



February 3, 2016

Oppose H.R. 766, the “Financial Institution Customer Protection Act”

Dear Representative:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national advocacy organizations, we write to express our strong opposition to H.R. 766, the absurdly-named “Financial Institution Customer Protection Act.” This bill would make it more difficult for federal financial regulators and the Department of Justice to uphold the integrity of financial services systems and to protect consumers – such as the elderly, communities of color, and other economically vulnerable populations – from the devastating consequences of payment fraud.

Most consumers benefit from the ability to conduct financial transactions through electronic payment networks such as the ACH system. The integrity of this system, however, hinges on safeguards that ensure that when a merchant seeks to take money out of a consumer’s account, the correct authorizations are in place to debit the correct amount at the correct time. In most cases, the financial institutions that process payments on behalf of third-party payment processors and interface with the bank holding a customer’s account are responsible actors. Yet when required safeguards are ignored, consumers’ bank accounts are left exposed to transactions initiated as part of internet scams, abusive debt settlement fees, online gambling, illegal online payday loans, or other practices that are prohibited under federal and state law – jeopardizing a consumer’s wages, retirement income, and other assets.

We believe that H.R. 766 would hamper the ability of financial regulators and the Department of Justice to protect consumers in several ways. First, it would add new restrictive language to limit penalties for violations of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) to acts committed “against” a financial institution or “by” the institution against a third party. While this sounds highly technical, it would prevent DOJ from using FIRREA in cases where a bank has helped scammers withdraw money from the accounts of their victims, because the scam is neither “against” the bank nor “by” the bank. Second, it would add new procedural burdens for FIRREA investigations. Third, it would impose new procedural burdens on regulators before they can persuade a financial institution to terminate a banking relationship with a business that shows signs of engaging in fraud, money laundering, or other illegal activity, changes that would further erode public trust in the banking system and even tip off suspects that they are under investigation.

H.R. 766 seems aimed at curtailing the Department of Justice’s “Operation Choke Point,” which has successfully pursued actions against several banks that knowingly helped to process fraudulent transactions. An inquiry of the program by the DOJ’s Office of

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Professional Responsibility, conducted at the request of the author of H.R. 766 and other members of the Financial Services Committee, found no evidence of prosecutorial misconduct and that the cases were well-substantiated.

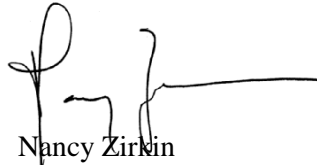
It is troubling enough that the House would advance legislation that makes it harder to protect consumers against financial crimes, which is what H.R. 766 ultimately does. We are even more troubled that this debate comes only several days after the Majority Leader of the Senate announced he will *not* move any legislation to restore common sense to our system for enforcing nonviolent drug crimes, a system that is rife with racial and economic disparities and imposes far more devastating consequences. In this regard, the priorities of Congress are baffling. And the optics speak volumes.

For these reasons, we urge you to oppose H.R. 766. If you have any questions, please contact either of us or Senior Counsel Rob Randhava at (202) 466-3311.

Sincerely,



Wade Henderson
President & CEO



Nancy Zirkin
Executive Vice President