



December 7, 2016

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
S- 230, U.S. Capitol  
Washington, D.C. 20001

The Honorable Chuck Schumer  
Minority Leader-elect  
United States Senate  
322 Hart Senate Office Building  
Washington, D.C. 20001

**RE: Creation of a Bipartisan Commission at the CFPB**

Dear Majority Leader McConnell and Minority Leader-elect Schumer:

As you begin the work to identify legislative priorities for 2017, the Consumer Bankers Association (CBA), the Credit Union National Association (CUNA), the Independent Community Bankers of America (ICBA), and the National Association of Federal Credit Unions (NAFCU) – representing over 12,000 banks and credit unions – write to urge the 115<sup>th</sup> Congress to pass legislation that will create a five-person, bipartisan board to govern the Consumer Financial Protection Bureau (CFPB) as one of the many commonsense regulatory improvements you will consider next year.

The CFPB is an independent regulatory agency that provides the sole director unprecedented authority over financial institutions, with minimal oversight. As the sole decision maker, the director can promulgate regulations and levy enforcement actions that have sweeping and long-lasting effects on credit availability for consumers. The current single director structure leads to regulatory uncertainty for consumers, industry, and the economy. In contrast, a Senate confirmed, bipartisan board or commission will provide a balanced and deliberative approach to supervision, regulation, and enforcement over financial institutions that is more in keeping with other financial regulators.

Moreover, the CFPB has recently finalized, or is in the process of finalizing, several rules, including arbitration, small dollar, third-party debt collection, and prepaid cards, that will have a dramatic and lasting impact on consumers, the economy, and financial institutions. Should the CFPB continue to promulgate these and other rules, Congress may utilize its authority under the Congressional Review Act (CRA) to repeal these actions. In the meantime, financial institutions must expend precious time and resources in complying with rules that may or may not materialize. The 115<sup>th</sup> Session of Congress can bring certainty to consumers by passing legislation that would establish a commission and make needed changes to the many rules and regulations the Bureau has or will consider.

The 2016 presidential election and the recent D.C. Circuit Court Case, *PHH Corp. v. CFPB* have clearly demonstrated a sole director leadership model is fragile, uncertain, and leads to instability at the Bureau. In *PHH*, the appellate court found the CFPB is “unconstitutionally structured” due to the fact the sole director can be removed only for cause by the president, stating this is a “gross departure from settled historical practice.” Put simply, the D.C. Circuit Court held the president may remove the director at will. This result makes it even more apparent what a whipsaw effect the single director model presents, inhibiting the ability for financial institutions to plan for the future, which in turn limits economic growth and hurts consumers.

Meeting the credit needs of American consumers and small businesses is the fundamental mission of our financial institutions. We urge the new Congress to quickly consider creating a bipartisan commission at the CFPB that will safeguard consumers and increase credit accessibility.

Sincerely,

Richard Hunt  
President and CEO  
Consumer Bankers Association

Jim Nussle  
President and CEO  
Credit Union National Association

Cam Fine  
President and CEO  
Independent Community Bankers of America

Dan Berger  
President and CEO  
National Association of Federal Credit Unions

cc: Members of the Senate Banking Committee