Director Kathleen Kraninger
Consumer Financial Protection Bureau
1700 G St. N.W.
Washington, D.C. 20552

Re: Planned Reorganization of the Division of Supervision, Enforcement, and Fair Lending (SEFL) Undermines Consumer Protection

November 2, 2020

Dear Director Kraninger,

The undersigned 83 consumer, civil rights, community, housing, student advocacy, legal services, and other public interest organizations write to urge you to abandon your proposed reorganization of the Consumer Financial Protection Bureau's (CFPB) Division of Supervision, Enforcement, and Fair Lending (SEFL). Instead of strengthening the arm of the CFPB that holds predatory financial institutions accountable, your proposal would drastically weaken its authority, independence, and ultimately, effectiveness, leaving consumers vulnerable and defenseless. An industry law firm, Arent Fox LLP, even said that "the change amounts to the single most effective effort by the CFPB to weaken its own Enforcement arm since the Trump administration took over. It cuts across all industries and products overseen by the Bureau."[1]

The Bureau's purpose, as codified by the Dodd Frank Wall Street Reform and Consumer Protection Act, is to "enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive." Further, the Bureau was "authorized to exercise its authorities under Federal consumer financial law for the purposes of ensuring that … consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination; and Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition …"[2] The proposed SEFL reorganization undermines the vast enforcement authority granted by the landmark Dodd-Frank Act to enforce federal consumer financial law and bring legal action against companies that violate that law.

According to documents provided by the Bureau to the ranking member of the U.S. Senate Committee on Banking, Housing, and Urban Affairs, Senator Sherrod Brown, this proposed reorganization strips significant authority away from the Enforcement attorneys.[3] It would disband Enforcement's Policy and Strategy Team, and reassign them to various Institution Product Line teams. These consumer finance law experts provide support to Enforcement

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[1] Arent Fox, "CFPB Unprecedented Structural Change," Webinar, October 28, 2020, https://arentfox.wufoo.com/forms/z11i9whs1256r8w/?utm_source=Arent+Fox+List&utm_campaign=7b294d33f7-EMAIL_CAMPAIGN_2020_10_23_07_57&utm_medium=email&utm_term=0_3a013c8d3d-7b294d33f7-424303877&mc_cid=7b294d33f7&mc_eid=01528798f3, (last visited October 29, 2020).
[2] *Dodd-Frank Wall Street Reform and Consumer Protection Act*, Public Law No. 111-203, 124 Stat. 1376 (2010) (codified as amended in scattered sections of 7, 12, 15, 22, 31, and 42 U.S.C. (2018)).
[3] Letter to the CFPB Director from Senator Sherrod Brown opposing the agency's SEFL Reorganization, October 21, 2020, https://www.banking.senate.gov/imo/media/doc/2020-10-21_SB to CFPB re SEFL reorganization_FINAL.pdf.

attorneys and determine Enforcement's overall priorities and strategy. Additionally, the reorganization would require Enforcement attorneys to get approval from another office before opening new investigations. Further, it would leave the question of whether federal consumer financial law should be resolved through supervisory exams or through an enforcement action to another office. This shift will further delay obtaining redress for harmed consumers. These drastic changes will eliminate the Enforcement office's independence, strip its authority to open new research matters, and remove Enforcement's critical, expert voice from the SEFL decision making process.

Though enforcement is a primary tool that the CFPB has to make the marketplace more fair, you have indicated that you would like enforcement to be used as a tool only if supervision fails.[4] This reorganization would diminish the authority, resources, and in turn, the effectiveness of the Enforcement division. This drastic move will no doubt weaken the CFPB's enforcement arm and leave consumers helpless in the face of legal violations by those in the financial sector.

One of the most concerning aspects of this significant restructuring is that it will dramatically weaken the CFPB's ability to hold small financial firms accountable for violating the law, especially payday lenders and debt collectors. Because CFPB supervisors do not conduct examinations of these non-bank firms, violations by these institutions could go undetected.[5] Recently, the CFPB has also repealed critical, yet modest, protections for payday and auto title loans,[6] and released a final debt collection rule that did not go far enough to protect consumers.[7] These regulatory actions will leave consumers more vulnerable to predatory payday lenders and debt collectors, and the reorganization of SEFL will weaken the authority of Enforcement attorneys to hold these bad actors accountable.

Additionally, although we appreciate that all SEFL employees "will be staying in SEFL and will have a job at the same pay band and with the same pay, and some promotional opportunities may be available," SEFL employees are hardly supportive of the reorganization. Bryan Schneider, the CFPB's associate director of SEFL said that only "18% and 20% of CFPB staff who were surveyed supported the change,"[8] illustrating broad internal concern about these changes.

This proposed reorganization could not come at a worse time, with consumers reeling from the current financial crisis resulting from the COVID-19 pandemic. The recent spike in average

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[4] Kate Berry, "CFPB Staff Shake-Up Seen Hampering Investigations," American Banker, October 22, 2020, https://www.americanbanker.com/news/cfpb-staff-shake-up-seen-hampering-investigations-of-financial-firms.

[5] Evan Weinberger, "Smaller Firms Could Escape Scrutiny in CFPB Enforcement Shakeup," Bloomberg Law, October 22, 2020, https://news.bloomberglaw.com/banking-law/smaller-firms-could-escape-scrutiny-in-cfpb-enforcement-shakeup?context=search&index=2.

[6] Stop the Debt Trap Coalition, "Broad Coalition Rebukes CFPB Political Leadership for Letting Predatory Payday Lenders Hurt People Hardest Hit by Covid-19 Pandemic," July 7, 2020, http://stopthedebttrap.org/blog/broad-coalition-rebukes-cfpb-political-leadership-for-letting-predatory-payday-lenders-hurt-people-hardest-hit-by-covid-19-pandemic/.

[7] Letter to the CFPB from consumer, civil, and human rights, labor, community and legal services organizations opposing Docket No. CFPB-2019-0022, Debt Collection Practices, September 18, 2019, https://consumerfed.org/wp-content/uploads/2019/09/Debt-collection-coalition-comments-Final-Consumer-coalition.pdf;
See also, Consumer Federation of America, National Consumer Law Center, Americans for Financial Reform, Center for Responsible Lending, and the National Association of Consumer Advocates, "CFPB Debt Collection Rule a Mixed Bag for Consumers," October 30, 2020, https://consumerfed.org/press_release/cfpb-debt-collection-rule-a-mixed-bag-for-consumers/.

[8] Kate Berry, "CFPB Staff Shake-Up Seen Hampering Investigations," American Banker, October 22, 2020, https://www.americanbanker.com/news/cfpb-staff-shake-up-seen-hampering-investigations-of-financial-firms.

coronavirus cases per day, expiring consumer protections on a state and federal level, and current economic projections indicate that consumers will continue to face unprecedented financial challenges for the foreseeable future. With long term unemployment numbers on the rise,[9] consumers are struggling to cover basic living expenses, making them more likely to resort to payday, car title, and other high cost loans, and build up credit card and other forms of debt.

We have already seen enforcement actions under the current administration plummet. Although, this year the CFPB is on track to file more enforcement actions than in the previous five years, that number is still drastically lower than the high-water mark set by the previous administration in 2015.[10] Additionally, the increase in enforcement activity has not resulted in comparable monetary relief provided to individuals who were harmed by predatory, unfair and deceptive practices.

Further, since the start of the pandemic in March 2020, the CFPB has seen record-setting numbers of consumer complaints each month.[11] In March-June 2020, complaint levels were up by 50% over complaint levels during the same period of the previous year, with complaint volume increasing each consecutive month. The sheer number of complaints received by the CFPB illustrate how much consumers are struggling in the current financial crisis, and the proposed reorganization would leave consumers with less effective recourse in the face of law-breaking financial institutions.

This reorganization comes in the midst of a public health crisis and pandemic, with case numbers rising throughout the country and as federal and state consumer protections continue to expire, leaving consumers vulnerable to predatory financial actors. We have written to you numerous times during this pandemic to urge you use your enforcement, supervisory, and regulatory authority to protect consumers, but this misguided proposal will do just the opposite. We strongly oppose the reorganization and respectfully ask you to abandon its implementation.

Thank you for your consideration. If you have any questions, please contact Rachel Gittleman at rgittleman@consumerfed.org.

Sincerely,
Alabama Arise
Alaska PIRG
Allied Progress
Americans for Financial Reform Education Fund
Arizona PIRG
Better Markets

[9] Michele Evermore, "Unemployment Payments are Running Out for Millions, Even as Long Term Unemployment Surges," National Employment Law Project Blog, October 23, 2020, https://www.nelp.org/blog/unemployment-payments-running-millions-even-long-term-unemployment-surges/.
[10] Christopher Peterson, "Dormant: The Consumer Financial Protection Bureau's Law Enforcement Program in Decline," Consumer Federation of America, March 12, 2019, https://consumerfed.org/wp-content/uploads/2019/03/CFPB-Enforcement-in-Decline.pdf.
[11] Ed Mierzwinski, Mike Litt, and Gideon Weissman, "Consumer Complaints Break Records," U.S. PIRG Education Fund and Frontier Group, July 2020, https://uspirg.org/sites/pirg/files/reports/CFPB%20Database%20Report%20July2020%20Final_1.pdf.

CAARMA
CALPIRG
CAMBA Legal Services, Inc.
CASH Campaign of Maryland
Center for Calif Homeowner Association Law
Center for Economic Integrity
Citizens Action Coalition of IN
Columbia Consumer Education Council
Connecticut Legal Services, Inc.
ConnPIRG
Consumer Action
Consumer Assistance Council, Inc.
Consumer Federation of America
Consumer Federation of California
Consumer Reports
Consumers for Auto Reliability and Safety
CoPIRG
Delaware Community Reinvestment Action Council, Inc.
Demos
East Bay Community Law Center
Florida Consumer Action Network
Florida PIRG
Florida Silver Haired Legislature Inc
Georgia PIRG
Georgia Watch
Illinois PIRG
Indiana PIRG
Iowa PIRG
Law Offices of Rebecca Darchuk
Legal Aid Center of Southern Nevada
Maryland Consumer Rights Coalition
Maryland PIRG
Massachusetts Communities Action Network
MASSPIRG
MontPIRG
MoPIRG
Mountain State Justice
NAACP
National Association of Consumer Advocates
National Association of Consumer Bankruptcy Attorneys (NACBA)
National Community Reinvestment Coalition (NCRC)
National Consumer Law Center (on behalf of its low-income clients)

National Fair Housing Alliance
National Urban League
NCPIRG
New Jersey Citizen Action
New York Legal Assistance Group (NYLAG)
NHPIRG
NJPIRG
NMPIRG
North Carolina Justice Center
Ohio PIRG
Oregon PIRG (OSPIRG)
PennPIRG
Philadelphia Unemployment Project/ Unemployment Information Center
PIRG in Michigan (PIRGIM)
Prepare + Prosper
Prosperity Now
Public Citizen
Public Justice
Public Justice Center
Public Law Center
RIPIRG
San Francisco Office of Financial Empowerment
SC Appleseed
Student Borrower Protection Center
Texas Appleseed
Texas Consumer Association
TexPIRG
The Institute for College Access & Success
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U.S. PIRG
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