

December 9, 2019

The Honorable Maxine Waters
Chairwoman
House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of the Consumer Bankers Association (CBA), I am writing to share our views on various bills scheduled to be considered in the Finance Services Committee's markup on December 10, 2019. CBA is the voice of the retail banking industry whose products and services provide access to credit for 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. CBA's membership also includes the private sector lenders who make the majority of private student loans to help families finance a postsecondary education.

The State of Student Loan Debt

As lawmakers look for solutions to help borrowers out from under the growing and worrisome student debt crisis, it is important to have a clear understanding of the crux of the problem. Student loan debt in America currently totals \$1.6 trillion. However, the federal government dominates the market by holding an astonishing 92 percent of this debt totaling \$1.5 trillion in loans. Only one in five federal loan borrowers is paying down principal on their loans, according to the Department of Education. More than 1 million federal loan borrowers have loans that are delinquent or in default, and 43 percent of federal loans are delinquent or in distress. Even though new federal student loan originations are declining slightly, their balance is increasing, by an average of 8 percent a year since 2010. Clearly, there is a serious problem with the federal student loan system. The situation for private student loans stands in stark contrast.

Private lenders hold about \$120 billion of student loan debt, most of it held by CBA member banks. According to the latest data available only 1.85 percent of private loans are in default (compared to roughly 20 percent of federal loans), and less than 3 percent are as much as 90 days delinquent. A 98 percent successful repayment rate shows that banks are making responsible loans that borrowers can repay, and that private sector financial counseling and servicing standards are working. The federal government has an obligation to provide access to higher education but is not helping students and families by making loans they cannot repay.

H.R. 4545, the *Private Loan Disability Discharge Act*

The *Private Loan Disability Discharge Act* is unnecessary and would complicate the process currently utilized by individual banks when discharging these loans. CBA member banks forgive loans for borrowers affected by total and permanent disability, along with the co-signers. CBA bank lenders also forgive loans of borrowers and co-signers in case of death of the student borrower and did so before it was mandated under enactment of the *Economic Growth, Regulatory Relief, and Consumer Protection Act* (Pub. L. 115-174) last year. We appreciate and agree that borrowers with total and permanent disabilities deserve assistance, but legally mandating an already well-established business practice only adds inefficient and unnecessary compliance costs.

CBA members are committed to policies that ensure financial institutions operate in a safe manner and treat their customers honestly and fairly. Banks do best when their customers succeed and are motivated by core business principles to help them do so. We urge the Committee to reconsider proposals that would impose new rules on an already well-functioning and highly regulated bank system and instead focus on borrowers struggling under the broken federal system that overwhelmingly contributes to the rise in student debt.

H.R. 5294, the *Student Borrower Protection Act of 2019*

CBA opposes the *Student Borrower Protections Act*. While there are certain instances when subsidized federal loans are the best option for a borrower, private student loans are by no means inherently inferior and in many cases may offer better terms and conditions, depending on the individual. CBA member banks provide high quality, thoroughly regulated consumer-friendly products backed by excellent service, as illustrated by their performance in repayment. Private student lenders are subject to long-standing requirements of the *Truth in Lending Act* (TILA) and supervised by prudential regulators, the Department of Education, and the Consumer Financial Protection Bureau (CFPB). This proposed legislation is duplicative and would unnecessarily complicate student loan origination and servicing for lenders and borrowers.

H.R. 5294 attempts to create solutions to problems that do not exist. There is simply no evidence to support H.R. 5294's mandate to the CFPB to upend existing processes by redesigning banks' billing statements. Duplicating requirements already in law and mandating routine business practices into federal statute, will decrease flexibility to lenders who strive to meet a borrowers needs by requiring regulators and stakeholders to undertake an unnecessary, ridged and lengthy rulemaking process that will raise costs, slow innovation and complicate a well-functioning customer service process.

For example, the purpose of a bank making any loan, including a student loan, is to be repaid according to the terms of the loan and ideally maintain a positive relationship with the customer to provide for any future financial needs. Billing statements are therefore carefully and deliberately designed to be customer friendly and accessible, clearly disclosing needed information. Our member banks' success in these measures is evidenced by over 98 percent of private student loan borrowers performing in good standing.

Similarly, H.R. 5294 gives detailed instructions for payment allocations when a borrower has more than one loan with the same lender. Applicable current law requires lenders to work in their customers' best interests and borrowers typically tell lenders how to allocate payments. With millions of customers and millions of loans, there are countless payment scenarios that Congress or any regulator can anticipate and thus H.R. 5942 proposes an impossible compliance regime. Even if it were realistic, there is again no evidence supporting these broad revisions and no discernable consumer benefit.

One area where major improvement is needed is in federal student loan disclosures. CBA supports H.R. 1161, the *Student Loan Disclosure Modernization Act*, bipartisan legislation introduced by Representatives Emanuel Cleaver (D-MO) and Jim Banks (R-IN), many much-needed improvements to student loan disclosures to raise them to the level of individualized disclosure provided by private lenders. The bill would also improve the Department of Education's inappropriately named Plain Language Disclosure by clearly explaining the costs and terms of federal student loans to help borrowers better understand their loan commitments and increase their prospects of successfully repaying.

CBA encourages policymakers to address the root cause of student debt: the cost of college and federal over-lending. Improved up-front and ongoing disclosures about the terms and conditions of federal loans are a first step. Banks can offer ideas based on their own experiences serving their customers under TILA standards on improving disclosures at the outset and later working with borrowers to help with any unforeseen repayment challenges. CBA remains eager to work with the Committee on solutions for improving disclosures and working with federal loan borrowers to improve repayment outcomes for all borrowers.

H.R.5332, the *Protecting Your Credit Score Act of 2019*

CBA opposes the *Protecting Your Credit Score Act of 2019*. Section 5 of the bill, "Injunctive Relief for Victims," is especially concerning because it undermines the CFPB and Federal Trade Commission's (FTC) primary authority to enforce the Fair Credit Reporting Act (FCRA) in a manner consistent with maintaining a nationwide credit reporting system that benefits businesses and consumers. Congress enacted FCRA in 1970 with emphasis on ensuring fairness, accuracy, and efficiency within the banking system, and in doing so specifically granted the federal regulators alone the right to pursue injunctive relief for violations, thus avoiding the possibility of multiple courts issuing conflicting orders. Adding this authority to existing remedies for FCRA violations, including fines and other serious penalties, is unnecessary and will have no impact on improving credit reporting for consumers. As depository institutions supervised by prudential federal regulators with deep expertise and experience in financial markets, CBA members are concerned with the potential this legislation creates for unlimited injunctive authority to impair nationwide financial systems.

CBA is also troubled by Section 4, "Improved Dispute Process for Consumer Reporting Agencies." The CFPB already has authority to enforce fines for FCRA violations, and this proposal would complicate cost effective and efficient process by which furnishers can follow steps mandated under federal law to distinguish false or illegitimate disputes from actual consumer problems that should draw focus and proper inquiry. Safety and soundness considerations require the highest standards for complete and accurate consumer information in the underwriting process. Modifying or deleting disagreeable, but

accurate consumer information from any report without proper input from furnishers will interfere with prudent risk assessments and raise costs for all consumers.

Furthermore, the “Bureau Credit Reporting Ombudsman” as written under this section has seemingly unrestrained individual authority that could make determinations on a consumer’s credit profile without the due process or appeal mechanisms generally required under the Administrative Procedure Act (APA). This unilateral decision-making authority could have a serious and negative impact on a bank’s ability to determine risk and extend affordable credit.

Thank you for your consideration of our views. CBA remains eager to assist your efforts at improving outcomes for all borrowers.

Sincerely,

A handwritten signature in cursive script that reads "Richard Hunt". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Richard Hunt
President and CEO
Consumer Bankers Association