

June 1, 2020

*Submitted to eRulemaking Portal*

Director Kathleen L. Kraninger  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

Re: Request for Information from Taskforce on Federal Consumer Financial Law, Docket No. CFPB-2020-0013

Dear Director Kraninger,

The 27 undersigned consumer, community, and civil rights groups write in response to the request for information from Taskforce on Federal Consumer Financial Law (Taskforce).<sup>1</sup>

We view this Taskforce as illegitimate, one-sided, and highly inappropriate during a pandemic. The Taskforce consists solely of five outside conservative academics and industry lawyers, including those who have represented payday lenders or others in CFPB enforcement actions and consumer litigation, and has no consumer representatives.<sup>2</sup> We are aware of several well-qualified academics who have a track record of working to advance consumer protections who were rejected, some after hostile interrogations. The absence of anyone to hold the Taskforce accountable makes it especially concerning that it was created in apparent evasion of the Federal Advisory Committee Act, even though Congress explicitly mandated that the CFPB follow FACA.<sup>3</sup>

At a time when the Bureau and all of our organizations should be focused on protecting consumers – and our own organizations and staff – from the impacts of the COVID-19 economic and health crisis, the Bureau has asked the public to comment on broad, far-reaching questions that go to fundamental questions about how to protect consumers. The Bureau has also provided a short 60-day comment window, even though the Bureau recently extended a separate, much narrower, comment request on time-barred debt disclosures because “the pandemic makes it difficult to respond to the [proposed rule]

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<sup>1</sup> CFPB, Request for Information: Assist the Taskforce on Federal Consumer Financial Law, 85 Fed.Reg.18214 (Apr. 1, 2014), <https://www.regulations.gov/document?D=CFPB-2020-0013-0001>.

<sup>2</sup> Evan Weinberger, Bloomberg Law, Financial Watchdog’s Conflicted Task Force Earning Top Dollar (May 11, 2020) (“E. Weinberger, Conflicted Task Force”), <https://news.bloomberglaw.com/banking-law/financial-watchdogs-conflicted-task-force-earning-top-dollar> (noting that the Taskforce has no consumer representation and “consists of five outside conservative academics and industry lawyers who have represented payday lenders in CFPB enforcement actions and consumer litigation, as well as banks and other companies in regulatory matters.”).

<sup>3</sup> Congress passed 12 U.S.C. § 5493(h) specifically mandating that CFPB advisory committees be subject to the Federal Advisory Committee Act (FACA) after Republicans on the House Financial Services Committee criticized the CFPB for not holding public meetings. See Trey Garrison, Hensarling calls on CFPB to open closed meetings (March 17, 2014), <https://www.housingwire.com/articles/29332-hensarling-calls-on-cfpb-to-open-closed-meetings/>; Trey Garrison, Bill would force full transparency at CFPB (March 19, 2014), <https://www.housingwire.com/articles/29366-bill-would-open-cfpb-regulators-advisors-to-full-transparency/>. Yet the CFPB Taskforce is styled as an intra-governmental committee not subject to FACA “a CFPB spokesperson confirmed.” E. Weinberger, Conflicted Task Force, *supra*.

thoroughly and to determine when stakeholders will be able to do so.”<sup>4</sup> Yet even a time extension would not make this an appropriate endeavor. The CFPB should focus on preventing harm to consumers during the pandemic, rather than on an effort to rethink its mission and promote ideas to undo consumer protections.

Many of the questions the Taskforce poses hint at deeply disturbing ideological preconceptions that focus more on undoing consumer protections than enhancing them. Contrary to the subtext of the Bureau’s questions, education, disclosures and competition are not enough to protect consumers. Enforcement must be more than a backstop that is limited to only the most abusive practices. The amount of industry profits or skewed industry cost estimates should not be used to block rules that provide important protection to consumers, even if the consumer benefits are not always quantifiable. Access to credit does not justify preserving predatory lending or destructive practices that leave consumers worse off. States are important backstops against inaction at the federal level. Indeed, Congress already made decisions about how to balance the competing interests on many of the questions the Bureau has posed, such as the important role of states in enforcing CFPB rules.

Moreover, the CFPB already consumed thousands of hours of our organizations’ time by posing many of these same questions in the 12 requests for information that Acting CFPB Director Mick Mulvaney put out in 2018 on a wide range of aspects of the Bureau’s operations and the laws and regulations it oversees:

- Civil investigative demands;<sup>5</sup>
- Administrative adjudications;<sup>6</sup>
- Enforcement processes;<sup>7</sup>
- Supervision program;<sup>8</sup>
- External engagements;<sup>9</sup>

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<sup>4</sup> CFPB, Supplemental notice of proposed rulemaking; extension of comment period, 85 Fed. Reg. 30890, 30891 (May 21, 2020).

<sup>5</sup> See, e.g., Americans for Financial Reform et al., <https://www.nclc.org/images/pdf/rulemaking/coalition-cid-rfi-2018.pdf> (April 26, 2018) (coalition overview comments); Americans for Financial Reform et al., <https://www.nclc.org/images/pdf/rulemaking/cfpb-crl-cfa-rfi-2018.pdf> (April 26, 2018) (longer comments); Public Citizen, <https://www.regulations.gov/document?D=CFPB-2018-0001-0074> (April 25, 2018); Legal Academics, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Legal-Academic-on-Civil-Investigatory-Demands.pdf> (April 25, 2018); Applesseed Network, <https://www.regulations.gov/document?D=CFPB-2018-0001-0081> (April 26, 2018); National Association of Consumer Advocates, <https://www.regulations.gov/document?D=CFPB-2018-0001-0073> (April 26, 2018).

<sup>6</sup> See, e.g., Center for Responsible Lending et al., <https://www.regulations.gov/document?D=CFPB-2018-0002-0027> (May 7, 2018); Financial Services Scholars, <https://www.regulations.gov/document?D=CFPB-2018-0002-0024> (May 7, 2018)

<sup>7</sup> See, e.g., Allied Progress, et al., <https://www.nclc.org/images/pdf/rulemaking/coalition-34-cfpb-enforcement.pdf> (May 14, 2018) (coalition overview comments); Americans for Financial Reform, et al., <https://www.nclc.org/images/pdf/rulemaking/cfpb-enforcement-rfi-group.pdf> (May 14, 2018) (longer comments).

<sup>8</sup> See, e.g., National Consumer Law Center, et al., <https://www.nclc.org/images/pdf/legislation/43-group-comments-cfpb-superv.pdf> (May 21, 2018) (coalition overview comments); Americans for Financial Reform, et al., <https://www.nclc.org/images/pdf/legislation/natl-group-detailed-comments-cfpb-superv.pdf> (longer comments).

<sup>9</sup> See, e.g., Allied Progress, et al., <https://www.nclc.org/images/pdf/rulemaking/group-comm-rfi-external-engagements.pdf> (May 29, 2018). CAB: Consumer Lending Subcommittee, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/CAB-Comment-on-External-Engagement.pdf> (April 18, 2018); Consumers Union, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Consumer-Union-Comment-on-External-Engagement.pdf> (May 25, 2018); Legal Academics, <https://ourfinancialsecurity.org/wp->

- Consumer complaint information;<sup>10</sup>
- Rulemaking process;<sup>11</sup>
- Adopted regulations;<sup>12</sup>
- Inherited regulations;<sup>13</sup>

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[content/uploads/2018/06/Legal-Academic-on-External-Engagements.pdf](https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Legal-Academic-on-External-Engagements.pdf) (May 29, 2018); Appleseed, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Appleseed-Comment-on-External-Engagements.pdf> (May 29, 2018); Consumer Action, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Consumer-Action-Comment-on-External-Engagements.pdf> (May 29, 2018); National Association of Consumer Advocates, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/NACA-Comment-on-External-Engagements.pdf> (May 29, 2018).

<sup>10</sup> See, e.g., Alaska Public Interest Research Group, et al., [https://www.nclc.org/images/pdf/regulatory\\_reform/cfpb-complaint-db-rfi-sign-on-2018.pdf](https://www.nclc.org/images/pdf/regulatory_reform/cfpb-complaint-db-rfi-sign-on-2018.pdf) (June 4, 2018); Veterans and Military Service Leaders, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Veterans-and-Military-Leaders-comment-on-RFI.pdf> (June 4, 2018); National Consumers League, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/National-Consumers-League-comments-on-RFI-regarding-public-reporting-practices.pdf> (June 4, 2018); AARP, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/AARP-Comment-on-RFI-regarding-public-reporting-practices-and-consumer-complaint-information.pdf> (June 4, 2018); Legal Academics, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Legal-Academic-on-Complaint-Reporting.pdf> (June 4, 2018), The Indiana Assets & Opportunity Network, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/The-Indiana-Assets-&Opportunity-Network-.pdf> (June 4, 2018).

<sup>11</sup> See, e.g., Americans for Financial Reform et al., <https://www.nclc.org/images/pdf/rulemaking/letter-group-cfpb-rfi-2018.pdf> (June 7, 2018) (coalition overview comments); <https://www.nclc.org/images/pdf/rulemaking/comment-afr-crl-nclc-cfpb-rulemaking-rfi.pdf> (June 7, 2018) (longer comments); Appleseed, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Appleseed-Comment-on-Rulemaking-processes.pdf> (June 7, 2018); Woodstock Institute, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Woostock-Comment-on-Rulemaking-Processes.pdf> (June 7, 2018); Consumers Union, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Consumers-Union-Comment-on-Rulemaking-Processes.pdf> (June 7, 2018); Public Citizen, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Public-Citizen-Comment-on-Rulemaking-Processes.pdf> (June 7, 2018), Legal Academics, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Legal-Academic-on-Rulemaking-Processes.pdf> (June 7, 2018).

<sup>12</sup> See, e.g., Americans for Financial Reform et al., <https://www.nclc.org/images/pdf/rulemaking/comments-adopted-regulations-coalition-rfi-cfpb.pdf> (June 19, 2018) (overarching comments); National Consumer Law Center et al., [https://www.nclc.org/images/pdf/regulatory\\_reform/comments-cfpb-rfi-housing-rulemaking.pdf](https://www.nclc.org/images/pdf/regulatory_reform/comments-cfpb-rfi-housing-rulemaking.pdf) (June 19, 2018) (mortgages); National Consumer Law Center et al., <https://www.nclc.org/images/pdf/rulemaking/comm-cfpb-rfi-adopted-rules-prepaid-cards.pdf> (June 19, 2018) (prepaid accounts); National Consumer Law Center et al., <https://www.nclc.org/images/pdf/rulemaking/comm-cfpb-rfi-adopted-rules-remittances.pdf> (June 19, 2018) (remittances and credit cards); National Consumer Law Center et al., <https://www.nclc.org/images/pdf/rulemaking/comm-cfpb-rfi-adopted-rules-debt-coll.pdf> (June 19, 2018) (upcoming debt collection regulations); Legal Academics, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Legal-Academic-on-Adopted-Regulations.pdf> (June 19, 2018).

<sup>13</sup> See, e.g., Americans for Financial Reform, et al. <https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-all-regs.pdf> (June 25, 2018) (overarching comments); National Consumer Law Center et al., <https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-and-non-lending.pdf> (June 25, 2018) (Regulation E, overdraft fees and bank account issues); Americans for Financial Reform, et al, <https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-disparate-impact.pdf> (June 25, 2018) (fair lending); National Consumer Law Center, et al. <https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-electronic-communications.pdf> (June 25, 2018) (electronic communications); National Consumer Law Center, et al., <https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-pace.pdf> (June 25, 2018) (Property Assessed Clean Energy (PACE) loans); National Consumer Law Center, et al.,

- Guidance materials;<sup>14</sup>
- Financial education programs<sup>15</sup>
- Consumer complaints and inquiries.<sup>16</sup>

We have attached over 500 pages of comments that our groups and others submitted – on top of hundreds of additional pages of comments on other Bureau rulemakings and information requests – in response to those 2018 requests for information. Yet the Bureau appears to have largely ignored the lengthy and detailed responses that our organizations submitted. We urge you to review those comments and others by the multitude of other organizations, academics, and members of the public who provided suggestions on things that the CFPB can do, within its jurisdiction, to improve the protection of consumers.

We do not intend to spend more time rebutting the implications in the Taskforce’s questions; in many cases, even a single question – such as whether we can count on disclosures and consumer “choice” to protect people – has been the subject of extensive research, commentary and debate over decades. Nor do we intend to embark on a project to justify the entire federal statutory consumer protection framework. Our organizations have thin resources that have already been severely strained by the need to respond to the coronavirus crisis. While some organizations and members of the public may submit brief responses to Taskforce questions, the Taskforce should not view those responses – or the absence of rebuttals to those who support weakening consumer protections – as legitimizing this enterprise.

The Taskforce claims to be inspired by the National Commission on Consumer Finance created in 1968. But the CFPB’s Taskforce has only five members, all with a track record of pushing for de-regulation – and, in some cases, conflicts of interests in the clients they have represented and may represent in the future.<sup>17</sup> In contrast, the National Commission on Consumer Finance was specifically authorized and funded by Congress; its work was bipartisan; a majority of its 12 members, supported by dozens of staff and student researchers, were members of Congress accountable to the public; its work spanned four years and drew on multiple public hearings with hours of testimony from leading consumer advocates as well as individual consumers and lenders.<sup>18</sup> Whereas the National Commission concerned itself with problems in the consumer financial market, the Taskforce asks about the burdens of compliance with consumer protections.

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<https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-tila-respa-mortg.pdf> (June 25, 2018) (Regulation Z (TILA) and Regulation X (RESPA); National Consumer Law Center, et al.,

<https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-tila-respa-mortg.pdf> (June 25, 2018) (FTC mortgage rules); Legal Academics, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Legal-Academic-on-Inherited-Regulations.pdf> (June 25, 2018).

<sup>14</sup> See, e.g., Alabama Appleseed Center for Law & Justice, et al.,

<https://www.nclc.org/images/pdf/rulemaking/coalition-comm-guidance-cfpb-rfi.pdf> (July 2, 2018).

<sup>15</sup> See, e.g., Allied Progress, et al., [https://www.nclc.org/images/pdf/regulatory\\_reform/Comments-CFPB-on-Financial-Education-RFIs.pdf](https://www.nclc.org/images/pdf/regulatory_reform/Comments-CFPB-on-Financial-Education-RFIs.pdf) (July 9, 2018).

<sup>16</sup> See, e.g., Allied Progress, et al., <https://www.nclc.org/images/pdf/rulemaking/grp-comments-rfi-cfpb-cons-inquiry-process.pdf> (July 16, 2018); California Reinvestment Coalition (July 13, 2018), <https://californiareinvestmentcoalitio.app.box.com/s/i31q75dgg7o4k12ualcxqz504zbxexp>.

<sup>17</sup> E. Weinberger, Conflicted Task Force, *supra* (noting that the Taskforce has no consumer representation and “consists of five outside conservative academics and industry lawyers who have represented payday lenders in CFPB enforcement actions and consumer litigation, as well as banks and other companies in regulatory matters.”).

<sup>18</sup> See National Commission on Consumer Finance, Consumer Credit in the United States (December 1972), <https://babel.hathitrust.org/cgi/pt?id=uc1.31822024338451&view=1up&seq=1>.

Even responsible industry players will be harmed by this diversion. Banks and other companies are overwhelmed trying to assist their customers seeking help due to the COVID-19 crisis. That's where their attention needs to be, not on this academic exercise, opining on the theoretical virtues of principle-based versus prescriptive regulation or on regulation versus deregulation. And if the CFPB actually implements any recommendations of the Taskforce, companies will face the prospect of see-sawing regulatory frameworks that, in light of the illegitimacy of this Taskforce, may well be undone by the next change of leadership.

The CFPB has received record-setting numbers of complaints by consumers crying out for help in dealing with abusive companies and the impacts of the coronavirus economic crisis. The CFPB should listen to and respond to those cries, not spend time proposing harmful changes to the consumer protection framework that protects the American public.

Yours very truly,

Allied Progress  
Americans for Financial Reform Education Fund  
Arkansans Against Abusive Payday Lending  
California Reinvestment Coalition  
Center for Digital Democracy  
Center for Economic Integrity  
Center for Responsible Lending  
Consumer Action  
Consumer Federation of America  
Interfaith Center on Corporate Responsibility  
Jacksonville Area Legal Aid, Inc.  
Kentucky Equal Justice Center  
Maryland Consumer Rights Coalition  
Mississippi Center for Justice  
NAACP  
National Association of Consumer Advocates  
National Consumer Law Center (on behalf of its low income clients)  
National Fair Housing Alliance  
National Housing Law Project  
North Dakota Economic Security and Prosperity Alliance  
Public Citizen  
Public Counsel  
Reinvestment Partners  
Texas Appleseed  
U.S. PIRG  
Virginia Citizens Consumer Council  
Virginia Poverty Law Center