July 18, 2025

Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552.

Submitted to Regulations.gov

Re: Docket No. CFPB-2025-0021, Proposed Rule Amending the Consumer Financial Civil Penalty Fund Rule, 12 CFPR Part 1075, 90 Fed. Reg. 25904 (June 18, 2025)

The National Consumer Law Center, on behalf of its low-income clients, and the undersigned organizations appreciate the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB's) Proposed Rule Amending the Consumer Financial Civil Penalty Fund Rule.[1]

The CFPB's Civil Penalty Fund (CPF) was specifically mandated by Congress in the Dodd-Frank Wall Street Reform and Consumer Protection Act. We oppose the proposal to remove the ability to use the funds for two secondary purposes specifically authorized by Congress: consumer education and financial literacy. However, it is important to note that, in the 14 years the CFPB has existed, less than 1% of the amounts collected as civil penalties have been allocated to consumer education or financial literacy programs, and none since FY 2016. The vast majority of the CFPB funds have been used to compensate consumers – in all 50 states and servicemembers serving abroad – injured by the unlawful conduct of companies or individuals that are insolvent or otherwise do not have the funds to repay their victims.

The proposed rule perpetuates a false narrative that the CFPB enforcement work is motivated by self-aggrandizement rather than helping consumers. To the extent that the Bureau's criticisms about the CPF indicate a broader plan to stop aiding consumers who would otherwise be uncompensated for their injuries, or to stop assessing appropriate penalties in the cases that generate excess funds, we strongly oppose any such actions, which are contrary to the mandates of the Dodd-Frank Act and its CPF provisions.

Introduction

The CFPB's Civil Penalty Fund (CPF) is a vital tool to provide redress to consumers when they have been harmed by the unlawful actions of a company or individual that does not have the resources to repay its victims. The CFPB has not used the CPF "for the purpose of aggrandizing the operational scope of the agency."[2] In fact, the CFPB has utilized the vast majority of funds in the CPF to compensate victims of financial scams and unlawful activities that otherwise would not have been compensated.

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[1] This comment was written by Bret Jacobs, Carla Sanchez-Adams, Sarah Bolling Mancini and Lauren Saunders of the National Consumer Law Center.
[2] 90 Fed. Reg. 25904 (June 18, 2025) at 25905.

The CPF is funded by cases where the penalties exceed the compensation due to consumers, including where consumers cannot be located, the harm is not primarily monetary, or the conduct is egregious and deserves a penalty greater than recouping excess profits. To achieve the purpose of promoting compliance with the law, financial penalties must be calibrated to deter unlawful conduct perpetrated by profitable defendants. It is crucial for the CFPB to continue to enforce consumer protection laws, and as part of that enforcement role, to pursue civil penalties that can act as a deterrent. Some defendants who violate the law make such large profits that an award of damages or redress equal to the harm caused to consumers would have no impact on their propensity to violate the law in the future. The threat of appropriately sized financial sanctions is critical to deterring large players from engaging in harmful and illegal conduct. When the CFPB is able to collect penalties beyond those needed to compensate consumers in a given case, Congress determined that the excess funds should be used first to repay consumers harmed by unlawful conduct in other cases and next for consumer education and financial literacy.

Consumer Protection Purposes of the CPF

The Dodd-Frank Wall Street Reform and Consumer Protection Act established the CPF to compensate victims harmed by violations of consumer protection laws.[3] The Act gives the CFPB the authority to use funds for consumer education and financial literacy programs "to the extent such victims cannot be located or such payments are not otherwise practicable."[4]

As of December 2024, the CFPB had collected approximately $3.7 billion in the CPF. Of that amount, $3.3 billion had been paid out to victim compensation and only $28.8 million had been allocated to consumer education or financial literacy programs.[5] Therefore, only 0.8 % (less than 1%) of the amounts collected as civil penalties have been allocated to consumer education or financial literacy programs.

Promoting consumer education and financial literacy are part of the CFPB's mission and are statutorily authorized uses of the penalty fund. In the CFPB's early days, before the enforcement program had matured, it made sense to use excess penalty funds for those purposes, as the Bureau had not yet secured significant judgments or settlements against insolvent companies with uncompensated victims. Such allocations were made to consumer education and financial literacy, in FY 2013 and FY 2016. Since FY 2017, all allocations out of the CPF have gone to provide redress for uncompensated harms experienced by victims.

Over time, the vast majority of the money disbursed from the CPF has gone to compensate victims who were injured by insolvent defendants. As of December 2024, the CFPB had collected $3.7 billion in the CPF and had allocated over $3.5 billion in payments to injured consumers through the CPF. Through the FY2024 public report, it had disbursed $1.181 billion,

[3] 12 U.S.C. § 5497(d).

[4] *Id*.

[5] Consumer Fin. Protection Bureau, Civil Penalty Fund By the Numbers (Dec. 4, 2024), https://www.consumerfinance.gov/enforcement/payments-harmed-consumers/civil-penalty-fund/#by-the-numbers; *see also* Office of the Inspector General, OIG Report 2024-FMIC-C-014: The CFPB Effectively Designed a Process to Allocate Surplus Civil Penalty Funds and Monitored Contractor Payments to Victims (June 10, 2024), https://oig.federalreserve.gov/reports/cfpb-civil-penalty-fund-jun2024.pdf.

with an additional $2.3 billion allocated for disbursements expected in 2025.[6] Through FY2024, of the $1,182,838,186 disbursed to victims from the Civil Penalty Fund, 99.6% of the total disbursed, or $1,176,869,451, came from penalties collected from other defendants. Only $4,968,735, or 0.4% of the amount disbursed to these victims came from payments made by the defendant that harmed that victim.

Payments are made to consumers out of the Civil Penalty Fund only when those consumers are the victims of uncompensated harm. If a defendant has sufficient resources to compensate consumers for their injuries, the CFPB requires those defendants to compensate their victims through Bureau-administered redress, which passes through an entirely separate fund.

But companies that engage in illegal practices against consumers often go out of business or spend or launder their proceeds in ways that cannot be recovered. Government agencies have seen for decades how hard it can be to collect against some of the worst wrongdoers once the house of cards crumbles and the company remains an empty shell with no resources left. On the other hand, large companies that continue to operate profitably might not be deterred by simply having to pay redress equal to the harm they caused consumers through illegal actions. For those multi-million dollar companies, regulators may need to seek an additional penalty to deter future bad conduct.

While repaying uncompensated victims is the first and best use of penalty funds, with the CFPB's enforcement docket drastically shrinking, it is possible that the Bureau could enter another time period where the funds available from penalties collected exceeds the amount that can practicably be distributed to victims of companies against which the Bureau has sought a civil penalty. If that occurs, it serves the CFPB's mission and fulfills the statutory requirements to use the funds for the next most appropriate use – preventing future consumer harm through consumer education and financial literacy programs.

Congress wisely anticipated the need to use penalties assessed for deterrence against large, profitable companies that break the law and to compensate the victims of companies that have gone insolvent. Congress made a policy decision to create a Civil Penalty Fund that could be used to provide compensation to consumers who had experienced uncompensated harms. The CFPB has the authority under the Dodd-Frank Act to allocate funds to consumer education and financial literacy programs when funds available cannot be distributed to victims. Removing the rule that allows the Bureau to implement that alternative use of CPF funds would run counter to the uses that Congress specified for use of the fund and would undermine the CFPB's ability to perform its statutory mission.

Costs and Benefits of the Proposed Rule

The Bureau seeks comments on the potential costs and benefits of the proposed rule. The proposed rule would harm consumers because it eliminates one tool available to protect

[6] Of the amounts allocated to uncompensated harm, a portion is returned to the fund through uncashed checks and can be used for future payments. Therefore, it is reasonable to analyze the percentage of amounts actually disbursed to consumers that came from penalties assessed from other defendants, and not from the defendant at issue in this victim's case, rather than looking at the amounts allocated. However, the story told by the numbers is the same whether looking at allocations or disbursements. Of the $2,262,843,054 allocated in FY2024 for likely disbursement in FY2025, $2,260,433,052, or 99.9%, was not collected from the defendant that harmed these particular victims.

consumers from financial injury: through appropriate consumer education and financial literacy programs. Consumers would also be harmed to the extent the proposed rule is accompanied by a softening of the Bureau's enforcement of federal consumer protection laws or the collection of sanctions as necessary to promote deterrence. Law-abiding companies would also be harmed by the proposed rule to the extent it is accompanied by a lessening in enforcement and deterrence against unlawful actors. We do not see any benefits to the proposed rule.

Impact on Access to Financial Products and Services and on Consumers in Rural Areas
The Bureau states that it does not expect this proposed rule to impose new costs on providers of financial products or services or on consumers in rural areas, and seeks comment on the accuracy of that expectation. Removing the Bureau's ability to use CPF resources to support consumer education and financial literacy would harm providers of financial products or services who benefit from informed and educated consumers or who would be recipients of the funding and instead would have to fill a void in consumer education using thd eir own funds. Consumers in rural areas would be harmed to the extent that the proposed rule is accompanied by a reduction in enforcement or deterrence against unlawful actors that injure them.

Thank you for the opportunity to submit these comments. If you have any questions, please contact Lauren Saunders at lsaunders@nclc.org.

Sincerely,

Americans for Financial Reform (AFR)
Better Markets
Center for Economic Integrity
Center for Economic Justice
Center for LGBTQ Economic Advancement & Research (CLEAR)
Center for Responsible Lending
Compass Working Capital
Consumer Action
Consumer Federation of America
Consumer Reports
Economic Action Maryland Fund
Economic Empowerment Center DBA Lending Link
Homestead Resources
Indiana Community Action Poverty Institute
Legal Services NYC
Mobilization for Justice
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low-income clients)
National Consumers League
National Disability Institute
New Jersey Appleseed Public Interest Law Center
New Jersey Citizen Action
New Yorkers for Responsible Lending

Oregon Consumer League
Prosperity Indiana
Public Citizen
Public Justice Center
South Carolina Appleseed Legal Justice Center
Virginia Citizens Consumer Council
William E. Morris Institute for Justice