

December 15, 2014  
Ms. Monica Jackson  
Office of the Executive Secretary  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

**RE: Policy on No Action Letters, CFPB, Docket No. CFPB-2014-0025.**

We, the undersigned groups, appreciate the opportunity to comment on the Consumer Financial Protection Bureau's (the "Bureau") proposed policy statement regarding the use of "No Action Letters" (NALs) by the Bureau. Although NALs are often issued by federal agencies to bring greater certainty to market participants in areas of regulatory ambiguity, there is also the risk that NALs can undermine consumer protection rules and give a green light to potentially risky products and services that harm consumers and the public. The Bureau's proposed policy generally reflects a thoughtful and comprehensive framework that establishes safeguards to prevent potential abuse of NALs that could result in harm to consumers and the public. Nonetheless, we respectfully submit recommendations to modify the proposed policy that we believe will make the policy stronger and more effective at protecting consumers.

First, the undersigned groups are pleased to see that the Bureau's proposed NAL Policy will make it incumbent on market participants who solicit NALs to affirmatively demonstrate that their product or service provides a benefit to consumers above and beyond existing products or services already on the market. We believe that language in the proposed policy can be strengthened to make clear that requestors of NALs be required to also demonstrate that their products and services present "as close to zero risk as possible" or "as little risk as possible" to consumers rather than the vague and open-ended language that requires requestors to demonstrate that consumers will not be subject to "unnecessary cost and risk." Providers will always disagree with consumers over whether costs and risks are necessary, making the standard unduly subjective. Regardless of any disclaimers issued by the Bureau, many outside the CFPB will interpret a NAL as a statement of legal compliance. For that reason, NALs should only be issued if the product will clearly not harm the public. Products and services that are innovative are often also largely untested. We believe the Bureau should take a more cautious approach when scrutinizing requests for NALs and react swiftly to any unanticipated risks by revoking previously issued NALs.

Second, we believe the proposal can be strengthened by making denials of NAL requests available to the public on the Bureau's website as a routine matter, rather than the current requirement in the proposal that such denials be made available to the public on a case-by-case basis if it is in the "public interest." Disclosing denials of NAL requests alerts consumers and industry participants to new products that may not fit squarely within existing consumer protection rules. To the extent that providers go forward and market such products or services to consumers, the public should be aware that the Bureau has not provided any sanction and that existing rules apply. The Bureau can redact the name of the requester and simply describe the product or the request if necessary to protect confidential information. For example, for many years the Federal Trade Commission published

informal staff opinion letters, with company names redacted, responding to questions about application of the Fair Credit Reporting Act to new or novel situations. The Bureau should modify the proposed policy to make NAL denials transparent to the public as a default matter, subject to other Bureau policies and restrictions.

Finally, the undersigned groups encourage the Bureau to provide the public with at least 30 days to comment on the issuance of a NAL, preferably prior to such issuance, and, if that's not possible, then immediately post-issuance in the alternative. This provides an additional safeguard to ensure that consumer groups such as the undersigned, along with interested consumers and members of the public, are aware of the Bureau's action and are able to provide information for a NAL that is of concern. Including a public comment period will provide balance to a process that currently only includes the views of the NAL requestor and the Bureau's response.

The undersigned groups encourage the Bureau to adopt these recommendations to its proposed NAL policy which we believe will make the finalized NAL policy better serve the interests of consumers and protect the public from dangerous and harmful financial products and services.

Americans for Financial Reform

National Consumer Law Center (on behalf of its low income clients)

New Economy Project

Public Citizen

U.S. PIRG