ConsumersUnion®

THE ADVOCACY DIVISION OF CONSUMER REPORTS

May 22, 2018

United States House of Representatives
Washington, DC 20515

Dear Representative:

Consumers Union, the advocacy division of Consumer Reports,[1] writes to express its strong opposition to S. 2155, The Economic Growth, Regulatory Relief, and Consumer Protection Act. This bill would undermine important Dodd-Frank banking regulations designed to prevent another financial crisis and would expose home buyers to financial exploitation and predatory lending. In addition, while this bill would eliminate fees for security freezes at the three major credit bureaus, Equifax, Experian, and TransUnion, which Consumers Union has long fought for in the states, the security freeze section would not cover many less well-known credit bureaus, leaving consumers vulnerable to identity theft. Moreover, it could preempt the states from making improvements in their security freeze laws to ensure that consumers have adequate protections against fraud.

Instead of strengthening protections to help prevent another financial crisis, this bill would weaken post crisis risk controls on 25 of the 38 largest banks in the United States, and could be used to deregulate the U.S. activities of large foreign banks, like Barclays and Credit Suisse. This could have devastating and widespread effects on consumers and the economy. Because of the financial crash of 2008 and the years of recession that followed, millions of consumers lost their homes,[2] the median wealth of the middle class dropped 28%,[3] and the unemployment rate more than doubled.[4] Consumers simply cannot afford another financial crisis.

Additionally, this bill weakens protections against racial discrimination in the credit markets by expanding exemptions from the Home Mortgage Disclosure Act, the key source of public information about lending discrimination. It also sanctions the conflicts of interest and harmful steering practices that plagued the manufactured home industry prior to Dodd-Frank. This bill modifies the Truth in Lending Act to exempt retailers of manufactured homes from the definition of a "mortgage originator," thus also exempting these retailers from rules that limit conflicts of interest and prevent brokers from steering

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[1] Consumers Union is the advocacy division of Consumer Reports. Consumers Union works for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves, focusing on the areas of telecommunications, health care, food and product safety, energy, and financial services, among others. Consumer Reports is the world's largest independent product-testing organization. Using its dozens of labs, auto test center, and survey research center, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 7 million subscribers to its magazine, website, and other publications.

[2] Laura Kusisto, *Many Who Lost Homes to Foreclosure in Last Decade Won't Return - NAR*, THE WALL STREET JOURNAL (April 20, 2015), https://www.wsj.com/articles/many-who-lost-homes-to-foreclosure-in-last-decade-wont-return-nar1429548640.

[3] *The American Middle Class is Losing Ground*, PEW SOCIAL TRENDS (Dec. 9, 2015), http://www.pewsocialtrends.org/2015/12/09/the-american-middle-class-is-losing-ground/.

[4] Catherine Rampell, *Comparing the Job Losses in Financial Crises*, THE NEW YORK TIMES (Sept. 25, 2012), https://economix.blogs.nytimes.com/2012/09/25/comparing-the-job-losses-in-financial-crises/.

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homebuyers into predatory loans. Too often, brokers have steered homebuyers to corporate affiliates and joint partnership arrangements between manufactured home dealers and financing institutions, leaving consumers vulnerable to costly fees, onerous terms, and high interest rates that they cannot pay.

Even the security freeze provision, intended to help protect consumers from identity theft, fails to adequately protect them. Nearly every state and the District of Columbia require credit bureaus to offer to all consumers the option to set up a security freeze, which blocks credit bureaus from releasing a consumer's credit information without their permission. Because a prospective creditor will typically pull a consumer's credit report before granting credit, "freezing" that information effectively prevents identity thieves from opening fraudulent accounts in a consumer's name.

While S. 2155 would guarantee consumers the right to free security freezes, lifts, and removals at the major credit bureaus, there are significant flaws in the bill. S. 2155 could preempt state security freeze laws with protections against fraud involving data collected by less well-known consumer reporting agencies, and prevent states from strengthening security freeze laws in the future. States including California, Illinois, and New Jersey guarantee consumers the right to establish freezes at certain smaller credit bureaus, which also collect extensive, sensitive information about consumers that can be used by fraudsters to commit identity theft. For example, data from the National Consumer Telecom Utilities & Exchange (NCTUE), a consumer reporting agency managed by Equifax, has been used to open fraudulent mobile phone accounts, even for consumers who have frozen their Equifax reports.[5] In contrast, S. 2155 limits freeze protections primarily to agencies that supply information for credit application checks, such as Equifax, Experian, and TransUnion.

Finally, the security freeze framework under S. 2155 poses hurdles to protecting one's credit because it would block states from passing new, innovative laws aimed at protecting consumer credit. One type of legislation that is being pursued in the states, but would be preempted by this bill, is "one-call" credit freeze legislation. Such legislation would require a credit bureau to give a consumer initiating a freeze the option to have the request forwarded to other credit bureaus. Multiple agencies collect data about consumers that leave them vulnerable to identity theft—some of which consumers are not even aware. Such a provision would help ensure that consumers have more comprehensive protection against identity theft. Several states, including California, Massachusetts, Indiana, Iowa, and Connecticut, introduced legislation this year that would guarantee this protection.

For these reasons, we respectfully ask that you oppose S. 2155, The Economic Growth, Regulatory Relief, and Consumer Protection Act.

Sincerely,

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[5] Brian Krebs, *Think You've Got Your Credit Freezes Covered? Think Again*, KREBS ON SECURITY (May 9, 2018), https://krebsonsecurity.com/2018/05/another-credit-freeze-target-nctue-com/.