

## The Dodd-Frank Wall Street Reform and Consumer Protection Act Benefits Native Americans

Too many responsible Native Americans have paid the price for an outdated regulatory system that left our financial system vulnerable to collapse and left families without adequate protections. In the summer of 2009, the Obama Administration put forward a legislative proposal crafted to rein in excessive risk on Wall Street and preserve economic opportunity on Main Street. A year later, the President signed into law a bill aligned to a remarkable degree with that original proposal. This comprehensive financial reform, which put in place the strongest consumer financial protections in history, included the creation of a new, dedicated Consumer Financial Protection Bureau (CFPB).

The CFPB, an independent entity within the Federal Reserve, will have one mission: to protect consumers by promoting transparency and consumer choice and preventing abusive and deceptive practices. It will have broad authority to write and enforce new consumer financial protection rules. The CFPB will use these authorities to promote financial stability and protect consumers – including Native Americans – from the unfair practices that contributed to the financial crisis.

### Native Americans and the Financial Crisis

- **Native American borrowers were more likely to receive subprime mortgages than non-Hispanic white borrowers in 2005 and 2006.** Native Americans were roughly twice as likely non-Hispanic whites to be holding high-priced mortgages, and also more likely to hold higher home refinance loans. Even after controlling for differences in household incomes, locations, loan type, and the source of the loan – Native Americans were at least 1.5 times more likely to hold higher-priced mortgages. [Federal Reserve, "[The 2006 HMDA Data](#)" (December 2007)]
- **Native American homeownership lags significantly.** Over the period 2003-2009, the homeownership rate of Native Americans averaged 57%, compared with 75% for non-Hispanic whites – a 19 percentage point difference. [U.S. Census Bureau, "[Housing Vacancies and Homeownership Annual Statistics: 2009](#)" (2010), Table 22]
- **Borrowers who have subprime loans, including Native Americans, have come under severe stress during the recent financial crisis and are at high risk of foreclosure.** 48.5% of outstanding subprime loans made to borrowers in 2005 and 57.2% of such loans made to borrowers in 2006 are in foreclosure or no payment has been received for 60 days or more. [McDash Online Core Database data (February 2010); Treasury analysis.]
- **Mortgage loans present problems for Native American communities.** Well before the housing bubble exploded, a 2007 survey at a National American Indian Housing Council meeting found that 54% of respondents believed that mortgage loans were either "a big problem" (21%) or "somewhat of a problem" (33%) in their communities. [First Nations Development Institute, "[Borrowing Trouble](#)," (2008) ("FNDI")]

### Native Americans Deserve Clear Rules and Strong Enforcement

#### *Alternative Financial Services*

- **Native Americans, among other minorities, are more likely to use alternative financial services.** Based on analysis of the 2007 Survey of Consumer Finances, the Center for American Progress reported that "[t]hirty-eight percent of families who had borrowed a payday loan within the last year were nonwhite while just 22 percent of families who did not take out such a loan were nonwhite." [Center for American Progress, "[Who Borrows from Payday Lenders](#)," (March 2009)]
- **Alternative financial services present problems in Native American communities.** A survey of attendees at a National American Indian Housing Council meeting found that at least half of respondents believed that the following alternative financial services were a problem in their communities: loans against tax refunds (68%), payday loans (67%), pawn shops (58%), and car title loans (50%). [FNDI]

### **Credit Cards**

- **About half (48%) of Native American and other minority households carry a credit card balance, with a median balance of approximately \$2,000.** [Federal Reserve, "[Changes in U.S. Family Finances from 2004 to 2007: Evidence from the Survey of Consumer Finances](#)," (February 2009) ("SCF")]

### **Mortgages**

- **40% of Native American and other minority households have mortgages and other debt secured by residential property, such as home equity lines of credit.** The median amount owed is approximately \$113,000. [SCF]
- **The piles of forms needed for a regular mortgage can be overwhelming,** and many brokers have taken advantage of that confusion to give borrowers loans they didn't need or couldn't afford.

### **Installment Loans**

- **49% of Native American and other minority households have installment loans, such as student loans.** The median total balance on such loans is approximately \$12,000. 36% have student and other education loans. [SCF]

### **Bank Accounts**

- **16% of Native Americans and other minority households do not have bank accounts, compared with only 4% of non-Hispanic white households.** Families without bank accounts are often forced to turn to costly alternative financial services, such as check cashing, which, until now, have lacked a federal supervisor to enforce fair rules of the road for consumers. In a survey conducted by the Federal Reserve, a significant fraction of households without bank accounts said that they did not have a checking account because they did not like dealing with banks (25%) or because the service charges were too high (12%). [SCF]
- **Many households have been automatically enrolled in expensive overdraft programs** that can hit consumers with costly overdraft fees for even the smallest purchases. For example, the FDIC found that the average overdraft charge for a single purchased item—like a \$2 cup of coffee—is \$30 at banks with assets over \$1 billion. [FDIC, "[FDIC Study of Bank Overdraft Programs](#)" (November 2008), Table IV-3]

### **Tax Refund Anticipation Loans**

- In 2006, tax filers in counties heavily populated with Native Americans were much more likely to take out expensive tax refund anticipation loans ("RALs") than were filers elsewhere in the country. The four counties in the United States with the largest proportions of people taking RALs (62% to 49%) all had populations that were at least 80% Native American. This is far out of proportion with the population as a whole: only about 6% of American tax filers took out a RAL in 2008. [FNDI; Individual Income Tax Returns, Preliminary Data: Selected Income and Tax Items, Tax Years 2007 and 2008; National Consumer Law Center and Consumer Federation of America, "[Major Changes in the Quick Tax Refund Loan Industry](#)" (February 2010)]

### **Retirement Investments**

- **Native American and other minority households invest in the financial markets, including for retirement.** 39% of minority households have retirement accounts with a median amount of approximately \$25,000. [SCF]

## **The Wall Street Reform and Consumer Protection Act of 2010 is Beneficial for Native Americans**

- **Fair markets for Native Americans:** One pillar of the CFPB's mission will be to ensure that markets for consumer financial products and services operate transparently and efficiently to facilitate access for all families, including Native American families. The CFPB will enforce fair lending laws that protect Native Americans from discriminatory lending practices. The CFPB will also be empowered to focus on improving disclosures and cracking down on abusive practices to make it easier for families to identify and avoid high cost, high risk products that don't meet their needs.

- **For Native Americans who want to buy a home:** The CFPB will take steps to consolidate and simplify with plain language two overlapping and sometimes inconsistent federal mortgage forms. The CFPB will for the first time, provide ongoing federal oversight of both nonbank companies and banks in the mortgage market, and protect borrowers from unfair, deceptive or other illegal mortgage lending practices.
- **For Native Americans with credit cards:** The CFPB will prevent evasion of the Credit CARD Act of 2009, which bans arbitrary rate hikes on existing balances and other unfair practices. For Native Americans who have used credit cards to get by when times are tight, the law will give them clarity on the interest rates they are charged.
- **For Native Americans caught by unexpected overdraft fees:** The CFPB will prevent evasion of new rules that give consumers a real choice as to whether to join expensive overdraft programs so that they are not unknowingly charged unnecessary fees.
- **For Native American families due for a tax refund:** The CFPB will provide robust federal supervision, for the first time, over the larger providers of RALs. The CFPB will combat abusive practices such as hidden fees and give Native American families the information they need to make smart choices about RALs.
- **For Native American families using alternative financial services:** The Wall Street Reform and Consumer Protection Act establishes, for the first time, robust federal supervision and oversight over larger alternative financial service companies such as check cashers and payday lenders, including on reservations. The CFPB will be able to combat abusive practices that harm consumers, helping families avoid hidden fees and keep more money in their pocketbooks.
- **For American Indians and Alaskan Natives without bank accounts:** The CFPB will be able to reign in practices that may drive some Native Americans away from banks—including by stopping banks from enrolling customers in expensive overdraft programs without their consent.
- **For Native Americans who need to take out private loans to cover the costs of higher education:** The CFPB will be able to supervise private student lenders, fight unfair practices, and require lenders to follow fair rules of the road and give students the information they need to make smart choices.
- **Empowering Native Americans to make smart financial choices by promoting financial education and financial literacy:** The CFPB will promote consumer financial education and financial literacy, with a dedicated office focused on ensuring that the CFPB's expertise and research are used to help raise awareness, and educate and empower consumers to avoid unfair practices and make smart financial choices.
- **Empowering tribal governments to enforce the laws on reservations:** Tribal governments will be permitted to enforce the CFPB's rules in areas under their jurisdiction, the same way that states will be permitted to enforce those rules. In addition, tribal consumer financial protection codes will be protected, so that tribal governments can set standards that are tougher than the federal standards to afford greater protections for their citizens under those codes.
- **Protecting Native American's retirement security, savings and investments:** The Wall Street Reform and Consumer Protection Act of 2010 strengthens investor protection by empowering the Securities and Exchange Commission (SEC) to:
  - Raise the standards for brokers and investment professionals when giving advice so that they have a fiduciary duty and are required to act in the interests of investors, rather than their own; and
  - Require brokers to disclose costs and risk factors to investors prior to selling a product, instead of after it is purchased.

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