COVID-19 Crisis: Advocates Call for U.S. Governors to Take Immediate Action to Ensure Residents are Protected from Utility Shut Offs

FOR IMMEDIATE RELEASE: March 27, 2020

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Boston – Advocates at the National Consumer Law Center (NCLC) called on governors across the nation to take immediate action pursuant to their authority granted under each state’s emergency management act to ensure utility customers remain connected to essential electric, gas, water, sewer, and telecommunications networks, both during and after the coronavirus emergency. State executive action is needed for several reasons.

First, the federal stimulus bill passed by the U.S. Senate includes no prohibition on critical utility service shut offs. While more than 20 state public utility commissions have acted to halt utility shut offs, other states have relied on voluntary commitments from utilities that are unenforceable and subject to change. Essential electric, gas, water, sewer, phone and broadband internet services are needed to comply with directives to stay at home while sick, engage in frequent hand-washing, work from home, participate in online education, consult with health care providers remotely, monitor the condition of vulnerable family and friends, and follow other public health recommendations.

Second, thousands of customers across the country served by unregulated municipal utilities and electric cooperatives remain unprotected from utility shut offs.

Third, no state has issued specific guidance on the many needed changes to utility credit and collections practices to protect utility customers whose incomes have been devastated by the economic shutdown, and who face an uncertain financial cliff when emergency orders are lifted.

“Governors across the country must invoke their authority under their state’s emergency management statute to protect utility ratepayers now,” said National Consumer Law Center attorney Karen Lusson. “Customers of both regulated and unregulated utilities deserve legal protection from utility shut offs due to inability to pay. Without specific guidance from governors, millions of customers remain vulnerable to disconnections. Likewise, absent specific direction from governors, utility customers in every state will be subject to a patchwork of credit and collections practices that fail to take into account a customer’s finances and the impact of the COVID-19 emergency. And that’s in addition to the households across the United States that remain without utility service because of an inability to afford monthly utility bills before the coronavirus pandemic.”

NCLC advocates recommend that states take the following actions to ensure that consumers stay connected to essential utility networks:

- Issue an emergency declaration through gubernatorial action banning all regulated and unregulated utility service shut offs, including electric, gas, water/sewer, and telecommunications services, due to inability to pay;
• Order all regulated and unregulated utilities to reconnect customers who were previously disconnected due to inability to pay;
• Ban all in-person marketing and sales of alternative energy supply and distributed energy products during the emergency declaration;
• Encourage low-income households to apply for the federal Lifeline phone and broadband program for free or discounted voice and data service; and
• Adjust state Low Income Home Energy Assistance Program (LIHEAP) application deadlines, enrollment access, and eligibility certification processes.

Governors also must act now to address the financial cliff that is coming once emergency orders are lifted. Action is needed to ensure that utility arrearages incurred during the crisis do not trigger disconnections by requiring all utility service providers, both regulated and unregulated, to adopt more flexible credit and collections practices than currently required by state regulations and unregulated utility policies. NCLC advocates recommend protections should:

• Eliminate any customer deposit requirements;
• Eliminate down payment requirements on deferred payment arrangements (DPAs);
• Allow flexible, reasonable DPAs that are based on the customer’s ability to pay;
• Eliminate any requirement that disconnected customers pay the full arrearage in order to reconnect, thereby permitting reconnection upon issuance of an affordable DPA;
• Eliminate minimum balance requirements for prepaid utility service customers;
• Require utilities to write off debt for consumers who certify that they are eligible for LIHEAP but are unable to receive LIHEAP due to insufficient LIHEAP funds; and
• Prohibit utilities from imposing late fees and engaging in negative credit reporting.

NCLC Related Resources

• Coronavirus Crisis: How States Can Help Consumers Maintain Essential Utility Services, March 2020

Civil Rights and Consumer Groups Condemn “Emergency” Regulatory Guidance that Allows Banks to Make Payday Loans

FOR IMMEDIATE RELEASE: March 26, 2020
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Banks should not embrace this terrible idea, especially as
they are borrowing for free

Washington, D.C. - Today, under the cover of a national crisis, the Consumer Financial Protection Bureau (CFPB), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), Federal Reserve Board (FRB), and the National Credit Union Administration issued small dollar bank lending guidance that lacks the consumer protections needed to ensure loans do not trap borrowers in a cycle of debt. The guidance does not warn against unaffordable, high interest rates and says that balloon payments may be appropriate - paving the way for loans with characteristics of debt trap payday loans. Several civil rights and consumer groups forcefully condemned this action.

“This crisis will last longer than two weeks, and balloon-payment bank payday loans just leave a hole in the next paycheck when a family’s financial situation will only be worse,” said National Consumer Law Center Lauren Saunders. “Banks should not revive the so-called ‘deposit advance product’ payday loans they were making in 2013, which the CFPB found trapped consumers in debt.”

The National Consumer Law Center, The Leadership Conference on Civil and Human Rights, NAACP, Center for Responsible Lending, Americans for Financial Reform, and Consumer Federation of America issued the following statement:

“This is the worst possible time for banks to make predatory payday loans. Government regulators have opened the door for banks to exploit people, rather than to help them.

“Essential consumer protection measures are absent from this guidance. By saying nothing about the harm of high-interest loans, regulators are allowing banks to charge exorbitant prices when people in need can least afford it. They have also lent credibility to single balloon-payment structured loans, which have been shown to trap people in a cycle of repeat reborrowing and crushing debt.

“Banks should not take the bait of this terrible idea. Especially at a time when banks are receiving 0% interest loans from the federal government, bank loans should be fair and affordable – at annual rates no higher than 36% for small loans and lower for larger loans. We will be monitoring whether banks offer loans that help or loans that hurt.

“Around the time of the last recession, a handful of banks issued ‘deposit advances’ that put borrowers in an average of 19 loans a year at over 200% annual interest. These bank payday loans disproportionately harmed the financially vulnerable and badly damaged banks’ reputations. Since 2013 when regulatory guidance warned against this form of credit, banks have mostly stayed away. We trust that they will continue to do so as they do not want to repeat mistakes of the past.”

Senate COVID-19 Stimulus Bill is a Start but Falls Far Short for Families, Students, and
WASHINGTON, D.C. – Late yesterday, the U.S. Senate passed a $2 trillion stimulus bill to assist businesses and families in the wake of the COVID-19 crisis. The package includes some helpful aid but it falls short in several critical consumer protection areas.

“While the Senate package contains some first steps to relieve the economic crisis, many families will continue to struggle and will be unable to meet basic needs without further action,” said National Consumer Law Center Associate Director Lauren Saunders.

The bill also lacks protection against predatory lenders who will exploit the crisis, such as the temporary interest rate cap protections proposed by Senators Van Hollen and Brown, Saunders noted.

Some positive elements of the package include increased unemployment compensation, additional support for civil legal aid programs, funding to help low-income families with heating bills, some bankruptcy protections, and assistance for small businesses, along with some — but inadequate — relief for homeowners and student loan borrowers.

Mortgage Relief for Homeowners Provides Little Help
“Congress has missed a crucial chance to provide fair, workable protections for the housing market, although the package includes the already-announced policies of a brief foreclosure moratorium and payment forbearance for homeowners with government-backed loans,” said National Consumer Law Center staff attorney Alys Cohen. “Given the severity of this crisis, homeowners will need a foreclosure halt beyond two months. And the burden remains on borrowers to contact their mortgage companies for assistance even though experience makes clear that homeowners will face clogged phone lines and widespread servicer errors, resulting in limited access to payment relief and unnecessary foreclosures. One-third of the nation’s home mortgages — all those not backed by the government — remain without any mandated relief.”

Student Loan Borrowers Left High and Dry
The Senate picked winners and losers by giving certain federal student loan borrowers a short break from making payments, from interest accrual and from involuntary collection, but withholding that help from others. “Why did the Senate fail to protect the estimated 9 million borrowers with other types of federal loans?” asked Persis Yu, director of the National Consumer Law Center’s Student Loan Borrower Assistance Project. “Lawmakers missed an opportunity to both alleviate historic, inequitable student debt burdens through debt cancellation, and ensure that borrowers can make ends meet now and then recover along with the economy.”
No Aid for Families Lacking Broadband
“Millions of low-income individuals lack broadband internet, but the Senate hung up on families by not including additional funding for the emergency Lifeline broadband program. Lifeline can help keep elders and people with disabilities or suppressed immune systems connected with their doctors without leaving their homes, and broadband is essential for children and young adults to continue with their studies,” said National Consumer Law Center attorney Olivia Wein. “There is a direct public health benefit when households have broadband and can stay at home and remain connected remotely through online schooling, telehealth, and online access to benefits and services.”

Weak Credit Reporting Provision Will Have Long-Term Consequences
The Senate bill’s provision regarding credit reporting is entirely insufficient, weaker than the current industry standard for disaster victims, with little to actually protect consumers’ credit records from the devastating economic effects of this crisis. “Tens of millions of consumers will have their credit reports trashed and their scores nosedive because of mass unemployment and loss of income, impeding their ability to get affordable credit, jobs, housing, and to generally recover when this crisis is over,” said National Consumer Law Center attorney Chi Chi Wu. “This bill’s credit reporting provision is meaningless.”

States Can Help to Fill Gaps
State and local governments also have a role to play in helping families recover from the crisis. NCLC’s COVID-19 digital resources includes recommendations for what actions states can take to help consumers regarding mortgages, debt collection, utilities, and other topics.

Related Resources
- NCLC: Major Consumer Protections Announced in Response to COVID-19
- NCLC’s Surviving Debt: Expert Advice For Getting Out of Financial Trouble (online version) is free during this unprecedented crisis. The print version is also available to purchase with bulk discounts at NCLC’s Digital Library bookstore.

Advocates: HUD Must Do Much More to Protect Older Reverse Mortgage Borrowers in the Coronavirus Epidemic

FOR IMMEDIATE RELEASE: March 24, 2020

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Washington, D.C. - The National Consumer Law Center, Americans for Financial Reform Education Fund, and 40 other groups sent a letter today to the U.S. Department of Housing and Urban Development (HUD) seeking stronger protections for reverse mortgage borrowers in response to the
COVID-19 pandemic. The agency has announced a 60-day halt on foreclosures of all FHA-insured mortgages, but this timeframe falls short in light of projections of the long-term impact of this crisis.

“HUD’s 60-day foreclosure moratorium was a crucial first step, but does anyone really believe older homeowners will have recovered from this crisis within 60 days?,” said National Consumer Law Center attorney Sarah Mancini. “Further action is needed to ensure that this older population, which is most vulnerable to the virus, will maintain stable housing and not end up facing unnecessary foreclosures.”

In commenting on HUD’s March 18, 2020 Mortgagee Letter announcing a limited 60-day moratorium of foreclosures, the groups urged HUD to take the following additional steps:

- Clarify that non-borrowing spouses have an additional 60 days for the submission of their loan through the Mortgagee Optional Election (MOE). This program allows non-borrowing spouses to avoid foreclosure when the reverse mortgage borrower has died. In September 2019 HUD had announced a March 21, 2020 deadline;
- Direct servicers not to pay property taxes on behalf of reverse mortgage borrowers if the taxing authority has provided an extension or tax foreclosure moratorium, and allow an extra six months for borrowers to pay back the funds when servicers do advance property tax payments;
- Expand access to loss mitigation for qualified homeowners by extending all deadlines related to acceptance of loss mitigation options, including the return of any loss mitigation agreements, and by allowing for new repayment plans when borrowers default during the national emergency; and
- Extend the 60-day foreclosure and eviction moratorium announced by HUD on March 18, 2020 to at least six months.

“Older Americans with reverse mortgage loans need these common-sense protections during a particularly frightening time,” said Linda Jun, senior policy counsel with Americans for Financial Reform Education Fund. “We urge HUD to take action quickly to provide this clarity and stability to reverse mortgage borrowers and lenders.”

NCLC Related Links

- Covid-19 & Consumer Protections, including a list of all effective foreclosure moratoria.
- Issue Brief: Recommendations to Improve Servicing and Reduce Foreclosures of Federal Reverse Mortgages (March 2020)
- Testimony of NCLC attorney Sarah Mancini on reverse mortgages before the House Financial Services Committee, Subcommittee on Housing, Community Development, and Insurance (Sept. 25, 2019)

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**Trump Administration’s plan to pause**
student loan payments is woefully insufficient

FOR IMMEDIATE RELEASE: March 20, 2020

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BOSTON—Today, advocates warn that the plan announced by the U.S. Secretary of Education Betsy DeVos to allow borrowers with federally held student loans the option to suspend their payments falls far short of what is needed in this national crisis.

Statement by Persis Yu, director of the National Consumer Law Center’s Student Loan Borrower Assistance Project:

“The administration’s plan to allow borrowers to request a pause in payments is woefully insufficient for addressing the needs of millions of student loan borrowers struggling during this public health crisis. Borrowers who may be short on funds and have limited bandwidth between juggling changes in their childcare and work plans should not have to also find time to consult with their loan servicer.

“Worse still, pausing payments simply kicks the can down the road. Struggling borrowers still burdened with historically high student loan debt will face a potentially devastated economy when payments resume. Moreover, under the Administration’s plan, borrowers in an income-driven repayment plan, those working towards Public Service Loan Forgiveness, or seeking similar relief will lose out on qualifying time towards forgiveness, leaving them burdened by student debt longer. And the plan fails to even cover the 1.2 million borrowers with Federal Family Education Loans not held by the Department.

“What’s needed at this time is bold action. Borrowers should not have to jump through needless hoops or make sacrifices they cannot afford right now. We need to do more than just pause payments. We need to cancel student loan payments and ensure that balances go down so borrowers can make ends meet now and then recover along with the economy. That is the real, lasting relief lawmakers must deliver for student loan borrowers.”

NCLC Resources

- Blog: Repaying Student Loans Amid COVID-19 Outbreak, March 12, 2020
- Brief: Congress Must Provide Relief to Defaulted Student Loan Borrowers; Recommendations for Higher Education Act Reauthorization, March 2020
Loan Principles

FOR IMMEDIATE RELEASE: March 19, 2020

National Consumer Law Center Contact: Jan Kruse at jkruse@nclc.org

Boston – Today, U.S. Senators Schumer, Murray, Brown, and Warren introduced a proposal outlining their plan to protect the financial interests of millions of student loan borrowers during the COVID-19 pandemic by cancelling borrowers’ student loan payments and protecting defaulted borrowers from the government’s draconian collection powers.

The proposal would:

- Immediately cancel monthly student loan payments and authorize the U.S. Department of Education to make payments on behalf of federal student loan borrowers.

- Stop all garnishment of wages, tax refunds, and Social Security benefits.

- Stop all interest capitalization (including from interest accrued prior to President Trump’s March 13th announcement).

- Codify the President’s waiver of interest on federal student loans held by the Department, and extend this waiver to Federal Family Education Loan (FFEL) loans.

- Ensure that each federal student loan borrower receives a minimum of $10,000 in student loan relief over the course of the national emergency.

Statement by Persis Yu, director of the National Consumer Law Center’s Student Loan Borrower Assistance Project:

“We applaud Senators Schumer, Murray, Brown, and Warren for keeping at the forefront the needs of those student loan borrowers hit hardest by this current crisis. The COVID-19 pandemic is wreaking financial havoc on millions of student loan borrowers, and low-income borrowers and borrowers of color are getting hit the hardest.

“While social distancing and self-quarantine measures are critical for slowing the spread of the virus, they pose a great hardship for many people who need to work to cover their basic necessities. Lost income and insufficient paid leave will hurt people who work in the gig economy, are hourly workers, experience layoffs, or have childcare crises and coverage concerns (especially as schools and daycares close). Borrowers should not need to worry about their student loan payments at a time when they should be focused on the health and safety of their families and communities.

“As the situation worsens, we also need to ensure that low-income and vulnerable populations are protected as much as possible from the economic fall out. Distressingly, even in this public health crisis, the government is continuing to seize wages, Social Security benefits, and tax refunds from the most vulnerable borrowers. Without these protections, any other relief provided by the government during the crisis could also be seized to pay a defaulted student loan. The bold
measures proposed by Senators Schumer, Murray, Brown, and Warren are necessary to shield borrowers from the government’s draconian collection powers and to ensure that Americans devastated by the financial crisis are able to dig out from this crisis in the months ahead. Congress should take immediate action and cancel all student loan payments now.”

NCLC Resources

- Blog: Repaying Student Loans Amid COVID-19 Outbreak, March 12, 2020
- Brief: Congress Must Provide Relief to Defaulted Student Loan Borrowers; Recommendations for Higher Education Act Reauthorization, March 2020

Advocates Applaud Halt to Foreclosures and Bills to Stabilize Homeownership and Protect Credit Reports but Highlight Need for Further Relief During Pandemic

FOR IMMEDIATE RELEASE: March 19, 2020
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Boston – National Consumer Law Center advocates praised recent measures taken by the federal government to help homeowners remain in their homes and to protect their credit scores but said more needs to be done. The foreclosure relief announced yesterday in response to the COVID-19 pandemic by the Federal Housing Administration (FHA) and the Federal Housing Finance Administration (FHFA), which oversees Fannie Mae and Freddie Mac, will apply to the majority of single family mortgages in the nation and impose a 60-day halt on foreclosures and post-foreclosure evictions.

“We welcome these important first steps toward preventing homeowners from losing their homes during this pandemic, however the agencies should ensure that their policies provide accessible and fair procedures for payment relief,” said National Consumer Law Center attorney Alys Cohen. “States also have a role and should also halt foreclosures and evictions. And the private-label mortgage market should follow with a moratorium and also ensure that homeowners are offered affordable payment options in the aftermath of the pandemic. Throughout this process, mortgage
companies need to ensure access for homeowners whose primary language is not English."

Homeowners can check whether their loan is backed by Fannie Mae or Freddie Mac by using the agencies’ loan look up tools and can confirm whether their loan is FHA-insured by reviewing their loan documents and mortgage statements. Homeowners should also contact their mortgage company to explore their options.

National Consumer Law Center advocates also applaud new bills in the Senate to further reduce the harm caused by the pandemic. New legislation introduced yesterday by Senator Sherrod Brown of Ohio (S. 3509) provides homeowners a six-month foreclosure moratorium while also allowing homeowners to obtain a payment halt and affordable options to subsequently bring their loans current. Additionally, Senator Brown and Senator Brian Schatz of Hawaii cosponsored a bill that was introduced on March 17 to protect the credit reports of Americans during the financial crisis.

“By recognizing the need to stop negative credit reporting for at least four months and by providing further relief to consumers experiencing hardship, The Disaster Protection For Workers’ Credit Act (S. 3508) is critical to protecting the millions of consumers who are facing increasing job losses and other economic perils from this pandemic. This bill prevents the financial catastrophe families are or will soon experience from ruining their credit records and their ability to financially recover once the crisis is over,” said National Consumer Law Center attorney Chi Chi Wu.

Free Covid-19 Resources

NCLC has created a new webpage dedicated to Covid-19 and Consumer Protections. The page is continually updated to help families to navigate their finances during these turbulent times and for advocates to keep track of the latest consumer protection policy measures and pending legislation. As part of NCLC’s effort to assist consumers and advocates, we have made the digital edition of Surviving Debt: Expert Advice For Getting Out of Financial Trouble free to all during this unprecedented crisis. Access Surviving Debt for free here. The print version is also available to purchase with bulk discounts at NCLC’s Digital Library bookstore.


FOR IMMEDIATE RELEASE: March 13, 2020
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Boston – As concerns continue to grow about the spread of the new coronavirus (COVID-19), policymakers must act to protect those who are most economically vulnerable and to empower them with the financial safety net needed to follow public health precautions. One area where the federal government should act is in ensuring that the federal student loan system does not exacerbate the disaster.

As people become sick, and as the effects of the virus ripple through the economy, the coronavirus is
Advocates Applaud Senate Vote to Restore Rule to Protect Borrowers from School Fraud and Closures

FOR IMMEDIATE RELEASE: March 11, 2020

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Boston – Today, National Consumer Law Center advocates applauded the U.S. Senate’s bipartisan use of the Congressional Review Act to block the 2019 Borrower Defense to Repayment rule from going into effect and to preserve the existing rules protecting borrowers from school fraud and closures. The vote was 53 – 42. “We are cheered to see that a bipartisan group of Senators joined the House in standing up for students and protecting access to student loan relief for students harmed by school fraud and closures,” said National Consumer Law Center attorney Abby Shafroth. “Barring a presidential veto, this vote for students means that students will be far more likely to get much needed loan relief if their school closes before they can graduate or lied to them to get them to enroll and take out loans for a program that left them worse off.”

In voting to block the 2019 Borrower Defense to Repayment, the Senate joined the U.S. House, which voted to block the rule in January. These votes were supported by broad coalitions of organizations representing veterans (who are disproportionately targeted by predatory schools for their GI Bill dollars), students, low-income consumers, and advocates for education. For example, last December, a broad coalition of 57 organizations sent a letter to original sponsors Representative Susie Lee and Senator Dick Durbin, supporting their use of the CRA to keep the new rule from becoming law, noting that if it goes into effect the rule would provide relief to only about 3% of student borrowers who were victims of fraud and other illegal school conduct, and that only 1% of schools that defrauded students would have to reimburse taxpayers. The rule would therefore green light school misconduct while making relief for defrauded borrowers all but impossible.

This vote indicates there is bipartisan support for ensuring real access to student loan relief for students harmed by predatory school conduct and abrupt closures. Access to relief is urgently
needed: there are currently more than 200,000 pending applications for relief, and many borrowers have been in limbo for years. “This vote demonstrates Congressional support for providing real relief to student loan borrowers who were scammed and left with heavy debt and worthless degrees—or no degrees at all—by predatory schools,” said Shafroth.

The Congressional Review Act gives Congress the authority to overturn rules promulgated by federal agencies. A CRA resolution of disapproval must be passed by both the House and the Senate and signed by the President in order to overturn a rule. “We urge President Trump to join the bipartisan group of Senators and Representatives in standing up for student borrowers by promptly enacting this reform,” said Shafroth.

New CFPB Advisory Opinion Program Would Give Lenders a Safe Harbor for Violating Federal Consumer Laws

FOR IMMEDIATE RELEASE: MARCH 6, 2020

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Washington, D.C. – The Consumer Financial Protection Bureau (CFPB) today announced plans to create an advisory opinion program which, if enacted, would circumvent the public notice-and-comment process, a pillar of our government and democracy. The intent of the advisory opinion program, according to the CFPB, would be to provide clear guidance to assist companies in better understanding their legal and regulatory obligations through advisory opinions. But in actuality, the CFPB is proposing to sidestep the usual public notice-and-comment rulemaking process under the Administrative Procedures Act, and the congressionally-mandated process for providing interpretations of the Truth and Lending Act.

“This is a dangerous precedent. The CFPB is giving lenders an end-run around the public notice-and-comment process, which is designed to ensure accountability and true transparency. Instead, the CFPB is offering lenders immunity from liability for violations of the law.” said National Consumer Law Center Associate Director Lauren Saunders. “And without explaining the procedures or safeguards, the CFPB is giving yet another ‘get out of jail’ card to industry which is itching to evade compliance with federal law.”

“There is a high risk that issuing interpretive rules this way will result in one-sided or incomplete interpretations, as the Bureau will be dependent on the requester to provide the factual context and will not have the benefit of opposing viewpoints, as is afforded by the public notice-and-comment process under the Administrative Procedures Act,” Saunders added.

Worse, once these interpretations are issued, they could be entitled to a level of deference almost equal to that of regular rulemaking, outside of the context of the original requester. Agencies that
issue advisory opinions usually end up with a welter of contradictory, mostly pro-industry interpretations that have the long-term impact of undermining the credibility of the agency and the deference accorded to it.

“Today’s announcement is yet another example of the CFPB doing favors for industry rather than carrying out its mission to protect consumers. The CFPB’s new advisory opinion program does not prevent consumer harm or even promote transparency and accountability. Instead, it will reduce consumer protection by promoting inconsistent and arbitrary interpretations of consumer law,” said Linda Jun, senior policy counsel at Americans for Financial Reform Education Fund.