CRL
Center for Responsible Lending

March 9, 2023

Hon. Andy Barr, Chairman
Subcommittee on Financial Institutions and Monetary Policy
House Committee on Financial Services
2430 Rayburn House Office Building
Washington, DC. 20515

Hon. Bill Foster, Ranking Member
Subcommittee on Financial Institutions and Monetary Policy
House Committee on Financial Services
2430 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Barr and Ranking Member Foster,

On behalf of the Center for Responsible Lending, we thank you for the opportunity to submit this letter for the record on the House Committee on Financial Services' Subcommittee on Financial Institutions and Monetary Policy hearing entitled, "Consumer Financial Protection Bureau: Ripe for Reform."

The Center for Responsible Lending (CRL) is a non-partisan, nonprofit research and policy advocacy organization working to promote financial fairness and economic opportunity for all, end predatory lending, and close the racial wealth gaps. We strongly believe many of the reforms being considered today will harm consumers and the financial markets. These misguided approaches will place every American taxpayer at risk by increasing the likelihood that our nation's economy may suffer yet another financial crisis.

It is imperative that we remember why the Consumer Financial Protection Bureau (CFPB) was created. Congress created the Bureau in the wake of a national outcry over the many failures in supervision, regulatory compliance, and enforcement exposed by the 2008-2010 financial crisis and the ensuing Great Recession.

We cannot forget the lessons memorialized by the bipartisan and Congressionally mandated Financial Crisis Inquiry Commission, whose final report stated that the primary cause of the crisis was a failure on the part of the government to regulate the financial industry.

A handful of federal regulators had unclear and confused jurisdictions, while their consumer protection divisions were shrunk in size and moved to the proverbial basement offices of those agencies. Simply put, it was clear that the financial market and its federal supervision were ripe for reform, and consumers had no advocate.

In all its wisdom, Congress responded by consolidating the consumer protection functions of those agencies into a single entity and giving the newly created Bureau the same independent funding mechanism as other prudential financial regulators. The Office of the Comptroller of the Currency has been operating this same way for 160 years.

Mr. Chairman, we should not bring back the same policies that led to the Great Recession. Did we not learn our lesson when homeowners saw their properties plummet 30 percent, on average, from their mid-2006 peak to mid-2009, or when the S&P 500 index fell 57 percent from its October 2007 peak to its trough in March 2009?

In just two years, the Great Recession wiped away $15 trillion in net worth for U.S. households and non-profit organizations. In a four-year span, the Federal Deposit Insurance Corporation (FDIC) was forced to close 465 failed banks. Nearly four million families saw their homes foreclosed and, as millions more felt the economic effects of the ensuing recession, many asked themselves –who is looking out for the average, American consumer?

The bipartisan Financial Crisis Inquiry Commission highlighted its concern with how "Changes in the regulatory system occurred in many instances as financial markets evolved. But as the report will show, the financial industry itself played a key role in weakening regulatory constraints on institutions, markets, and products." And, the Commission members were troubled by "… the extent to which the nation was deprived of the necessary strength and independence of the oversight necessary to safeguard financial stability."

The Commission described how three decades of deregulatory policies had "opened up gaps in oversight of critical areas with trillions of dollars at risk, such as the shadow banking system and over-the-counter derivatives markets. In addition, the government permitted financial firms to pick their preferred regulators in what became a race to the weakest supervisor."

The second most important contributing factor was the rapid rise in shadow banking, which had grown to rival the depository banking system but was not under the same scrutiny or regulation. When the shadow banking system failed, the collapse impacted the flow of credit to consumers and businesses. Much of the pushback we're seeing today against the CFPB is due to its efforts to regulate these dark corners of the marketplace and the rapid rise of financial services provided by non-bank entities.

Even the International Monetary Fund and World Bank learned from the Great Recession and warned other nations how "political interference in financial sector regulation and supervision contributed to the depth and magnitude of nearly all of the financial crises of the past decade." These entities urged world governments to find ways to insulate regulators and supervisors from political influence.

As we all know, the Supreme Court has agreed to hear *CFPB v CFSA*, which will determine the constitutionality of the Bureau's funding structure. Until then, the Bureau's funding should remain exactly as it has been since its inception, with no modifications. Doing otherwise would be harmful to consumers and the industry.

Some financial institutions and their advocates may feel tempted to pick and choose which laws they would like to keep on the books should the Supreme Court issue a misguided verdict. Congress must not support changes to the CFPB's funding or structure before the Court rules. Further, most of the proposals listed for discussion at this hearing – to varying degrees – would weaken or eliminate important safeguards for both consumers and the market as a whole. We unequivocally request that you reconsider these proposals.

There is simply no need for legislation that converts CFPB to a yearly appropriations cycle, as proposed in the TABS Act. CFPB funding is legally defensible, constitutional, and firmly grounded in a rationale of economic stability.

Weakening the CFPB is bad for lenders. The Bureau has created concrete standards like the qualified mortgage safe harbor to the ability-to-repay rule, and establishing small creditor exemptions to reporting and disclosure requirements when necessary. The Bureau has evened the playing field between the big banks, community institutions, CDFIs, and non-depository actors by establishing clear rules of the road.

Undoubtedly, the CFPB has created certainty in the marketplace, and without that certainty, lenders would be left exposed to unacceptable risk and hamstrung in their ability to provide capital.

Simply said, the CFPB is badly needed. The proof is in the results. Since it was created, the CFPB has helped nearly 200 million consumers receive over $16 billion in relief and issued $3.7 billion in civil penalties. Those penalties also go to consumers – even if the company that defrauded them has vanished.

One example of the extent CFPB's efforts support American families is enforcement of the Military Lending Act (MLA). Initially, the MLA covered three types of credit for active-duty service members and their dependents: payday loans, vehicle title loans, and tax refund anticipation loans. In 2015, the Department of Defense expanded the MLA to include additional credit products, adding overdraft lines of credit, installment loans (non-vehicle), certain student loans, and credit cards; limiting rates to 36% for these additional products.

Prior to the MLA and its expansion, servicemembers and their families were victims of egregious triple-digit rates while using open-end lines of credit, personal and installment loans, and car title loans. It is because of the CFPB's enforcement of the MLA that servicemembers and their families are protected from the known harms of predatory high-interest-rate loans.

New data from Republican polling firm Chesapeake Beach Consulting and Democratic firm Lake Research Partners shows that 79 percent of voters across the political spectrum – including 64 percent of independents and 75 percent of Republicans – overwhelmingly support the mission of the CFPB to regulate the financial industry and protect consumers. These new findings are consistent with over a decade of opinion research showing that voters believe financial companies, while serving an important role, need more regulation.

Americans strongly support the agency's role in providing protections aimed at new types of financial products. They want the CFPB to protect consumers from excessive fees, abusive high-cost lenders, and discrimination in all areas of banking, not just lending. There is wide agreement that the CFPB is essential to the proper function of our economy. The Bureau curbs worst practices, punishes repeat offenders, and creates a stable regulatory environment for consumer finance. Inversely, those who stand to benefit from neutering the CFPB peddle in worst practices, break the law repeatedly, and seek to exploit an inconsistent regulatory environment with unsafe products and services.

Mr. Chairman, we urge you to consider the consequences of many of these proposals and put aside any further discussion on changes to the governance and funding structure of the CFPB and other financial regulators until after the Supreme Court can render its judgment.

Thank you again for the opportunity to present these thoughts for the hearing record.

Sincerely,

The Center for Responsible Lending

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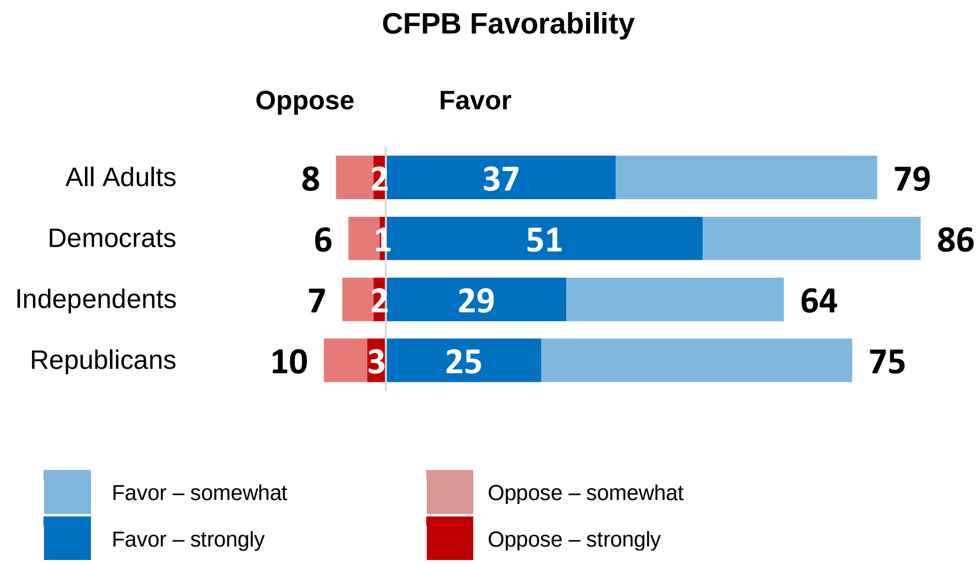
To:	Interested Parties
From:	Celinda Lake, David Mermin, Emily Garner, Lake Research Partners, & Robert Carpenter, Chesapeake Beach Consulting
Re:	New Bipartisan Polling Shows Support for Financial Regulation
Date:	December 5, 2022

New data from the bipartisan polling team Lake Research Partners and Chesapeake Beach Consulting[i] shows that voters across the political spectrum overwhelmingly support the ongoing mission of the Consumer Financial Protection Bureau (CFPB) to regulate the financial industry and protect consumers. The new findings are consistent with over 10 years of opinion research demonstrating strong public support for the agency's role and work.

Voters are strongly supportive of a variety of specific protections aimed at new types of financial products and want the CFPB to protect consumers from excessive fees and abusive high-cost lenders. They also strongly support the CFPB taking action to fight discrimination in all areas of banking, not only lending.

Voters across party lines strongly support CFPB's mission

- After voters hear a brief description of the CFPB and its mission[1], nearly 4 in 5 say they favor the agency (79%).
    - Voters are overwhelmingly supportive across party lines. Two-thirds of independents (64%), three quarters of Republicans (75%), and over eight in ten Democrats (86%) support the CFPB. Intensity among Democrats is particularly high – a majority strongly favor the agency (51%).



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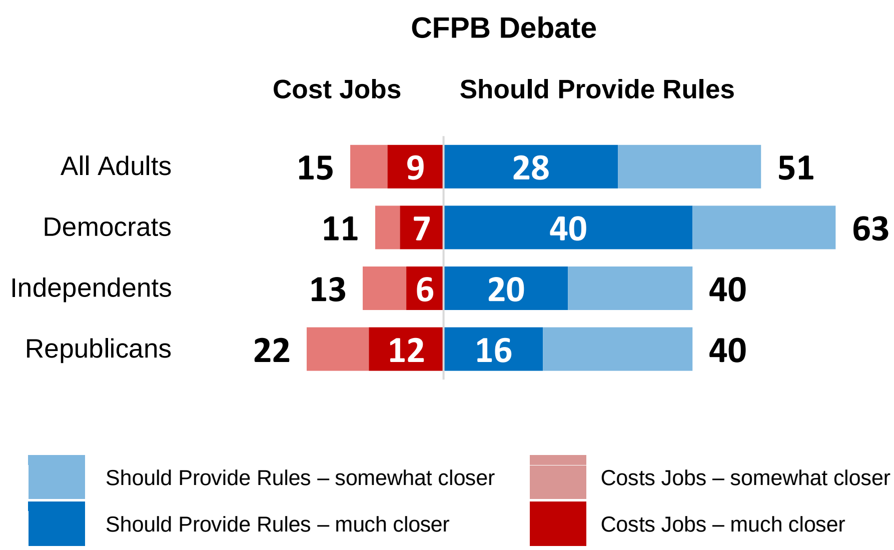
[1] Now here is a description of a federal agency, the Consumer Financial Protection Bureau, or CFPB. The CFPB, established in 2008, is the first federal agency whose mission is protecting consumers when they use mortgages, credit cards, bank accounts, and other financial products and services. Its mission includes preventing deceptive, unfair and abusive lending and collection practices by banks and other companies. From what you know about the mission of the Consumer Financial Protection Bureau, or CFPB, would you say you favor or oppose the CFPB?

- A majority of voters (51%) agree that the CFPB should provide rules for financial products to protect consumers while few (15%) agree that the CFPB is an unnecessary bureaucracy that costs jobs and impedes growth.

    - When presented with statements supporting and opposing the CFPB's role in regulating finance[2], a significant majority of Democrats (63%) and pluralities of independents (40%) and Republicans (40%) agree on the need for this agency to provide rules for financial products.



Support for consumer protections on abusive lending and debt collection, excessive fees, and loopholes exempting new types of fintech companies is very high

- A large majority of voters support of a slate of specific existing and proposed consumer protections[3], including measures to limit interest rates, credit card, and bank fees, and to protect consumers from abusive creditors, student lenders, and so-called "fintechs."

    - Over seven in ten voters are in favor of each of the proposals, and intensity of support is strong.

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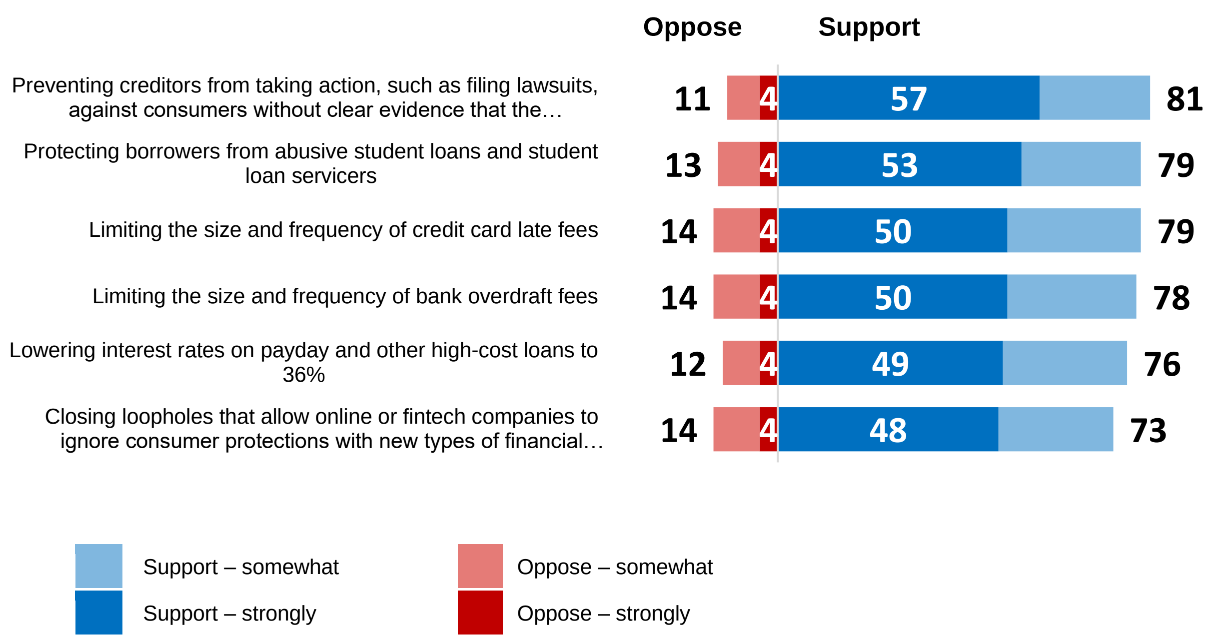
[2] Now here are two statements about the Consumer Financial Protection Bureau, or CFPB. Please indicate which one is closer to your own view, even if neither is exactly right. [ROTATE]

Some people say that just as we have rules to guard against consumer products, like appliances and automobiles, the Consumer Financial Protection Bureau should be there to provide similar rules for financial products. Just as it's against the rules to sell dangerous toys, it should be against the rules to sell dangerous loans and mortgages and have Wall Street interests put our savings and homes at financial risk.

The Consumer Financial Protection Bureau is another unaccountable, expensive, federal bureaucracy we don't need. The bureau imposes harsh regulations on small financial businesses lacking resources to manage intrusive government oversight and cuts access to credit. This costs jobs and impedes economic growth. The CFPB is yet another example of out-of-control, big federal government.

[3] Below are some new consumer protections proposed by federal lawmakers and regulators. For each, please indicate whether you support or oppose enacting it.

Consumer Protections

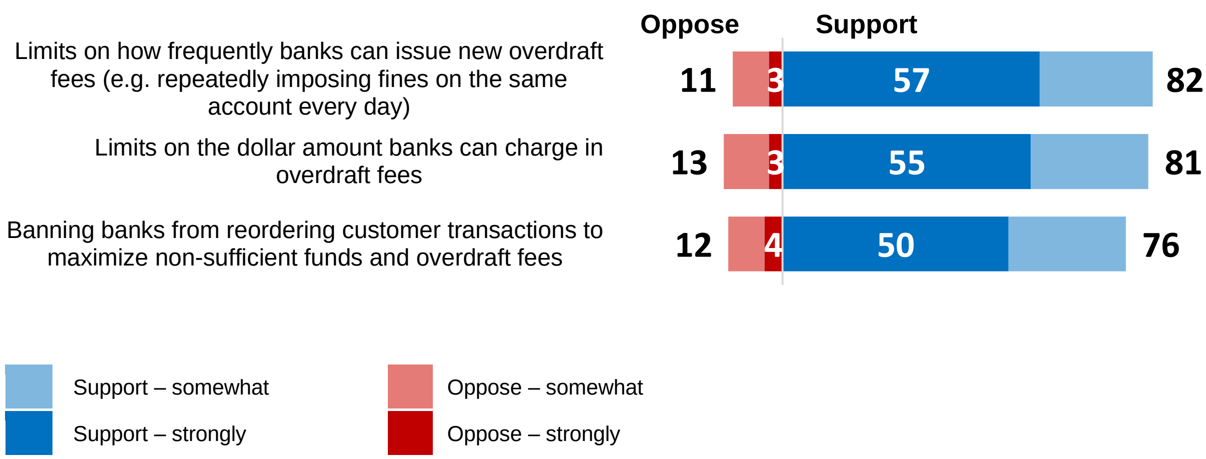


- Significant majorities across party lines support all of these proposals. At least six in ten independents, two thirds of Republicans, and eight in ten Democrats support every proposal.

% Support – Total Support (Strongly Support)	Total	Rep	Ind	Dem
Preventing creditors from taking action such as filing lawsuits, against consumers without clear evidence that the consumbers actually owe debts	**81 (57)**	**81 (52)**	69 (50)	**85 (63)**
Protecting borrowers from abusive student loans and student loan servicers	79 (53)	73 (43)	**71 (54)**	**86 (61)**
Limiting the size and frequency of credit card late fees	79 (50)	76 (41)	69 (49)	85 (58)
Limiting the size and frequency of bank overdraft fees	78 (50)	73 (42)	**71 (53)**	84 (56)
Lowering interest rates on payday and other high-cost loans to 36%	76 (49)	72 (42)	67 (46)	82 (55)
Closing loopholes that allow online or fintech companies to ignore consumer protections with new types of financial products	73 (48)	68 (39)	63 (43)	80 (57)

- At least three-quarters of voters support each of the following proposals to address overdraft fees[4], with half or more voicing strong support. The most popular measure is limiting how frequently banks can impose overdraft fees, but all measures register strong approval.

Policies Addressing Overdraft Fees



- These protections have very broad and strong support across party lines. At least four in ten independents and Republicans and at least half of Democrats are strongly in support of each.

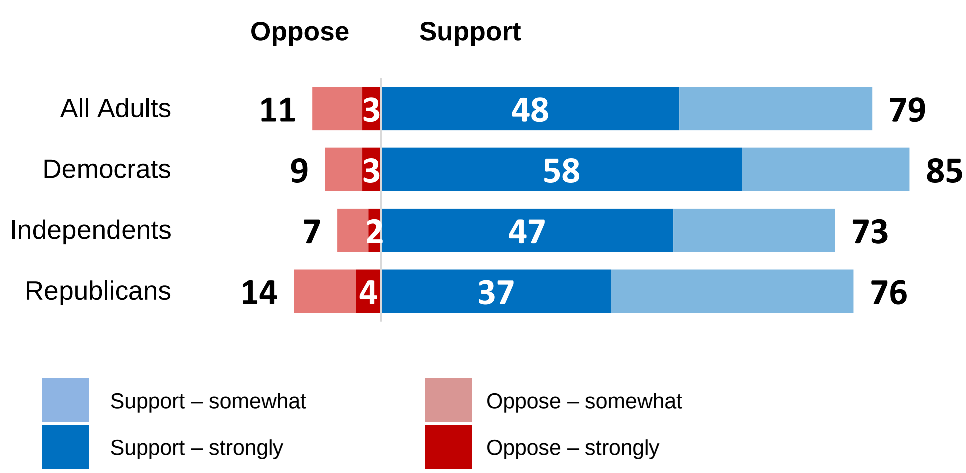
% Support – Total Support (Strongly Support)	Total	Rep	Ind	Dem
Limits on how frequently banks can issue new overdraft fees (e.g. repeatedly imposing fines on the same account every day)	**82 (57)**	**79 (50)**	**73 (57)**	**87 (64)**
Limits on the dollar amount banks can charge in overdraft fees	81 (55)	78 (46)	**75 (56)**	**86 (64)**
Banning banks from reordering customer transactions to maximize non-sufficient funds and overdraft fees	76 (50)	72 (43)	67 (45)	83 (58)

[4] Now here is some information about overdraft fees: Many banks repeatedly charge overdraft fees on checking accounts and debit cards, around $35 or more each time. A few banks have reduced or stopped charging these fees on their own. Some people say that the CFPB should establish minimum overdraft fee protections for all consumers that all banks are required to follow. Other people say that the CFPB should not impose any consumer protections and let each bank choose its own approach. For each of the following policies, please indicate whether you support or oppose the CFPB enacting it.

Strong majorities of voters support CFPB action to fight discrimination.

- Nearly eight in ten voters (79%) support the CFPB holding financial companies accountable if they discriminate based on race and ethnicity in lending[5]*, with nearly half strongly in support (48%).
    - Nearly three-quarters of independents (73%), over three-quarters of Republicans (76%) and over eight in ten Democrats (85%) are in support of this legislation.
    - Democrats have the highest intensity of support (58%), but nearly half of Independents (47%) and over a third of Republicans (37%) are also in strong support.

CFPB Taking on Discrimination by Race/Ethnicity in Lending



- Over seven in ten voters (72%) also support the CFPB using all tools available to investigate and prevent discrimination in all areas of consumer financial products and services, not only in lending.[6]
    - Democrats overwhelmingly support this proposal, with over eight in ten in support (82%) and half supporting it strongly. Six in ten independents (60%) and nearly two-thirds of Republicans (64%) also support the proposal.

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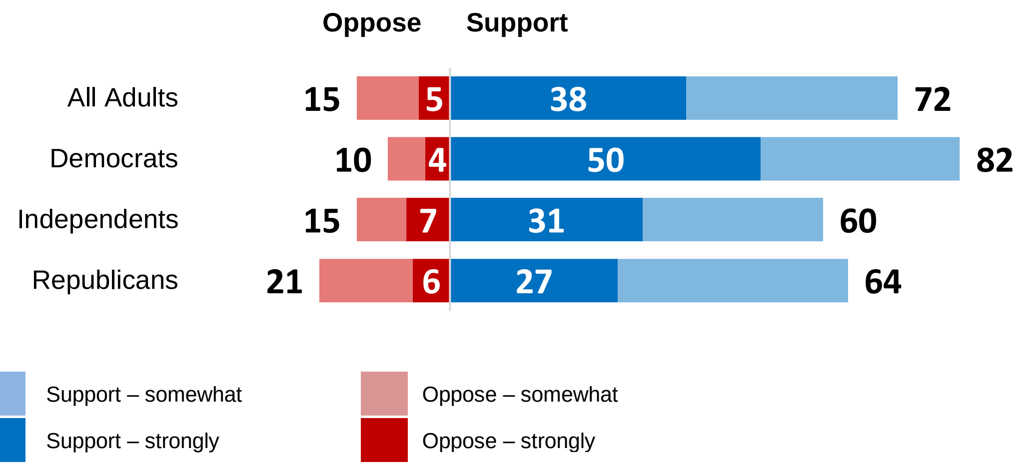
[5] Do you support or oppose the CFPB using all the tools available to it to investigate and hold financial companies accountable if they discriminate against people because of their race or ethnicity in lending?
*Question split-sampled

[6] Do you support or oppose the CFPB scrutinizing financial companies' practices in all areas, for example who can open checking accounts, to eliminate illegal discrimination of all kinds?

CFPB Fighting Discrimination in All Consumer Financial Services



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Please feel free to contact Celinda Lake (clake@lakeresearch.com) or David Mermin (dmermin@lakeresearch.com) at 202-776-9066 or Bob Carpenter (bobcarpenter1957@gmail.com) for additional information about this research.

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[i] Methodology**:** Lake Research Partners and Chesapeake Beach Consulting designed and administered this survey, which was conducted online from October 20-25, 2022. The survey reached a total of 1,000 likely November 2022 voters nationwide.

The sample was stratified by gender, age, region, race, party identification, region by gender, education level, and race by gender to reflect the demographic composition of likely voters. Where there were slight differences between our survey sample and the expected demographic composition, data were weighted accordingly.

The margin of error is +/- 3.1% for the full sample and larger for subgroups and split-sampled questions.

Numbers do not always add up to 100% due to rounding and refusals.