

M E M O R A N D U M

To: Members, Subcommittee on Financial Institutions and Consumer Credit

From: Committee Majority Staff

Date: September 1, 2017

Subject: September 7, 2017, Financial Institutions and Consumer Credit Subcommittee Hearing entitled "Legislative Proposals for a More Efficient Federal Financial Regulatory Regime."

The Subcommittee on Financial Institutions and Consumer Credit will hold a hearing entitled "Legislative Proposals for a More Efficient Federal Financial Regulatory Regime" on Thursday, September 7, 2017, at 10:00 a.m. in room 2128 of the Rayburn House Office Building. This will be a one-panel hearing with the following witnesses:

- Ms. Anne Fortney, Partner Emerita, Hudson Cook LLP
- Mr. Charles Tuggle, Executive Vice President and General Counsel, First Horizon National Corporation
- Mr. Thomas Quaadman, Executive Vice President, Center for Capital Markets Competitiveness, U.S. Chamber of Commerce
- Ms. Chi Chi Wu, Staff Attorney, National Consumer Law Center

The hearing will examine the following legislative proposals:

H.R. 1849 (Trott), the Practice of Law Technical Clarification Act of 2017

Introduced by Rep. Trott, the Practice of Law Technical Clarification Act of 2017 amends the Fair Debt Collection Practices Act to exclude from the definition of "debt collector" any law firm or licensed attorney: (1) serving, filing, or conveying formal legal pleadings, discovery requests, or other documents pursuant to the applicable rules of civil procedure; or (2) communicating in, or at the direction of, a court of law or in depositions or settlement conferences, in connection with a pending legal action to collect a debt on behalf of a client.

This bill also amends the Consumer Financial Protection Act of 2010 to clarify that the Consumer Financial Protection Bureau (CFPB) may not exercise supervisory or enforcement authority with respect to attorneys engaged in the practice of law and not offering or providing consumer financial products or services.

H.R. 2359 (Loudermilk), the FCRA Liability Harmonization Act

Introduced by Rep. Loudermilk, the Fair Credit Reporting Act Liability Harmonization Act amends the Fair Credit Reporting Act (FCRA) to establish certain limits—the lesser of \$500,000 or one percent of the net worth of the defendant—on potential liability for statutory damages. This bill also eliminates punitive damages that can be awarded under the FCRA.

H.R. 3312 (Luetkemeyer), the Systemic Risk Designation Improvement Act of 2017

Introduced by Rep. Luetkemeyer, the Systemic Risk Designation Improvement Act of 2017 removes the arbitrary \$50 billion asset threshold used in Title I of Dodd-Frank to designate firms as “systemically important financial institutions” and subjecting them to enhanced regulatory standards.

This bill also amends the Dodd-Frank Act to authorize the Financial Stability Oversight Council (FSOC) to subject a bank holding company to enhanced supervision and prudential standards by the Board of Governors of the Federal Reserve System (the Federal Reserve), if an institution has been identified as global systemically important bank (G-SIB) under the indicator-based measurement approach established under section 217.402 of title 12, Code of Federal Regulations. This measurement is based on a particular institution’s “systemic indicator scores,” reflecting size, interconnectedness, cross-jurisdictional activity, substitutability, and complexity relative to the other U.S. and foreign banking organizations identified by the Basel Committee on Banking Supervision and any other banking organization included in the Basel Committee’s sample for a given year.

This bill also substitutes G-SIB status in place of the current monetary threshold as the determinant for the Federal Reserve’s authority over bank holding company acquisition restrictions, prohibitions on interlocks between management of different financial companies, and enhanced supervision and prudential standards.

H.R. XXXX (Royce), the Facilitating Access to Credit Act

To be introduced by Rep. Royce, the Facilitating Access to Credit Act amends the Credit Repair Organizations Act (CROA) to exempt an Authorized Credit Services Provider (ACSP) from CROA only to the extent it offers, sells, provides, or performs certain defined services.

Defined services include:

- (1) “Credit and Identity Protection,” defined as protecting a consumer’s credit standing or detecting, preventing, or mitigating identity theft, fraud, data breach, or other unauthorized financial or credit-related activity; and
- (2) “Credit Education,” defined as helping consumers understand, manage, or prospectively improve their credit standing, consumer report, score, or access to credit going forward.

To become an ACSP, a person must apply to the Federal Trade Commission (FTC) and submit a written certification, provide policies and procedures, send detailed descriptions of

products and services, and then obtain compliance audits every two years. If the FTC approves the application, the ACSP would be able to offer the defined services under a more modernized framework without exposure to CROA liability.

The bill also preempts state law and regulations concerning a credit repair organization to the extent they would apply to ACSPs subject to this Act, except those laws and regulations related to unfair or deceptive acts or practices in marketing products or services.

ACSPs that violate any of the eligibility criteria are subject to revocation of status by the FTC, and for certain violations such status is revoked retroactively to the time of the conduct, making all aspects of CROA applicable for enforcement by the FTC with civil penalty authority.

H.R. XXXX, (Tenney), the Community Institution Mortgage Relief Act of 2017

To be introduced by Rep. Tenney, the Community Institution Mortgage Relief Act of 2017 amends the Truth in Lending Act (TILA) to direct the Consumer Financial Protection Bureau (CFPB) to exempt from certain escrow or impound requirements a loan secured by a first lien on a consumer's principal dwelling if the loan is held by a creditor with assets of \$50 billion or less. The CFPB must also provide either exemptions to, or adjustments from, the mortgage loan servicing and escrow account administration requirements of the Real Estate Settlement Procedures Act of 1974 for servicers of 30,000 or fewer mortgage loans.

H.R. XXXX, (Hill), the TRID Improvement Act of 2017

To be introduced by Rep. Hill, the TRID Improvement Act of 2017 amends the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA) to expand the period in which a creditor is allowed to cure a good-faith violation on a loan estimate or closing disclosure from 60 to 210 days after consummation.

This bill also amends the RESPA to allow for the calculation of a simultaneous issue discount when disclosing title insurance premiums.