureau's funding structure was unconstitutional. This suit was initially filed by the payday lenders, a long-time opponent of the agency because of its efforts to tame the exorbitant fees and terms the industry has long forced onto consumers.

Since its founding, the CFPB has been effective at its mandate to protect consumers when they engage with financial products and services. The Bureau's mission is to hold financial companies accountable for being transparent about the costs and risks associated with their products, and to ensure that consumers aren't deceived, defrauded, or discriminated against within the financial marketplace.

The Bureau has successfully gone to bat for consumers, delivering results that are making markets work more fairly and putting a stop to fraud and abuse. In total, CFPB enforcements have resulted in nearly $16 billion returned to over 192 million Americans who have been harmed by illegal, deceptive, and discriminatory practices of various companies.

The CFPB also provides honest businesses with the necessary rules of engagement needed for them to be compliant with a host of laws meant to ensure the transparency and fairness of the marketplace. For example, without the agency's Qualified Mortgage rule, lenders can be open to claims that they are violating the Truth in Lending Act's (TILA) ability-to-repay rules. Additionally $1.4 trillion in adjustable-rate consumer loans are tied to the now-defunct LIBOR index, the index to which interest rates on these loans were pegged. Without the CFPB's rules, lenders would not be protected under certain exemptions granted by the agency when switching to an alternative index for these loans.

The public has taken notice of the agency's actions. Consumers, regardless of their politics, overwhelmingly support the mission of the CFPB and the actions it has taken. Americans see an agency responsibly undertaking the job given to it by Congress: making consumer financial markets fairer and more transparent, putting money back in the pockets of members of the public who were fleeced by illegal conduct, and policing rules of the road that make the financial system work better for responsible businesses and responsible consumers alike.

Because of this remarkable track record, it would be a serious mistake for Congress to undo the CFPB's current stable funding. Like the other bank regulatory agencies, the CFPB is currently funded in a way that ensures that it has consistent funding to engage in regular oversight of Wall Street and the other financial sectors it regulates—including payday and other high-cost lenders, as well as debt collectors and credit bureaus. Making a change to annual appropriations would leave the CFPB vulnerable to congressional shutdowns, budget paralysis and constant threats to the funding it needs, unlike its partner bank regulators the Federal Reserve, the OCC, and the FDIC, once again treating consumer financial protection as a less important matter. Congress has already adopted a cap on the CFPB's funding and can change that at any time. But requiring it to be part of the annual appropriations process would give Wall Street and the worst members of the financial services industry endless lobbying opportunities to deny the CFPB the funding to do its job if, and when, the regulator took action that businesses did not like.

The CFPB was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010; it opened its doors as the nation's only financial regulator completely devoted to consumer protection in July 2011. Failure to appropriately regulate the consumer financial marketplace was a central cause of the 2008 financial crisis that devastated the U.S. and global economies, costing tens of trillions of dollars, and many millions of jobs.

The CFPB is a shining success story of the effort to correct the mistakes and close the gaps that led to that failure. It has required lenders who break the law to return billions of dollars directly to individuals trying to make ends meet; it is establishing a more level playing field in crucial areas of the market; and it is doing so in an accountable and transparent fashion.

For all of the reasons above, we strongly oppose any effort that will hamstring the CFPB's ability to continue to deliver for consumers, such as the TABS Act or any legislation that would attempt to change its leadership structure, or enact procedural hurdles for the agency to use its rulemaking authority. We respectfully urge members of Congress to oppose these efforts as well. Legislation that proposes the aforementioned will only serve to weaken the oversight and regulation of our financial system.

Cc: Members of House Financial Services Committee

Sincerely,