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The Honorable Paul Ryan
H-232 The Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
H-204 The Capitol
Washington, DC 20515

September 12, 2016

Dear Speaker Ryan and Leader Pelosi,

On behalf of the National Council of La Raza (NCLR), the largest national Hispanic civil rights and advocacy organization in the United States, I am writing to express our grave concerns about the "Financial CHOICE Act" (H.R. 5983) and urge you to oppose this measure. Passage of this legislation would have a devastating effect on consumers, who would lose protections from exploitation and the economy from financial risk. This legislation would undermine crucial enforcement and compliance actions provided by the Dodd-Frank Wall Street and Consumer Protection Act, de-regulate financial institutions and expose average American consumers to the greatly heightened risk of abuse in their regular dealings with the financial system, and our economy as a whole to heightened risk of instability and crisis.

Dodd-Frank was enacted following the financial crisis to put in place needed financial reforms that were essential for ensuring a stable economic recovery for all Americans and to avoid future economic catastrophe. Latino families, for example, lost 66% of net household wealth. The law has helped to ensure individuals and families hardest hit by the financial crisis can build wealth and have access to safe and affordable credit without being exposed to predatory and illegal practices. Dodd-Frank also created the Consumer Financial Protection Bureau (CFPB), an agency dedicated solely to advocating for consumers within the federal government. The Financial CHOICE Act would repeal important gains in the Dodd-Frank Act and would return to a regulatory environment similar to the risky conditions that led to the financial crisis. If enacted, the Financial CHOICE Act would:

- Rescind CFPB guidance that prevents discrimination in auto lending;
- Allow states to opt out of the CFPB's proposed rule on payday lending;
- Prevent implementation of the CFPB's proposed rule against forced arbitration clauses, and deny consumers access to the courts to remedy financial abuses they have suffered;
- Exempt a wide range of mortgages from new "Qualified Mortgage" rules designed to prevent the consumer abuses seen in the subprime mortgages that contributed so greatly to the 2008 financial crisis, and would exempt mortgages held on bank portfolios from consumer protections;
- Repeal the CFPB's authority to stop abusive acts and practices in consumer finance, literally striking the prohibition on abusive acts and practices from the U.S. Code;

- Block implementation of the Department of Labor’s finalized rule to update the definition of “fiduciary” for retirement investment advisers;
- *Completely eliminate* the Dodd-Frank liquidation authority, which would increase the threat of “Too Big To Fail,” and replace it with a procedure that would grant special privileges under the bankruptcy code to large financial institutions and their key directors.

Rescinds CFPB’s guidance that prevents discrimination in auto lending. According to the 2007 Survey of Consumer Finances, 86% of all U.S. households and 76% of minority households own a car.¹ Since vehicles represent the second-largest purchase for most consumers, relatively few car buyers can afford to pay cash. This means that most consumers are vulnerable to subjective markups and predatory lending that can damage a family’s credit and finances for decades. Since its creation, the CFPB has reached settlements with Honda, Toyota, and others for charging higher interest rates on loans to minority car-buyers. In total, auto lenders have paid close to \$200 million for charging discriminatory interest rates, with millions of dollars returned to harmed consumers.² Perpetuating these practices would be detrimental to all Americans and Latino families in particular. Even though some low-income and Latino families might have thin or no credit, and are therefore deemed hard to serve, there are better loans available for them. NCLR opposes legislation that would undermine the CFPB’s guidance that would curb discrimination in auto lending.

Allows states to opt out of CFPB’s proposed rule on payday lending. Countless studies and articles show the damage payday lending has done to the Latino community. For example, Ayde Saavedra,³ an Idaho mother of three, was badly in need of car repairs, so she turned to the only place where she knew she could get cash quickly. Saavedra took out loans from three different lenders, ranging from \$700 to \$1,000. They each give Saavedra a loan without any regard for her financial situation and what a loan with such interest rates might mean for her and her family. She has no idea how many times she has had to renew her original loans and she’s still trying to pay them back. Saavedra is buried under crippling debt that has led to bankruptcy, closed bank accounts, and harassing phone calls. The typical payday loan carries an exorbitant 391% annual percentage rate (APR). Communities of color, including Latinos, are heavily targeted.⁴ Coupled with the high percentage of communities of color that do not have access to traditional banks,⁵ this targeting creates a financially stressful combination where vulnerable borrowers have few options.

¹ U.S. Bureau of the Census, Most of Us Still Drive to Work, news release, June 13, 2007, http://www.census.gov/Press-Release/www/releases/archives/american_community_survey_acs/010230.html (accessed October 9, 2009).

² Driving a Hard Bargain: Improving the Auto Market for Latino Families. <http://publications.nclr.org/handle/123456789/524>

³ See: <http://blog.nclr.org/2016/03/16/truth-payday-lending-aydes-story/>

⁴ See: <https://www.teamupturn.com/reports/2015/led-astray>

⁵ See:

http://publications.nclr.org/bitstream/handle/123456789/1203/bankingincolor_web.pdf?sequence=1&isAllowed=y

Exempts a wide range of mortgages from the new “Qualified Mortgage” rules prevent consumer abuses in the subprime mortgage market. Along with the significant loss of wealth, leading up to the financial crisis Latino borrowers were disproportionately steered toward subprime loans even when they had good credit. Compared with whites, Latinos were 30 percent more likely to receive high-cost loans at the height of the housing bubble.⁶ From 2005 to 2009, the median level of home equity held by Latino homeowners declined by half—from \$99,983 to \$49,145. At the same time, homeownership rates among Hispanics fell from 51% to 47%. These trends were exacerbated by geographic location as a disproportionate share of Latinos live in California, Florida, Nevada, and Arizona, the states that experienced the steepest declines in housing values during the crisis. In the aftermath, there was a palpable sense that the financial system was fundamentally unsound. Action, in the form of Dodd-Frank legislation, was needed to prevent a future crisis of the same magnitude.

Blocks implementation of the CFPB’s proposed rule against forced arbitration clauses. Latinos represent a considerable number of the consumers who will be affected by the proposed force arbitration regulations and among those who would be denied access to the courts to remedy financial abuses they have suffered. Seventy-five percent of Latinos are banked, approximately half of which have both a checking and a savings account.⁷ Nearly half of Latinos (43%) report using their credit card to pay for basic living expenses.⁸ Two in three Latinos complete their college degree with some student loan debt.⁹ Latinos use checking accounts and credit cards at a higher rate than prepaid cards or payday loans. In aggregate, tens of millions of Latinos would be expected to benefit from the proposed regulations.

Repeals the CFPB’s authority to stop abusive acts and practices in consumer finance. Particularly important for communities of color is being able to access financial services without being targeted or profiled. In an effort to make the financial marketplace more equitable, the CFPB has filed about a dozen actions¹⁰ against providers that demonstrated clear evidence of restricting access to—or charging minority borrowers more for—products and services. As a result of these actions, approximately \$30 million has been assessed in civil money penalties and more than \$400 million in restitution has been ordered to approximately 1.4 million affected minority consumers.

⁶ Bocian, Debbie Gruenstein, Keith S. Ernst, and Wei Li. 2006. *Unfair Lending: The Effect of Race and Ethnicity on the Price of Subprime Mortgages*. Durham, NC: Center for Responsible Lending.

⁷ National CAPACD, National Urban League, National Council of La Raza, and Alliance for Stabilizing Our Communities. *Banking in Color: New Findings on Financial Access for Low- and Moderate-Income Communities*. Rep. 2014. Web. 10 June 2016.

⁸ Traub, Amy. "Credit Card Debt in the Latino Community." Demos - An Equal Say and an Equal Chance for All. 27 Oct. 2014. Web. 10 June 2016. <<http://www.demos.org/publication/credit-card-debt-latino-community>>.

⁹ Johnson, Anne, Tobin Van Ostern, and Abraham White. *The Student Debt Crisis*. Rep. Center for American Progress, 25 Oct. 2012. Web. 10 June 2016. <<https://cdn.americanprogress.org/wp-content/uploads/2012/10/WhiteStudentDebt-5.pdf>>.

¹⁰ See: http://www.consumerfinance.gov/policy-compliance/enforcement/actions/?form-id=0&filter0_title=&filter0_topics=Fair+lending&filter0_topics=redlining&filter0_topics=Discrimination&filter0_from_date=&filter0_to_date=

Blocks implementation of the Department of Labor’s finalized rule. In addition to blocking implementation of the Department of Labor’s finalized rule to update the definition of “fiduciary” for retirement investment advisers, the “Financial CHOICE Act” it would prohibit any future action by the Department to update regulations on retirement investment advice until after the Securities and Exchange Commission (SEC) promulgates their own rule. The legislation then erects barriers to SEC action, preserving the status quo and continuing to permit conflicted advice that may not be in the best interest of hardworking Americans saving for retirement. NCLR has supported the rule-making effort by the Department of Labor and opposes any attempts to undermine the rule’s integrity or impede its implementation.

Eliminates Dodd-Frank’s liquidation authority. Dodd-Frank’s Orderly Liquidation Authority hold executives and directors accountable for actions connected to a company’s failure. By contrast, the special privileges granted in the Financial CHOICE Act would completely immunize the directors of a failing financial company from personal liability for actions in connection with the bankruptcy. By depriving the court of crucial elements of its supervision over a failing financial company, this section would also allow a large financial institution to avoid creditor claims that would apply to any normal company entering bankruptcy.

NCLR appreciates the complexity of regulatory reform and the importance of Dodd-Frank. Rather than repealing and replacing the Dodd-Frank Act, Congress should work to build on its successes to ensure that the American economy’s engine – its workers and consumers – are protected, not just Wall Street. The CFPB should move forward with strong regulations to protect consumers and end discriminatory practices and Congress, where applicable, should strengthen the law and support these efforts. Thank you for your consideration. For more information, please contact Lindsay Daniels, at ldaniels@nclr.org or (202) 776-1704.

Sincerely,



Eric Rodriguez

Vice President