LEGISLATIVE PROPOSALS FOR A MORE EFFICIENT FEDERAL FINANCIAL REGULATORY REGIME: PART III

HEARING

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

OF THE

COMMITTEE ON FINANCIAL SERVICES

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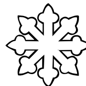

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CONTENTS

	Page
Hearing held on:	
January 9, 2018	1
Appendix:	
January 9, 2018	43

WITNESSES

TUESDAY, JANUARY 9, 2018

Astrada, Scott B., Director of Federal Advocacy, Center for Responsible Lending	7
Fisher, Robert, President and Chief Executive Officer, Tioga State Bank, on behalf of the Independent Community Bankers of America	5
Gleim, Edward J., Executive Vice President and Chief Operating Officer, Triad Financial Services, on behalf of the Manufactured Housing Institute	4
Shuman, Matthew J., Director, Legislative Division, The American Legion	9

APPENDIX

Prepared statements:	
Astrada, Scott	44
Fisher, Robert	63
Gleim, Edward J.	69
Shuman, Matthew J.	75

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Delaney, Hon. John:	
Written statement from the Association of the United States Navy	80
Article from CBS Boston entitled, "WWII Vet Mistakenly Billed $4K for Medical Care, Revealing VA Problem"	81
Article from Military Times entitled, "Veterans Choice program hurting some vets' credit scores"	84
Written statement from the Wounded Warrior Project	88
Emmer, Hon. Tom:	
Written statement from the Consumer Bankers Association	89
Pearce, Hon. Stevan:	
Written statement from the Coalition to Save Seller Financing	91

LEGISLATIVE PROPOSALS FOR A MORE MORE EFFICIENT FEDERAL FINANCIAL REGULATORY REGIME: PART III

Tuesday, January 9, 2018

U.S. House of Representatives,
Subcommittee on Financial Institutions
and Consumer Credit,
Committee on Financial Services,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:01 p.m., in room 2128, Rayburn House Office Building, Hon. Blaine Luetkemeyer [chairman of the subcommittee] presiding.

Present: Representatives Luetkemeyer, Rothfus, Posey, Ross, Pittenger, Barr, Tipton, Williams, Love, Trott, Loudermilk, Kustoff, Tenney, Clay, Maloney, Scott, Velazquez, Green, Heck, and Crist.

Also present: Representatives Emmer, Hultgren, Pearce, and Delaney.

Chairman Luetkemeyer. The committee will come to order.

Without objection, the Chair is authorized to declare a recess of the committee at any time.

This hearing is entitled “Legislative Proposals for a More Efficient Federal Financial Regulatory Regime: Part III.”

Before we begin, I would like to thank the witnesses for appearing today. I appreciate your participation and look forward to a productive discussion.

I also ask unanimous consent that the gentleman from Minnesota, Mr. Emmer, and the gentleman from Illinois, Mr. Hultgren, and the gentleman from Maryland, Mr. Delaney, are permitted to participate in today’s hearing. While not members of the subcommittee, these gentlemen are members of the Financial Services Committee, and we appreciate their participation today.

Without objection, they are allowed to serve.

I now recognize myself for 4 minutes for the purposes of delivering an opening statement.

Today, this subcommittee will continue on its quest to advance legislation to improve customers’ access to financial services and products. Financial companies continue to face an onslaught of Obama-era rules and regulations that do little more than establish unnecessary hurdles to compliance and limit access to credit.

The CFPB’s (Consumer Financial Protection Bureau’s) Home Mortgage Disclosure Act (HMDA) rules are a prime example. Under Director Cordray’s tenure, the CFPB added some 30 new data points to HMDA reporting requirements. These data points

offer little to no additional protection for consumers or the financial system but expose banks and credit unions to unnecessarily stringent examinations and liability.

While Acting Director Mulvaney has signaled a change in HMDA reporting requirements, a move that is most welcome, this committee will continue to pursue legislative efforts to make permanent reforms in these important policy areas.

I want to thank the gentleman from Minnesota, Mr. Emmer, for his continuing work on the HMDA issues and for leading one of the bills we will discuss today.

I also want to recognize Mr. Hultgren, Mr. Williams, Mr. Pearce, and Mr. Delaney for their fine work.

Mr. Delaney and Mr. Hultgren have introduced legislation to ensure veterans don't take a hit on their credit scores because of mistakes made by the VA.

Mr. Pearce has drafted legislation to safeguard the availability of manufactured housing, something of vital importance to his constituents across New Mexico, as well as mine in Missouri, as well as the rest of rural America.

Mr. Williams has championed legislation to ensure our Nation's small and midsize institutions aren't subjected to standards and examinations designed for and more suited to the Nation's largest financial companies.

And Mr. Hultgren continues to advocate for the development and implementation of a short-form call report for our Nation's smallest community banks.

As I have said in previous hearings, the regulatory pendulum has swung too far. Rules and regulations are driving financial institutions to merge, exit entire lines of businesses, discontinue services to their customers, and, in some cases, permanently close their doors. We see it every day and hear about it not just from institutions but also from their customers, many of whom have experienced increased difficulty getting access to credit and other financial products.

I recognize it is possible to have a regulatory regime that protects the American people and financial system without needlessly hindering consumer choice. The bills we will discuss today will help to foster a more reasonable regulatory system that frees lenders and sellers to do what they do best: Offer financial products and services to their customers and grow their communities.

We had a gentleman here who testified recently, Greg Williams, the CEO and President of Gulf Coast Bank & Trust from New Orleans. He made the comment, he said, "The interesting thing is everybody in Washington loves community banks, but nobody loves them enough to do anything about that." Hopefully, today we can start the process of doing something about that.

We have a distinguished panel with us today, and I thank them in advance for their participation.

With that, the Chair now recognizes the gentleman from Missouri, Mr. Clay, the Ranking Member of the subcommittee, for 5 minutes for an opening statement.

Mr. CLAY. Thank you, Mr. Chair, and thank you for conducting this hearing. At this time, I have no opening statement. Hopefully, we can get right into the testimony. I yield back.

Chairman LUETKEMEYER. The gentleman yields back. That is a first, that Mr. Clay has nothing to say. We will please note that for the record.

The Chair now recognizes the gentleman from Minnesota, Mr. Emmer, for 1 minute to deliver an opening statement.

Mr. EMMER. Thank you, Chairman Luetkemeyer, for allowing me to participate in today's hearing.

More than one-third of counties in America don't have a locally based financial institution. And lending rates in many of the most rural parts of our Nation remain below 1996 levels. Now, more than ever, Main Street banks and credit unions need real relief from onerous Washington regulations.

Today, as this committee reviews the Home Mortgage Reporting Relief Act, we are taking another step forward. This bill gives community financial institutions additional time to comply with excessive mortgage disclosure data collection rules imposed by the Consumer Financial Protection Bureau to help Main Street banks do what they do best: Help families across this country achieve the American Dream.

It was great to see the CFPB's action last month to delay enforcement of the 2015 rule, but Congress can and should do more.

Again, thank you to Chairman Luetkemeyer for holding this hearing and including H.R. 4648. And a special thanks to Representative Hultgren for all of his work on this bill and this important issue as well.

And I yield back.

Chairman LUETKEMEYER. The gentleman yields back.

We will begin our testimony. And before we get started, I would just like to also make note of the fact that we are expecting votes about 3:30, so hopefully we can get as far as we can. We will see if we can get the hearing completed. If not, we will complete it after we return. But just to give everybody a heads-up, we may have to call a timeout here at some point.

With that, today we welcome the testimony of Mr. E.J. Gleim, Executive Vice President and Chief Operating Officer of Triad Financial Services, on behalf of the Manufactured Housing Institute; Mr. Robert Fisher, President and Chief Executive Officer, Tioga State Bank, on behalf of the Independent Community Bankers of America; Mr. Scott Astrada, Director of Federal Advocacy, Center for Responsible Lending; and Mr. Matthew Shuman, Director, Legislative Division, The American Legion.

We will recognize each of you for your oral statements.

I would like to yield to the gentlelady from New York, Ms. Tenney, for the purposes of making a brief introduction.

Ms. Tenney, you are recognized.

Ms. TENNEY. Thank you, Chairman Luetkemeyer.

It is my honor and privilege to introduce Mr. Robert Fisher today.

Mr. Fisher is the President and CEO of Tioga State Bank, which serves thousands of New Yorkers within my district and throughout our State. Tioga State Bank is a great example of how a community bank continues to serve our local communities by offering consumers with credit to improve the quality of life for our rural communities.

And we welcome him today and look forward to your testimony. Thank you so much, Chairman.

Chairman LUETKEMEYER. I thank the gentlelady.

With that, we will recognize each of you for 5 minutes to give an oral presentation of your testimony. Without objection, each of your written statements will be made part of the record.

Just for a brief tutorial on our lighting system, green means go; you have 5 minutes. When you get to the 1-minute mark, you will get a yellow light. I would ask you to hopefully wrap up in that 1 minute. And when it hits red, hopefully you can stop very quickly thereafter, or else you get the hammer from me.

With that, Mr. Gleim, you are recognized for 5 minutes.

STATEMENT OF EDWARD J. GLEIM

Mr. GLEIM. Thank you, Chairman Luetkemeyer, Ranking Member Clay, and Members of the subcommittee for the opportunity to testify.

I am the Executive Vice President and Chief Operating Officer of Triad Financial Services, Inc. I am appearing before you on behalf of the Manufactured Housing Institute (MHI), where I serve on the board of directors and as Chairman of MHI's Financial Services Division. Thank you for the opportunity to present MHI's views on the important bills before the subcommittee today.

Manufactured housing is the largest form of unsubsidized affordable housing in the country, providing housing for more than 22 million people across the country. The affordability of manufactured homes enables first-time home buyers, retirees, and families to obtain housing that is cheaper than renting or purchasing site-built homes. New manufactured homes make up approximately 9 percent of new single-family home starts.

The manufactured housing industry is committed to protecting consumers throughout the home-buying process. However, because of the small size of manufactured home loans, the manufactured housing finance has been acutely impacted by recent regulations.

Many lenders have exited the manufactured housing space as a result of increased compliance burdens following the implementation of the Dodd-Frank Act. Lending in the manufactured housing space is simply too small and unprofitable to cover the increased compliance costs. Reasonable modification to the regulations are a critically important element to restoring a robust market of manufactured housing financing.

All small lending institutions are disproportionately impacted on onerous CFPB rules. To the maximum extent possible, we encourage you to ensure the legislation before you today applies equally for those small lenders that are depository institutions and those that are nondepository institutions so that the legislation applies to those lending institutions that make manufactured home loans.

My written testimony provides detailed comments on each of the bills before the subcommittee. Let me briefly summarize those views.

H.R. 1264 constrains the ability of the CFPB to adopt rules and regulations that have the effect of limiting the ability of small financial institutions to provide affordable mortgage credit to consumers. Indeed, one-size-fits-all CFPB regulations are causing

small lenders to curtail financing for small-dollar loans since compliance costs are increasing and challenging the profitability of such loans.

One area that this has been quite acute is with respect to loans for manufactured housing. In fact, some nondepository lenders are turning down almost three-quarters of the applications they receive, and, in the majority of cases, it is due to CFPB rules and regulations. We would point out that H.R. 1264 only applies to depository institutions and therefore does not alleviate the host of burdensome compliance requirements for nondepository manufactured home lenders.

H.R. 2683 is a balanced way to address the erroneous reporting of adverse credit information due to an inefficient VA repayment system. The bill protects veterans and upholds the integrity of the credit reporting system. MHI's lenders believe that the credit report should accurately reflect the repayment history of individuals seeking credit to purchase a manufactured home.

H.R. 4648 is an appropriate and measured response to the concerns that have been raised about HMDA data reporting requirements. The new HMDA data reporting requirements will cause more lenders to stop making smaller loans because of the cost of compliance and because the cost is too high to justify remaining in the manufactured housing lender space.

With respect to seller financing, the ability to finance homes is an important issue for many manufactured home community owners who wish to ensure the manufactured homes within their community are occupied. The legislation before the committee would increase the number of loans they could make per year before triggering the Truth in Lending Act from three loans to five loans. The bill does this while retaining essential consumer protections.

MHI stands ready to work with the subcommittee to make regulatory changes to ensure individuals can get financing to achieve the American Dream of home ownership through manufactured housing.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Gleim can be found on page 69 of the appendix.]

Chairman LUETKEMEYER. Thank you.

The gentleman yields back.

Mr. Fisher, you are recognized for 5 minutes.

STATEMENT OF ROBERT FISHER

Mr. FISHER. Thank you, Chairman Luetkemeyer, Ranking Member Clay, and Members of the subcommittee.

I am Robert Fisher, President and CEO of Tioga State Bank, a $475 million community bank in Spencer, New York. I am pleased to be here on behalf of the more than 5,700 community banks represented by Independent Community Bankers of America (ICBA). We hope today's hearing sets the stage for legislation needed to strengthen local economic growth and job creation.

Tioga State Bank was founded by my great-great-grandfather in 1884 to provide the needed banking services to local businesses and individuals. I am a fifth-generation community banker, proud to carry on our commitment to local prosperity. Many of the rural

communities we serve in upstate New York depend on us as the only financial institution with a local presence.

I will focus my testimony on three bills before this subcommittee, all of which include provisions recommended in ICBA's "Plan for Prosperity."

First, H.R. 1264, introduced by Representative Roger Williams, would exempt community banks with assets of less than $50 billion from all prospective rules and regulations issued by the CFPB.

Since the creation of the Bureau, community banks have been forced to comply with rigid, arbitrary, and prescriptive rules intended to target the abuses of nonbanks and larger banks. These rules have limited community banks' ability to rely on their best judgment in making credit decisions and to offer customized products and services. CFPB rules reduce consumer choice and end up hurting the very customers they are intended to protect.

ICBA also supports H.R. 4648, introduced by Representatives Tom Emmer and Randy Hultgren, which would provide temporary enforcement relief from the new complex and burdensome data collection and reporting requirements under the Home Mortgage Disclosure Act. We believe that introduction of this bill prompted the Bureau's recent announced policy of forbearance under the new rule. H.R. 4648 will put this policy in statute rather than at the discretion of the director.

Many lenders, core vendors, and mortgage software vendors continue to scramble to bring their systems into compliance. We are making a good faith effort to comply with the complex new rule and should not be held liable for unintentional errors.

H.R. 4648 would also restrict the CFPB's ability to make the new data publicly available. In the communities I serve, where people are well-known to each other, published HMDA data is a threat to consumer financial privacy. We believe the ultimate solution is a HMDA exemption for relatively low-volume mortgage lenders, as provided in Representative Emmer's earlier bill, H.R. 2954. Raising exemption thresholds will protect consumer privacy and provide relief for many more small lenders, without a significant impact on the mortgage data available to the CFPB.

Last, H.R. 4725, introduced by Representative Hultgren, would provide for short-form call reports in the first and third quarters for banks with assets of less than $5 billion.

Call report burden has grown sharply in recent years. When I first started with the bank in the mid-1980's, the report was 18 pages long. Today, for my bank, that report is 51 pages and 80 pages for banks above a billion in assets. Yet my bank's business model has not really changed significantly since 1884.

Call report preparation is a labor-intensive process that involves drawing data generated by different systems and manually reentering it into call report software. For all the effort we put into it, only a fraction of the data collected in the call report is actually useful for regulators in monitoring safety and soundness or conducting monetary policy.

Recent agency efforts to streamline call reporting for community banks are of little to no value. They merely eliminated data that were not applicable to Tioga or other community banks. From our perspective, the new short form is essentially the same as the long

form. H.R. 4725 is needed to create real relief in quarterly call reporting that will allow us to focus our resources on lending and serving our communities.

Finally, I want to end this statement by asking the House to promptly pass S. 2155 when it is sent over from the Senate. This bipartisan bill is clearly a response to the numerous hearings and markups held in this committee. It offers the best opportunity for robust community bank regulatory relief this Congress, and I urge you to not let it slip.

Thank you, and I look forward to answering your questions.

[The prepared statement of Mr. Fisher can be found on page 63 of the appendix.]

Chairman LUETKEMEYER. Thank you, Mr. Fisher.

Mr. Astrada, you are recognized for 5 minutes.

STATEMENT OF SCOTT B. ASTRADA

Mr. ASTRADA. Thank you.

Good afternoon, Chairman Luetkemeyer, Ranking Member Clay, and Members of the committee. Thank you for allowing me to testify today about legislative proposals regarding the oversight of our financial institutions and the need to maintain responsible and sensible consumer protections, which are critical if we want to continue to build a strong and inclusive economy.

I am the Director of Federal Advocacy at the Center for Responsible Lending (CRL), a nonprofit, nonpartisan research and policy organization dedicated to protecting home ownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, a nonprofit community development financial institution. And for over 30 years, Self-Help has focused on creating asset-building opportunities for low-income, rural, and minority families by providing more than $6 billion in financing to 70,000 home buyers, small businesses, and nonprofits and also serving more than 120,000 members through over 50 retail credit branches.

This important hearing addresses Federal financial regulation in the context of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which was signed into law in 2010 in response to the Great Recession 10 years ago. The law is a pragmatic regulatory framework that corrected systemic gaps and sought to prevent future market failures, all while implementing crucial protections for consumers and the broader economy.

As a result, today, consumer lending is strong, bank profitability is at record levels, and financial markets are stable, thanks in substantial part to essential legislative and regulatory safeguards established by Dodd-Frank.

This hearing, entitled “Legislative Proposals for a More Efficient Federal Financial Regulatory Regime,” has far-reaching effects in terms of defining what we mean by efficient regulation. Does efficiency mean blanket rollbacks of consumer protection legislation? Or does efficiency mean targeted, commonsense safeguards that ensure stable, transparent, and equitable markets? At CRL, we strongly believe it is the second choice. However, all of the bills considered today, with the exception of H.R. 2683, rely on the first definition and roll back consumer protections on a wholesale basis.

H.R. 1264 impedes the CFPB's ability to supervise and regulate financial institutions by exempting those with assets of $50 billion and under from all or new modified rules issued by the CFPB and would push huge portions of the banking industry and the consumers they serve outside of the entirety of the legislative and regulatory system.

H.R. 4648 prohibits the sharing of public data on the financial marketplace prescribed by HMDA, which is the best tool we have to rout out market discrimination and inefficiencies.

H.R. 4725 rolls back data-driven regulatory policy by directing Federal banking agencies that have already initiated streamlined processes to reduce reporting requirements for call reports.

And Representative Pearce's legislation introduces potentially dangerous and reckless mortgage loan products to vulnerable home buyers by amending the Truth in Lending Act to change the definition of mortgage originators to exclude certain types of seller financing.

I want to stress it is the aggregate effect of these bills that threatens consumers, harms banks, and exposes the overall economy to risk by maintaining a belief that wide-scale deregulation equals efficiency.

The notion is also at the foundation of an unsubstantiated belief that Dodd-Frank has somehow stifled economic growth and that deregulation is the solution. It isn't. The data does not support this contention, and, as explained in my written testimony, the evidence actually contradicts this belief.

The financial sectors have record profits. In 2016, the financial institutions had annual profits of $170 billion, the highest in years. The FDIC (Federal Deposit Insurance Corporation) puts out these reports every quarter. The most recent numbers are even higher, with industry net income for the third quarter of 2017 at a 5-percent increase compared to the previous year.

Community bank profitability has rebounded strongly and is at pre-recession levels. At the end of the third quarter of 2017, community bank earnings increased by $513 million or a 9-percent increase from that time earlier that year.

Credit unions have also continued to grow while recovering from the financial crisis. In 2016, credit unions added almost 5 million new members, which amounted to the biggest annual increase in history and four times the pace set a decade earlier.

I will just conclude with a restatement that CRL opposes all but one of these bills—H.R. 2683—being considered today. Collectively, they widely scale back the CFPB's supervisory authority and abolish important consumer protections. They also abandon the approach of targeted and dynamic reform and, instead, would be wholesale rollbacks on consumer protections.

I look forward to continuing to work with this committee, community banks, and credit unions to work through the issues raised today. And I thank you for the opportunity to testify.

[The prepared statement of Mr. Astrada can be found on page 44 of the appendix.]

Chairman LUETKEMEYER. Thank you, Mr. Astrada.

Mr. Shuman, you are recognized for 5 minutes. And I would like just to take a moment to again thank you for your service, as well, to our country.

Mr. SHUMAN. Thank you, Mr. Chairman.

Chairman LUETKEMEYER. You are recognized.

STATEMENT OF MATTHEW J. SHUMAN

Mr. SHUMAN. After proudly serving 20 years in the United States Army, Frankie Adams is continuing to this day to serve his community as a police officer.

In December 2016, the VA authorized Mr. Adams, through the Choice Program, to receive an outpatient procedure at a hospital closer to his home. A few months later, he received a bill in the mail instructing him to pay the remaining balance for the procedure that his private medical insurance did not cover.

While speaking with both the doctor and the hospital, Mr. Adams advised them that the VA was responsible for the cost of the procedure. Mr. Adams was unfortunately told that the VA had not paid it and, in order to avoid the debt from being reported to a credit collector and impacting his credit, he would need to pay the $300 balance.

Chairman Luetkemeyer, Ranking Member Clay, and distinguished Members of this committee, on behalf of the National Commander Denise H. Rojan and the 2 million members of The American Legion, I thank you for the opportunity to testify regarding The American Legion's position on H.R. 2683, the Protecting Veterans Credit Act of 2017.

The American Legion is our Nation's largest wartime veteran service organization, with over 13,000 posts in every Congressional district.

The story I told is a story that many veterans have lived. The small difference is that Mr. Adams, from the great State of Missouri, had the means to pay the charges. The simple reality is no veteran should ever have to pay for services that the VA is responsible for.

If passed, H.R. 2683 will afford veterans the necessary protections by amending the Fair Credit Reporting Act to exclude for 1 year information related to their VA medical debt from being reflected in their credit report. This commonsense bill will also provide veterans with the necessary tools to dispute VA medical debt information reported to credit reporting agencies. Bottom line, veterans will no longer require assistance from attorneys and pay fees to resolve an issue they had absolutely no role in creating.

Before continuing, I would like to give a brief history of the Choice Program at VA.

In 2014, the VA wait-time scandal became a national news story, describing veterans waiting long periods of time to see a doctor to receive even the most basic of medical services. Many blamed an overworked and understaffed VA system.

A solution was to allow veterans to receive care in the community at the Government's expense. When the Choice Program was created, it became the ninth community care program at the Department of Veterans Affairs, meaning there were eight similar

programs already in existence, including the VA's Office of Community Care.

Mr. Chairman, I share this with you purely to demonstrate that veterans have been dealing with the consequences of VA's actions even prior to the implementation of Choice.

While The American Legion supports H.R. 2683, we have a few recommendations that would assist in making the bill even stronger:

One, the credit reporting agencies will need a mechanism to validate if someone is a veteran in order to process their claim.

Two, in addition to validating a veteran's status, the CRAs will also need to validate that the debt in question is a VA-approved service.

Last, in 1982, the Prompt Payment Act became law, which forced the Federal Government to pay their bills on time. In 2014, when the Choice Program became law, section 105 of that law required the VA to pay providers in a timely manner. The American Legion strongly encourages this committee and the entire Congress to pass legislation directing the VA to adhere to the Prompt Payment Act, which will assist veterans who have selflessly served their Nation.

Mr. Chairman, Ranking Member Clay, and Members of this committee, I thank you for the opportunity to share with you today The American Legion's position on the Protecting Veterans Credit Act. In closing, veterans like Mr. Adams deserve only the best, and The American Legion stands ready to assist you in doing just that.

Thank you, and I am more than willing to answer any questions you have.

[The prepared statement of Mr. Shuman can be found on page 75 of the appendix.]

Chairman LUETKEMEYER. Thank you, Mr. Shuman. Appreciate your insights on those issues.

And so let me just begin with you. I will recognize myself for 5 minutes here.

You cited somebody from Missouri, which Mr. Clay and I have said, this guy is pretty sharp, he is hitting a very high note here with us right off the bat. Can you elaborate a little bit more on exactly what the details of that case were and how this bill would impact that individual?

Mr. SHUMAN. Certainly, sir. Thank you for the question. It is worth noting that Mr. Adams is watching right now from Missouri.

He is a police officer. After serving in the military, he decided to retire to become a police officer. And in 2016 he was normal age to receive a colonoscopy. He found out that he could have the service done—instead of at the VA, he could have it done at a local hospital, which was only 10 miles from his home. Surgery went well, just so you know.

About 5 months later, he began receiving bills in the mail saying that he owed money. And though $300 is not a lot of money by a lot of people's standards, it certainly is to others. He informed them that the charges—well, first of all, it is also worth noting that his personal insurance covered a big chunk of the fees, which the VA was certainly responsible for in the first place. After a while, finding out, and did not want it impacting his credit, he personally paid the $300 himself.

If this happens, which has happened quite often, when veterans pay the fees themselves, they never get that money back from the VA. So let's just note that.

Chairman LUETKEMEYER. So the bill's impact here would minimize this individual's being charged any late fees or—

Mr. SHUMAN. It would, sir.

Chairman LUETKEMEYER. —Any credit negativity with regards to not paying his $300.

Mr. SHUMAN. Yes, sir. It would provide up to about a year for them to be able to figure out this process. Realistically, it should take roughly about 2 months for the VA to get those payments made, so providing a little bit more time than that, in case it doesn't, would be helpful to the veteran.

Chairman LUETKEMEYER. Very good. Thank you very much.

Mr. Fisher, I was interested in your commentary here. I am involved intimately with a bank, and they were giving me, the other day, this real estate loan matrix. I realize you probably can't see it from there, but this top part, there are 280 boxes. And the bottom part here, it is a timetable of 20 different provisions in there of the things you could or could not do.

So you are looking at 300 different situations there that you could be tripped up on and have one, what they call technical exception, and then cause yourself, the bank, to have some retribution by the CFPB or the FDIC or whomever on this.

And so would you like to elaborate just a little bit on the complexity of this chart and the concerns that you have, as a banker, with trying to comply with all this?

Mr. FISHER. Yes. Obviously, we are very concerned about the additional data points and the information that is being collected. So we are not asking to be—we would like an exemption; that would be great. But a forbearance or at least a temporary extension to get ready for some of the changes to HMDA, which has been in place since 1975, would be great.

Chairman LUETKEMEYER. How is Mr. Mulvaney—I know that he is looking at this, and he has proposed a delay on some of this. Give us a little briefing on what he is trying to do and the impact it would have with regards to some of this stuff.

Mr. FISHER. I think they have just announced that they would have a forbearance for, I think, the same period as the bill to allow banks to get up to speed, so that they are not going to aggressively go after banks if you have an error in your data.

Chairman LUETKEMEYER. I know the bill tries to say there is a limit at which the things do not affect the banks, but there is already a limit in place on a number of different issues that affect banks. But it seems to me that there is an experience here where the regulators will say, well, if it is a good idea for the banks above this threshold, it is probably a good idea for the banks underneath it. Would you like to expand on that comment just a little bit?

Mr. FISHER. Yes, we are always concerned that there are going to become best practices that will get pushed down upon the banks.

As a $475 million bank, we are not subject to stress-testing our assets or stress-testing loans, but we have suggested at regulatory examinations that we should consider stress-testing some of our loans. We don't have an enterprise risk manager within our bank,

but we have been told that we should start thinking about having somebody in charge of enterprise risk management for our bank. So—

Chairman LUETKEMEYER. So they are using the guidance and rules that are above this threshold to be forced on you or by inference that it is a good idea, as you say, best practices for you to implement these, as well, is what they are telling you. Is that correct?

Mr. FISHER. Definitely, sir.

Chairman LUETKEMEYER. OK.

Let me yield back here, and we will go to the gentleman from Missouri, Mr. Clay. The Ranking Member is recognized for 5 minutes.

Mr. CLAY. Thank you, Mr. Chairman, and thank all the witnesses again.

Mr. Astrada, two of the bills we are considering today have two very different thresholds to trigger regulatory relief. H.R. 1264, the Community Financial Institution Exemption Act, would exempt nearly all banks and credit unions from any new or modified consumer protection regulation, and it uses a threshold of $50 billion in assets. H.R. 4725, the Community Bank Reporting Relief Act, on the other hand, would set a threshold of $5 billion for providing reduced call report requirements.

Putting aside the substance of the two bills for a moment, could you please help put the impact of these different thresholds into perspective in terms of which segments of the banking sector would be covered and the potential impact on consumers?

Mr. ASTRADA. Absolutely. And this is with the qualification you said, ignoring the substance, but looking at the thresholds.

If we consider $5 billion, it covers a large majority of the industry, I think over three-fourths, that you are taking out of the ability of regulators to assess data on the health and soundness, to assess market trends, to assess where policy should be targeted to attract private investment. So you are really taking a large share of the industry outside of the purview of data-driven policy.

And then when you times that by 10 and go to $50 billion, you are talking essentially virtually all of the banking industry, with the exception of a handful of the largest organizations. And to take that out of the purview of the CFPB is, I think, in line with our concern and our opposition to bills like these that just define efficiency as complete exemption from the regulatory system.

So I will just underline that the CFPB also is responsible for the Equal Credit Opportunity Act, the Truth in Lending Act, Fair Debt Collection Act. So you are ultimately placing a majority of the banking, if not all of the industry, outside of the purview of these regulations, with a very onerous—I am sorry, I have to speak to the substance of 1264 real quick—an onerous exception process that essentially just hamstrings the only agency that is looking out for the consumer.

Mr. CLAY. Then, when considering the appropriate asset size to establish a threshold to provide regulatory relief for small, community financial institutions, do you believe that the committee should consider the FDIC's 2012 community bank study that defined a community bank with a threshold of $1 billion in assets,

along with other factors, such as whether a bank had more than 10 percent of foreign exposure?

Mr. ASTRADA. CRL hasn't taken an official position on a number. I will say that we do support the role of the Federal regulators to assess that number. And it would make more sense to leave it to the regulators, who are in the best position, that have a collaborative relationship with those under their purview, to assess those thresholds rather than have it mandated from legislation.

Mr. CLAY. Now, I am going to play devil's advocate. Look, when the CFPB was created through Dodd-Frank, it was in response to the Great Recession and those players in the financial services industry that had been careless, that had almost caused our financial systems to melt down.

And I am one who thinks that we pass no perfect laws here, and so sometimes we overreach. And so let me ask you, with us taking in all of these financial institutions, did we overreach, as Congress, in this law? And why wouldn't the CFPB's role be to focus on those players who did do wrong and who almost caused a meltdown and not have such a wide swath and take in everybody?

Mr. ASTRADA. I ran out of time, but am I permitted 30 seconds to respond to that?

So CRL and I don't think any one of our coalition members have ever said that Dodd-Frank was perfect, and it very much was in response to a once-in-a-generation crisis. But we do believe and that legislation anticipated that, especially with sections like 1022(b)(3), which gives the CFPB ability to exempt classes of institutions from its rules—and it has used that for smaller institutions and community banks.

While we are not of the view that Dodd-Frank is sacrosanct and cannot be changed, the legislation today takes the complete opposite approach and says let's just get rid of large parts of this altogether.

Mr. CLAY. I thank you for your response.

I yield back.

Chairman LUETKEMEYER. The gentleman's time has expired.

With that, we go to the gentleman from Pennsylvania, Mr. Rothfus, the Vice Chair of the committee.

You are recognized for 5 minutes.

Mr. ROTHFUS. Thank you, Mr. Chairman.

Mr. Fisher, at this committee, we often discuss the degree of consolidation in the banking industry and the ongoing closures of community financial institutions. This, coupled with the de novo drought, has caused many communities across this country to lose their local bank or credit union.

You are testifying today as not just a bank CEO but as a fifth-generation community banker. In your testimony, you wrote, quote, "Community banks thrive or fail based on their reputation for fair dealing in the communities they serve. Their business model is based on long-term customer relationships, not one-off transactions."

You went on to note that regulators often fail to take community banks' business model into account when imposing heavy-handed rules on smaller institutions.

Can you discuss what happens when a community becomes a financial services desert, as described in your testimony? What are the impacts for households on Main Street?

Mr. FISHER. It limits choice to consumers, it limits choices to small businesses. The majority of our business is done within our community. Ninety percent of the loans that we make are done within the communities we serve. Without us in Spencer, New York, which has a population of about 3,800 people, I don't think any other bank is going to step into my community and open up an office to provide banking services. Definitely, without community banks present, there is a loss of financial services and choice for consumers.

Mr. ROTHFUS. And I have seen that in small towns and boroughs across western Pennsylvania.

Can you discuss an example of CFPB overreach into a community bank like Tioga?

Mr. FISHER. I think the increased—the biggest example right now, and it is one of the bills we are discussing, is the increased HMDA data points, going from 23 data points to 48, more than doubling the number of data points, which—community banks, there is—I made 253 first mortgage loans last year, out of 10 million. So are my 253 loans statistically significant as far as the numbers that the CFPB is collecting as far as these data points? I don't think so, but—it is just—I don't think it should be applicable to my bank.

Mr. ROTHFUS. It appears that they are pretty hungry for this data.

On another report, some critics of the Community Bank Reporting Relief Act might argue that the Federal Financial Institution Examination Council (FFEIC) has already streamlined call reporting. Yet, in your testimony, you wrote, quote, "From our perspective, the new short form is essentially the same as the long form. ICBA invested significant time and resources in the FFIEC effort, and we were deeply disappointed in the outcome."

Can you elaborate on how the new short form fails to provide community banks like yours with meaningful relief?

Mr. FISHER. The call report, the sections that they eliminated were sections that weren't applicable to my bank. Some of the derivative sections, some of the other off-balance-sheet items that we were supposed to be reporting on a quarterly basis, we weren't reporting on those things anyway, so elimination of those data points doesn't save me any time. Instead of maybe taking 40 hours a quarter to complete, it is maybe a 39-hour process today.

Mr. ROTHFUS. Yes. I noticed in your testimony also you said that when you first started in banking in the mid-1980's the report was 18 pages long; now it is 51 pages. No change in your basic business model since that time warrants—that is nearly three times.

Mr. FISHER. Yes. My business model is essentially the same as when my great-grandfather started the bank. We take in deposits and lend it back out in the community.

Mr. ROTHFUS. Mr. Gleim, you discussed in your testimony the importance of Chairman Pearce's bill for the manufactured housing industry. This issue is of particular interest to me since manufactured housing is a popular source of affordable home ownership in

my district. The manufactured housing industry also employs 16,000 people in Pennsylvania.

I understand that restrictions on lending practices have made it more difficult for prospective buyers and have already adversely impacted the industry. Can you please elaborate on how the Pearce bill would help prospective purchasers of manufactured homes?

Mr. GLEIM. Again, let me again piggyback off of the HMDA information. We have gone through, and basically our numbers have come up with just over a hundred data points that were required to be filled out for that. Now, these have to be filled out on every application that is out there. It continues to increase our cost, every application, regardless of what the disposition is of that product. As a result, it continues to increase our cost. It makes it very, very difficult to make the smaller loans out there, and it continues to limit affordable housing to many of our customers.

Mr. ROTHFUS. I yield back my time.

Chairman LUETKEMEYER. The gentleman's time has expired.

With that, we recognize the gentlelady from New York, Mrs. Maloney, for 5 minutes.

Mrs. MALONEY. Thank you so much. And I thank the Ranking Member and the Chair holding this hearing, and for all of the panelists. And a very special welcome to Robert Fisher, a fellow New Yorker, and thank you for your service to our great State.

My first question is for Mr. Astrada.

What do you think of H.R. 2683, the Protecting Veterans Credit Act? I personally am supportive of it, would like to be a cosponsor, and thank my colleague Mr. Delaney for his hard work on it. And I don't think that veterans' credit scores should be harmed just because the VA fails to pay non-VA healthcare providers on time.

Do you think this bill is helpful?

Mr. ASTRADA. Thank you. Yes, CRL does support this bill and views it as a very productive and positive step to protect—

Mrs. MALONEY. And do you have any concerns with excluding this information from veterans' credit reports?

Mr. ASTRADA. No concern. As it is, like I said, we view it as a very productive step to protecting our Nation's veterans. The only thing I would underscore is that—we deal a lot in the secondary debt market—is that these protections should be expanded, to the extent possible, for veterans and to the broader communities, especially when it comes to medical debt, which is more than half of all collections across America.

According to CFPB publicly available data, over two-thirds of the complaints of that debt centered around unverified debt holding, incorrect amounts, or even the wrong debtor.

Mrs. MALONEY. Thank you. And I think we can get bipartisan support for this, I hope.

Mr. Astrada, you said in your testimony that H.R. 4648, the Home Mortgage Reporting Relief Act, would undermine fair lending efforts. Can you elaborate on how you think the bill would affect fair lending? Would this bill make it harder to crack down on unfair and abusive practices?

Mr. ASTRADA. Yes. We have strong opposition to 4648 on the public disclosure prohibition. When we look at HMDA and its three main purposes of helping to show whether financial institutions are

serving the housing needs of their communities, to assist public officials in distributing public-sector investment, and to assess identification of potentially anti-discriminatory behavior or preventing anti-discrimination laws, this data is essential.

And without it, the public, universities, policymakers, professionals won't be able to have an accurate assessment of the market, who is getting credit, who is not getting credit. And this is particularly relevant for rural borrowers or individuals who live in banking deserts that rely on very limited choice of institutions.

Mrs. MALONEY. I would also like to ask you about 2683. What do you think about the Protecting Veteran—wait a minute. I am going back to the wrong one.

I want to ask you about H.R. 1264, which would exempt all banks and credit unions with under $50 billion in assets from all rules and regulations issued by the Consumer Protection Bureau.

I am all for tailoring rules to the size and business models of banks and credit unions, but is it appropriate to exempt banks and credit unions from consumer protection rules based purely on size? Aren't all consumers entitled to be protected? Shouldn't all financial institutions, regardless of size, care about taking care of and protecting their constituents or their consumers and customers? What does size have to do with consumer protection?

Mr. ASTRADA. I think in this case, especially with 1264, the number is significant, because it is virtually the entirety of the industry. And to place that completely outside of the CFPB's purview, not only with all the regulations that it is responsible for now but in the future, is—

Mrs. MALONEY. It would be how much of the industry did you say?

Mr. ASTRADA. $50 billion in assets, I don't have the number offhand, but it is well more than 90 to 95 percent.

Mrs. MALONEY. Ninety-five percent? My word. Really? That is interesting.

Mr. ASTRADA. So it is essentially saying that the vast majority of the banking industry doesn't have to comply with the CFPB—any regulations that it is responsible for now or that might come up in the future.

Mrs. MALONEY. And shouldn't every customer be entitled to protection?

Mr. ASTRADA. We would strongly agree with that statement, yes.

Mrs. MALONEY. OK.

My time has expired. Thank you very much for your testimony. And I thank all the other panelists for being here.

Chairman LUETKEMEYER. I thank the gentlelady for her questions.

With that, we go to the gentleman from Colorado. Mr. Tipton is recognized for 5 minutes.

Mr. TIPTON. Thank you, Mr. Chairman.

I thank the panel for taking the time to be able to be here.

Mr. Fisher, prior to the creation of the CFPB, were there protections in place for consumers through your banks?

Mr. FISHER. Yes, there have always been protections in place for the consumers.

Mr. TIPTON. Great. I was particularly interested in a follow up to the Chairman's question to you when you were talking about, actually, the trickle-down effect in terms of regulations, the best practices and how they are going to be impacting the ability to be able to create new businesses.

I, too, come from a rural area. We have not experienced the recovery that the rest of the country has. Fortunately, I think, now that we have had real tax relief legislation go through, those opportunities to be able to grow businesses, some responsible deregulation starting to go into place, we are starting to finally see some real activity in some of rural America now to be able to create it.

But I would like you to be able to speak to my colleague Mr. Williams' bill, H.R. 1264. It will exempt community financial institutions from prospective rules and regulations from the CFPB. Could you speak to how this is going to be able to assist creating those economic dynamics that a lot of rural America, upstate New York, rural Colorado might really need to have?

Mr. FISHER. I just think, obviously, our reputation is critical to our success in our communities. So we protect our consumers. We do what is right for our customers, as every other community bank throughout this country. When you are operating in a small footprint, you have to do what is right, because your reputation is everything.

So I think the exemption from some of the purview of the CFPB takes away some of the burden that we may have as far as trying to serve our communities and trying to have a consistent message to our customers.

Mr. TIPTON. We had some real experience out of the State of Colorado with some of our smaller financial institutions stating that some of the regulatory burden was actually inhibiting their ability to be able to make those small-business loans.

I am a former small-business owner. Without that access to capital, we weren't able to maintain or to be able to grow jobs. Have you had some of that experience in your banks?

Mr. FISHER. Definitely. With the HMDA laws as far as currently, I have two people in my bank out of a hundred people that their main focus is on HMDA. I have one employee that is solely dedicated to BSA.

So regulatory burden, which is why we are here today, not to talk about bank profitability but to talk about reg burden and how we can better serve our communities and serve our customers and get loans out to small-business customers. And that is really, I think, what we are trying to do, is relieve some of the burden that doesn't make sense. Tier it to my business model.

Mr. TIPTON. I think that is a lot of the intent of Mr. Williams' bill, to be able to have a responsible regulation, to be able to create win-wins for our communities, for our businesses, for our families, and to be able to have institutions in place that can deliver that liquidity.

Mr. Gleim, I would like now to be able to turn to some of the issues that you are bringing up.

In December 2017, the CFPB announced that it intends to open a rulemaking to reconsider the various aspects of the 2015 HMDA

rule, as well as its intention to assess penalties for errors in data collected in 2018.

In your testimony, you called the compliance burden of the CFPB HMDA rule stifling. Can you speak to how codifying the CFPB's safe harbor and extending it through 2020, as Mr. Emmer's legislation will do, how that will ease compliance burdens for the CFPB and the rulemaking industry?

Mr. GLEIM. Yes, sir. The safe harbor will help us for that 1 year because of the fact it won't provide—we will basically have a safe harbor from those penalties. But it still doesn't resolve the issues of all of the information that we do and we are required to collect.

Again, while our organization, we are the second-largest lender in the manufactured housing segment, we basically turn down 74 percent of our applications. Every one of those applications is required to have HMDA information. We have found also that the cost of software for HMDA as well as additional software to edit the responses for HMDA are extremely expensive and make it difficult for more organizations to enter this market for manufactured housing.

The other issue we have is, when a customer comes in and is asked to provide that information, they can basically say they won't, and, at that point, we need to make a best guess on that. What the customer doesn't understand is there are so many data points in there that we are then required to go into not only his application or her application but a lot of other documents we have received from them to complete that. In other words, we are providing far more information than the customer expected, which leads to privacy issues as well as identity theft issues, as far as we are concerned.

This takes a number of people to do. We are looking at 5 to 10 minutes for every deal that we have.

Mr. TIPTON. Thank you.

I yield back, Chairman.

Chairman LUETKEMEYER. The gentleman's time has expired.

We go to the gentleman from Georgia, the distinguished gentleman, Mr. Scott. You are recognized for 5 minutes.

Mr. SCOTT. Thank you very much, Mr. Chairman.

Mr. Gleim, let me ask you this, because I read your testimony, and you pointed out something that disturbed me, the fact that 1264 does not provide any relief to nondepository manufactured home lenders. And that concerned me because there are millions of American families who this would affect who do not use the traditional lenders like banks or credit unions but heavily rely on this alternative form of lending.

Could you share with us what this would do, what the impact of this would be?

Mr. GLEIM. I think one of the things that we have seen the acting director do, particularly on the Safe Harbor Act, is to go across the board on all lenders. And that is why we are asking for that same protection on this.

One of the biggest issues we have out of this, sir, is the fact that it creates an uneven playing field for manufactured housing lenders and organizations like ours which do significant amounts of manufactured home lending. The big issue also is very few commu-

nity banks and banks in general basically work in this segment, just because of the fact it is so difficult to make money off of the smaller loans.

Not only are we penalized by that, we would now be penalized by basically a dual system out there that would treat all of us lenders that are providing manufactured home loans that are non-depositories following different rules.

Mr. SCOTT. And that is because the loan size of manufactured housing is possibly too small to cover a lot of that. So it puts it into an unprofitable position to even cover compliance costs.

Is it possible that you might—I know my colleague Mr. Roger Williams is a very fine gentleman, and he wouldn't want to do anything that would hurt millions of American families out there who don't use the traditional instruments in our financial system, that perhaps you might make a few suggestions to Mr. Williams that might do this.

In Georgia and throughout this country, there are an awful lot of—millions of families would be affected, I think, by this. Is that not true?

Mr. GLEIM. That is definitely correct.

One of the things that would help this significantly goes back to providing access to manufactured housing on points and fees. These homes that are at $20,000 and $30,000 are almost impossible to make a profit off of. As a result, you have customers that cannot buy these homes at this level. As a result, they end up having to go off someplace else. Again, there aren't many alternatives outside of manufactured homes.

Right now, we are looking at numbers as far as originating and processing that run anywhere from $1,800 to $8,800 to process a loan. Because of that, more and more financial institutions and lenders are not willing to do the lower end. When the lower end isn't done, it also makes it very difficult for the customer to be able to trade up to a larger manufactured home or a better manufactured home.

There is no better affordable housing right now than manufactured homes that, as I stated in my testimony, not only are the costs less than traditional-built used or new homes, but in many cases the cost is far less than it is for even renting at this point.

Mr. SCOTT. Very good.

And if there is anything I could do to work with Mr. Williams on that, we could maybe work together, get some language that would ease that concern a bit, I am sure that Mr. Williams would work with us.

In my remaining time, I cannot go by without giving a compliment to Representatives John Delaney and Randy Hultgren for the great work they are doing with House Resolution 2683. This is no fault of our veterans, to get in this situation. And this legislation will go a long way, Mr. Chairman, in fixing a problem and correcting it. Because it is unfair for our veterans to have to be saddled with this extra cost because of the late payment structure in the VA. So I just want to commend Mr. Hultgren and Mr. Delaney for a job well done.

Thank you.

Chairman LUETKEMEYER. The gentleman yields back.

The Chair will recognize the gentleman from Texas, Mr. Williams, for 5 minutes.

Mr. WILLIAMS. Thank you, Mr. Chairman. And thank you for holding a hearing on my bill, H.R. 1264, the Community Financial Institution Exemption Act, and all of the important legislation that we are discussing today.

It is not easy to force a regulatory agency to do what they already should be doing, but H.R. 1264 seeks to put the burden of proof on the CFPB. For new regulations, community institutions will be exempt until the CFPB makes a written detailed finding that they should not be included. In other words, either keep community institutions out of these massive rules or put pen to paper and tell us why they are including community banks and credit unions.

The bill would also require the CFPB to consult with primary regulators of community institutions as to whether a new rule should go forward or if an exemption should exist. Finally, nothing in the bill would prevent the CFPB from revisiting current rules to determine if new exemptions are justified.

My bill is simple; my bill is straightforward. And I hope the committee will consider my legislation and that my friends on the other side of the aisle, as my good friend—let the record show, my good buddy, David Scott, has indicated, they will work with us to create a workable exemption. And if not and we don't do that, I am afraid our community institutions are going to keep disappearing, and customers and borrowers alike are going to suffer in the long run.

In my remaining time, I would like to ask a few questions.

Mr Fisher, first of all, congratulations on your fifth-generation business. I operate a third-generation business. And I want to thank you for being here today.

Community banks and credit unions are the backbone of Main Street America. And in my 45 years of experience as a small-business owner, I can say without a doubt that community financial institutions are major drivers of this Nation's economy. But the sad truth is one credit union or community bank is going out of business each working today—it is unbelievable here in America—because of incredible regulatory burden.

I would like to ask you about my piece of legislation, the Community Financial Institution Exemption Act, which you have spoken about, and the effect that it could have on Main Street.

First, though, in your experience, would you say that in the past 8 years the regulatory burden on your institution has grown substantially?

Mr. FISHER. I would say it has definitely mushroomed. It has expanded exponentially.

Mr. WILLIAMS. All right. And do you feel that the CFPB should have included broader exemptions for smaller institutions in that timeframe?

Mr. FISHER. Yes, I am not sure that the CFPB has effectively used the section 1022 exemption to exempt different financial institutions from the purview of some of their laws.

Mr. WILLIAMS. Do you feel like this legislation will have a positive impact on Main Street?

Mr. FISHER. I think this would have a tremendous impact on Main Street.

Mr. WILLIAMS. I have another question for you. I am concerned that the CFPB, as it behaved under former Director Cordray, actively sought to increase regulation, no matter the cost to communities and the consequences of its actions. With that being said, do you think that requiring a written finding for new rules before they go into effect, if at all, would force the CFPB to stop and think if these rules are truly necessary for community institutions?

Mr. FISHER. Most certainly. They would have to prove—the burden of proof is on the CFPB at that point.

Mr. WILLIAMS. Finally, will my proposal effectively help community institutions to thrive and to grow in number rather than be crushed under burdensome regulations they currently are?

Mr. FISHER. I would find that to be very helpful, yes.

Mr. WILLIAMS. Thank you for your testimony.

Real quick, Mr. Shuman, I would also like to thank you for your service to our country.

Mr. SHUMAN. Thank you, sir.

Mr. WILLIAMS. Yes, sir. I represent a large portion of Fort Hood. You know where that is.

Mr. SHUMAN. I am quite familiar with—

Mr. WILLIAMS. So veterans issues are always at the forefront of my mind. We should always find solutions which honor the sacrifice and bravery of veterans who serve this Nation. The current state of VA is alarming to me, and our veterans deserve much better.

And I agree with The American Legion National Commander Barnett that no veteran should ever receive a call or a letter from a collections agency because the VA failed to pay the non-VA provider in a timely manner. It is disappointing that a bill like this is even needed, but I feel that this a step in the right direction to righting this wrong.

Briefly, what else, with exception of this bill, can this committee undertake to ensure that veterans are taken care of once they have left the service?

Mr. SHUMAN. Thank you for the question, Congressman.

Outside of this committee voting on and in favor of critical legislation—for example, the committees right now are currently working on streamlining the community care bill, the Choice bill, going forward, so that will be critical in the coming months—but just continuing to vote in favor of veterans legislation will be helpful.

Mr. WILLIAMS. OK.

In my small amount of time, Mr. Gleim, I will just ask you this. My legislation that we have been talking about, in your estimation—or, I am sorry, actually, it is Mr. Pearce's seller financing legislation. In your estimation, will this legislation help to provide the flexibility and access to mortgage credit that moderate- and low-income families deserve?

Mr. GLEIM. Yes, sir, I think it definitely will by creating that level playing field.

Mr. WILLIAMS. So Mr. Pearce has a good bill.

Mr. GLEIM. Yes.

Mr. WILLIAMS. OK.

I yield my time back. Thank you.

Chairman LUETKEMEYER. The gentleman's time has expired.

With that, we will recognize the gentlelady from New York, Ms. Velazquez, for 5 minutes.

Ms. VELAZQUEZ. Thank you, Mr. Chairman, and thank you for holding this important hearing.

Mr. Astrada, since 2015, the CFPB has taken numerous steps to provide smaller institutions with flexibility from HMDA's data collection and reporting requirements. Thus, H.R. 4648 seems somewhat unnecessary and has the potential to further limit mortgage lending to lower-income and minority communities.

Would you agree with that assertion? Please explain.

Mr. ASTRADA. Yes. And one of our main concerns with the bill is the limit of public availability. And I think it would be helpful to contextualize CRL and the Civil Rights Coalition's views on why, I think, as the phrase was said, we are "so data-hungry," is that data really allows for a critical assessment of policies and to decouple intent from impact. And data and the quantitative analysis that relies upon it has been one of the strongest tools of civil rights groups and excluded communities to really speak truth to power.

And examples of this go far back, especially in the mortgage industry, where FHA redlining was never with the intent to be exclusionary. It was always to preserve peace in the community or preserve the economic well-being of white and black families. Or upholding constitutional contract law was the basis for allowing or empowering landowners to not sell their property to African-Americans.

So by no means am I comparing any of the legislation here today to those bills. I am just solely saying that that is our concern with scaling back data. That is why we are adamant about protecting the public's ability to scrutinize data and to really hold accountable the market.

And this is also not a statement that says we believe in collecting data just for data's sake and that more data is better, but that we do have processes through the regulators in a collaborative approach with those under their purview and that legislation that will completely supplant the regulator's role in collecting that data or when should that be collected or how it should be collected is extremely problematic.

Ms. VELAZQUEZ. Thank you.

Mr. Astrada, H.R. 4648 will restrict the CFPB's ability to make any of the new HMDA data that is collected and reported under Dodd-Frank publicly available.

Can you please discuss the importance of HMDA data in allowing Congress and the public to monitor trends and potential problems in the mortgage lending industry, and elaborate on any concerns we should be aware of with limiting the public access to this data?

What is the public good, what is the public goal in terms of collecting the data and not allowing for the public community-based organizations that have an interest in terms of lending to all Americans not to have access to this data?

Mr. ASTRADA. Again, I think it is extremely important for the public's access to this information. And one of the earliest examples

of this, of public information that would improve industry practices is a 1988 series of stories of redlining practices in Atlanta published by the Atlanta Journal-Constitution called, "The Color of Money." This series was carried out not by a Federal agency or any type of think tank but by investigative journalists relying on public data. And the series itself transformed the public's understanding of redlining and actually led to major changes in the mortgage market.

So it is examples like these that—these data collections are not telling institutions who to lend to, who not to lend to, or giving any type of directive. It is really the foundational, what I would believe is transparent markets accountable to the public, accountable to policymakers. And the real point of conflict of what I sense is that how much data should be collected is a separate question of just prohibiting the public's availability of even future data points.

And the expanded rule has race, ethnicity, interest rates, borrower fees. So it is all these data points that might have prevented the extent of the Great Recession if we had it before 2008 when the market was very dark and even financial professionals trading at the desk had no idea what was going on in terms of risk assessment.

Ms. VELAZQUEZ. Thank you, Mr. Chairman. I yield back.

Chairman LUETKEMEYER. The gentlelady yields back.

With that, we will go to the gentleman from North Carolina. Mr. Pittenger is recognized for 5 minutes.

Mr. PITTENGER. Thank you, Mr. Chairman.

And thank each of you for being with us today.

Mr. Fisher, I want to say I applaud your work. I was on a community bank board from the time we chartered to the time we sold it. It was a great role that we played. Frankly, North Carolina has lost 50 percent of our banks in the last 8 years as a result of the Dodd-Frank bill and the regulatory environment. So I commend you for hanging in there, and relief is on the way.

Regarding Mr. Williams' bill, which I really commend, do you have concerns that even with the ability that you have an exemption that the best practice rules that are promulgated through the larger banks could be passed down to the smaller community banks?

Mr. FISHER. We do have concerns. And we have experienced that, as I mentioned before, with some of the stress-testing on some of our loans and even the suggestion that we have to hire a person now to manage the risk for our bank versus having a committee risk approach.

So we have seen the best practices already being pushed down upon us from some of the larger institutions that we are not even close to those thresholds, asset thresholds, for some of those things. So we are concerned about some of those best practices.

Mr. PITTENGER. They have tried to carve out exemptions built on the substantial differences between community banks and the larger, more complex institutions. Do you feel like these have worked well in the past? What should Congress be considering in terms of a tiered regulatory approach? And what has worked well? What doesn't? What would you recommend?

Mr. FISHER. I think a tiered approach can work well as long as it is consistent and enforced. I think if we look at the Durbin amendment, it is not perfect, but it still appears to be working somewhat well as far as preserving the interchange income for some community banks.

I think a tiered approach should be based—it should be on the complexity of our business models, and we don't have the complex business model that the mega banks have. “It's a Wonderful Life,” just having been through the holidays, that is our business model. We are the Bailey Savings and Loan.

Mr. PITTENGER. Yes, sir.

Mr. Gleim, President Trump is expected to nominate a new director for the CFPB. What specific steps could the new director take that would reduce regulatory burdens for manufactured home lenders?

Mr. GLEIM. Actually, I think I can simply state and simply respond by saying that we would like him to act on provisions in H.R. 1699 which was basically preserving access to the Manufactured Housing Act and do it on an administrative basis. This would help to cut our costs significantly. It would make it a lot easier and make affordable housing out there more accessible to a lot of other lenders or a lot of other customers.

I think one other point that it is important to make is we have seen extremely good years over the last couple of years as far as profitability goes, and that includes my organization, but until these regulations are changed, we are not going to get people being able to afford or being able to buy manufactured homes.

I said earlier 74 percent of our applications are being turned down, not because they are not good applications and not, in many cases, because they are not good customers; it is because of the regulations that are out there. And if, in fact, the CFPB could basically follow the Preserving Access to Manufactured Housing Act as it is, we would see more and more people qualify and be able to buy manufactured homes that deserve to have a home.

Mr. PITTENGER. Yes, sir. To that end, would you just expand some more in detail of the HMDA data requirements and the concerns that you have regarding that?

Mr. GLEIM. Our issue with the HMDA data is that the bill is not scaling back data. The bill is protecting small lenders from doubling of data being collected. And that is probably the biggest issue, as far as we are concerned, as far as that goes.

We are not looking at eliminating HMDA collection. We are looking at, do we really need estimates that go from 100 to 140 data points out there on that individual customer resulting in significantly increasing cost, which means more and more lenders will not, basically, go into manufactured housing because of this and because of the small balances. Again, I am talking $20,000, $30,000. Our average balance is $70,000.

Mr. PITTENGER. Thank you.

I yield back.

Chairman LUETKEMEYER. The gentleman yields back.

We go to the gentleman from Texas. Mr. Green, you are recognized for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman. I thank the Ranking Member as well. I thank the witnesses for appearing.

Let's start with something very basic. Mr. Fisher, sir, would you tell us what the HMDA data is used for?

Mr. FISHER. HMDA data is used to see if a bank is discriminating based on race, sex, ethnicity, other features like that.

Mr. GREEN. And do you agree that this type of discrimination still exists?

Mr. FISHER. It does not exist at my institution, but I would say that there are probably some forms of discrimination that still exist, yes.

Mr. GREEN. It exists at BXS. They just agreed to pay a $10.6 million settlement because of their behavior. And I have a list of others.

Is there anyone on this panel who believes that discrimination doesn't exist? If so, raise your hand. Be truthful.

I take it by an absence of hands, and I would ask that the record reflect, that all of the members of the panel believe that discrimination exists.

Now, Mr. Fisher, if it exists and you have acknowledged it, but not at your bank, if it exists, how would you have us deal with something that prevents some people from accessing capital that are qualified to receive the capital?

Mr. FISHER. I think the current HMDA data that was put into place in 1975 still adequately monitors that. It provides all the relevant data points that you need to monitor that. I don't think the expanded data points are significant—

Mr. GREEN. Tell me about your background, Mr. Fisher. Where have you studied these issues such that you can give us an authoritative opinion such as you have just announced? Where have you studied this?

Mr. FISHER. I have not studied this.

Mr. GREEN. OK.

Mr. FISHER. I—

Mr. GREEN. So you really don't know what you are talking about. You really don't. People are suffering. They can't get loans that other people get, and sometimes they are more qualified than the people who are getting loans. It happens. It is not their fault that we have this history of invidious discrimination, something that I know we don't want to confront and don't want to talk about, but it exists, and somebody has to say it.

And this data is important to those people who are being discriminated against. If someone can give us a better way to do this, I would be honored to hear it, but we don't have it.

In fact, this is not enough. We ought to be able to test banks. We ought to be able to send people into banks to try to get loans, different ethnicities, and find out who is really discriminating against people and to what extent.

Mr. Astrada, sir, tell us about this "Color of Money." Is that the article that you referenced?

Mr. ASTRADA. Yes.

Mr. GREEN. I read that some time ago, but my recollection is that they found that there were some serious infractions. Is that a fair statement?

Mr. ASTRADA. Yes.

Mr. GREEN. Can you articulate some of these infractions, please?

Mr. ASTRADA. Yes. And I think this is a great example to outline the spectrum of what you said, of just blatant, obvious, all-out racism where borrowers were declined loans based on the color of their skin, but also, through this data requirement, the more complex system that we have of discrimination.

And I don't want to get too academic, but I think that a Supreme Court case in 1917 outlawed—or it deemed unconstitutional racial zoning by a county in Kentucky. And the research behind this article and that has been built on, shows that how, because individuals who discriminated against ethnic minorities, African-Americans, Latinos, couldn't outright racially zone, that they made an economic correlation of all the indicators that went along with the social class that they were discriminating against.

So this article really sheds light on the more complex sense of discrimination, when you talk about institutional racism, all the way down to the individual teller that might be discriminating against somebody just on the color of their skin.

Mr. GREEN. Thank you.

I am going to yield back, Mr. Chairman.

Chairman LUETKEMEYER. The gentleman yields back.

I would go to the gentleman from Georgia, Mr. Loudermilk. Recognized for 5 minutes.

Mr. LOUDERMILK. Thank you, Mr. Chairman.

And I do appreciate every one of our panelists for being here.

Before I start questioning, I want to thank Mr. Shuman and Mr. Fisher both for your service to our country. Especially from an Air Force veteran, as well, and from a member of the Legion, as well, I appreciate your service to our country.

Back in our district, I created an advisory council, back when I first was elected 3 years ago, and the advisory council was made up of professionals in business, business owners, small-business owners, managers, CEOs, community activists, nonprofits, ministers. It was basically a snapshot of the 11th Congressional District in Georgia.

The reason I have this advisory panel is we meet regularly and we discuss issues that are important, and we bring ideas of how can we serve the people better.

Recently, I asked them a question—actually, it was about 2 years ago. I asked a question as I went into the business community there. I asked our advisory council, I said, "If we could only do one thing, if we were only able to accomplish one thing to help your business, would you rather us address corporate taxes and business taxes or reduce regulations?" It may not surprise you guys; it surprised me. Eighty-five percent of them in the room said reduce regulations. It was the number-one thing.

I followed up on that, and I said, "Why?" "Because it is not just the bottom line for us; it is servicing our customers. And the current regulatory environment prohibits us from actually servicing our customers."

I had a young man, a member of our advisory council, president of a small community bank, came to me later, and he said, "Let me explain to you the problems that we are facing because of the cur-

rent regulatory environment. A young man came into my office, and he wanted a loan of $3,500 to buy a car. He needed this car for his job. He had been struggling. This was an opportunity. He got a job. But because of the current regulatory environment, even though I personally knew this guy," he said, "I knew him, I knew he would be good for the money, I was not allowed to make a loan to him."

Mr. Fisher, you are in the banking industry.

Mr. FISHER. Yes.

Mr. LOUDERMILK. You make money by making loans to people, correct?

Mr. FISHER. That is my core business. That is how we make money every day.

Mr. LOUDERMILK. When you turn down someone for a loan, you don't make money.

Mr. FISHER. Correct.

Mr. LOUDERMILK. When the Government tells you you can't make a loan, even though you may know that it would be in the best interest to do so, you don't make any money.

Mr. FISHER. That is correct.

Mr. LOUDERMILK. Who is hurt through that?

Mr. FISHER. The consumer ultimately is hurt—

Mr. LOUDERMILK. Ultimately.

Mr. FISHER. And we are hurt, as well, but—

Mr. LOUDERMILK. Regarding the bill that Mr. Williams has introduced that would exempt the financial institutions under $50 billion from CFPB regulations—still, it would allow them to reinstate a rule if there were unique circumstances—I don't see how this would actually increase the systematic risk. I just don't believe that it would put that type of risk—what are your thoughts on that?

Mr. FISHER. I don't think it would increase the risk at all either. I believe there are consumer regulations. And as I have said previously we do things that are right for our customers and right for the community because our reputation is on the line every day. And so we can't afford to do things that are contrary to customer goodwill that would hurt us reputationally.

Mr. LOUDERMILK. So if the CFPB—and you have touched on this a little bit, but if this bill was to pass, what kinds of consumer protections would be there?

Mr. FISHER. I think everything that the CFPB has put in place and that the other consumer protections would still be in place. It is new regulations going forward. And they could still have it enforced upon banks as long as they proved that the law needs to apply to community banks and other financial institutions as well.

Mr. LOUDERMILK. And I agree with my colleague who spoke before me, and there are forces out there that do discriminate. But I have also learned, especially in this modern era, that the market is one of the strongest forces. And I am sure that your board of directors would—they would like to be able to make more loans to more people. Because what happens is, for this young man that was not able to get the loan to buy his car, he had to go to another agency to get the loan that required or made him pay a whole lot higher interest.

So thank you, and I yield back.

Chairman LUETKEMEYER. The gentleman's time has expired.

With that, we go to the gentleman from Kentucky, the Chairman of the Monetary Policy Committee, Mr. Barr. Recognized for 5 minutes.

Mr. BARR. Thank you, Mr. Chairman. Thanks for the important hearing. I appreciate the opportunity to look at these important legislative solutions to over-regulation.

And I wanted to follow up with Mr. Fisher and continue the discussion about HMDA data and the collection requirements that the CFPB is proposing for small institutions like yours.

My understanding is that this rule more than doubles the number of data fields that you are required to collect. Is that correct?

Mr. FISHER. Twenty-three to 48 data fields.

Mr. BARR. So 25 additional data fields. You are already collecting and submitting and reporting 23 data fields right now. My understanding is that Dodd-Frank requires you to collect and report more, but the CFPB even goes beyond that. Is that fair?

Mr. FISHER. I believe that is the case.

Mr. BARR. And so the gentleman from Texas was making the point that you don't study this, but, in fact, community banks like yours, you more than study it, you live it each and every day, collecting it and reporting the data.

And what many community banks in central and eastern Kentucky tell me is that the additional collection burdens in mortgage lending is actually forcing these institutions to exit mortgage lending altogether.

And so my question to you or any other community banker in America is, how does exiting mortgage lending benefit any prospective borrower, including minority borrowers?

Mr. FISHER. I don't think reduced choices is good for the consumer.

Mr. BARR. The point here is that excessive, overzealous regulation reporting requirements doesn't help consumers. Ultimately, what it has forced community banks to do is actually get out of the business of mortgage lending. In fact, some community bankers have pointed out to me that they refer to the QM rule as "quitting mortgages."

If this is what regulation has come to, that is not helpful to low-income borrowers. That is not helpful to minority borrowers. That is not helpful in any way in getting rid of discrimination. In fact, I would argue that Dodd-Frank, the CFPB is actually forcing banks to disadvantage disadvantaged borrowers because of the tremendous burden that is now hoisted upon community financial institutions and nonbank lenders and nondepository lenders.

If there is discrimination that is going on in this country, it is discrimination that is forced by regulators, because they are literally forcing lenders out of the business of helping low-income borrowers in America.

Mr. Gleim, I wanted to follow up with you, and, of course, was delighted to engage in this debate on preserving access to manufactured housing, the legislation H.R. 1699, which I introduced. And I will note, as we were talking about this legislation with some of our colleagues on the other side of the aisle, that there were 27 Democrats, including my good friend Mr. Scott, who voted in favor

of that on the House floor. That legislation passed the House 256 to 163. That was bipartisan legislation that really does get at this issue of preserving access to manufactured housing. Your testimony references that legislation.

During that debate, some opponents of the legislation criticized the depth of the market. They cited the existence of a, quote, "monopoly" in manufactured housing lending as the need for these CFPB regulations.

I would like for you to respond to that, but as you do, isn't it the regulations themselves that created less competition? Isn't the fact that these regulations are a disincentive for banks and credit unions to get in the business of manufactured lending, isn't that what is causing less competition and choice within manufactured housing lending?

Mr. GLEIM. There is no question about that. Again, the issue that we are unable to do small loans keeps a lot of lenders from coming into this business. The other issue we have is the definition of a mortgage loan originator, which impacts that as well.

But, all of the regulations that are coming in and the way that they are doing it is driving more and more lenders out of manufactured housing.

Mr. BARR. My time has expired, but I would just ask the question, how in the world is the CFPB protecting consumers when consumers can't get a loan for a manufactured home that allows them to build equity and have a monthly payment that is less than a rental payment?

And I yield back.

Chairman LUETKEMEYER. The gentleman yields back. His time has expired.

With that, we go to the gentleman from Washington, Mr. Heck. You are recognized for 5 minutes.

Mr. HECK. Thank you, Mr. Chairman.

Mr. Astrada, thanks for being here today. I always appreciate the CRL because I think you are not only thoughtful but you think about things a little bit differently, and Lord knows that we could use some out-of-the-box thinking here and comments here on occasion.

I wanted to ask you some questions about the seller finance bill. Now, let me put my cards on the table. I like this bill. I think, frankly, it is a measured approach, Mr. Astrada, to what is a genuine problem that we ought to address. And I can't understand why the underlying law was written the way it was.

So let's put it like this. Dodd-Frank includes lots of provisions dealing with mortgages, and rightly so, because it came on the heels of an unbelievable mortgage crisis, and we all get that. And almost all of these mortgage provisions include some carveouts for small operators. The qualified mortgage rule has an exemption for small creditors. The HOEPA rule has an exemption for small creditors. The mortgage servicing rule has an exemption for small servicers. The mortgage originator rule has an exemption for small mortgages but only if they are an LLC.

So I am trying to think of what the compelling public policy rationale would be for having a small originator exemption for LLCs and not natural persons, a disparity which is corrected in the bill

that I happen to like. Can you think of a compelling public policy reason for treating those two differently and not providing a small originator carveout?

Mr. ASTRADA. I just want to make sure I am answering your question specifically. So what you are asking is if there is a public policy reason for not extending the exemption to LLCs?

Mr. HECK. No. There is a small originator exemption—

Mr. ASTRADA. Yes.

Mr. HECK. —For LLCs, but it is not extended to natural persons. And I am asking, is there a compelling public policy reason for LLCs to have this small carveout but not natural persons?

Mr. ASTRADA. I think that gets outside of our concern with the bill, but I am more than happy to give you my—

Mr. HECK. So you don't have a problem with extending it to natural persons.

Mr. ASTRADA. It is—I am—

Mr. HECK. Any more than you might LLCs? Are you saying you don't think there should be a small carveout for LLCs?

Mr. ASTRADA. No. What I am saying is I think our concerns, or at least from CRL's concern, with the bill is more in the aggregate of what the bill puts out. So it is not just the extension to real persons or LLCs; it is also the striking of the fully amortized loans that would also follow that exemption. It is also the increase of the property from 3 with a 12-month period to 5.

So it is really just those factors taken together are our concerns. That is ripe for potential problems not only for the borrowers themselves but also for the risks that that causes, especially for individuals who rely on manufactured housing.

Mr. HECK. To be clear, do you or do you not have a problem with having a small originator carveout?

Mr. ASTRADA. If you want a yes-or-no answer, I will give you a whole bunch of qualifiers, and then I will give it to you. Just that question outside of the rest of the bill—

Mr. HECK. Just that question outside the rest of the bill.

Mr. ASTRADA. I do not have a problem.

Mr. HECK. And taking the next step, do you have a problem with that carveout being extended to natural persons in addition to LLCs outside the rest of the issues that you have alluded to within this bill?

Mr. ASTRADA. I don't have a problem with it, no.

Mr. HECK. Good. I take that as a ringing endorsement of that part of this legislation.

Mr. ASTRADA. I—

Mr. HECK. And I thank you for it.

Mr. ASTRADA. Well—

Mr. HECK. That said—

Mr. ASTRADA. I will withdraw that endorsement—

Mr. HECK. Reclaiming my time, to quote the Ranking Member.

Just to remind you, I really appreciate when your organization is here. I genuinely do.

I don't know that I have enough time left to ask this question, but I did want to ask you about why you are concerned with respect to manufactured housing and the provisions of this bill. Because I find that, in that regard, not an issue that you alluded to

earlier, that there are actually protections included, not only in the underlying law, but also some additional protections that are included within our proposed legislation.

With that, my time is up. And I certainly appreciate it every time CRL is here, and I genuinely mean that.

I yield back, Mr. Chairman.

Chairman LUETKEMEYER. The gentleman's time has expired.

With that, we go to the gentleman from Michigan, Mr. Trott.

You are recognized for 5 minutes.

Mr. TROTT. Thank you, Mr. Chairman.

I want to thank the panel for being here.

I also want to thank Mr. Shulman and my friend from Maryland, Mr. Delaney, for offering H.R. 2683. It is a good, commonsense solution to fix a problem affecting our veterans, and I appreciate your bringing it forward. And I think it will pass with strong, bipartisan support. And if you have other suggestions on easy fixes we can do to problems that we are creating here in Washington for our veterans, we would all love to hear about them.

Mr. SHULMAN. Thank you, Congressman.

Mr. TROTT. Mr. Fisher, I would want to talk about something that my friend from New York, Mrs. Maloney brought up. She asked a rhetorical question. I assume it was rhetorical. She said, "What does a bank size have to do with whether a consumer should be protected, and shouldn't every consumer deserve protection?"

And my response—and she is not here, but my response to that question is this chart. This is the regulatory scheme affecting banks. And this is the consequence of that.

So my question, I would rephrase it a little differently. Shouldn't every consumer have the opportunity to have a bank nearby to give them a home loan or a small-business loan, or should credit just be limited to those who live in big cities or those who are well-healed or well-connected?

So my question to you, sir, is, if some of these bills that we are considering today are signed into law, what is going to happen to your bank back in Spencer, New York? What are you going to do for your customers?

As an aside, sitting here, listening to you today, I thought maybe you should consider a career in politics. You were so diplomatic and patient in response to Mr. Green's question, where he suggested that after five generations of running a community bank you know nothing about discrimination. I would have been a little more confrontational in my response and said, "I have been serving our community for five generations, and I know a whole lot more about discrimination and its consequences than a bunch of bureaucrats crunching numbers in Washington."

But back to my question, what is it going to mean for your community back in Spencer, New York?

Mr. FISHER. I think relieving regulatory burden, if we could get some relief from this huge list that you have up on the wall there, I think it would allow me to focus more on serving the customers, getting loans out into the community, and helping revive the upstate New York community.

Congresswoman Tenney has left the room, but I thank her for some of her efforts to introduce some legislation. And just the re-

lief—upstate New York, where I live, is still fairly economically depressed. We have not had the recovery that the rest of the Nation has had since the Great Recession. So it would allow me to really focus my efforts and focus externally on the community and our customers and in doing what is right for the community and putting loans back out there.

Mr. TROTT. Think you would be able to eliminate a job in compliance potentially?

Mr. FISHER. I doubt that I will be able to eliminate a job in compliance, but I may be able to redirect those forces elsewhere more in line with a customer-facing—

Mr. TROTT. Now, Mr. Astrada, in his testimony, would have us believe that what is going to ensue if some of these bills are enacted is fair lending violations and discrimination and abuse and instability.

Is that a likely scenario for your community bank? Are you going to go back and tell your loan officers, "The Federal Government is off our back now, we can start discriminating against all those folks that we never liked"? Is that what is going to happen?

Mr. FISHER. No. And I think even the rollback, we would still be subject to the HMDA requirements from 1975, so we would still be reporting the 23 data points. Obviously, as a community bank, we are doing what is right for our customers and the community. And it is all about being there for the customer. And if we tarnish our reputation, it is hard to recover that in a community of less than 5,000 people.

Mr. TROTT. So let's talk about the data points. Mr. Gleim and Mr. Fisher, either of you can respond to this.

So I was recently visiting an organization in my district, and they are very actively involved in the Head Start program. And they indicated to me that the Federal Government has 3,000 different things they measure with respect to how the Head Start program is administered, and they have to provide so much data, it is just overwhelming to them. I can't imagine what you would measure with respect to Head Start and kids and 3,000 data points.

But you mentioned 100 data points. So do you have an example—and if you don't, it is fine. Either of you or anyone can chime in. But do you have an example of just a ridiculous data point that you have to provide that just provides no possible utility whatsoever?

Mr. GLEIM. I think it is a matter—for instance, one of those data points that the customer doesn't know that we are reporting is the fact that they are getting a manufactured home. It is a little hard for me to understand the discrimination side of that.

I am not saying, do away with HMDA. That is not the intention—because, as everyone knows, there have been issues along those lines. But as we go through those points, as we go through everything from numbers of children to the type of home, to the color of the home, to the location of the home, things along those lines, it is a matter of basically how many points are necessary.

Mr. TROTT. Great.

Thank you for your time. My time has expired, but the idea of leaving the bureaucrats to determine the size of institutions that

should be exempted is a bad idea. And that was my last question. I will yield back, though. Thank you.

Chairman LUETKEMEYER. The gentleman yields back. His time has expired.

We go to the gentleman from Maryland. Mr. Delaney is recognized for 5 minutes.

Mr. DELANEY. Thank you, Mr. Chairman.

And I want to thank all of our witnesses for being with us here this afternoon.

I want to direct my questions to Mr. Shuman, related to a particular piece of legislation. But before I do that, sir, I want to thank you for your service to our country and your continued service to so many men and women who have served our country who need someone to be looking out for them. So I thank you for that.

Mr. SHUMAN. Thank you, Congressman.

Mr. DELANEY. My question relates to the bill I cosponsored with my good friend Mr. Hultgren, H.R. 2683, the Protecting Veterans Credit Act of 2017, which I know you made some very positive comments about in your introductory remarks, which I appreciate.

This bill has also been endorsed, obviously, by The American Legion, but by the VFW, the Military Officers Association of America, the Wounded Warriors Project, the Paralyzed Veterans of America Association, the Association of the United States Navy, the National Consumer Law Center, and the Consumer Federation of America.

Mr. Chairman, I would like to ask for unanimous consent to submit letters to the record for these groups that are supporting the bill.

Chairman LUETKEMEYER. With no objection.

Mr. DELANEY. Thank you.

And the bill does, as you know, sir, two things. The first thing it does is it freezes the ability of negative credit to be reported to credit agencies related to medical care that is provided to a veteran outside of the VA system, whether through the Choice Program or some other provider. And so to the extent, because of bureaucratic delays that we know have existed in the system related to making these payments once the veterans are out of network, what the bill does is effectively says that if bad debt is incurred because these bills haven't been paid, then that debt cannot be reported for a year to the credit agencies, so as not to impair the credit of our veterans. That is the first thing it does.

And the second thing it does is it makes it much easier for our veterans to actually adjudicate credit impairments that are actually put on their credit, so to the extent these even happen after that first year, they can be dealt with.

And we have two articles that, Mr. Chairman, I would also like to ask for unanimous consent to submit to the record, the first from CBS, which was titled "World War II Vet Mistakenly Billed $4,000 for Medical Care, Revealing Problems at the VA," and this resulted in a credit impairment, and from the Military Times, "Veterans Choice Program Hurting Some Vets' Credit Scores."

Chairman LUETKEMEYER. Without objection.

Mr. DELANEY. Thank you, sir.

Mr. Shuman, can you give me a sense as to the scale of this problem, in your judgment, and how you think this bill is a specific prescription to the problems that our servicemen and women are encountering as they go out of network?

The Choice Program is a really good idea, but the implementation of it has been spotty, particularly as it relates to working through the bureaucracy of getting these bills paid. Can you give us a sense as to how prevalent this situation is?

Mr. SHUMAN. Thank you for the question. And I also thank you for introducing the bill. I think it is a great step in the right direction to protect veterans.

The simple reality is that VA no longer shares the actual real number with the VSOs anymore, so I cannot give you an exact number. I can tell you, when they set up a phone number to call, thousands—I think somewhere roughly in the estimate of 74,000 calls came in in the course of 14 months.

That is 74,000 veterans who have been impacted to an extent where they ask for help. And I think if anybody knows, veterans hardly ever ask for help. So if 74,000 called, I could only imagine the number that, like Mr. Frankie Adams, whose story I already told, didn't call.

Mr. DELANEY. Right. They just deal with it.

Mr. SHUMAN. Right.

Mr. DELANEY. Yes.

Mr. SHUMAN. So this bill is a step in the right direction, particularly as there are seven different community care bills currently in process of trying to figure out and streamline the Choice Program. Particularly in the midst of a new bureaucratic process, this going into effect could help protect them during that transition.

Mr. DELANEY. And we all know what happens, is once a bad debt is reported and it is reported in a credit reporting agency and the debt is sold to a collection agency, oftentimes our veterans are harassed for the payment of these bills, which are, in fact, not their obligations.

Mr. SHUMAN. That is correct, sir.

Mr. DELANEY. And I assume you have heard of specific examples of that occurring.

Mr. SHUMAN. Absolutely. The American Legion, we travel the country and audit about 15 VA medical centers every year. And the night before we do that, we host a townhall. And a good portion of our townhall visits, which takes place in every one of your Congressional districts, our members tell us of the massive frustration from this issue.

Mr. DELANEY. Right.

And just a quick yes-or-no answer because we are running out of time: Do you think this bill goes a long way to solving the problem?

Mr. SHUMAN. Yes, sir.

Mr. DELANEY. Thank you, sir.

I yield back.

Chairman LUETKEMEYER. The gentleman yields back. And we thank his participation in our committee this afternoon.

With that, we go to the gentlelady from Utah, Mrs. Love. Recognized for 5 minutes.

Mrs. LOVE. Thank you.

And I know some of these questions have been asked, but I just need to make sure I get this information. I wanted to talk about the CFPB and Representative Emmer's bill, H.R. 4648.

I would like to ask a few questions just very quickly about the Home Mortgage Disclosure Act and Reg C. And I have been really concerned for some time about the CFPB's HMDA rule added new mortgage data points that needed to be collected, reported, including borrower's age, ethnicity, race, sex, credit score, among others. We even talked about over 100 data points.

How do you expect the new data to be used by the CFPB and others interpreting the data to scrutinize the mortgage lending industry in community banks, Mr. Fisher?

Mr. FISHER. They are already utilizing the data that we are currently submitting to look for discrimination and things like that. So I am not sure what the enhanced data points do, because a lot of the data points are already out there. I think that the current data points already allow them to find discrimination and things like that.

Mrs. LOVE. Mr. Gleim, you look like you wanted to chime in.

Mr. GLEIM. Yes. I feel the same way. I think the information is out there. And we really don't know what they expect to do with the expanded information that they have and exactly how it will be used, which is the concern again about privacy, identity theft. There is another group now that is going to have all of this additional information.

And as I said earlier, the customer doesn't necessarily realize that they are giving as much information as they think they are.

Mrs. LOVE. Yes. OK.

And last question. Do you believe that the HMDA data, both new and old, is sufficiently accurate to form a basis of enforcement actions such as purported fair lending violations?

Mr. GLEIM. I think it is in some cases. But keep in mind, the customer doesn't have to fill out this information, and if he doesn't, the people that are taking the application will make a best guess as to what they are doing.

Mrs. LOVE. So best guess doesn't actually equal accurate.

Mr. GLEIM. For such things as ethnicity, as well as just a number of the questions there, because we still are required to report that information if it is observed.

Mrs. LOVE. OK.

Mr. FISHER. And to complicate that, some applications are done via the phone, not in person. So you may be making a best guess based upon last name, some things like that. So if the person chooses not to fill it out, the banker has to make a best guess.

Mrs. LOVE. OK.

I am going to yield the remainder of my time to Congressman Pearce.

Mr. PEARCE. I thank the gentlelady for yielding.

Mr. Chairman, I would ask unanimous consent to put a letter in from the Coalition to Save Seller Financing, titled "CFPB Can Change Seller Financing Rules."

Chairman LUETKEMEYER. Without objection.

Mr. PEARCE. Mr. Gleim, I have a question for you.

Mr. Astrada, I am going to come back to you and see if we can't find middle ground on this whole balloon note. I read your testimony here.

And so 50 percent of the houses in the Second District of New Mexico that I represent are manufactured housing, so it is probably as big an issue to me as anyone in the country. And seller financing, Mr. Gleim, if we eliminate the seller financing, what options do people have at that point?

Mr. GLEIM. Eliminating the seller financing becomes a major issue as far as being able for customers to, obviously, obtain that home, to be able to get them those homes, but it also gives them very few, if any, alternatives outside of that. Again, it is almost impossible to basically provide good affordable housing for a cost less than a manufactured housing.

So if you are looking primarily at seller financing, as far as that being the case, it makes—there is one less opportunity for this customer to receive that financing.

Mr. PEARCE. Sure. And the movement from 3 to 5, is that going to upset the market in any way? Because what happens as people buy, they buy—

Mr. GLEIM. We don't see that as upsetting the market, because, it is in the interest of that community owner to be able to add those additional, those two homes, and is he really, or is she, going to be making a bad loan? The only way they make money off of this is the customer continues to pay. Again, the idea of making a bad loan just to get somebody else into that home just doesn't make an awful lot of sense.

Mr. PEARCE. OK.

Mr. Astrada, I will have some time coming here in just a minute. We will finish, but I really want to engage in a little bit of a discussion on those things.

I yield back, Mr. Chairman.

Chairman LUETKEMEYER. The gentlelady's time has expired.

With that, we go to the gentleman from Illinois. Mr. Hultgren is recognized for 5 minutes.

Mr. HULTGREN. Thank you, Chairman Luetkemeyer. And I want to thank the subcommittee for allowing me to join with you today and to be a part of it. Thank you so much.

And I want to thank each of our witnesses for your time and expertise and willingness to help us to navigate through this, so thank you so much.

I want to focus on, first, the Community Bank Reporting Relief Act. Mr. Fisher, if I can address maybe a couple questions to you first.

Mr. FISHER. Sure.

Mr. HULTGREN. How often are there significant quarter-to-quarter variations in an individual community bank's call report data? In other words, do Federal banking regulators need all this data every single quarter?

Mr. FISHER. I don't believe they do. If I look at my balance sheet from a quarter-to-quarter basis, we are very consistent. There are no major discrepancies. And if there were a major discrepancy, the regulator would pick up the phone and call me. That is the rela-

tionship we have. And there are not that many banks that they couldn't do something like that.

Mr. HULTGREN. Right.

In the event of market distress or other extenuating circumstances that may atypically affect the financial stability of a community bank like you are talking about, are Federal banking regulators able to communicate with leadership of your bank to get that information they need? You mentioned they do. Do they actually take that—

Mr. FISHER. They do that today, even in a nonstress time.

Mr. HULTGREN. And how does that go? Is that usually where you are looking to be helpful or you are open to giving the information that they are asking for?

Mr. FISHER. Yes. They are doing some—a lot of it is offsite testing, looking at some of our numbers. And so, if they have a question, they don't hesitate to pick up the phone and call.

Mr. HULTGREN. OK.

As you know, under the Economic Growth and Regulatory Paperwork Reduction Act, Federal banking regulators recently made some changes to the call report requirements for institutions with less than a billion dollars in assets.

I wonder if you could please explain why this was not meaningful regulatory relief. And do you believe notice-and-comment rulemaking would require Federal banking regulators to be more responsive to the reporting burden concerns raised by community banks?

Mr. FISHER. Many of the sections that were eliminated through the EGRPRA process, they were not applicable to my bank or most other community banks in the country. They had sections on derivatives and other things that are just not in our business model. So they eliminated those sections, so instead of spending 40 hours a quarter preparing the call report, maybe we spend 39 on the short form.

Mr. HULTGREN. Yes. OK.

The Community Bank Reporting Relief Act limits the regulatory relief to institutions with $5 billion in assets. Can you please explain why the current reporting burden under the call report is most acute for the smallest financial institutions? And do you believe this asset-sized threshold covers the community banks that do have the economies of scale to efficiently cope with the regulatory burden?

Mr. FISHER. Five billion would be great. I think if you look at most community banks that are $5 billion and under, we don't have the processes as far as—all the systems don't speak to each other, so we have a lot of manual processes. We have to pull multiple reports from different systems, manipulate the data to fit the request of the Government to fit into the call report data. We have to manually reenter that.

And so I think $5 billion is a good threshold, although we would prefer $10 billion. But, $5 billion would be great.

Mr. HULTGREN. OK. Thank you.

I am going to shift over. I just have a little over a minute left. Mr. Shuman, I echo my colleagues in thanking you for your service. Twenty years, is that what you had said, in the Army?

Mr. SHUMAN. No, sir, I served 4 years. Mr. Adams' story, which I told, was 20 years.

Mr. HULTGREN. Oh, there it is. Sorry about that. I misheard that. But thank you. I was going to say, man, how did you—you must have started when you were 10.

Mr. SHUMAN. I look really good.

Mr. HULTGREN. But, anyhow, thank you for your service. I appreciate it. And thank you for your continued service with The American Legion.

I want to just talk a little bit about the Protecting Veteran Credit Act of 2017. Veterans' Affairs Committees in both the House and Senate are considering proposals to consolidate the different community care programs. In the long run, the expectation is that this will yield better care and service for our veterans and improve the ability for the VA to pay its bills in a timely manner.

As these changes are implemented, do you have any concerns in the short run regarding bill processes? And how important is it for legislation addressing consumer credit concerns, such as H.R. 2683, to move in tandem with any major reforms to the VA's community care programs? Would you recommend the Financial Services Committee work closely with the VA Committee on this issue?

Mr. SHUMAN. Thank you for the question, Congressman, and thank you for your support.

I will also say that the VA does not have a 21st-century style of processing claims. They are still doing it by paper and hand. Until we have a process that is modernized, it is going to continue to be slow.

That said, yes, the Veterans' Affairs Committees, in addition to other of your colleagues, have proposed bills to streamline the nine community care programs. However, in the interim, in the massive bureaucratic process, that would be streamlining those programs. In the interim, veterans are still going to be impacted in their credit.

So moving this piece of legislation prior to those bills, there could certainly be a case that would be made that would help veterans in that situation.

Mr. HULTGREN. Great.

My time has expired. Thank you again, all, for being here.

I do want to also give a shout-out to colleague from Maryland, Congressman Delaney, for his hard work on this legislation. I am proud to be working with him on this. Again, anything we can do for our veterans is so important.

But thank you all.

And thank you, Chairman. I yield back.

Chairman LUETKEMEYER. The gentleman's time has expired.

And we do want to thank the gentleman from Illinois and the gentleman from New Mexico for their participation in the hearing today. They are not normal members of our subcommittee, but they are members of the full committee, and we certainly welcome their addition to this.

With that, we recognize the gentleman from New Mexico, Mr. Pearce, for 5 minutes.

Mr. PEARCE. Thank you, Mr. Chairman.

Mr. Astrada, it is my district that we are dealing with. And all we are just trying to do is find a way for people who want to get in out of the cold to finance manufactured houses.

And so your testimony is very articulate in opposing balloon notes, but that is one of the more critical things. And the banks explain to me that we don't change the amortization, we just have a balloon note every 5 years because you can tear up a mobile home in a matter of days. And so we just want to look at it. We want to go ahead and look at it. We don't jack them when we see it.

And I recognize your objections, and I don't really have a problem with trying to stop what you are doing. But on page 3, the top paragraph, we are trying to address what it is that you were objecting to and other people object to, the people who are just predatory. But then when CFPB implemented the balloon note restriction, suddenly the banks just quit loaning because they couldn't go and inspect.

And so we have to find the sweet spot that gives the protection you are looking for without the punishment on the people that are trying to solve a problem and get out of the cold.

So address that one. Because you mentioned that if they don't fully amortize—and I am sensitive to that, and that is the reason we put this paragraph in here that says they can't go up, the amount of finance can't be increasing during the term of the note under this bill. Is that offering any protection at all to what you are concerned about on the amortization question?

Mr. ASTRADA. And I did read that and do appreciate the nuances of the additional consumer protections. But I think on the amortization issue specifically, although it can't increase—and this is something that probably our coalition partners will be much more of experts than I am in the secondary market—from my research and my discussions is that the refi or resale ability of manufactured housing is very different than nonmanufactured housing.

In worst-case scenarios, a borrower who gets at the end of that loan either has to take a loss for selling below market value or take—

Mr. PEARCE. Yes, that is a balloon note that is punitive. Most balloon notes, they roll it—they do it for 5 years and they keep a 30-year amortization going. So all they are doing is doing the 30 years and they roll it, then they reset it. And I agree with you on those that get you to the end of the deal and the only thing that you can do is dump it. I am sensitive to that.

Also, I think you expressed concern about the people who manufacture them. And then the Ranking Member and I had the discussion on the floor. I don't want that either. So if you construct the manufactured house, then you are not going to come under the terms of this bill.

And so we are just—we are trying to find where we can get financing from traditional—if we get the balloon notes back in, I think that the major institutions will get back in, except anything—again, Dodd-Frank said, if you are going to hold it in portfolio, we consider that to be a prejudicial loan too. And secondary markets typically don't want manufactured housing.

We are just trying to solve these problems. So talk a little bit more from your perspective. And I guess let's see, because I really am—I want the consumer protections you are talking about, but we have to have a market somewhere.

And CFPB was so punitive, there were only three, and people were getting out of the market because they were afraid that they were going to get tagged in even though they were technically within the law. It was just too restrictive. And so everybody quit, and it was a big penalty in my district.

So talk a little bit about that.

Mr. ASTRADA. And I understand and appreciate those concerns. In talking with our coalition members, I think just to the extent of the issues raised in my testimony is where CRL's main concern is. But we have worked with our coalition partners, who have done a much more line-by-line, thorough edit of or redlining of the bill and what consumer protections would counterbalance some of the issues that we have expressed.

So I won't pretend that I can solve them now in the next 25 seconds, but I will commit—

Mr. PEARCE. Yes. If you will be in touch with our staff, then—we really do want the protections, but we want the market there too. And that would be very functional for us. And so my commitment to you is that we will get in touch with you and we will follow through on this, because I do want to hit that sweet spot.

I appreciate the things you are commenting on, and we are trying to stop those. But we have to have a market somewhere, and balloon notes are key for the lending institutions. But then the seller financing people, they buy six or seven of these during their lifetime, and then they sell one at a time, and that is their retirement income.

By the way, the banks said that the best-performing loans in all their books are always manufactured housing. People there are serious about staying in out of the cold, and this is one of the few shots they have had. So let's work together on it.

Mr. Chairman, I have gone a little bit over, but, I appreciate your indulgence.

And thank you very much, Mr. Astrada.

I yield back.

Chairman LUETKEMEYER. The gentleman's time has expired.

Mr. ASTRADA. Could I have 15 seconds to just—I will verbally commit to working with your office from CRL and to bring our coalition partners alongside us. Thank you.

Chairman LUETKEMEYER. Both the gentlemen's time has expired.

With that, we would like to thank the witnesses for being here today. You have helped us discuss very thoroughly these five different bills that are before the committee. I appreciate your expertise, your time.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

With that, this hearing is adjourned.
[Whereupon, at 4 p.m., the subcommittee was adjourned.]

A P P E N D I X

January 9, 2018

Testimony of Mr. Scott B. Astrada

Director of Federal Advocacy,

Center for Responsible Lending

Before the U.S. House Committee on Financial Services'

Subcommittee on Financial Institutions and Consumer Credit

Legislative Proposals for a More Efficient Federal Financial Regulatory Regime:

Part III

January 9th, 2018

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

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

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

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

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

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

These proposals are serious attacks on consumer protections and the critical reforms that have been implemented, and with the exception of H.R. 2683, the Protecting Veterans Credit Act of 2017, CRL (and the broad civil rights coalition) strongly oppose them. H.R. 2683 is a step in the right direction to ensure that Veterans are provided necessary protections. The other bills rely on the unsubstantiated belief that Dodd-Frank has stifled economic growth, and that deregulation is the solution. However, data does not support this contention, and as explained below, the evidence in fact contradicts this assumption. Additionally, the lessons of the financial crash seem to have been forgotten. The targeted legislation of Dodd-Frank is being abandoned in favor of a problematic belief that an unregulated marketplace will provide access and affordability to all consumers — a market that when left to its own devices almost

tanked the entire U.S. economy. Much of the legislation today does not represent targeted, dynamic and tailored reform, but instead rolls back oversight and consumer protections on a wholesale basis. CRL is opposed to any legislation that exposes consumers and the economy to the increased risk of pre-recession behaviors, or that disproportionately benefits the largest financial institutions. Responsible and sensible lending has promoted growth, ensured stability, and protected consumers and the market from the reckless behavior of pre-recession practices.

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

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

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

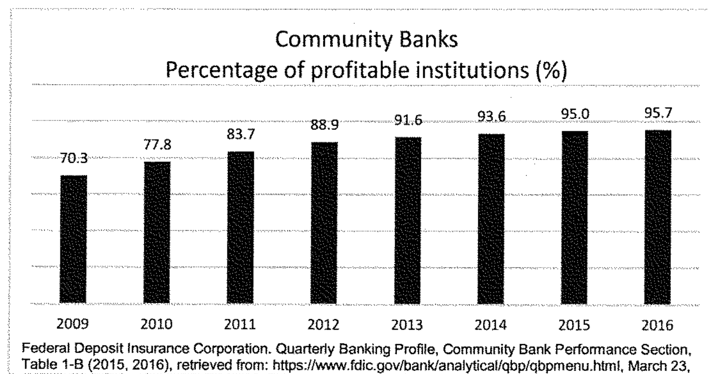
The lessons learned from the financial crash served as the basis for the protections created by Dodd-Frank.[5] All financial institutions, including community banks and credit unions, benefit from the underlying purposes of financial regulation: protecting consumers, ensuring the safety and soundness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

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

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

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

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



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

[6] Wall Street Journal, U.S. Banking Industry Annual Profit Hit Record in 2016 (Feb 28, 2017), *available at*: https://www.wsj.com/articles/u-s-banking-industry-annual-profit-hit-record-in-2016-1488295836.
[7] FEDERAL DEPOSIT INSURANCE CORPORATION ,QUARTERLY BANKING PROFILE: SECOND QUARTER 2017, *available at https://www.fdic.gov/bank/analytical/quarterly/2017-vol11-3/fdic-v11n3-2q2017.pdf*
[8] FEDERAL DEPOSIT INSURANCE CORPORATION, CORE PROFITABILITY OF COMMUNITY BANKS 1985-2015 1 (2016), *available at* https://www.fdic.gov/bank/analytical/quarterly/2016_vol10_4/article1.pdf.
[9] FEDERAL DEPOSIT INSURANCE CORPORATION, QUARTERLY BANKING PROFILE: THIRD QUARTER 2016 I, *available at* https://www.fdic.gov/bank/analytical/quarterly/2016_vol10_4/fdic_v10n4_3q16_quarterly.pdf.
[10] FEDERAL DEPOSIT INSURANCE CORPORATION ,COMMUNITY BANK PERFORMANCE THIRD QUARTER 2017, *available at https://www.fdic.gov/bank/analytical/qbp/2017sep/qbpcb.html*

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

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

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

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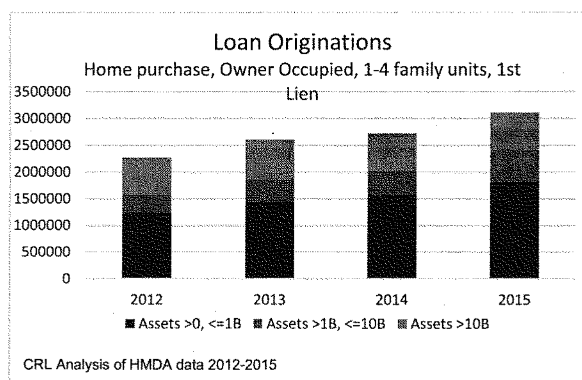
[11] CUNA MUTUAL GROUP, CREDIT UNION TRENDS REPORT (2017), *available at* https://www.cunamutual.com/resource-library/publications/credit-union-trends-report.
[12] NATIONAL CREDIT UNION ADMINISTRATION Q3 2017 CREDIT UNION SYSTEM PERFORMACE DATA, available at https://www.ncua.gov/newsroom/Pages/news-2017-dec-ncua-releases-q3-2017-credit-union-system-performance-data.aspx
[13] NATIONAL CREDIT UNION ADMINISTRATION, NCUA CHART PACK (2016), *available at* https://www.ncua.gov/analysis/Pages/industry/fact-sheets.aspx.
[14] Ibid.
[15] FEDERAL DEPOSIT INSURANCE CORPORATION, COMMUNITY BANKING STUDY 1 (2012), *available at* https://www.fdic.gov/regulations/resources/cbi/report/cbi-full.pdf.
[16] FDIC, Core Profitability of Community Banks *supra* note 6.
[17] Id at 42.

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



CRL Analysis of HMDA data 2012-2015

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

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

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

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

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

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

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

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

[22] CRL Analysis *supra* note 17.
[23] Consumer Financial Protection Bureau, CFPB Complaint Snapshot Spotlights Money Transfer Complaints: Bureau Marks Over One Million Consumer Complaints Handled (2016), available at https://www.consumerfinance.gov/about-us/newsroom/cfpb-complaint-snapshot-spotlights-money-transfer-complaints/.

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

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

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

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

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

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

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

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

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

about the consumer and their debts. Abusive collection tactics can result in harassment for debts that have already been paid, or are too old to be the subject of a lawsuit.

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

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

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

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

New data requirements are necessary to ensure a transparent mortgage market

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

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

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

Blocking these new transparency requirements undermines ongoing fair lending efforts

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

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

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

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

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

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

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

[33] See Adam Levitin, Credit Slips Blog, "New HMDA Regs Require Banks to Collect Lots of Data...That They Already Have." available at http://www.creditslips.org/creditslips/2017/06/new-hmda-regs-require-banks-to-collect-data-they-already-have.html
[34] For more information on the disclosure requirements and obligations of covered financial institutions, see "Rule Summary: Home Mortgage Disclosure (Regulation C)." Accessed January 5, 2018.

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

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

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

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

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

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

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

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

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

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

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

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

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

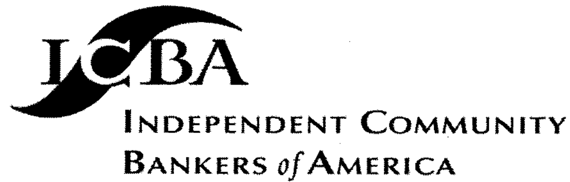
This bill would eliminate the "fully amortizing" requirement and expand the number of properties, allowing for subprime balloon loans – a risky loan product that is even more harmful for owners of manufactured homes. Balloon loans on seller-financed manufactured homes tend to occur when a homeowner buys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

IV. Conclusion.

I would like to conclude these remarks with a restatement that CRL is strongly opposed to the bills under consideration, with the exception of H.R. 2683, because they widely scale back the CFPB's supervisory authority and abolish various consumer protections. The bills under consideration today abandon the approach of targeted and dynamic reform, and rely on blanket rollbacks of consumer protection. CRL is opposed to legislation that would expose Americans to financial practices similar to

those that caused the economic meltdown and to legislation that disproportionately benefits the largest financial institutions. Responsible and sensible lending has promoted growth, ensured stability, and protected consumers and the market from the reckless behavior of pre-recession practices.

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



Testimony of

Robert M. Fisher
President and CEO
of
Tioga State Bank
Spencer, NY

On behalf of the

Independent Community Bankers of America

Before the

United States House of Representatives
Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit

Hearing on

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

January 9, 2018
Washington, D.C.

Opening

Chairman Luetkemeyer, Ranking Member Clay, and members of the Subcommittee, I am Robert Fisher, President and Chief Executive Officer of Tioga State Bank, a $475 million community bank in Spencer, New York. I am pleased to be here today on behalf of the Independent Community Bankers of America and the more than 5,700 community banks we represent. Thank you for convening this hearing titled: "Examining Proposals for a More Efficient Federal Financial Regulatory Regime: Part III." We hope that this hearing sets the stage for legislation needed to strengthen local economic growth and job creation.

Tioga State Bank has deep roots in the communities of Tioga County and surrounding counties in upstate New York. Founded by my great-great grandfather in 1884 to provide much-needed banking services to local businesses and individuals, Tioga State Bank has weathered the Great Depression and numerous recessions since that time. I am a fifth-generation community banker, proud to carry on our commitment to local prosperity. Today, we have 11 offices and approximately $475 million in assets. We specialize in consumer mortgage and small business lending. Our footprint is largely rural, but we also have offices in the urban and suburban communities of Binghamton. Many of the communities we serve depend on us as the only financial institution with a local presence. These smaller communities are simply not on the radar of the megabanks or larger regional financial institutions. Without the presence of community banks, many of these communities would become stranded in financial services deserts.

Like thousands of other community banks across the country, Tioga State Bank provides services than cannot be duplicated by banks that operate from outside the community. The credit and other financial services community banks provide help advance and sustain the economic recovery. Community banks are responsible for more than 50 percent of all small business loans nationwide under $1 million. In New York state, community banks hold just 22 percent of total banking assets but make 55 percent of small business loans and 90 percent of small farm loans. Community banks "punch above their weight," well above, in these critical forms of lending. As the economic recovery strengthens, small businesses will lead the way in job creation with the help of community bank credit.

The role of community banks in advancing and sustaining the recovery is jeopardized by the increasing expense and distraction of regulation drastically out of proportion to any risk we pose. Community banks didn't cause the financial crisis, and we should not bear the weight of overreaching regulation intended to address it.

ICBA is strongly encouraged by recent, bipartisan momentum for community bank regulatory relief from both sides of the Capitol, and we are optimistic that meaningful relief will soon be signed into law. I would like to thank this committee for passing a number of important regulatory relief bills this Congress, including the Financial CHOICE Act (H.R. 10) and numerous other important bills, many of which reflect ICBA's Plan for Prosperity. We strongly encourage this committee to build on your

strong record of regulatory relief by advancing legislation I will discuss today. The work of this committee has spurred action on the Senate side and will soon bear fruit.

Proposed Legislation

I will focus my testimony on three bills before this committee that are of particular interest to community bankers: the "Community Financial Institution Exemption Act" (H.R. 1264), the "Home Mortgage Reporting Relief Act of 2017" (H.R. 4648), and the "Community Bank Reporting Relief Act" (H.R. 4725).

The common theme of these bills is suffocating regulation whether it's in the form of prescriptive rules that unnecessarily escalates the cost of credit, or highly granular and costly reporting requirements which provide vastly more data than regulators need for bank supervision.

Community Financial Institution Exemption Act (H.R. 1264)

H.R. 1264, introduced by Rep. Roger Williams, would exempt community banks with assets of less than $50 billion from all prospective rules and regulations issued by the Consumer Financial Protection Bureau (CFPB). The bill would give the CFPB authority to apply a specific rule or regulation to otherwise exempt institutions if it makes a written finding that such institutions have engaged in a pattern or practice of activities that are harmful to consumers and that are targeted by the specific rule. Finally, H.R. 1264 would preserve the CFPB's authority to modify previously issued rules and regulations to expand exemptions or reduce compliance burden.

Since the creation of the CFPB, community banks have been forced to comply with arbitrary, rigid, and prescriptive rules intended to target the bad behavior of larger financial services providers. Community banks were in no way responsible for the financial crisis of 2008, nor do they have any history of abusive consumer practices. Community banks thrive or fail based on their reputation for fair dealing in the communities they serve. Their business model is based on long-term customer relationships, not one-off transactions. Rules that fail to account for this business model limit community banks' ability to rely on their best judgment in making credit decisions and to offer customized products and services. Such rules reduce consumer choice and end up hurting the very customers they are intended to protect.

H.R. 4648, introduced by Representatives Tom Emmer and Randy Hultgren, would provide temporary enforcement relief from the new, complex, and burdensome data collection and reporting requirements under the Home Mortgage Disclosure Act (HMDA). Expeditious consideration of H.R. 4648 is needed as the new HMDA rule became effective on January 1. Without the relief provided by this bill, the new HMDA requirements may cause widespread confusion and unintentional error and potentially disrupt new mortgage credit.

The CFPB's HMDA rule more than doubles the number of required data fields from 23 to 48. Collection of the new data points began on January 1, 2018, but many lenders, core vendors and mortgage software vendors continue to scramble to prepare their systems. Data reporting begins in 2019. The compliance challenge before community banks today is much like the implementation of the new TRID rule, which the CFPB wisely delayed as the original implementation date approached and lenders' unpreparedness became obvious. H.R. 4648 provides that compliance with the new HMDA data collection requirement prior to January 1, 2019, or the reporting requirement prior to January 1, 2020, may not serve as the basis of a supervisory or enforcement action against any depository institution. The bill further provides that no suit may be filed against any depository institution for any violation before such dates. This is consistent with Treasury's recommended delay of the new HMDA rule, set forth in its June 2017 report.

H.R. 4648 would also restrict the CFPB's ability to make any of the new data publicly available. One of our strongest objections to the new HMDA rule is that the publication of detailed, sensitive borrower-specific financial information could easily be used in combination with data available through the county clerk and other sources to identify loan applicants and compromise their privacy, not only in rural communities. H.R. 4648 will effectively address this concern.

We believe the ultimate solution is a HMDA exemption for relatively low volume mortgage lenders, as provided in Rep. Emmer's earlier bill, H.R. 2954. Banks are incurring significant expense in the collection and reporting of data under the new HMDA, yet this data will provide little incremental benefit or insight over what is currently reported. Community banks report only a fraction of the nearly 10 million annual mortgage applications reported through HMDA last year. We believe H.R. 2954 would provide needed relief without significantly impacting the mortgage data available to the CFPB or impairing the purpose of the HMDA statute.

As a community bank mortgage lender, I can affirm that HMDA reform is a high priority and would free up significant staff time and resources to better focus on serving customers.

Community Bank Reporting Relief Act (H.R. 4725)

H.R. 4725, introduced by Rep. Hultgren, would require the federal banking agencies to issue regulations to allow for reduced call reporting in the first and third quarters for banks with assets of less than $5 billion. The bill would also give the agencies discretion to establish additional criteria to qualify for this reduced reporting.

The quarterly call report filed by community banks such as mine, with assets of less than $1 billion, now comprises 51 pages of forms. For banks above $1 billion in assets, the report is 80 pages long. When I first started in banking in the mid-1980s, the report was 18 pages long. No change in our basic business model since that time warrants the sharp growth in our quarterly reporting obligation. Call report preparation involves drawing data from multiple reports generated by different systems and reentering data into the call report software. It is a manual and labor intensive process. The most burdensome schedule for us is the Regulatory Capital schedule, which went from 9 to 21 pages following Basel III. For a bank with a relatively simple capital structure, the complexity of this schedule is unwarranted. We draw data from two separate vendors to determine the risk weights of a number of our securities. The numbers never seem to agree and reconciling them all is a significant challenge. We spend a full week each quarter on average, or 40 to 50 manhours, completing the call report. This is a significant expenditure of staff resources that would otherwise be directed to serving customers.

The most frustrating aspect of this quarterly exercise is that only a fraction of the information collected in the call report is actually useful to regulators for monitoring safety and soundness or conducting monetary policy. We provide extremely granular data such as the quarterly change in loan balances on owner-occupied commercial real estate. Whatever negligible value there is for the regulators in obtaining this type of detail is dwarfed by the expense and the staff hours dedicated to collecting it. To put things in perspective, consider this contrast: some multi-billion dollar credit unions, with a significantly more complex business model than my community bank, file a less than-30-page call report. Surely, regulators can supervise community banks with significantly less paperwork burden than they currently demand.

The recent efforts by the Federal Financial Institution Examination Council (FFIEC) to streamline the call reporting process for community banks are of little to no value. FFIEC eliminated data that were not applicable to Tioga and other community banks, such as derivatives data. From our perspective, the new "short" form is essentially the same as the long form. ICBA invested significant time and resources in the FFIEC effort and we were deeply disappointed in the outcome.

This is why ICBA strongly supports H.R. 4725. The short form call report would contain essential data required by regulators to conduct offsite monitoring such as the income statement, balance sheet, and changes in shareholders' equity. A full call report would be filed at mid-year and at year-end. While the $5 billion threshold would provide relief for the large majority of community banks, ICBA believes this relief can be safely extended to community banks with asset up to $10 billion. This higher threshold would reflect ongoing industry consolidation which is pushing up the average asset size of community banks.

Pass S. 2155

ICBA anticipates Senate passage of S. 2155 in the coming months with a strong bipartisan vote. S. 2155 contains robust regulatory relief for community banks, including relief from HMDA reporting, short form call reports, deemed qualified mortgage status for mortgages held in portfolio by community banks, a lengthened exam cycle for banks with less than $3 billion in assets, and numerous other provisions that would strengthen economic growth and job creation.

It is clear that S. 2155 owes a great deal to the work of this committee. The numerous hearings, markups, and House floor votes on community bank regulatory relief in this Congress and recent Congresses have all contributed to the recent work of the Senate Banking Committee. Regulatory relief is a multi-year effort spanning both sides of the Capitol. With this in mind, ICBA urges the members of this committee and the House to seize this opportunity to enact long-awaited regulatory relief for community banks by quickly taking up S. 2155 following Senate passage.

Closing

Thank you again for the opportunity to testify today. We appreciate the role of this subcommittee in putting a check on regulatory overreach and rolling back unwarranted regulation that is reducing credit and promoting industry consolidation. This committee has already passed critical regulatory relief legislation. The bills I've discussed today would build on your previous efforts by addressing critical threats to community banking. We look forward to working with this committee to advance them into law.

Written Testimony of:

Edward "Jed" Gleim

Executive Vice President and Chief Operating Officer
Triad Financial Services

Director, Board of Directors
Manufactured Housing Institute

Chairman, Financial Services Division
Manufactured Housing Institute

Before the:

U.S. House of Representatives

Committee on Financial Services

Subcommittee on Financial Institutions
and Consumer Credit

Hearing Entitled:

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

January 9, 2018

1655 Fort Myer Dr., Suite 200, Arlington, VA 22209 Tel: 703.558.0400 Fax: 703.558.0401

Thank you Chairman Luetkemeyer, Ranking Member Clay, and Members of the Subcommittee for the opportunity to testify this afternoon about legislative proposals for a more efficient federal financial regulatory regime.

My name is Edward J. Gleim and I am the Executive Vice President and Chief Operating Officer of Triad Financial Services, Inc. Headquartered in Jacksonville, Florida, with branch offices in Illinois, California, Wisconsin and Kansas, Triad Financial Services, Inc., currently provides financing for manufactured home buyers and owners in 43 states. Established in 1959, Triad Financial Services, Inc., is the oldest manufactured housing finance company in the United States.

I am appearing before you today on behalf of the Manufactured Housing Institute (MHI) where I serve on the Board of Directors and as the Chairman of MHI's Financial Services Division. I am also the Chairman of MHI's Lender Best Practices Committee. MHI is the only national trade organization that represents all segments of the factory-built housing industry. MHI members include home builders, lenders, home retailers, community owners and managers, suppliers and others affiliated with the industry. MHI's membership also includes 50 affiliated state organizations.

More than 85 percent of the manufactured homes produced each year come from MHI member companies. New manufactured homes make up approximately nine percent of new single-family home starts. For 2017, MHI projects HUD Code shipments will be close to 91,000 homes. These homes are produced in 121 manufacturing facilities located throughout the United States by 34 U.S. corporations. The manufacturing sector of the manufactured housing industry contributes almost $3 billion dollars each year to the Gross National Product and provides approximately 40,000 jobs to American workers.[1]

Manufactured housing is the largest form of unsubsidized affordable housing in the country. The affordability of manufactured homes enables first-time homebuyers, retirees and growing families to obtain housing that is cheaper than purchasing a site-built home and much of the time even more cost effective than renting an oftentimes much smaller or much older home or apartment unit. The average price of a new manufactured home is $70,600. Manufactured homes currently house more than 22 million people across the country. The median household income for manufactured homeowners is $30,000 per year, which is less than half of all homeowners in the nation. About two-thirds of all occupied manufactured homes in the U.S. are in rural or non-Metropolitan Statistical Areas.

Manufactured homes are the most affordable homeownership option in the market today and MHI appreciates the opportunity to offer our ideas to the Subcommittee about how to improve access to credit for these homes. MHI is eager to work with the Subcommittee to reduce the regulatory burdens limiting credit for consumers seeking to achieve homeownership by purchasing a manufactured home. The manufactured housing industry is fully committed to protecting consumers throughout the home buying process. MHI recognizes the importance of responsible lending and improving the consumer experience. However, current regulations have inadvertently limited financing for this affordable homeownership option.

Thank you for the opportunity to present our views on the five important bills before the Subcommittee today. I commend the Subcommittee for seeking to address regulations that interfere with the ability of lenders to provide affordable credit for consumers. While none of this legislation is specifically targeted to manufactured housing, the regulations that the legislation seeks to correct will impact the availability of credit for manufactured housing. Many lenders stopped or significantly curtailed

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[1] Dr. Steven Cook, Alward Institute for Collaborative Science

their lending for manufactured housing as a result of the Dodd-Frank Act regulations, as evidenced in the latest Home Mortgage Disclosure Act (HMDA) data. This limited financing harms both those seeking to purchase manufactured housing and those currently residing in manufactured homes. Reasonable modifications to the regulations that result in limited access to financing is a critically important element to restoring a robust market of manufactured housing financing. As such, MHI urges the Committee to ensure the changes made in the legislation before you today also apply to those lending institutions that make manufactured housing loans.

MHI appreciates the Committee's efforts to constrain the authority of the CFPB and to fix CFPB rules and regulations that are overly broad or inappropriate. The best example of this is H.R. 10, the Financial Choice Act, which the Committee and House approved last year to comprehensively eliminate the CFPB's redundant exam authority, make changes to its overall structure, and make specific changes to rules and regulations. All small lending institutions are disproportionately impacted by onerous CFPB rules. To the maximum extent possible, the provisions of the legislation before you today should apply equally for those small lenders that are depository institutions and those that are non-depository institutions. MHI would caution the Committee from setting up the potential for uneven requirements.

H.R. 1264, Community Financial Institution Exemption Act

H.R. 1264, sponsored by Rep. Williams (TX- 25) and cosponsored by many Committee members, would exempt all depository institutions with consolidated assets of less than $50 billion from all rules and regulations issued by the CFPB. The bill additionally provides the authority for the CFPB to revoke this exemption for any rule or regulation and a specific class of financial institutions if it makes a written finding that such class of financial institutions has engaged in a pattern or practice of activities that have been detrimental to the interests of consumers and are of a type that the specific rule or regulation is intended to address.

MHI is sympathetic to the intent of this legislation, which is to constrain the ability of the CFPB to adopt rules and regulations that have the effect of limiting the ability of small financial institutions to provide affordable mortgage credit to consumers. In the area of manufactured housing, for instance, CFPB's implementation of HOEPA thresholds has inadvertently cut off lending for manufactured home loans, as evidenced by HMDA data. In addition, its unduly broad definition of "loan originator" inappropriately draws in manufactured housing retailers that simply do not engage in mortgage loan origination.

MHI is very appreciative that the Committee and full House have acted to address these specific issues, through passage of H.R. 1699, authored by Rep. Barr (KY-6) and cosponsored by many members of this Committee. This legislation is crucial because CFPB regulations are unfairly penalizing retirees, veterans, rural residents and working families who otherwise would not have access to affordable homeownership. As evidenced in Home Mortgage Disclosure Act data, consumers have been shut out of the market for quality, non-subsidized, affordable housing because the CFPB rules have caused financing to be less available for manufactured homes. Existing owners are harmed since their home values are suffering due to the inability of potential buyers to obtain financing, forcing owners to sell to cash buyers at prices that are only a fraction of the home's market value.

The bottom line is that onerous one-size-fits-all CFPB regulations are causing small lenders to curtail financing for small dollar loans since compliance costs are increasing and challenging the profitability of such loans. This has been quite acute with respect to loans for manufactured housing. In many cases depository and non-depository lenders are turning down large numbers of qualified

manufactured home buyers due to certain CFPB rules and regulations. In fact, some non-depository lenders are turning down almost three-quarters of the applications they receive, and in the majority of cases it is due to CFPB rules and regulations. Reasonable modifications to these rules and regulations would lead to higher approval rates.

MHI would note that H.R. 1264 only applies to depository institutions, and therefore does not provide any regulatory relief from the host of burdensome compliance requirements for non-depository manufactured home lenders. Exemptions for only depository institutions from certain mortgage rules could have the impact of creating an unlevel playing field with regard to depository and non-depository mortgage lenders.

MHI encourages the Committee to study the impact of the disparate compliance requirements this bill might create before moving to its adoption. More broadly, MHI further encourages the Committee to balance the regulatory relief it provides to ensure that non-depository institutions that finance manufactured housing are treated like other small depository institutions. Otherwise, the consequence will be an even more complicated regulatory situation for the very lenders that are willing to provide consumers with the financing they need to become homeowners through manufactured housing financing.

H.R. 2683, Protecting Veterans Credit Act of 2017

MHI strongly supports H.R. 2683, which would protect veterans from adverse credit reporting for certain items that impact credit scores. MHI urges the Committee to move expeditiously to correct the unfairness caused by the slow medical payment system currently in place for veterans. While the recent system of allowing veterans to seek medical care from non-VA providers is critically important to ensuring our veterans have access to the health care they need and deserve, this has created a new challenge for veterans in the form of slow payments from the VA to those non-VA providers. This has resulted in negative information on veterans' credit reports, even though the veteran did not owe the payment. No veteran should have to think twice about obtaining the medical care they need because of worry about impact on their credit score.

H.R. 2683 would amend the Fair Credit Reporting Act to exclude from consumer reporting information on a veteran's medical debt if the hospital care or medical services relating to the debt antedates the credit report by less than one year. This delay in credit reporting of medical debt for veterans allows ample time for the VA to submit payment for medical services.

Under the bill, veterans will also be allowed to dispute adverse VA medical debt information on their credit reports. A dispute process for veterans' medical debt is established whereby a veteran may submit a notice, along with proof of VA liability for the debt or documentation, that the VA is in the process of paying for authorized medical services to a consumer reporting agency or a reseller in order to dispute such debt's inclusion in the credit report. The VA is required to submit to a veteran a notice it has assumed liability for part or all of the veteran's medical debt, and if such notice and proof of liability or documentation is received, the credit reporting agency shall delete all information relating to the veteran's medical debt from the file of the consumer and notify the furnisher and the consumer of such deletion.

MHI's lenders believe that the credit report should accurately reflect the repayment history of individuals seeking credit to purchase a manufactured home. H.R. 2683 is a balanced way to address the erroneous reporting of adverse credit information due to an inefficient VA repayment system. We

strongly support this legislation because it protects veterans and upholds the integrity of the credit reporting system.

H.R. 4648, Home Mortgage Reporting Relief Act of 2017

The new reporting requirements of the Home Mortgage Disclosure Act (HMDA) are one area where the intent might be laudable, but the result is that more lenders will stop making smaller loans because the cost of compliance is too high to justify remaining in the manufactured housing lending space. This is harmful for consumers seeking an affordable form of homeownership.

MHI believes H.R. 4648 is an appropriate and measured response to the concerns that have been raised about onerous HMDA data reporting requirements, as well as the concerns about consumer data privacy. While the HMDA data provide helpful information about mortgage lending trends in the market for research and public policymakers, the compliance burden is stifling, especially for smaller lenders. The additional data requirements under the rule finalized by the CFPB in October 2015 and effective this month significantly exacerbates these concerns by more than doubling the number of data fields required to be reported on each loan. In adopting these new requirements, the CFPB did not use a formal Administrative Procedure Act process, which would have provided a better forum for receiving public input from lenders and consumers to ensure the benefits of the increased reporting requirements were balanced with the cost imposed on lenders. Instead, small lenders are now faced with the requirement that they must report over one hundred data fields to the CFPB for every application they receive regardless of whether the application is approved.

MHI appreciates the recent actions of CFPB Acting Director Mulvaney to provide a formal safe harbor for the new HMDA data reporting requirements for all lenders – both depository and non-depository. Specifically, Mr. Mulvaney has indicated that the CFPB will not assess penalties for any lender for new HMDA data requirements that are collected in 2018 and reported in 2019.

H.R. 4648 would (1) codify this CFPB safe harbor, (2) extend the CFPB safe harbor protection for one additional year, and (3) more broadly prohibit the CFPB both from expanding HMDA data requirements beyond those in place prior to the enactment of Dodd-Frank and also prohibit the CFPB from publishing, disclosing or making available any HMDA data not required to be collected and reported prior to enactment of Dodd-Frank. These provisions both address concerns about small lender compliance creep and the pervasive concerns that have been expressed by many parties about the new HMDA data requirements with respect to consumer privacy and identify theft.

Further, MHI shares the concerns of the authors of H.R. 4648 about the adequacy of consumer privacy protections given the expansive reporting requirements. With the additional data points required, there are significant risks to consumer privacy, ranging from the risk of identification of individual loans to identity theft and fraud.

MHI strongly supports the provisions of H.R. 4648. We encourage the Committee to ensure the provisions in H.R. 4648 apply to non-depository lenders. In particular, to avoid any confusion we encourage the Committee to clarify that the legislation applies to all lenders that are required to comply with HMDA's increased reporting requirements.

In sum, the additional reporting burdens imposed on small lenders by the new HMDA requirements will not do anything to help consumers achieve the American dream of homeownership. Instead, the new HMDA requirements merely serve as another incentive for lenders making small dollar

loans to exit the manufactured housing lending space.

H.R. 4725, Community Bank Reporting Relief Act

H.R. 4725 would amend short form reporting requirements for depository institutions with less than $5 billion in assets by requiring banking regulators to issue regulations that allow for a reduced reporting requirement when the depository institution makes the first and third report of condition each year. This is a reasonable regulatory streamlining provision.

H.R. __, to amend the Truth in Lending Act to clarify the exclusion for seller financers from the definition of mortgage originator, and for other purposes.

H.R. _, sponsored by Rep. Pearce (NM-2), would ensure that individuals that originate not more than five seller financed mortgage loans in a year are exempt from the mortgage originator definition of the Truth in Lending Act.

The ability to finance homes is an important issue for many manufactured home community owners who wish to ensure the manufactured homes within their communities are occupied. This legislation would increase the number of loans they could make per year before triggering the Truth in Lending Act from three loans to five loans.

The bill also provides more flexibility with regard to such loans, while retaining essential consumer protections, such as a requirement that the loan not be a "high cost mortgage," that the principal amount on the loan cannot increase because payments do not cover interest, and that generally the loan must either be fixed rate or, if adjustable, cannot adjust in less than five years and then only subject to reasonable annual and lifetime increases.

MHI believes that both the SAFE Act and Truth in Lending Act should have exemptions for individuals that originate de minimus numbers of loans each year, particularly for seller financed loans. SAFE Act licensing and registration requirements can be quite extensive and to apply them to individuals that do one or just a few such loans each year is disproportionate.

Conclusion

Manufactured homes are the most affordable homeownership option in the market today and MHI appreciates the opportunity to offer our ideas to the Subcommittee about how to improve access to credit for families buying these homes. MHI believes that manufactured housing can help address America's affordable and workforce housing challenges currently and into the future. MHI stands ready to work with the Subcommittee to ensure its work to make regulatory changes to support financing for homeownership also alleviates the challenges facing families, seniors, and young professionals seeking financing to achieve the American dream of homeownership through manufactured housing.

STATEMENT OF
MATTHEW SHUMAN, DIRECTOR FOR
NATIONAL LEGISLATIVE DIVISION
THE AMERICAN LEGION

BEFORE THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT
COMMITTEEON FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES

ON

"LEGISLATIVE PROPOSALS FOR A MORE EFFICIENT FEDERAL FINANCIAL REGULATORY REGIME: PART III"

JANUARY 9, 2018

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JANUARY 9, 2018

Chairman Luetkemeyer, Ranking Member Clay and distinguished members of this committee, on behalf of National Commander Denise H. Rohan and the 2 million members of The American Legion, I thank you for the opportunity to testify regarding The American Legion's position on H.R. 2683, the *Protecting Veterans Credit Act of 2017*. The American Legion is our nations largest patriotic and service organization for veterans, serving every man and woman who has worn the uniform for this country.

The Department of Veterans Affairs (VA) has created medical debt that negatively impacts veterans' personal credit for years. American Legion National Commander Dale Barnett, in February of 2016, called on VA to establish an automated claims processing system. Commander Barnett also called on Congress to pass legislation directing VA to fix their non-VA claims and reimbursment system by using current technology, stating, "No veteran should ever receive a letter or call from a collection agency because VA failed to pay the non-VA provider in a timely manner."[1] H.R. 2683 protects a veterans' credit history from being negativley impacted by VA's failure to pay non-VA healthcare claims in a timely manner.

CHOICE

Resulting from the 2014 scheduling crisis within the VA, The American Legion and other Veteran Service Organizations (VSO's) called on Congress to take swift action to ensure veterans receive quality healthcare in a timely manner. Leading up to the scheduling issue in 2014, the Veterans Health Administration (VHA), the arm of the VA charged with providing healthcare for veterans, had thousands of vacancies. These vacancies impaired VHA's ability to furnish quality care where and when needed. In concert with The American Legion and other VSO's, Congress submitted and passed H.R. 3230, the Veterans Access, Choice, and Accountability Act (VACAA) of 2014, to President Barack Obama, which he signed into law on

[1] https://www.veterans.senate.gov/imo/media/doc/2016%20TAL%20Commanders%20Testimony%202.24.2016.pdf

August 7, 2014.[2] While the Choice Act afforded veterans greater access to healthcare, it also brought to the forefront an age-old problem: VA lacks a well-defined claims processing system. As a result, veterans' medical debt is often turned over to collection agencies at an alarming rate because of VA's failure to reimburse non-VA providers in a timely and professional fashion. It is also worth noting that the Choice program is one of nine different VA community care programs. In addition to Choice, the VA enters into contracts with non-VA community care providers to purchase healthcare and services, including, but not limited to: hospital, outpatient, community nursing home, home healthcare, adult day healthcare, and many others.

Prompt Payment Act

Section 105 of the Veterans Access, Choice, and Accountability Act of 2014 requires VA to comply with the Prompt Payment Act (PPA), and implement a system to process and pay claims from non-VA providers for hospital care, medical services, and other healthcare services.[3] It has been more than three years since the Choice Act passed, and VA has failed to comply with the law. VA's failure to comply with this provision of the Prompt Payment Act has placed thousands of veterans' personal credit and livelihoods at an unnecessary risk; a risk that has the potential to be life altering and damaging.

A veteran's credit is impacted when they receive care in the community and the provider attempts to obtain payment from the veteran, after failing to obtain payment from the VA. When the veteran is unable to pay or advises the provider that the VA is required to pay for the services, the failure often hits the credit of the veteran, impacting them in an unfair and detrimental manner. When the VA fails to comply with Section 105 of VACAA, and adhere to the PPA by paying for services in a professional and timely manner, the VA is financially harming the veteran.

In 1982, when the PPA was passed, it forced federal agencies to pay their bills in a timely manner, and when they failed to comply, to pay interest penalties when payments were made late. Unless excluded under the PPA, the act requires payments be made within 30 days of receipt of a valid invoice[4]. The PPA has done little to ensure VA pays non-VA healthcare providers timely while racking up millions of dollars in late interest payments at the expense of the taxpayer.

Veterans Affairs Office of the Inspector General

On December 21, 2017, the Veterans Affairs Office of Inspector General (VAOIG) issued Report, 15-03036-47, *Audit of the Timeliness and Accuracy of Choice Payments Processed Through the Fee Basis Claims System*[5]. VAOIG estimated that VA's Office of Community Care (OCC) payments to Third Party Administrators (TPAs) for approximately 1 million of their 2 million claims (50 percent) were made in excess of the 30-day Prompt Payment Standard from

[2] https://www.gpo.gov/fdsys/pkg/PLAW-113publ146/pdf/PLAW-113publ146.pdf
[3] https://www.gpo.gov/fdsys/pkg/PLAW-113publ146/pdf/PLAW-113publ146.pdf
[4] https://www.gpo.gov/fdsys/pkg/STATUTE-96/pdf/STATUTE-96-Pg85.pdf
[5] https://www.va.gov/oig/pubs/VAOIG-15-03036-47.pdf

November 1, 2014, through September 30, 2016. VAOIG also estimated that Health Net, one of the TPAs, took 47 days on average to pay its providers from November 1, 2014 through September 30, 2016 and TriWest, another TPA, averaged 39 days to pay its providers for the same period.

VAOIG also reported the payment delays occurred because OCC did not accurately estimate the amount of staff necessary to process Choice claims through their Service Level Agreement with VA's Financial Services Center (FSC). The Choice Act requires VA to meet the timeliness standards of the Prompt Payment Act in paying the TPAs. Currently, there is no such standard for the TPA's to pay the providers.

Recommendations

The American Legion appreciates the intent of H.R. 2683, which is to protect veterans credit from the failures of VA. In analyzing the *Protecting Veterans Credit Act of 2017,* we noticed there is no mechanism that would aide the Credit Reporting Agencies (CRAs) in complying with the potential law. Currently, there is no system in place or service that would allow the CRAs to:

1. Certify if someone is a veteran.
2. Certify that the debt in question is related to a VA approved service.

Having the ability to certify if someone is a veteran, along with verifying if the debt they are disputing is indeed a VA approved service, is crucial to the intent of this legisaltion. The mission of The American Legion is to help veterans, and in this situtation, ensuring the CRAs have the ability to quickly remedy this issue is in the best interest of our nations heros.

Additionally, The American Legion encourages this committee and Congress to pass legislation directing the VA to adhere and fully comply with the Prompt Payment Act, compelling them to pay their bills in a timely and professional manner.

The American Legion looks forward to working with this and other relevent committees to craft common sense methods to put into practice the above recommendations.

Conclusion

In 2003, The American Legion created and implemented the System Worth Saving program, where we visit and audit 10-15 VA Medical Facilities each year[6]. During each visit, we host town hall meetings allowing veterans to share their VA experience(s) firsthand. Often we hear that veterans are incredibly frustrated and angry because their credit history, which took them a lifetime to establish, has been compromised by the VA's failure to pay providers for healthcare services authorized.

[6] https://www.legion.org/systemworthsaving

If passed, H.R. 2683 will afford negatively impacted veterans the necessary protections, by amending the Fair Credit Reporting Act to exclude, for one year, information related to their VA medical debt from being reflected in their credit report. This common sense bill will also provide veterans with the necessary tools to dispute VA medical debt information reported to credit reporting agencies. Veterans will no longer require assistance from attorneys and pay fees to resolve an issue that they had no role in creating.

The American Legion applauds Representative Delaney for introducing H.R. 2683, a piece of legislation aimed at protecting the fine men and women who have selflessly taken an oath to defend our great nation. The American Legion supports H.R. 2683, with modifications listed above, and is eager to see this the *Protecting Veterans Credit Act of 2107* become law.

The American Legion thanks this subcommittee for holding a hearing on this veteran-centric legislation and for the opportunity to elucidate the position of the 2 million veteran members of this organization. For additional information regarding this testimony, please contact Mr. Matthew Shuman, Director of The American Legion's Legislative Division at (202) 861-2700 or mshuman@legion.org.

June 19, 2017

The Honorable John Delaney
United States House of Representatives
1632 Longworth House Office Building
Washington, D.C. 20515

On behalf of the Association of the United States Navy, we would like to pledge our support for H.R. 2683, the Protecting Veterans Credit Act. This bill would ensure that Veterans' credit scores and credit reports are not adversely affected by delayed medical payments associated with the VA Veterans Choice Program and other VA Community Care Programs.

This legislation creates a one-year credit reporting grace period for the resolution of debt from medical services. The slow disbursement of Veterans Choice Program payments has meant that potentially thousands of veterans could be adversely affected, with large and inaccurate medical debts wrongly listed in their name while the VA and private providers work through billing. This error could make it more difficult and more expensive for veterans to buy a home or car, rent a place to live or receive a small business loan.

The Protecting Veterans Credit Act would prohibit medical debt from services received through the Choice Program and other VA community care programs from being reported to credit reporting agencies for one year. This delay provides adequate time for the VA and its contractors to resolve the issues. The Protecting Veterans' Credit Act would also allow veterans to dispute and remove adverse actions already on their reports

Thank you for taking an active role in such an important issue to the Military and Veteran community by working to improve the lives and careers of those who served our great nation. Please feel free to contact me with any questions or concerns at 703-548-5800 or at michael.little@ausn.org.

Sincerely,

Michael J. Little
Director of Legislative Affairs

CBS Boston: I-Team: WWII Vet Mistakenly Billed $4K For Medical Care, Revealing VA Problem

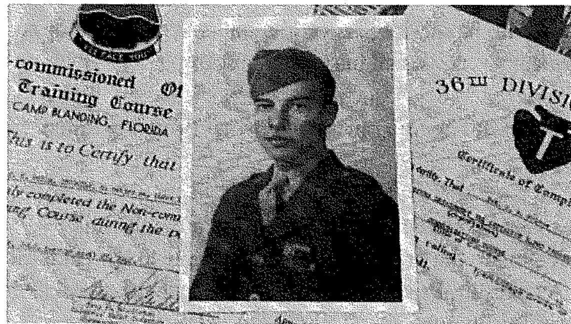
By **Ryan Kath** October 5, 2017 at 11:15 pm

BOSTON (CBS) – After a wait-time scandal, it was supposed to be a program that helped veterans get access to faster, more convenient access to medical care.

However, several years since implementation, the WBZ-TV I-Team found the Veterans Choice program administered by the Department of Veterans Affairs (VA) continues to have issues.

Problems include a confusing appointment process, community health care providers not getting paid, and veterans being harassed by bill collectors.

Charles Price Sr. was on the front lines in Italy for some of the most dangerous battles of World War II, fighting with the 36th Infantry Division from Texas and Oklahoma.



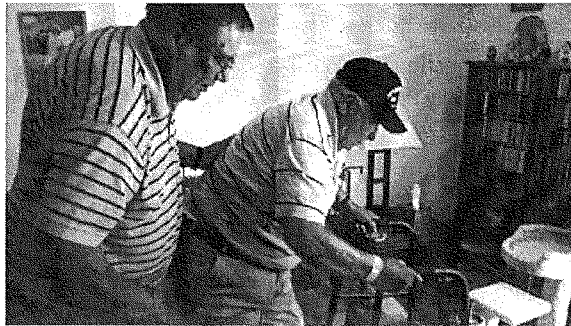
Charles Price Sr. (WBZ-TV)

Looking back, the Army combat veteran is thankful he somehow survived, making it back home safety to his wife and newborn son.

“Someone was watching over me,” Price told WBZ. “People wondered how I could go through six battles without a scratch.”

However, the 95-year-old recently had to fight a different kind of battle: One with his own government.

“It makes me very angry,” he expressed.



Charles Price Sr. and his son. (WBZ-TV)

Price was upset because in late 2016, he was having serious health issues. His son, Charles Price III, said his dad would have waited several months to see a doctor at the Bedford VA, where he typically receives all his in-patient care.

“There was urgency because he wasn’t keeping his food down,” Price explained. “We didn’t feel he could wait.”

The VA recommended Price as a candidate for the Choice program, which is designed to let veterans see doctors in the private sector if they have to wait at least 30 days for an appointment. As a result, Price received his treatment at Lahey Hospital and Medical Center in Burlington.

“As far as we knew, everything should’ve been covered and taken care of,” Price explained.

Charles Price Sr. received help from the I-Team after an error in medical building. (WBZ-TV)

But months later, a surprise arrived in the mail: a bill for $4,450.62. Even though it said “Veterans Choice” on the invoice, the program had denied payment. As a result, the financial responsibility landed on the shoulders of the 95-year-old veteran.

“I was shocked,” his son told WBZ. “After we availed ourselves of a service they recommended, now they won’t pay? I just didn’t feel that would stand.”
Price unsuccessfully tried to resolve the situation for his dad, and then he decided to contact the I-Team.

http://boston.cbslocal.com/2017/10/05/i-team-veterans-affairs-bill-error/

Military Times: Veterans Choice program hurting some vets' credit scores

By: Patricia Kime February 11, 2016

Some veterans are seeing their credit ruined by using the Veterans Choice health program because the Veterans Affairs Department is not reimbursing participating physicians promptly, forcing them to bill their veteran patients who often can't pay.

Veterans advocates and House lawmakers said Thursday that veterans using the community care program face long delays in treatment and bad credit because physicians are waiting up to six months for reimbursements from VA and are demanding payment from patients, often forwarding the bills to collection agencies.

Rep. Raul Ruiz, D-Calif., said one of his constituents sought care for pain and orthopedic problems through the Veterans Choice program, but VA did not reimburse the specialists in a timely manner, forcing the veteran to reschedule needed surgeries and deal with aggressive collection agents.

"Now this veteran has damaged health and damaged credit due to the VA," Ruiz said during a House Veterans' Affairs subcommittee hearing. "This damage that veterans suffer due to the VA's reimbursement system is irreparable and unacceptable."

In another case, a veteran in Saginaw, Michigan, needed follow-up care for an eye appointment through Veterans Choice. But while the initial appointment was approved, the needed sight-saving treatment was not. Since approval and payment were delayed, the providing clinic stopped treatment and demanded money from the patient before they would continue, Veterans of Foreign Wars senior legislative associate Carlos Fuentes said.

To solve the issue, VFW contacted the Veterans Choice contractor Health Net Federal Services but was told that treatment could not be approved retroactively. The group then appealed to VA for help, Fuentes said.

"It shouldn't require our involvement to have this paid," Fuentes told House committee members.

The Veterans Choice program was launched in November 2014 to give veterans who face lengthy wait times for care or live 40 miles or more from a VA facility the option to see a private physician.

It has come under fire for failing to improve veterans' access to medical treatment since patients continue to face challenges making appointments or receiving approval for care.

Providers have complained about the program as well, citing long delays in payments and disparate reimbursement rates.

According to VA officials, the department paid less than 70 percent of its claims to providers within 30 days. In contrast, 99 percent of Tricare and Medicare claims from community providers are processed within 30 days.

In fiscal 2012, VA spent $4.5 billion on care for veterans outside VA hospitals and clinics. That figure rose to $10 billion in fiscal 2015, and the Obama administration has requested $12 billion for community care programs in fiscal 2017.

But despite vast sums of money appropriated for the programs, systemwide problems persist. Earlier this month, the VA Office of Inspector General found that for 64 percent of 450 appointments reviewed at a VA clinic in Colorado Springs, Colorado, veterans waited more than 30 days for care and none were offered a faster appointment through Veterans Choice.

The VA inspector general also found that in Tampa, Florida, eligible veterans were not offered care through Veterans Choice and VA medical center staff "inappropriately removed" veterans from the Choice eligibility list.

"VA needs to improve program controls. Without adequate controls, VA's consolidation plan is at increased risk of not achieving its goal of delivering timely and efficient health care to veterans," said Gary Abe, deputy assistant inspector general for audit and evaluations.

VA officials say they are working to solve the problems, starting with the late payments, by changing requirements of providers to furnish medical documentation along with the bills.

VA also is hiring more claims processing staff and establishing new productivity standards, said Dr. Baligh Yehia, Veterans Health Administration assistant deputy undersecretary for health for community care.

"There should be no administrative burden that stands in the way of veterans getting care," Yehia said.

VA also is seeking to consolidate its private care programs into a single initiative, the New Veterans Choice program, and has asked Congress for legislative authority to implement the changes needed to jump-start the new program.

As for the veterans facing bad credit, VA officials have written letters to credit bureaus to help restore former service members' credit ratings. The department also introduced a toll-free number, 877-881-7618, for veterans to call if they have problems with adverse credit reports related to the Veterans Choice program.

Rep. Dan Benishek, a surgeon who chairs the House Veterans' Affairs personnel subcommittee, said the VA must fix the problem or risk losing willing program participants.

"The overly bureaucratic, highly manual claims process ... does not meet the standards. Community providers continue to report millions of dollars in past-due, unpaid claims and my office continues to hear regularly from providers who would like to serve veterans but they hesitate to take referrals from the VA because it is so difficult to get paid for their services," Benishek said.

Rep. Mark Takano, D-Calif., said the VA is not entirely at fault for the problems with provider reimbursement.

"A lot of the beating up on the department needs to be put into context," Takano said. "VA was never set up to be an insurer/payer. This is a revolution of sorts. The mindset has been that VA is a provider organization but now we

are looking at other approaches, including a permanent program for care in the community, which means setting up a system to do both — a provider and payer organization. Let's make that a distinction."

Patricia Kime covers military and veterans' health care and medicine for Military Times. She can be reached at pkime@militarytimes.com

https://www.militarytimes.com/veterans/2016/02/11/veterans-choice-program-hurting-some-vets-credit-scores/

Wounded Warrior Project
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January 8, 2018

The Honorable Jeb Hensarling
Chairman, House Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member, House Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Blaine Luetkemeyer
Chairman, Subcommittee on Financial Institutions and Consumer Credit
House Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Wm. Lacy Clay
Ranking Member, Subcommittee on Financial Institutions and Consumer Credit
House Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Hensarling and Luetkemeyer, and Ranking Members Waters and Clay,

At Wounded Warrior Project (WWP), we provide advocacy based on a history of having served more than 3.5 million post-9/11 veterans, servicemembers, and families through partnerships and direct programs. From this perspective, WWP is pleased to offer its support for the *Protecting Veterans Credit Act of 2017.*

Over the past several weeks and months, Congress, the Department of Veterans Affairs, and advocates have placed renewed focus on veteran access to health care provided in the community. As we collectively work to improve quality, access, and all aspects of health care for our veterans, particularly in a community-based setting, it is imperative to correct and preempt any unintended consequences of giving veterans more options for care.

To that end, the *Protecting Veterans Credit Act of 2017* would help veterans avoid credit damage because of medical billing issues beyond their control. We sincerely appreciate your consideration and urge Congress to pass this bill to help veterans access quality health care without risking undue harm to their financial well-being.

Sincerely,

René C. Bardorf
Senior Vice President of Government and Community Relations

January 8, 2018

The Honorable Blaine Luetkemeyer
Chairman
Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit
U.S. House of Representatives
2230 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Lacy Clay
Ranking Member
Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit
U.S. House of Representatives
2428 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Luetkemeyer and Ranking Member Clay:

The Consumer Bankers Association (CBA) writes to comment on the January 9th, 2018 hearing, entitled "Legislative Proposals for a More Efficient Federal Financial Regulatory Regime: Part III." In particular, CBA appreciates Rep. Tom Emmer's (R-MN) efforts to address the concerns of our members in crafting H.R. 4648, the Home Mortgage Reporting Relief Act. This legislation delays the enforcement of and addresses the privacy concerns with the Consumer Financial Protection Bureau's (CFPB) final Home Mortgage Disclosure Act (HMDA) rule. CBA is the voice of the retail banking industry whose products and services provide access to credit to millions of consumers and small businesses. Our members operate in all 50 states, serve more than 150 million Americans and collectively hold two-thirds of the country's total depository assets.

The Dodd-Frank Act mandated the expansion of information collected under Regulation C, HMDA's governing regulation. However, the CFPB's final HMDA rule almost tripled the number of data fields and greatly increased the complexity of reporting. As a result, CBA member banks have invested in new systems in order to be compliant with rule by the Jan. 1, 2018 collecting deadline. While CBA understands many smaller institutions struggled to meet this deadline, it is critical that any effort to delay the implementation of the rule does not penalize those institutions that have striven to be compliant. Thankfully, H.R. 4648 acknowledges the many CBA member banks that have prepared for implementation while providing those institutions not yet ready with one-year compliance safe harbors for collecting and reporting.

CBA has also long been concerned about the sensitive HMDA data that the CFPB intends to collect, store, and publish. Consumers buying a home are forced to relinquish their most sensitive information often without understanding this information is being handed over to a governmental agency. The new data fields are *even more* sensitive than many of those previously collected, with the addition of credit score, debt to income ratio, and property address, among other new fields. Assuming HMDA data available today is accurate, attaching a borrower's name and property address to HMDA data can be achieved in over 80 percent of all cases.[1] The addition of the new data fields raise the probability to virtually 100 percent.

[1] Anthony Yezer, *Personal Privacy of HMDA in a World of Big Data*, Institute for International Economic

Given the sensitive nature of the expanded HMDA data and the risk of re-identification, CBA strongly believes the new data fields should not be made public unless in aggregate form. H.R. 4648 recognizes the privacy risks inherent in the CFPB's rule and protects consumers sensitive consumer information by prohibiting the public release of the expanded data fields unless in aggregate form.

Thank you for considering this legislation which addresses CBA members' concerns related to the implementation of the CFPB's HMDA rule. We greatly appreciate this thoughtful approach to ensure banks are not penalized for timely compliance and consumers are protected from criminals attempting to steal their sensitive information.

Sincerely,

Richard Hunt
President and CEO
Consumer Bankers Association

Policy Working Paper Series, IIEP-WP-2017-21 (2017).

Coalition to Save Seller Financing
P.O. Box 67 ◦ Puyallup ◦ WA ◦ 98371
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CFPB Can Change Seller Financer Rules

We are asking the Consumer Financial Protection Bureau to remove installment sales which include a dwelling, known as seller financing, from the definition of Loan Originator in Regulation Z of TILA which was amended by the Dodd-Frank Act.

Installment sales are not table funded. They are not loans. We can find no data to suggest seller financing contributed to the financial crisis or that there was rampant abuse or predatory behavior when buyers and sellers negotiated and used the installment sale method to facilitate the purchase of a home. But, seller financing is being treated as if it were a contributor to the mortgage loan fiasco.

The new restrictions are now so narrow it penalizes retirees, Ma and Pa on Main Street, and small real estate investors. These new restrictions severely restrict the number of properties that can be sold by a seller to 3 per year and restricts the terms that the buyer and seller can negotiate. They are also extremely complex. For instance if you own several rental homes and are now wanting to retire and to sell them to your renters on an installment sale you can only sell one with a balloon if you are a natural person, a trust, or an estate. If you are an LLC or a partnership you can't sell any with a balloon. If you are a seller who is 65 or older and on your attorney's advice put your rental property in an LLC you will die before you receive all your proceeds without a balloon. Small banks can have a balloon and adjustable rates to hedge against inflation. Ma and Pa should be able to hedge against inflation the same as banks. Buyers should have the right to negotiate a balloon in exchange for a lower interest rate

Unfortunately, there is a misconception that few people own a dwelling other than their home. According to the National Association of Realtors 19% of all homeowners own more than 1 property. 25% of these homeowners who are over 65 own more than one property. More to the point, we surveyed 31 escrow companies that are custodians for seller financed transactions. In 2013, out of their 60,873 accounts 38% of the sellers have more than one account on which they receive payments.

In 2011 the IRS showed that 1,141,911 tax payers had itemized deductions on home mortgage interest paid on installment sales. That's how many households that are going to be affected by these restrictions. There is no Ma and Pa Seller Financer National Association to disseminate and interpret these new rules.

According to the National Multi Housing Council there are 13,323,000 households that rent single family houses the majority of which are owned by small investors. These are perfect situations for renters to purchase homes on installment sale from property owners who no longer wish to be landlords but still desire the cash flow.

Coalition to Save Seller Financing

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We ask that no restrictions be placed on seller financing for the first five transactions in one year. This would restore seller financing status to what it previously had been before Dodd-Frank amended TILA. This would make it consistent with the Ability to Repay rules for installment sales in Regulation Z where there are no restrictions on seller financing for the first five transactions in one year. It would also make seller financing consistent with the SAFE Act which does not require a seller financier to become a loan originator unless they sell property with a dwelling habitually and repeatedly. A seller financier was never considered a loan originator before the Dodd-Frank Act. The Federal Reserve years ago set the numerical threshold at 6 or more a year (more than 5) for creditor (i.e. lender) status and the CFPB has maintained that level in their other Regulation Z rules. What we are asking is consistent with that prior determination of federal regulators. Bank employees who do a limited number of loans don't have to become loan originators. Ma and Pa should have the same flexibility.

Yes, you can get around these restrictions and do up to 5 transactions per year with no restrictions if you use a loan originator in your transaction or you become a loan originator. Let's explore the options that Ma and Pa may use.

Logistically, using a loan originator is a problem. First, finding an LO who is willing to participate in a seller financed transaction is difficult because of their potential liability. It is extremely difficult to find an LO in rural areas where at least 50% of seller financed transactions take place. LOs are not trained in seller financed transactions. They take loan applications; they are not underwriters. There is no pre Loan Originator exam course that mentions seller financing. There are no test questions on the LO exam regarding seller financing. If the LO works for a bank, it is unlikely the bank would allow the LO to participate. Banks do mortgages; not seller financing. An LO has no way to verify if the seller has done one transaction in the last 12 months or 30 transactions. There are no set fees that the LO can or cannot charge which opens it up to predatory behavior. Who pays the fees? The few LO s we have heard about want to be paid in advance and the fee is nonrefundable if the transaction falls apart. When the seller pays the fee it is equivalent to a transfer tax. Now a property owner has to pay to have a safe harbor. If the buyer pays it means they now have to pay a fee just to make an offer on a house. Does the seller pick an LO before they put the house on the market? Or do the buyer and seller choose one after they negotiate the installment sale? If you involve an LO you can have a balloon, an adjustable interest rate from day one, and the buyers ability to repay is not required. Then why can't the buyer and the seller do that without an LO? An LO adds no value to the transaction or help to the regulators. They only put their ID number on the documents which does not help track the seller. It tracks the LO. The seller's name is already on the documents. Also, if a seller uses an LO the seller must determine if the LO is currently registered and in good standing. Requiring the use of a loan originator in a seller financed transaction only hinders the process and costs the consumer money.

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Ma and Pa's other option is to become a loan originator. Becoming a loan originator to sell 5 or fewer of your own properties on an installment sale is costly, impracticable, and possibly impossible. You must pass a state and national test on finance and mortgage law after 20 hours of classes and pay a fee. You must have a background check and must demonstrate financial stability. So, if you are selling your properties because you are in financial difficulty, you won't be able to become an LO. It appears the only reason a seller financer has to become a Loan Originator is to get a unique identifier number to put on their installment sales even though the seller's name and property description is already on the installment sale agreement.

Using a Loan Originator or becoming one is costly and difficult. We ask that the CFPB eliminate confusion on Main Street by streamlining and simplifying seller financing regulations. We ask for a return to the seller financer not being considered a creditor and a loan originator for five or less installment sale transactions a year that involve a dwelling that the buyer will occupy. This will be consistent with the SAFE Act and the Ability to repay rules in Regulation Z of TILA.

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