115TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
115–420

BUREAU OF CONSUMER FINANCIAL PROTECTION EXAMINATION AND REPORTING THRESHOLD ACT OF 2017

NOVEMBER 21, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3072]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3072) to increase from $10,000,000,000 to $50,000,000,000 the threshold figure at which regulated depository institutions are subject to direct examination and reporting requirements of the Bureau of Consumer Financial Protection, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

Introduced by Representative William Lacy Clay on June 27, 2017, H.R. 3072, the "Bureau of Consumer Financial Protection Examination and Reporting Threshold Act of 2017", amends Section 1025 of the Dodd-Frank Wall Street Reform and Consumer Protection Act to increase from $10 to $50 billion the threshold at which depository institutions are subject to direct examination by and reporting requirements of the Consumer Financial Protection Bureau (CFPB).

BACKGROUND AND NEED FOR LEGISLATION

Title X of the Dodd-Frank Act authorizes the CPFB to act as the exclusive supervisory authority over banks, insured credit union

79–006

and other insured depository institutions with total assets of more than $10 billion for compliance with eighteen enumerated consumer protection laws. The CFPB also supervises nonbanks, regardless of size, including consumer mortgage companies (originators, brokers, servicers, and providers of loan modification or foreclosure relief services), payday lenders, and private education lenders. In certain specific markets, "larger participants" upon a CFPB rulemaking defining larger participants of that market, are also subject to the CFPB's supervisory authority. As of November 27, 2017, the CFPB has issued larger participant rules for the following markets: consumer reporting, consumer debt collection, student loan servicing, international money transfer, and automobile financing.

For insured credit unions, and other insured depository institutions with total assets of less than $10 billion, the federal prudential regulators, including the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Federal Reserve, and the National Credit Union Administration (NCUA) perform examinations to ensure compliance with the consumer financial laws. The CFPB may issue rules that apply to smaller institutions from authorities granted under the federal enumerated consumer financial protection laws. The CFPB also has the authority to include its examiners, on a sampling basis, at examinations of smaller institutions to assess compliance with the requirements of federal consumer financial laws.

Title X of the Dodd-Frank Act gave the CFPB broad and unchecked authority to punish companies for unspecified acts or practices under its "Unfair, Deceptive, and Abusive Acts and Practices", or "UDAAP" authorities. Rather than use its rulemaking authority to define "abusive" so that supervised entities may conform their behavior accordingly, the CFPB defines "unfair," "deceptive" and "abusive" practices through enforcement activity. As such, there is no clear standard to follow for an entity under the CFPB's authority to determine whether it is in violation of the law.

The CFPB's examination and enforcement authority allows it to conduct investigations to determine whether any person has engaged in conduct that violates federal consumer financial law. Under these broad authorities, the CFPB can require institutions provide it with vast amounts and types of information. The CFPB's published examination manuals detail burdensome procedures that require institutions to locate and produce vast tranches of documents and records that touch nearly evert part of the business, which in turn force regulated entities to devote human and financial resources to respond to examiners' interrogations. In some instances, financial institutions must submit to ongoing scrutiny of its entire regime of policies and procedures.

As a result, the CFPB's investigative findings often lead to public enforcement actions. The CFPB has a number of enforcement tools at its disposal when it completes an examination, including the power to investigate covered persons and service providers, to issue administrative subpoenas and compel testimony, issue cease-and-desist orders; and initiate actions in Federal court in order to obtain monetary relief for consumers and civil money penalties.

The CFBP's regulatory, examination and supervisory regime particularly burdens smaller community financial institutions relative to their large competitors that are better able to absorb the associated costs. The weight and complexity of regulation for community financial institutions affects their ability to provide financial products and services necessary to allow small businesses to grow and consumers to access credit to realize their financial and personal goals.

H.R. 3072 raises the asset threshold for the CFPB's regulatory authority over financial institutions from $10 billion to $50 billion. As a result, the federal prudential regulators would resume the role as the primary supervisor and enforcement authority over financial institutions under $50 billion in assets. While this legislative change will not cause any financial institution to undergo any less supervision for compliance with consumer protection laws, it will result in continued protection for consumers and will simultaneously reduce burdensome regulations for community financial institutions and increase access to financial products and services, as smaller institutions will not be subject to yet another regulatory authority with it must maintain policies and procedures.

In a statement in support for H.R. 3072 dated October 10, 2017, the Credit Union National Association wrote:

> One key reason that the CFPB is not focusing on problem actors is because they are spread thin as a result of requirements to supervise credit unions and small banks with more than $10 billion in assets. These institutions have been sufficiently supervised for consumer protection regulation by their prudential regulators in the past and can be again.

Hearings

The Committee on Financial Services held a hearing examining matters relating to H.R. 3072 on July 12, 2017.

Committee Consideration

The Committee on Financial Services met in open session on October 11 and 12, 2017 and ordered H.R. 3072 to be reported favorably to the House by a recorded vote of 39 yeas to 21 nays (Record vote no. FC–80), a quorum being present.

Committee Votes

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House as amended. The motion was agreed to by a recorded vote of 39 yeas to 21 nays (Record vote no. FC–80), a quorum being present.

Record vote no. FC-80

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Maxine Waters (CA)		X	
Mr. McHenry	X			Mrs. Carolyn B. Maloney (NY)		X	
Mr. King	X			Ms. Velázquez		X	
Mr. Royce (CA)	X			Mr. Sherman		X	
Mr. Lucas	X			Mr. Meeks		X	
Mr. Pearce	X			Mr. Capuano		X	
Mr. Posey	X			Mr. Clay	X		
Mr. Luetkemeyer	X			Mr. Lynch		X	
Mr. Huizenga	X			Mr. David Scott (GA)		X	
Mr. Duffy	X			Mr. Al Green (TX)		X	
Mr. Stivers	X			Mr. Cleaver	X		
Mr. Hultgren	X			Ms. Moore		X	
Mr. Ross	X			Mr. Ellison		X	
Mr. Pittenger	X			Mr. Perlmutter		X	
Mrs. Wagner	X			Mr. Himes		X	
Mr. Barr	X			Mr. Foster		X	
Mr. Rothfus	X			Mr. Kildee		X	
Mr. Messer	X			Mr. Delaney		X	
Mr. Tipton	X			Ms. Sinema	X		
Mr. Williams	X			Mrs. Beatty		X	
Mr. Poliquin	X			Mr. Heck		X	
Mrs. Love	X			Mr. Vargas		X	
Mr. Hill	X			Mr. Gottheimer	X		
Mr. Emmer	X			Mr. Gonzalez (TX)	X		
Mr. Zeldin	X			Mr. Crist		X	
Mr. Trott	X			Mr. Kihuen		X	
Mr. Loudermilk	X						
Mr. Mooney (WV)	X						
Mr. MacArthur	X						
Mr. Davidson	X						
Mr. Budd	X						
Mr. Kustoff (TN)	X						
Ms. Tenney	X						
Mr. Hollingsworth	X						

Committee Oversight Findings

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

Performance Goals and Objectives

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 3072 will reduce the regulatory burden on smaller financial institutions whereby only institutions with $50 billion or more in assets are subject to additional CFPB supervisory requirements.

New Budget Authority, Entitlement Authority, and Tax Expenditures

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

Congressional Budget Office Estimates

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. Congress,
Congressional Budget Office,
Washington, DC, November 13, 2017.

Hon. Jeb Hensarling,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3072, the Bureau of Consumer Financial Protection Examination and Reporting Threshold Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

Keith Hall,
Director.

Enclosure.

H.R. 3072—Bureau of Consumer Financial Protection Examination and Reporting Threshold Act of 2017

Under current law, in order to assess and enforce compliance with federal consumer financial laws, the Consumer Financial Protection Bureau (CFPB) conducts examinations of and requires reporting from insured depository institutions and insured credit unions with total assets of more than $10 billion. For financial institutions with assets below $10 billion, compliance with consumer financial laws is performed by other financial regulators: the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Federal Reserve. H.R. 3027 would raise the asset threshold for CFPB's regulatory authority over financial institutions from $10 billion to $50 billion.

Because enacting H.R. 3072 would affect direct spending and revenues, pay-as-you-go procedures apply. However, CBO estimates that enacting H.R. 3072 would have an insignificant effect on deficits over the 2018–2027 period.

CBO estimates that enacting H.R. 3072 would not increase net direct spending or significantly increase on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

Moving responsibilities from the CFPB to the other financial regulators would decrease costs for the CFPB and increase costs to the FDIC, NCUA, OCC, and Federal Reserve to take on additional enforcement responsibilities. CBO estimates that on net, implementing H.R. 3072 would have an insignificant effect on the federal deficit over the 2018–2027 period.

Based on information from the CFPB, CBO expects that staff currently allocated to enforcing consumer financial laws for banks with assets between $10 billion and $50 billion would be reallocated to examination and enforcement responsibilities for other financial institutions. However, CBO estimates travel and administrative costs for the agency would decline by about $8 million over the 2018–2017 period.

CBO estimates that gross costs for the FDIC, OCC, and NCUA would increase by about $8 million over the 2018–2027 period. However, those agencies are authorized to collect fees and assessments from regulated institutions to cover administrative expenses. CBO expects that only half of those costs would be recovered within the 2018–2027 period, with the remaining amount would be collected after 2027. As a result, CBO estimates that, on net, enacting H.R. 3072 would increase direct spending by $4 million over the 2018–2027 period.

Increased administrative costs of the Federal Reserve are reflected in the budget as a reduction in revenue. CBO estimates that implementing H.R. 3072 would decrease revenues by $4 million over the 2018–2027 period.

H.R. 3072 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA).

If the OCC and the NCUA increase fees to offset the costs associated with implementing the bill, H.R. 3072 would increase the cost of an existing mandate on private entities required to pay those assessments. CBO estimates that the incremental cost of the mandate would be small and would fall well below the annual threshold for private-sector mandates established in UMRA ($156 million in 2017, adjusted annually for inflation).

The CBO staff contacts for this estimate are Stephen Rabent (for federal costs), Nathaniel Frentz (for revenues), and Logan Smith (for mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Director for Budget Analysis.

Federal Mandates Statement

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

Earmark Identification

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

Duplication of Federal Programs

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

Disclosure of Directed Rulemaking

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rulemakings: The Committee estimates that the bill requires no directed rulemakings within the meaning of such section.

Section-by-Section Analysis of the Legislation

Section 1. Short title

This section cites H.R. 3072 as the "Bureau of Consumer Financial Protection Examination and Reporting Threshold Act of 2017."

Section 2. Increase in the examination threshold

This section amends section 1025(a) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5515(a)) to increase the scope of coverage for covered persons with total assets of more than $10,000,000,000 to $50,000,000,000.

Section 3. Increase in the reporting threshold

This section amends section 1026(a) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5516(a)) to increase the scope of coverage for covered persons with total assets of less than $10,000,000,000 to $50,000,000,000.

Section 4. Effective date

This section makes effective date upon which the act shall take effect as 45 days after the date of enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

CONSUMER FINANCIAL PROTECTION ACT OF 2010

* * * * * * *

TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION

* * * * * * *

Subtitle B—General Powers of the Bureau

* * * * * * *

SEC. 1025. SUPERVISION OF VERY LARGE BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.

(a) SCOPE OF COVERAGE.—This section shall apply to any covered person that is—

(1) an insured depository institution with total assets of more than ⟦$10,000,000,000⟧ *$50,000,000,000* and any affiliate thereof; or

(2) an insured credit union with total assets of more than ⟦$10,000,000,000⟧ *$50,000,000,000* and any affiliate thereof.

(b) SUPERVISION.—

(1) IN GENERAL.—The Bureau shall have exclusive authority to require reports and conduct examinations on a periodic basis of persons described in subsection (a) for purposes of—

(A) assessing compliance with the requirements of Federal consumer financial laws;

(B) obtaining information about the activities subject to such laws and the associated compliance systems or procedures of such persons; and

(C) detecting and assessing associated risks to consumers and to markets for consumer financial products and services.

(2) COORDINATION.—To minimize regulatory burden, the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators and the State bank regulatory authorities, including consultation regarding their respective schedules for examining such persons described in subsection (a) and requirements regarding reports to be submitted by such persons.

(3) USE OF EXISTING REPORTS.—The Bureau shall, to the fullest extent possible, use—

(A) reports pertaining to a person described in subsection (a) that have been provided or required to have been provided to a Federal or State agency; and

(B) information that has been reported publicly.

(4) PRESERVATION OF AUTHORITY.—Nothing in this title may be construed as limiting the authority of the Director to require reports from a person described in subsection (a), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

(5) REPORTS OF TAX LAW NONCOMPLIANCE.—The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(c) PRIMARY ENFORCEMENT AUTHORITY.—

(1) THE BUREAU TO HAVE PRIMARY ENFORCEMENT AUTHORITY.—To the extent that the Bureau and another Federal agency are authorized to enforce a Federal consumer financial law, the Bureau shall have primary authority to enforce that Federal consumer financial law with respect to any person described in subsection (a).

(2) REFERRAL.—Any Federal agency, other than the Federal Trade Commission, that is authorized to enforce a Federal consumer financial law may recommend, in writing, to the Bureau that the Bureau initiate an enforcement proceeding with respect to a person described in subsection (a), as the Bureau is authorized to do by that Federal consumer financial law.

(3) BACKUP ENFORCEMENT AUTHORITY OF OTHER FEDERAL AGENCY.—If the Bureau does not, before the end of the 120-day period beginning on the date on which the Bureau receives a recommendation under paragraph (2), initiate an enforcement proceeding, the other agency referred to in paragraph (2) may initiate an enforcement proceeding, including performing follow

up supervisory and support functions incidental thereto, to assure compliance with such proceeding.

(d) SERVICE PROVIDERS.—A service provider to a person described in subsection (a) shall be subject to the authority of the Bureau under this section, to the same extent as if the Bureau were an appropriate Federal banking agency under section 7(c) of the Bank Service Company Act 12 U.S.C. 1867(c). In conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator.

(e) SIMULTANEOUS AND COORDINATED SUPERVISORY ACTION.—

(1) EXAMINATIONS.—A prudential regulator and the Bureau shall, with respect to each insured depository institution, insured credit union, or other covered person described in subsection (a) that is supervised by the prudential regulator and the Bureau, respectively—

(A) coordinate the scheduling of examinations of the insured depository institution, insured credit union, or other covered person described in subsection (a);

(B) conduct simultaneous examinations of each insured depository institution or insured credit union, unless such institution requests examinations to be conducted separately;

(C) share each draft report of examination with the other agency and permit the receiving agency a reasonable opportunity (which shall not be less than a period of 30 days after the date of receipt) to comment on the draft report before such report is made final; and

(D) prior to issuing a final report of examination or taking supervisory action, take into consideration concerns, if any, raised in the comments made by the other agency.

(2) COORDINATION WITH STATE BANK SUPERVISORS.—The Bureau shall pursue arrangements and agreements with State bank supervisors to coordinate examinations, consistent with paragraph (1).

(3) AVOIDANCE OF CONFLICT IN SUPERVISION.—

(A) REQUEST.—If the proposed supervisory determinations of the Bureau and a prudential regulator (in this section referred to collectively as the "agencies") are conflicting, an insured depository institution, insured credit union, or other covered person described in subsection (a) may request the agencies to coordinate and present a joint statement of coordinated supervisory action.

(B) JOINT STATEMENT.—The agencies shall provide a joint statement under subparagraph (A), not later than 30 days after the date of receipt of the request of the insured depository institution, credit union, or covered person described in subsection (a).

(4) APPEALS TO GOVERNING PANEL.—

(A) IN GENERAL.—If the agencies do not resolve the conflict or issue a joint statement required by subparagraph (B), or if either of the agencies takes or attempts to take any supervisory action relating to the request for the joint statement without the consent of the other agency, an insured depository institution, insured credit union, or other covered person described in subsection (a) may institute an appeal to a governing panel, as provided in this subsection, not later than 30 days after the expiration of the period during which a joint statement is required to be filed under paragraph (3)(B).

(B) COMPOSITION OF GOVERNING PANEL.—The governing panel for an appeal under this paragraph shall be composed of—

(i) a representative from the Bureau and a representative of the prudential regulator, both of whom—

(I) have not participated in the material supervisory determinations under appeal; and

(II) do not directly or indirectly report to the person who participated materially in the supervisory determinations under appeal; and

(ii) one individual representative, to be determined on a rotating basis, from among the Board of Governors, the Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency, other than any agency involved in the subject dispute.

(C) CONDUCT OF APPEAL.—In an appeal under this paragraph—

(i) the insured depository institution, insured credit union, or other covered person described in subsection (a)—

(I) shall include in its appeal all the facts and legal arguments pertaining to the matter; and

(II) may, through counsel, employees, or representatives, appear before the governing panel in person or by telephone; and

(ii) the governing panel—

(I) may request the insured depository institution, insured credit union, or other covered person described in subsection (a), the Bureau, or the prudential regulator to produce additional information relevant to the appeal; and

(II) by a majority vote of its members, shall provide a final determination, in writing, not later than 30 days after the date of filing of an informationally complete appeal, or such longer period as the panel and the insured depository institution, insured credit union, or other covered person described in subsection (a) may jointly agree.

(D) PUBLIC AVAILABILITY OF DETERMINATIONS.—A governing panel shall publish all information contained in a determination by the governing panel, with appropriate redactions of information that would be subject to an exemption from disclosure under section 552 of title 5, United States Code.

(E) PROHIBITION AGAINST RETALIATION.—The Bureau and the prudential regulators shall prescribe rules to provide safeguards from retaliation against the insured depository institution, insured credit union, or other covered person described in subsection (a) instituting an appeal under this paragraph, as well as their officers and employees.

(F) LIMITATION.—The process provided in this paragraph shall not apply to a determination by a prudential regulator to appoint a conservator or receiver for an insured depository institution or a liquidating agent for an insured credit union, as the case may be, or a decision to take action pursuant to section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o) or section 212 of the Federal Credit Union Act (112 U.S.C. 1790a), as applicable.

(G) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall modify or limit the authority of the Bureau to interpret, or take enforcement action under, any Federal consumer financial law, or the authority of a prudential regulator to interpret or take enforcement action under any other provision of Federal law for safety and soundness purposes.

SEC. 1026. OTHER BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.

(a) SCOPE OF COVERAGE.—This section shall apply to any covered person that is—

(1) an insured depository institution with total assets of ⟦$10,000,000,000⟧ *$50,000,000,000* or less; or

(2) an insured credit union with total assets of ⟦$10,000,000,000⟧ *$50,000,000,000* or less.

(b) REPORTS.—The Director may require reports from a person described in subsection (a), as necessary to support the role of the Bureau in implementing Federal consumer financial law, to support its examination activities under subsection (c), and to assess and detect risks to consumers and consumer financial markets.

(1) USE OF EXISTING REPORTS.—The Bureau shall, to the fullest extent possible, use—

(A) reports pertaining to a person described in subsection (a) that have been provided or required to have been provided to a Federal or State agency; and

(B) information that has been reported publicly.

(2) PRESERVATION OF AUTHORITY.—Nothing in this subsection may be construed as limiting the authority of the Director from requiring from a person described in subsection (a), as permitted under paragraph (1), information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

(3) REPORTS OF TAX LAW NONCOMPLIANCE.—The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(c) EXAMINATIONS.—

(1) IN GENERAL.—The Bureau may, at its discretion, include examiners on a sampling basis of the examinations performed by the prudential regulator to assess compliance with the requirements of Federal consumer financial law of persons described in subsection (a).

(2) AGENCY COORDINATION.—The prudential regulator shall—

(A) provide all reports, records, and documentation related to the examination process for any institution included in the sample referred to in paragraph (1) to the Bureau on a timely and continual basis;

(B) involve such Bureau examiner in the entire examination process for such person; and

(C) consider input of the Bureau concerning the scope of an examination, conduct of the examination, the contents of the examination report, the designation of matters requiring attention, and examination ratings.

(d) ENFORCEMENT.—

(1) IN GENERAL.—Except for requiring reports under subsection (b), the prudential regulator is authorized to enforce the requirements of Federal consumer financial laws and, with respect to a covered person described in subsection (a), shall have exclusive authority (relative to the Bureau) to enforce such laws.

(2) COORDINATION WITH PRUDENTIAL REGULATOR.—

(A) REFERRAL.—When the Bureau has reason to believe that a person described in subsection (a) has engaged in a material violation of a Federal consumer financial law, the Bureau shall notify the prudential regulator in writing and recommend appropriate action to respond.

(B) RESPONSE.—Upon receiving a recommendation under subparagraph (A), the prudential regulator shall provide a written response to the Bureau not later than 60 days thereafter.

(e) SERVICE PROVIDERS.—A service provider to a substantial number of persons described in subsection (a) shall be subject to the authority of the Bureau under section 1025 to the same extent as if the Bureau were an appropriate Federal bank agency under section 7(c) of the Bank Service Company Act (12 U.S.C. 1867(c)). When conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator.

* * * * * * *

MINORITY VIEWS

H.R. 3072, "the Bureau of Consumer Financial Protection Examination and Reporting Threshold Act," would significantly undermine a key authority of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank), by preventing the Consumer Bureau from supervising, and enforcing its rules against large banks and credit unions with assets between $10 billion and $50 billion.

Congress passed the Dodd-Frank Act in response to the worst financial crisis since the Great Depression. During this crisis, shoddy mortgage lending practices that ripped off millions of Americans led to dramatic failures on Wall Street and economic pain for Main Street. Notably, the costliest bank failure for the government during the financial crisis was not that of a megabank, but of IndyMac Bank, which had total consolidated assets of $30 billion but caused $12 billion in losses to the Federal Deposit Insurance Corporation's Deposit Insurance Fund. IndyMac's failure was a direct result of its predatory loan portfolio, as well as an unwillingness of its regulator, the Office of Thrift Supervision, to stop this activity.

As part of Dodd-Frank, Congress consolidated the disparate consumer protection laws into one agency: the Consumer Bureau. Congress also authorized the Consumer Bureau with supervisory and enforcement authority against only the very largest banks and credit unions, those with more than $10 billion in assets, such as IndyMac Bank, as well as non-bank financial institutions. As of June 30, 2017, the Consumer Bureau supervised 124 insured depository institutions out of a total of 11,483, representing only one percent of financial institutions. Nevertheless, these institutions represent about 81 percent of all industry assets, ensuring that the Consumer Bureau's supervision and enforcement is appropriately targeted.

H.R. 3072, however, would revoke the Consumer Bureau's supervision and enforcement authority for nearly ⅔ of depository institutions subject to Consumer Bureau supervision and enforcement by raising the threshold to $50 billion. If this bill was enacted two years ago, it would have precluded the Consumer Bureau from identifying and stopping institutions that were harming consumers. For example, the Consumer Bureau stopped a $49 billion bank and its affiliate from discriminating against consumers by providing individuals living in Puerto Rico and the Virgin Islands with inferior credit and charge cards, and required the institutions to pay back the 200,000 consumers harmed. The Consumer Bureau also ordered another institution with $18 billion in assets to pay $27.5 million to nearly 257,000 consumers who were harmed by the deceptive marketing the bank used to lure consumers into certain costly products. Both of these institutions would have been exempt under H.R. 3072, and could still be harming consumers if not for the efforts of the Consumer Bureau.

The Consumer Bureau's authority is a crucial part of its ability to conduct rulemaking and bring enforcement actions against financial institutions that engage in unfair, deceptive, or abusive acts or practices. Limiting the Consumer Bureau's supervisory and enforcement authority to only the megabanks with more than $50 billion, would only end up harming hardworking Americans.

For these reasons, we oppose H.R. 3072.

MAXINE WATERS.
KEITH ELLISON.
MICHAEL E. CAPUANO.
DENNY HECK.
CAROLYN B. MALONEY.
AL GREEN.
STEPHEN F. LYNCH.
BRAD SHERMAN.
RUBEN J. KIHUEN.
GREGORY W. MEEKS.
NYDIA M. VELÁZQUEZ.
GWEN MOORE.
JUAN VARGAS.