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TESTIMONY OF HILARY O. SHELTON

Director, NAACP Washington Bureau &
Senior Vice President for Policy and Advocacy

Before the Senate Committee on Banking, Housing, and Urban Affairs

On

"Assessing and Enhancing Protections in Consumer Financial Services"

Thursday, September 18, 2014

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Good morning, Senator Johnson, Senator Crapo, and esteemed members of this panel. Thank you so much for inviting me here today to testify and for soliciting the input of the NAACP on this very important topic.

Founded more than 105 years ago, in February of 1909, the National Association for the Advancement of Colored People, the NAACP, is our nation's oldest, largest, and most widely-recognized grassroots-based civil rights organization. We currently have more than 1,200 active membership units across the nation, with members in every one of the 50 states.

My name is Hilary Shelton, and I am the Director of the NAACP Washington Bureau and the Senior Vice President for Policy and Advocacy. I have served as the Director of the NAACP Washington Bureau, our Association's federal legislative and political advocacy arm, for over 17 years.

INTRODUCTION

Financial empowerment and the economic security of the communities served and represented by the NAACP has, since our inception, been a cornerstone of our agenda. "Economic Sustainability" continues to be a priority for the NAACP in that it is one of the five "game changers" (along with criminal justice, education, health, and civic participation / voting rights) outlined in the most recent NAACP strategic plan, designed to carry us through our second century in fighting against racial bias and racial and ethnic inequality. To that end, in addition to being very active legislatively on issues from supporting an increase in the federal minimum wage to opposing predatory lending of all sorts in our communities, the NAACP currently has a

"Financial Freedom Center," whose purpose is to enhance the capacity of racial and ethnic minority Americans, and other underserved groups, through financial economic education; to promote diversity and inclusion in business hiring, career advancement and procurement; and to monitor financial banking practices and promote community economic development.

THE HISTORY AND THE SITUATION TODAY FACING MOST RACIAL AND ETHNIC MINORITIES

In recent times, the concentration of wealth in fewer and fewer hands has become an important subject of national debate. In 1982, the highest-earning 1% of families received 10.8% of all pretax income, while the bottom 90% received 64.7%. Three decades later, in 2012, the top 1% received 22.5% of pretax income, while the bottom 90%'s share had fallen to 49.6%[1]. For the past five years, wages have risen for the wealthiest Americans while barely floating above inflation for most people[2]. Furthermore, wealth inequality is even greater than income inequality. While the highest-earning fifth of U.S. families earned 59.1% of all income, the *richest* fifth held 88.9% of all wealth[3].

Unfortunately, the crisis of the racial wealth divide has still yet to be adequately discussed. The difference in median household incomes between white Americans and African Americans has grown from about $19,000 in 1967 to roughly $27,000 in 2011 (as measured in 2012 dollars). Median African American household income was 59% of median white household income in 2011; yet as recently as 2007, black income was 63% of white income[4].

The wealth gap, when combined with the disparate impact of the recession of 2008, has further caused severe, disproportionate, damage to the communities served and represented by the NAACP. As was quantified in a released just this last Monday by Standard & Poor's, states are struggling to meet the demands of funding programs including education, highways, and social programs such as Medicaid[5]. This lack of state funds most hurts those who can least afford it, neighborhoods and communities which are still reeling from the recession of 2008.

The recession of 2008 was tough on most Americans, but particularly and disproportionately rough on racial and ethnic minority communities. While White Americans made up the majority of the 2.5 million foreclosures completed between 2007 and 2009 -- about 56 percent -- minority communities had significantly higher foreclosure rates.

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[1] Saez, Emmauel, "Striking it Richer: The Evolution of Top Incomes in the United States" U.C. Berkley, September 3, 2013.
[2] Clark, Meagan "Rising US Income Inequality Is Hurting State Tax Revenues" Standard & Poor's, September 15, 2014
[3] Wolff, Edward N. "The Asset Price Meltdown and the Wealth of the Middle Class" The National Bureau of Economic Research, November 2012
[4] Desilver, Drew "Five Facts About Economic Inequality" Pew Research Center, January 7, 2014
[5] Boak, Josh "Wealth Gap Hurts State Budgets" *Washington Post*, September 15, 2014, p. A13

While about 4.5 percent of white borrowers lost their homes to foreclosure during that period, African American and Latino borrowers had 7.9 and 7.7 percent foreclosure rates, respectively. That means that African Americans and Latinos were more than 70 percent more likely to lose their homes to foreclosure during that period.

Overall, blacks lost about 240,020 homes to foreclosure, while Latinos lost about 335,950, according to an analysis of government and industry data on millions of loans issued between 2005 and 2008 -- the height of the housing boom[6].

So that brings us to today. Too many Americans, and especially racial and ethnic minority Americans, have lost their homes as well as their access to affordable and sustainable credit. One of the most basic, fundamental steps is owning a bank account. It is among the most basic symbols of financial growth, maturity, security, and independence. Owning a bank account is a crucial step toward financial security and success. A bank account not only provides people with a vehicle for saving, it can help build credit and greater financial capability. While just over 8% of all American homes do not have a banking account, more than 20 % of African-Americans are outside of the American banking system[7].

One direct result of being frozen out of the "traditional" banking system is more of a reliance on "nontraditional," or alternative sources of capital. By "nontraditional," I am referring to check cashers, title lenders, and payday lenders, among others, which usually lend relatively small amounts of money for the short term.

The problem with many of these loans is that they end up being expensive, and even predatory,often trapping the consumer in a cycle of debt when they are already having difficulties making ends meet. Check cashers, for example, typically charge up to four percent of the face value of a check – or $20 for a $500 check[8]. And a typical payday loan borrower is indebted for more than half of the year with an average of nine payday loan transactions at annual interest rates over 400%[9].

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[6] Center for Responsible Lending, "Foreclosures by Race and Ethnicity: The Demographics of a Crisis" June 18, 2010 www.responsiblelending.org/.../foreclosures-by-race-and-ethnicity.html#sthash.geo75K3a.dpuf

[7] Selah. Makkada B. "20 Percent of African Americans Too Broke for Bank Accounts" Black Enterprise Magazine, September 16, 2014

[8] Kim, Anne "CFED Fact File", The Corporation for Economic Development, November 2012

[9] Center for Responsible Lending See more at: http://www.responsiblelending.org/payday-lending/#sthash.6i1AGboi.dpuf

THE ROLE OF THE CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

One key component of the *Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010* was the creation of the Consumer Financial Protection Bureau (CFPB). The NAACP has been a strong and steadfast supporter of the CFPB since its inception, as it is the only agency within the federal government whose primary charge is the protection of the American consumer.

Since its inception the CFPB has taken great steps to limit the potential harm which financial tools and companies can impart on Americans. Over the past three year the CFPB has taken dramatic steps to halt the financial abuse of American consumers by financial companies. In many cases, the victims of these abuses are people of low and moderate income (LMI). Since 80% of African American families fall into this definition, the NAACP has worked closely with and monitored the impact of the CFPB on the communities served and represented by the NAACP since its creation over three years ago.

In its first three years, the CFPB has yielded aggressive, yet at the same time measured, results. Specifically, looking at the numbers alone:

$4.6 Billion: Money ordered in relief to consumers by CFPB enforcement actions
15 Million: Consumers who will receive relief because of CFPB enforcement actions
$150 Million: Money ordered to be paid in civil penalties as a result of CFPB enforcement actions
$75 Million: Monetary relief provided to consumers as a result of CFPB supervisory actions
775,000: Consumers who will receive remediation because of CFPB supervisory actions
400,000: Number of complaints CFPB has received as of July 2014[10]

In addition to congratulating the agency and its employees on a job well done to date, I would be remiss if I did not also give a shout out and high commendations to the Director of the CFPB, Rich Cordray. Under Rich Cordray's leadership, the CFPB has grown and it now has a staff of over 1,350 employees and is one of the most effective federal agencies in town.

RECCOMENDATIONS

As the CFPB continues to mature and define its role in the regulatory space, the NAACP hopes that they will take a stronger look at the structural racism inherent in the provisioning of credit to people of color and its impact. Higher cost credit, or the lack of any credit, in the communities of color widens the racial wealth gap and concentrates African American and

[10] Consumer Financial Protection Bureau, "Consumer Financial Protection Bureau: By the Numbers" July 21, 2014 http://files.consumerfinance.gov/f/201407_cfpb_factsheet_by-the-numbers.pdf

Latino families into areas of concentrated poverty. The NAACP feels that the CFPB, as the only federal regulator solely focused on protecting the needs of the consumer, can play a key role in helping to shrink the unacceptable wealth divide.

Regarding the availability of credit and the availability of financial services from both deposit and non-bank lenders there continues to be seen a disparate lack of access to safe and affordable credit products in communities of color. The NAACP strongly urges the CFPB to study this phenomenon and to make recommendation for its rectification.

Other forms of credit also display sign of structural barriers, as the CFPB revealed in their analysis of auto lending. In particular, the prevalence of payday lenders in areas where banks are closing branches results in a stubbornly high level of un- and under-banked racial and ethnic minority families. Once these families lose access to traditional banks their ability to access credit is further constricted. We need to rid our neighborhoods of predators and stop the proliferation of abusive predatory lending products that strip, rather than build, financial health and wealth in our communities. While the CFPB cannot implement a nation-wide cap on interest rates (we strongly support the legislation introduced by Senator Cardin and Congressman Cartwright, S. 673 / H.R. 5130, which mandates an interest rate of no more than 36% APR), the Bureau can take affirmative steps to curb abusive lending or at least expose it.

In short, the CFPB has an obligation to bring meaningful reform to the marketplace. At the same time, the CFPB must take steps to allow legitimate, non-exploitative, non-predatory credit to remain viable and readily available in every community. To that end, we urge that any rule addressing payday, car title or any other short term lending product accomplish the following:

1. Requires the lender to determine the borrower's ability to repay the loan, including consideration of income and expenses;

2. Does not sanction any series of back-to-back, consecutive, or repeat loans;

3. Establishes an outer limit on length of indebtedness that is at least as short as the FDIC's 2005 guidelines – 90 days in a twelve-month period;

4. Restricts lenders from requiring a post-dated check or electronic access to a borrower's checking account as a condition of extending credit; and

5. Transparency of fees, penalties, additional interest rates, and pay-off costs

Another consequence endured by families who lack access to traditional bank branches and bank accounts is the reduction of their credit profile. Credit scoring favors consumers who have access to traditional forms of credit, such as auto and home loans, credit cards, and personal loans. Thus, once again, racial and ethnic minorities are at a disadvantage when credit scoring and credit reports are increasingly used from everything from renting an apartment to getting a job.

Finally, the NAACP pledges to continue to work with the CFPB and any other entity to ensure that credit is accessible and affordable to all Americans, regardless of their race, ethnicity, gender, age, or any other unique characteristic or where they live.