March 25, 2019

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
2004 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairwoman Waters and Ranking Member McHenry:

The Consumer Bankers Association (CBA) submits the following comments for the markup of H.R. 1500, the Consumers First Act. 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.

In 2010, Congress created the Consumer Financial Protection Bureau (CFPB) under the Dodd-Frank Act and granted it broad rulemaking, supervisory, and enforcement authority over nearly the entire $3 trillion financial services industry, headed by a single director with sole responsibility for management and essentially full discretion over the Bureau's regulatory agenda. Now, after less than a decade since enactment, H.R. 1500 amends the Dodd-Frank act to restructure the CFPB and reverse certain actions taken by one of its directors to date. While CBA respectfully offers comments on two specific proposed changes below, our primary position remains that Congress should depoliticize CFPB operations by replacing the single director with a bipartisan multi-member Senate confirmed commission with staggered terms in office and a Chair of the Commission to be appointed by the President. A commission of individuals with diverse experience and expertise related to consumer financial products and services would elevate CFPB functions and transparency by providing an open debate of differing ideas, viewpoints, and solutions, encouraging all sides to contribute to carefully conceived and lasting solutions for consumers.

In Congress, bipartisan legislation establishing a commission has passed the House Financial Services Committee six times and passed the House of Representatives four times, with both Democrats and Republicans voting in favor each time. When Dodd-Frank passed the House in 2009 under the leadership of then-House Financial Services Committee Chairman Barney Frank (D-MA), it included a provision that would establish a five-member commission at the Bureau.

Importantly, the American people are supportive of a bipartisan commission at the Bureau. A Morning Consult poll found that by a margin of three to one, registered voter's support a bipartisan commission over a sole director, with only 14 percent of those polled stating they prefer to keep the Bureau's current leadership structure.[1] Additionally, two-dozen trade associations representing thousands of banks, credit unions, financial institutions, and businesses of all sizes support this needed change.

[1] Morning Consult Poll, May 3, 2017.

Separation of Ombudsman and Office of Students Role
For several years, the CFPB Student Loan Ombudsman also led the Office of Students. These are incompatible roles as they create a conflict of interest. An ombudsman should be impartial and serve in a confidential capacity, while a division head at the agency is a policy maker, enacting rules or recommending enforcement by the agency. CBA strongly recommends the Bureau separate the positions.

Complaint Database
Dodd-Frank did not explicitly call on the Bureau to publicly share complaints. The purpose of the complaint database was to provide the Bureau with information to allow them to target problem areas, which does not require the database to be publicly released.

The legitimacy or accuracy of the information provided by the consumers to the Bureau through the complaint database is largely unverified. The CFPB's only duty is to ensure the consumer is in fact a customer of that company, and the company is a covered financial service provider. With the CFPB's database exceeding one million complaints, and the unsubstantiated nature of the complaints, the Bureau has effectively created a Government sponsored "YELP" like database where comments are publicly shared with little proof of validity.

Banks and credit unions maintain robust compliant management procedures and work diligently to resolve disputes quickly, in order to maintain a positive customer relationship. Depository institutions are also examined on a regular basis by federal regulators to ensure strong and effective complaint management. CBA is concerned about the potential for compromising consumer privacy. A publicly shared database erodes consumer privacy by impairing the confidential nature of the exchange between customer and their financial institution. CBA supports policy that would limit the public dissemination of unsubstantiated information submitted through the CFPB complaint database that could have unintended consequences on bank and consumers.

CBA stands ready to work with Congress and the CFPB to implement the suggested legislative and regulatory improvements to the Bureau, and we appreciate the opportunity to submit these views.

Sincerely,

Richard Hunt
President and CEO
Consumer Bankers Association