

June 28, 2022

The Honorable Rohit Chopra
Director
Bureau of Consumer Financial Protection
1700 G Street, N.W.
Washington, D.C. 20552

Re: Unfairness *and* Discrimination: Examining the CFPB's Conflation of Distinct Statutory Concepts

Dear Director Chopra,

The undersigned trade associations and our members firmly oppose discrimination in any form and are committed to upholding the nation's civil rights and fair lending laws. However, the CFPB's examination manual "update" and announcement on March 16, 2022 that it would begin examining financial institutions for alleged discriminatory conduct that it deems to be "unfair" under its "unfair, deceptive, and abusive acts or practices" (UDAAP) authority purports to extend fair lending laws beyond the bounds carefully set by Congress.

As a courtesy, we are sharing our latest legal analysis of the Bureau's action in the attached paper, *Unfairness and Discrimination: Examining the CFPB's Conflation of Distinct Statutory Concepts*. The paper examines the CFPB's action, and concludes that it is contrary to law and is subject to legal challenge and Congressional action under the Congressional Review Act. Congress did not authorize or intend for the CFPB to "fill gaps" between the clearly articulated boundaries of antidiscrimination statutes with its UDAAP authority. Accordingly, we urge you to rescind the exam manual update. Should you believe additional authority is necessary to address alleged discriminatory conduct, we stand ready to work with Congress and the CFPB to explore that possibility and to ensure the just administration of the law.

We welcome the opportunity to discuss our analysis with you and your staff.

Respectfully submitted,

American Bankers Association
Consumer Bankers Association
Independent Community Bankers of America
U.S. Chamber of Commerce

cc: The Honorable Maxine Waters, Chairwoman, House Financial Services Committee
The Honorable Patrick McHenry, Ranking Member, House Financial Services Committee
The Honorable Sherrod Brown, Chairman, Senate Banking, Housing, and Urban Affairs Committee
The Honorable Pat Toomey, Ranking Member, Senate Banking, Housing, and Urban Affairs Committee