

Tom Salomone  
2016 President

Dale A. Stinton  
Chief Executive Officer

**GOVERNMENT AFFAIRS DIVISION**

Jerry Giovaniello, Senior Vice President  
Gary Weaver, Vice President  
Joe Ventrone, Vice President & Deputy Chief  
for Regulatory Affairs  
Scott Reiter, Vice President  
Jamie Gregory, Deputy Chief Lobbyist

500 New Jersey Ave., NW  
Washington, DC 20001-2020  
Ph. 202-383-1194; Fax 202-383-7580  
www.REALTOR.org

July 11, 2016

The Honorable Jeb Hensarling  
Chairman  
U.S. House Financial Services Committee  
2228 Rayburn Office Building  
Washington, DC 20515

Dear Chairman Hensarling:

On behalf of the over 1.1 million members of the National Association of REALTORS® (NAR), I thank you for your efforts to responsibly expand credit access to consumers and businesses by introducing the “Financial Choice Act” (FCA).

NAR applauds your inclusion of language to enhance the quality and efficiencies of the services offered by mortgage and settlement providers. Adjustments to the Truth in Lending Act’s (TILA) definition of “points and fees” will allow for greater consumer choice in mortgage and settlement services under the Ability to Repay/Qualified Mortgage (QM) rule. This will enhance competition in the mortgage and title insurance markets, and ensure that consumers have greater access to mortgage credit and will be able to choose the lenders and title providers best suited for their individual needs.

NAR also strongly supports provisions within the FCA to preserve the manufactured housing industry without deterioration of important consumer protections. Clarification on the difference between manufactured housing producers and loan originators will ensure that low-dollar manufactured housing loans are exempt from the Home Ownership and Equity Protection Act (HOEPA) standards. Nearly 20 million Americans live in manufactured homes. These homes are often a more accessible and affordable way for many people, particularly individuals and families in rural communities, to buy their own home.

In addition to reversing some of the unintended consequences of the Dodd-Frank Act, NAR firmly believes that federal regulators must strike a well-balanced approach when implementing financial regulations. This approach must provide protections for consumers and businesses and ensure certain rules do not negatively impact mortgage markets and reduce access to affordable credit. For these reasons, NAR is pleased that the FCA requires all financial services regulatory agencies to conduct rigorous cost benefit analysis of all proposed rules and requires Congressional approval for all major regulations. NAR also believes that it is prudent for federal regulators to perform continuous retrospective reviews of all regulations to evaluate their success or failure, which will protect taxpayers and ensure rules do not weigh down our economy.

The recent *PHH Corporation v. CFPB* case has also shown the need for more transparency and accountability with regard to agency enforcement actions. This case challenged a decision by the Consumer Finance Protection Bureau (CFPB) that departed from longstanding legal interpretations other regulators had adhered to for decades. In this case, the CFPB exceeded its authority and retroactively applied a newly-decreed standard to justify levying an unprecedented penalty against PHH Corporation. Enforcement actions should not be applied retroactively to punish conduct by businesses based on explicit agency advice expressly approving such conduct. This creates uncertainty for businesses and ultimately reduces consumer



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choice for financial products. Therefore, NAR supports the repeal of the requirement that reviewing courts defer to CFPB interpretations where in conflict with statutory interpretations of other agencies.

Furthermore, NAR believes that it is critical for the CFPB to issue clear and timely product opinions in order for businesses to verify their financial products and services are compliant with federal law. This will improve safety for consumers while providing them with more financial options. Moreover, the creation of the “Small Business Advisory Board” within the CFPB is much-needed so businesses can advise and consult with the agency in the exercise of its functions under federal consumer financial laws applicable to eligible financial products or services. Businesses will also benefit from information from the CFPB on emerging practices of small businesses such as regional trends, concerns and other relevant information. As most REALTORS® are small business owners, NAR requests that at least one REALTOR® is selected to sit on the CFPB’s “Small Business Advisory Board.”

Another critical component for the creation, growth and success of many businesses is capital formation. NAR is supportive of the creation of the “Office of Small Business Capital Formation” and the “Small Business Capital Formation Advisory Committee” within the Securities and Exchange Commission (SEC) to assist small businesses and investors to help facilitate capital formation. As NAR’s commercial membership have experience in advocating for the interests of small businesses, including assisting clients secure financing, NAR requests that at least one REALTOR® is appointed to the “Small Business Capital Formation Advisory Committee.”

Finally, NAR appreciates the inclusion of language to make changes to the regulations established by the “JOBS Act of 2012” for equity crowdfunding, allowing for increased participation in and a greater flow of capital through crowdfunding. As lending for small businesses and commercial real estate remains tight, especially in smaller markets, alternative lending sources – like crowdfunding – could alleviate some of the issues that these businesses face getting credit. NAR’s membership is eager to embrace new methods of raising capital, but is aware of the need for and supports strong consumer protections within any new funding mechanism.

NAR is pleased that the FCA includes provisions that will enhance transparency, accountability and fairness in our financial system. As a result, the FCA will help expand financial product choice and promote economic opportunity. These provisions are an important step towards making property ownership a reality for hardworking Americans and U.S. businesses.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Salomone", with a stylized flourish at the end.

Tom Salomone

2016 President, National Association of REALTORS®

CC: Members of the U.S. House Financial Services Committee