



**Statement in Support of the Commercial Law League of America's Comments  
Submitted to the United States Congress in Support of Reforming the CFPB**

February 17, 2017

The International Association of Commercial Collectors, Inc. ("IACC") was founded in 1970 for the purpose of furthering and promoting the welfare of the commercial collection profession, regulating practices, prescribing ethics and to enforce proper conduct among its members. The IACC encourages and promotes the adoption of legislation favorable to the rights of commercial collectors and the credit-granting community.

For the best interests of its members, the IACC has been monitoring the activity of the Consumer Financial Protection Bureau ("CFPB") since its creation stemming from the passage of the Dodd-Frank Act of 2010. The IACC has grown concerned over the constitutionality of the CFPB and its unchecked supervisory, investigative, and rule making powers.

The Commercial Law League of America ("League"), founded in 1895, is the nation's oldest organization of attorneys and other experts in credit and finance activity engaged in the fields of commercial law, bankruptcy and reorganization. The League is active in legislative matters and has often presented testimony before the House of Representative on various issues impacting the credit-granting community.

The League is submitting to the United States Congress, its comments in support of repealing or reforming the Dodd-Frank Act and eliminating the CFPB.

The IACC has read the comments of the League, appended hereto, and is in concurrence with those comments. Members of the IACC, who are engaged only in the business of commercial collection matters have been contacted by the CFPB requiring responses to business questions and taking time from our members' commercial businesses. Those members of the IACC who pursue individual debtors, either as sole proprietors or personal guarantors grow increasingly concerned that the CFPB is overstepping its boundaries or that those boundaries are not clearly delineated. The IACC also agrees that the Dodd-Frank Act (and potentially the CFPB) must be eliminated or clarified to be certain it is clear that it does not apply to attorneys.

It is understood that the Financial CHOICE Act (the "Act") is not currently before Congress and therefore the IACC reserves its right to comment on the Act, if and when it is re-introduced to the current Congress in the form of a new bill.

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**Comment of the Commercial Law League of America  
Submitted to the United States Congress in Support of  
Reforming the CFPB**

February 1, 2017

**Introduction**

The Commercial Law League of America (“League”), founded in 1895, is the nation’s oldest organization of attorneys and other experts in credit and finance actively engaged in the fields of commercial law, bankruptcy and reorganization. The League has long been associated with the representation of creditor interests, while seeking fair, equitable and efficient treatment of all parties in interest. League members can be found in every state across America and in many foreign countries. The League regularly submits policy papers to Congress and has testified on numerous occasions before Congress as experts in fields related to creditor interests.

**Comment**

The purpose of this comment is to confirm the League’s support for reforming the Consumer Financial Protection Bureau (“CFPB”). The League supports several principles of the Financial CHOICE Act (the “Act”) that remedy concerns over the constitutional defects of the CFPB and lift regulatory burdens on businesses while maintaining consumer protections. Specifically, the League highlights below, and agrees with two (2) critical principles addressed in the Act, and provides the below evidence to illustrate why immediate action is necessary:

**1. The CFPB is Unconstitutional**

The DC Circuit Court of Appeals in *PHH Corp. v. Cons. Fin. Protection Bureau*, D.C. Cir., No. 15-1177, October 11, 2016, found that the CFPB was “unconstitutionally structured” because of the autonomy of its director. The CFPB’s structure and authority to affect consumer rights and consumer product servicers overlap other similar federal statutes and constitutionally structured federal agencies already designed to monitor consumer rights. The League is concerned that the CFPB’s unchecked supervisory, investigative, and rule making authority potentially violate or abuse constitutional rights. Specifically, CFPB investigative actions raise legitimate due process concerns for those subject to investigation.

Further, the CFPB argued in the PHH case that there is no statute of limitations for administrative proceedings. The Court decided that this was wrong and held any actions taken under the Dodd-Frank Act incorporate the statutes of limitations in the underlying statutes enforced by the CFPB in administrative proceedings.

At a minimum, the CFPB should be reformed to provide Congress with more oversight and ability to limit CFPB powers, better direct resources toward consumers, and operate in accordance with the Constitution and rights afforded thereunder.



## **2. CFPB Compliance and Capital Costs have Eliminated or Stunted Growth of Small and Emerging Companies**

(a) Because of the CFPB's actions and orders, small business members of the League that are engaged in consumer debt collection and servicing consumer financial products have been forced to obtain new technology and employees solely for daily account reporting, auditing, daily documentation of account events, creation of written manuals and policies without regard to the feasibility, necessity or utility of said reporting, auditing, and documentation.

(b) Because of the CFPB, third-party debt collection servicers that are or were clients of the League's members have reduced their attorney and servicing networks to attempt to consolidate their limited capital and resources with larger, multi-jurisdictional firms and companies to avoid additional auditing and compliance costs.

In sum, for League members, CFPB action and regulation has reduced business income, caused mergers or businesses closures, and caused fewer entry opportunities for the creditors' rights industry because of the increased costs and risks of doing business.

### **Conclusion**

The CFPB's structure provides its director with unprecedented autonomy. The CFPB's actions have negatively impacted League members. League members believe the negative impact extends to consumers, small businesses, and those that sell and service consumer financial products. The increased costs of doing business and uncertainty and costs required to comply with regulations are bad for businesses. For those reasons, the League supports reform to the structure of the CFPB that is remedied with the Financial CHOICE Act along with smart pro-small business legislation that protects consumers.

### **Proposals**

**The CLLA supports the following changes to the CFPB:**

- a) **To change the structure from a single director with no oversight to a commission with Congressional oversight, including an Inspector General;**
- b) **To adopt a one (1) year statute of limitations for CFPB administrative actions;**
- c) **To exclude attorneys from the CFPB's jurisdiction, as attorneys are already governed by the FDCPA, Rules of Professional Conduct, and local court rules and procedures.**



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