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AN AGENDA FOR THE CONSUMER FINANCIAL PROTECTION BUREAU

Challenges for a New Era in Consumer Protection

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The Dodd-Frank Wall Street Reform and Consumer Protection Act creates a strong Consumer Financial Protection Bureau that will put a national priority on protecting consumers from unscrupulous practices in the financial arena. The Bureau will have its work cut out for it. Here are some priorities for protecting vulnerable consumers.

Mortgages. The CFPB's first priority must be to make the mortgage market safe for all participants to prevent another economic and family crisis. The Bureau must:

- Develop clear rules to ensure that all lenders adequately consider ability to repay;
- Stop brokers and mortgage lenders from steering homeowners into loans more costly than those for which they qualify;
- Require mortgage servicers to consider loan modifications where appropriate prior to foreclosing and restrict them from imposing unwarranted servicing fees and force placed insurance;
- Create a strong system to supervise nonbank mortgage lenders.

Credit cards. Congress adopted important protections in 2009, but the work is not done. The CFPB will need to:

- Monitor the credit card market to address violations and evasions of the Credit CARD Act;
- Prohibit complicated terms and hidden traps in credit cards so that consumers can shop for the best card without being hit with back-end surprises;
- Stop predatory marketing of credit cards to struggling consumers;
- Require credit card companies to disclose an APR that reflects the true cost of a credit card, including all fees.

Overdraft fees. New rules now requiring consumers to "opt in" to overdraft fees on their ATM and debit cards are only the first step. To address the overdraft abuses that remain, the CFPB must:

- Ban aggressive and deceptive tactics to induce opt-ins to overdraft fees;
- Limit excessive fees (in number and amount) that far exceed the costs of overdrafts;
- Prohibit bank tactics to increase overdraft fees, such as reordering transactions to cause overdrafts earlier in the day;
- Require banks to inform consumers of less expensive overdraft protection options.

Payday and auto title loans. Payday and auto title lenders, including some banks and credit unions, make loans at 400% or more until the next payday. The CFPB cannot set usury caps. But to address other pernicious aspects of high cost lending, it should:

- Ban dangerous forms of security, including check holding, electronic access to the consumer's account, and holding car titles;
- Stop the evasion of usury caps through junk fees and other ruses;
- Crack down on reckless lending that, due to high price, short repayment time, or failure to consider ability to pay, is unaffordable for a high proportion of borrowers;
- Protect Social Security, unemployment insurance, and other exempt funds from these lenders.

Auto loans. The CFPB will have jurisdiction over most auto lenders and some car dealers, with the FTC handling the remainder. To bring fairness and transparency to the auto lending market, the CFPB and the FTC together must:

- Prohibit kick-backs to dealers who put consumers in more expensive loans;
- Prohibit bait and switch tactics through "yo-yo" clauses that give dealers a unilateral right to cancel the sale or loan;
- Ensure that the condition of used cars is accurately represented to borrowers and lenders by requiring independent inspections and disclosure of known defects.

Private student loans. Federal student loans have a variety of protections, but private student loans can be much more dangerous. The CFPB must:

- Prohibit lenders from pushing students to take on more expensive and riskier private loans without first exhausting their federal aid;
- Work with private lenders to develop flexible, income-based repayment, loan modifications, and other debt management tools;
- Stop predatory lending by proprietary schools and protect students from responsibility for loans used at schools that close or defraud students.

Prepaid debit cards. Consumers fed up with bank accounts, and unbanked public benefit recipients and workers, are increasingly using prepaid cards. Though the cards have many benefits, the CFPB needs to beef up spotty legal protections in order to:

- Ban inappropriate fees, such as fees to check the card's balance, overdraft fees, and denied transaction fees;
- Give consumers full protection from loss, theft or unauthorized charges;
- Ensure that consumers can get statements and other convenient forms of transaction information;
- Prohibit prepaid cards that hold wages or public benefits from using those funds to secure predatory payday loans.

Credit reports. A consumer's credit report impacts not only the price and availability of credit but also auto and homeowner's insurance and employment. The CFPB must:

- Force creditors and credit bureaus to clean up a system that produces reports prone to mistakes such as incorrect and outdated information, fraudulent accounts due to identity theft, and mixed up files of different consumers;
- Reform the credit bureaus' travesty of an automated system for addressing consumer disputes with credit reports;

- Address racial disparities in credit reports, which impact not only credit pricing and availability but also employment and homeowners and auto insurance;
- Make credit scoring fairer and less opaque to consumers and policymakers;
- Restrain credit bureaus from sweeping new data, such as utility payments, into the credit reporting system if the benefits are outweighed by the harm to vulnerable consumers.

Debt collection. The Federal Trade Commission receives more complaints about debt collectors than any other industry, more than 120,000 in 2009. The responsibility to address these problems now passes to the CFPB, which needs to:

- Stop the widespread use of illegal threats and harassment, and practices that often lead to collection of the wrong amount or from the wrong person;
- Bar collection of "zombie debt" that never dies but is sold and resold to the next debt buyer even if the consumer disputes it or it is too old to be legally collectible;
- Prohibit abuses of the justice system, including failure to give the consumer notice, spreadsheet justice without evidence of the debt, and laundering of time-barred debts with new judgments.

Forced arbitration. Consumers who obtain financial products or services are routinely required to give up their access to justice if the company violates the law. Forced arbitration pushes consumers into a secretive, biased and lawless system before private judges paid by industry. All of the laws in the world do not matter if companies can ignore them with impunity. The CFPB should:

- Exercise its authority to ban forced arbitration clauses in agreements for consumer financial services and products.