

AFR Americans for Financial Reform

June 7, 2016

Dear Representative,

On behalf of Americans for Financial Reform (AFR), we are writing to oppose the current draft of the Appropriations bill on Financial Services and General Government (FSGG).¹

At the end of last year Congress wisely rejected multiple efforts to use the budget process to force through unrelated ideological riders, including changes in financial regulation that would undermine consumer protections, endanger financial security, and reduce accountability for large financial institutions.

Again this year a broad coalition of 254 organizations has joined AFR in opposing appropriations bills that would undermine financial reform.² Unfortunately, this appropriations legislation is nevertheless loaded with ideological policy riders aimed at weakening Wall Street oversight and consumer protection.

Sections 129 and 130 would severely handicap the ability of the Office of Financial Research (OFR) to serve as an unbiased and independent watchdog on potential financial sector risks. It would eliminate independent funding for the OFR and also require that the OFR solicit public comment through a formal notice and comment period prior to sharing its views on financial risk. These requirements would inappropriately limit the OFR's independence, and undermine its ability to alert policymakers and the public of developments in the financial sector that could pose a risk to the economic security of our families and our country.

Sections 501 and 502 would make the Consumer Financial Protection Bureau (CFPB) the only federal bank regulator without independent funding. As the White House has explained in its response to the inclusion of this provision in prior years, it "would shred the necessary independence of CFPB set in statute, and would increase the likelihood of underfunding CFPB, reducing consumer protection in the financial services marketplace."³ The CFPB's funding is already more constrained than that of other financial regulators; the CFPB's budget is unique in being capped by Congress. The CFPB has proven itself prudent in the use of this funding; in FY2015, the CFPB spent \$524.4 million, 17% less than its Congressionally-authorized cap of \$631.7 million and 49% less than the \$1.04 billion spent by the OCC.

¹ Americans for Financial Reform is an unprecedented coalition of more than 200 national, state and local groups who have come together to reform the financial industry. Members of our coalition include consumer, civil rights, investor, retiree, community, labor, faith based and business groups. A list of coalition members is available at <http://ourfinancialsecurity.org/about/our-coalition/>.

² Letter to Congress: AFR, 254 organizations oppose budget riders that would undermine financial reform (May 18, 2016), <http://ourfinancialsecurity.org/2016/05/letter-congress-afr-254-organizations-oppose-financial-policy-riders/>.

³ Statement of Administration Policy, H.R. 6020 – Financial Services and General Government Appropriations Act, 2013 (June 28, 2012), https://www.whitehouse.gov/sites/default/files/omb/legislative/sap/112/saphr6020r_20120628.pdf.

Sections 503 and 504 would require the CFPB to make onerous and unusual quarterly reports to Congressional committees on its expenditures, with details extending down to the allocation of resources by office. In addition to being an unnecessary and wasteful administrative burden, this would subject the CFPB's regulatory prioritization to increased political pressure from the financial services industry.

Section 505 would change the structure of the CFPB from its current, effective single-director structure to a less effective five-member commission. Multi-member boards, even with strong chairpersons, often fall into a pattern of gridlock and inactivity. A recent analysis from Compass Point Research & Trading LLC, a financial services investment banking and research firm, acknowledged this impact, concluding "that shifting the CFPB's governance from a directorship to a commission would double the bureau's already elongated rulemaking timeline [and] cut its enforcement activity by 50% to 75%."⁴ For that reason, those who backed the CFPB's creation and support its consumer protection work strongly and overwhelmingly agree that a single director is a key feature of the Bureau's effectiveness, and moving to a commission would dramatically diminish its ability to fulfill its consumer protection mission.⁵

Section 506 would stall new CFPB protections against forced arbitration clauses that deny consumers access to the courts to remedy financial abuses. Dodd-Frank required the CFPB to study the use of arbitration in consumer finance disputes and to put in place regulations to prohibit or limit their use if they found that the practice harmful. In March 2015, the CFPB completed a robust 728-page study of arbitration, and the CFPB's has now put a proposed rule out for public comment. There is no justification for further delay of consumers' access to justice and AFR opposes any provision that would do so.⁶

Section 626 seriously weakens the ability of the Financial Stability Oversight Council (FSOC) to designate large non-bank financial entities that pose a risk to the financial system for increased oversight. The importance of proper oversight of large non-bank financial companies was clearly demonstrated in 2008 when AIG, an insurance company, received the largest public bailout in U.S. history. The designation process was created so that financial sector giants with the potential to significantly destabilize the financial system and the economy cannot escape regulatory scrutiny. This section would add more layers of bureaucratic processes to designation procedures that can already last years, would require the FSOC to state financial risks with an unreasonable level of specificity, and would force the FSOC to assume that a company could implement a plan independently to eliminate those financial risks, even if the implementation of such a plan within a reasonable time frame was highly unrealistic.

⁴ Ben Lane, Are Richard Cordray's days as CFPB director numbered?, *Housing Wire* (June 3, 2016), <http://www.housingwire.com/articles/37193-are-richard-cordrays-days-as-cfpb-director-numbered?eid=331536434&bid=1423800>.

⁵ Letter to Congress: AFR and 340 Organizations Urge Congress to Support the CFPB (Feb. 27, 2015), <http://ourfinancialsecurity.org/2015/03/letter-to-congress-afr-and-341-organizations-urgecongress-to-support-the-cfpb/>; Letter To Congress: AFR, 75 Organizations Urge Congress To Reject HR 1266 (Sept. 29, 2015), <http://ourfinancialsecurity.org/blogs/wpcontent/ourfinancialsecurity.org/uploads/2015/09/HR-1266-Oppo-Letter-9.29.151.pdf>.

⁶ Letter to Congress: Reject Proposals That Interfere with CFPB's Authority on Mandatory Arbitration (May 19, 2016) (AFR and 70 organizations), <http://ourfinancialsecurity.org/2016/05/letter-congress-2-2/>.

Title XI of the bill would grant special privileges under the bankruptcy code to large financial institutions and their key directors. These privileges in this section would immunize the directors of a failing financial company from personal liability for actions in connection with the bankruptcy. By depriving the bankruptcy court of crucial elements of its supervision over a failing financial company, this section would also allow a large financial institution to avoid creditor claims that would apply to any normal company entering bankruptcy. These special privileges are added to the bankruptcy code without sufficient additional forms of oversight or restrictions to prevent their abuse. They would apply not only to banks, but potentially to any financial institution worth over \$50 billion, potentially including large private equity or hedge funds. While some changes to the bankruptcy code might be appropriate to handle the special circumstances of a financial institution bankruptcy, the changes made here are far too sweeping and their potential for abuse goes beyond any benefits they bring. Title II of Dodd-Frank already addresses the issue of risk to the financial system created by the failure of a large financial entity, and does so in a much more effective manner than this legislation.

These ideological policy riders would weaken consumer and financial protections, and in any case they should not be attached to a funding bill.

Even as a funding bill, this legislation falls short, as it cuts the SEC's budget by \$100 million (\$50 million in the base appropriations and another \$50 million through the sweep of the SEC reserve fund in Section 624 of the bill). Since the SEC is independently funded through a tiny fee on Wall Street, rather than through the general Treasury, cutting their funding saves ordinary taxpayers nothing. It only benefits Wall Street by reducing effective oversight of the market.

We urge you to reject this legislation.

Sincerely,

Americans for Financial Reform

Following are the partners of Americans for Financial Reform.

All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.

- AARP
- A New Way Forward
- AFL-CIO
- AFSCME
- Alliance For Justice
- American Income Life Insurance
- American Sustainable Business Council
- Americans for Democratic Action, Inc
- Americans United for Change
- Campaign for America's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Media and Democracy
- Center for Responsible Lending
- Center for Justice and Democracy
- Center of Concern
- Center for Effective Government
- Change to Win
- Clean Yield Asset Management
- Coastal Enterprises Inc.
- Color of Change
- Common Cause
- Communications Workers of America
- Community Development Transportation Lending Services
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO Mobile
- CTW Investment Group
- Demos
- Economic Policy Institute
- Essential Action
- Green America

- Greenlining Institute
- Good Business International
- Government Accountability Project
- HNMA Funding Company
- Home Actions
- Housing Counseling Services
- Home Defenders League
- Information Press
- Institute for Agriculture and Trade Policy
- Institute for Global Communications
- Institute for Policy Studies: Global Economy Project
- International Brotherhood of Teamsters
- Institute of Women's Policy Research
- Krull & Company
- Laborers' International Union of North America
- Lawyers' Committee for Civil Rights Under Law
- Main Street Alliance
- Move On
- NAACP
- NASCAT
- National Association of Consumer Advocates
- National Association of Neighborhoods
- National Community Reinvestment Coalition
- National Consumer Law Center (on behalf of its low-income clients)
- National Consumers League
- National Council of La Raza
- National Council of Women's Organizations
- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Resource Center
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National Nurses United
- National People's Action
- National Urban League
- Next Step
- OpenTheGovernment.org
- Opportunity Finance Network
- Partners for the Common Good
- PICO National Network
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council

- Public Citizen
- Sargent Shriver Center on Poverty Law
- SEIU
- State Voices
- Taxpayer's for Common Sense
- The Association for Housing and Neighborhood Development
- The Fuel Savers Club
- The Leadership Conference on Civil and Human Rights
- The Seminal
- TICAS
- U.S. Public Interest Research Group
- UNITE HERE
- United Food and Commercial Workers
- United States Student Association
- USAction
- Veris Wealth Partners
- Western States Center
- We the People Now
- Woodstock Institute
- World Privacy Forum
- UNET
- Union Plus
- Unitarian Universalist for a Just Economic Community

List of State and Local Partners

- Alaska PIRG
- Arizona PIRG
- Arizona Advocacy Network
- Arizonans For Responsible Lending
- Association for Neighborhood and Housing Development NY
- Audubon Partnership for Economic Development LDC, New York NY
- BAC Funding Consortium Inc., Miami FL
- Beech Capital Venture Corporation, Philadelphia PA
- California PIRG
- California Reinvestment Coalition
- Century Housing Corporation, Culver City CA
- CHANGER NY
- Chautauqua Home Rehabilitation and Improvement Corporation (NY)
- Chicago Community Loan Fund, Chicago IL
- Chicago Community Ventures, Chicago IL
- Chicago Consumer Coalition
- Citizen Potawatomi CDC, Shawnee OK
- Colorado PIRG

- Coalition on Homeless Housing in Ohio
- Community Capital Fund, Bridgeport CT
- Community Capital of Maryland, Baltimore MD
- Community Development Financial Institution of the Tohono O'odham Nation, Sells AZ
- Community Redevelopment Loan and Investment Fund, Atlanta GA
- Community Reinvestment Association of North Carolina
- Community Resource Group, Fayetteville A
- Connecticut PIRG
- Consumer Assistance Council
- Cooper Square Committee (NYC)
- Cooperative Fund of New England, Wilmington NC
- Corporacion de Desarrollo Economico de Ceiba, Ceiba PR
- Delta Foundation, Inc., Greenville MS
- Economic Opportunity Fund (EOF), Philadelphia PA
- Empire Justice Center NY
- Empowering and Strengthening Ohio's People (ESOP), Cleveland OH
- Enterprises, Inc., Berea KY
- Fair Housing Contact Service OH
- Federation of Appalachian Housing
- Fitness and Praise Youth Development, Inc., Baton Rouge LA
- Florida Consumer Action Network
- Florida PIRG
- Funding Partners for Housing Solutions, Ft. Collins CO
- Georgia PIRG
- Grow Iowa Foundation, Greenfield IA
- Homewise, Inc., Santa Fe NM
- Idaho Nevada CDFI, Pocatello ID
- Idaho Chapter, National Association of Social Workers
- Illinois PIRG
- Impact Capital, Seattle WA
- Indiana PIRG
- Iowa PIRG
- Iowa Citizens for Community Improvement
- JobStart Chautauqua, Inc., Mayville NY
- La Casa Federal Credit Union, Newark NJ
- Low Income Investment Fund, San Francisco CA
- Long Island Housing Services NY
- MaineStream Finance, Bangor ME
- Maryland PIRG
- Massachusetts Consumers' Coalition
- MASSPIRG
- Massachusetts Fair Housing Center
- Michigan PIRG
- Midland Community Development Corporation, Midland TX

- Midwest Minnesota Community Development Corporation, Detroit Lakes MN
- Mile High Community Loan Fund, Denver CO
- Missouri PIRG
- Mortgage Recovery Service Center of L.A.
- Montana Community Development Corporation, Missoula MT
- Montana PIRG
- New Economy Project
- New Hampshire PIRG
- New Jersey Community Capital, Trenton NJ
- New Jersey Citizen Action
- New Jersey PIRG
- New Mexico PIRG
- New York PIRG
- New York City Aids Housing Network
- New Yorkers for Responsible Lending
- NOAH Community Development Fund, Inc., Boston MA
- Nonprofit Finance Fund, New York NY
- Nonprofits Assistance Fund, Minneapolis M
- North Carolina PIRG
- Northside Community Development Fund, Pittsburgh PA
- Ohio Capital Corporation for Housing, Columbus OH
- Ohio PIRG
- OligarchyUSA
- Oregon State PIRG
- Our Oregon
- PennPIRG
- Piedmont Housing Alliance, Charlottesville VA
- Michigan PIRG
- Rocky Mountain Peace and Justice Center, CO
- Rhode Island PIRG
- Rural Community Assistance Corporation, West Sacramento CA
- Rural Organizing Project OR
- San Francisco Municipal Transportation Authority
- Seattle Economic Development Fund
- Community Capital Development
- TexPIRG
- The Fair Housing Council of Central New York
- The Loan Fund, Albuquerque NM
- Third Reconstruction Institute NC
- Vermont PIRG
- Village Capital Corporation, Cleveland OH
- Virginia Citizens Consumer Council
- Virginia Poverty Law Center
- War on Poverty - Florida

- WashPIRG
- Westchester Residential Opportunities Inc.
- Wigamig Owners Loan Fund, Inc., Lac du Flambeau WI
- WISPIRG

Small Businesses

- Blu
- Bowden-Gill Environmental
- Community MedPAC
- Diversified Environmental Planning
- Hayden & Craig, PLLC
- Mid City Animal Hospital, Phoenix AZ
- UNET