February 14, 2013

Monica Jackson  
Office of the Executive Secretary  
Bureau of Consumer Financial Protection  
1700 G Street NW.  
Washington, DC 20552

Re: CFPB Notice of Proposed Policy to Encourage Trial Disclosure — Docket No. CFPB–2012-0046

Dear Madam:

The Center for Financial Services Innovation (CFSI) is submitting this letter in response to the request for comment by the Consumer Financial Protection Bureau on December 17, 2012. We appreciate the opportunity to respond to the CFPB’s notice and request for comment on proposed policies to encourage trial disclosures.

CFSI is a nonprofit organization, in our ninth year of providing national leadership, research, and insights on the financial services needs of underserved consumers. We conduct consumer research and work with the financial services industry to develop a broad understanding of consumers in this segment and the products offered to them. We invest in nonprofits and for-profits serving underbanked consumers with sustainable, innovative financial products and services. And we advance financial services policy to spur product innovation and market competition and address impediments to accessing high-quality financial services. Our vision is to see a strong, robust, and competitive financial services marketplace, where the diversity of consumer transaction, savings, and credit needs are met by a range of providers offering clear, transparent, and high-quality products and services at reasonable prices.

In 2010, CFSI established the Financial Capability Innovation Fund (FCIF) to identify, support, and evaluate promising strategies that deliver positive behavior change for low-income and underserved consumers. The fund enables the in-market development, real-world testing, and rigorous evaluation of innovative tools, products, and services to improve consumer financial capability. We define financial capability as a set of consumer behaviors combined with access to high quality financial products and services that lead to tangible improvements in consumers’ financial health.
Financial capability interventions aim to more effectively help consumers turn knowledge and good intentions into action. In our first round of FCIF grants, we selected five projects that promote success by leveraging technology, applying behavioral economics concepts, and closely combining relevant, timely, actionable, and ongoing messaging with high-quality financial products and services. Building on the success of the original Fund, we recently launched its successor – the Financial Capability Innovation Fund II – also created to identify innovative projects with the potential to help working Americans make smart financial choices and gain better access to financial services. Under the auspices of this new Fund, we expect to select our next round of grantees in the spring of 2013.¹

CFSI realizes that information disclosure is a key part of the financial capability equation, and we also believe that for information to lead to behavior change it needs to be relevant, timely, actionable, and ongoing. Disclosures can be an important tool to not only give terms and conditions – but also to deliver information that helps people make better decisions, allows them to comparison shop or make an individually appropriate choice, and that educates and nudges in addition to informing and satisfying regulatory requirements.

The opportunity to develop trial disclosures and test them, as provided in Section 1032 of the Dodd-Frank Act, is good government at its best and eagerly anticipated by many of us in the financial services community. CFSI applauds the proposed policies outlined by the CFPB; these provide important ground rules to help industry and innovators to work in partnership with the regulatory and policy communities to develop informative, cost-effective, and behaviorally-effective disclosures. We have some recommendations that we believe will make the program even stronger.

1. **Include non-traditional service providers.** CFSI regularly works with many non-traditional financial service providers, as we have found them to be particularly good at developing innovative solutions in the financial service arena. Non-traditional service providers are often at the forefront of change, sometimes more nimble at executing technological or marketing shifts, and often already have relationships with the underserved. Therefore, we are especially interested in assuring that non-traditional financial service companies and firms are among the industry partners able to apply for the trial disclosure waiver program.

2. **Include trials in delivery mechanisms as well as disclosure formats.** The growing penetration of mobile technologies, tablets, and smart phones has resulted in innovations to the provision and delivery of information to consumers. CFSI encourages the CFPB to consider trials not only in disclosure formats but also in delivery mechanisms. As seen in a 2009 report, designing disclosures for web delivery may

mean transforming the material into a more multi-dimensional framework that can substantially enhance consumer comprehension and the usability of information.²

3. Identify priority areas for innovation and trials. The Bureau should develop guidelines for determining what would make a specific disclosure change particularly worth testing. For example, does the disclosure relate to products or services that have a particularly high volume (e.g. credit cards) or high stakes (e.g. payday loans) for the consumer? Is there a particular level of risk for the consumer (e.g. a $35 fee versus losing all the money in the account)? In particular, we believe that CFPB should prioritize disclosure changes that would help underserved communities. We also believe there may be benefits to starting with small “proof of concept” pilots as opposed to large-scale trials.

4. Strive for cross-agency coordination. If the disclosure is successful, does it reflect a change the CFPB is willing and able to make? Other regulators should be included to ensure a shared understanding of the impact of particular innovations on consumers, firms, and the broader marketplace. If CFPB likes what it sees but the OCC, FDIC, or other state regulators don’t, then innovation will be stymied.

5. Clarify timelines for iterative development and testing. CFPB staff recognizes that some trial disclosures may need to be out in the field longer than others to fully gauge their efficacy. Furthermore, as Bureau staff has learned from their development of the mortgage disclosures, there can be both large changes in format and content as well as small tweaks to language that lead to improved comprehension and usability of the disclosed information. We believe it would be helpful for the policy to clarify the extent to which iterative development of disclosures would be covered under this program as well as the degree of changes allowed within a given trial.

6. Include a timeline for approval of applications. We believe it would be helpful for the policy to provide some idea about the timeline the CFPB will use for approvals or denials of proposed trials. Many federal programs have target response times (for example, 60 days). We believe it would be helpful for applicants to have some benchmark for expecting a response to help them plan budgets, staff time allocations, technology resources, and the like.

7. Include policies and guidelines for release of data from the trials. CFSI encourages the Bureau to include guidelines for the release of test results, data, and metrics generated by the projects. Timely release of the data will enable the research community to independently validate the findings. Furthermore, it will enable successful disclosures to be built upon by others in the marketplace.

8. Clarify the number of simultaneous trials that will be allowed. The policy does not address just how many trial disclosure projects the CFPB would allow in the marketplace at any one time for a given type

of disclosure – for example, how many simultaneous credit card disclosure trials might be allowed? Would these be limited to a region or allowed to be nationwide? If there are several regional trials going on at the same time, can – or should – these all be within the same region?

9. Go beyond disclosures. We recognize that Section 1032 (e) is quite specific to trial disclosures. However, we would encourage CFPB to consider additional opportunities for pilot-testing of other innovations that may be limited by substantive statutes. For example, un- and underbanked consumers would benefit from allowing bill payment via ACH or sweeps to a savings account from a general-purpose reloadable prepaid card. However, this functionality is restricted relative to collecting interchange fees within the rules for the Durbin Amendment. CFPB could invite applications from both entrepreneurs and established financial companies and offer those with the most promising ideas a time-limited waiver or safe harbor for small, controlled pilots of products or features that are not clearly covered by existing regulations.

Conclusion

To reiterate, CFSI applauds the proposed policies outlined by the CFBP; these provide important ground rules to help industry work in partnership with the regulatory and policy communities to develop informative, cost-effective, and behaviorally-effective disclosures. We appreciate the CFPB’s request for comment and hope our suggestions are useful in establishing the guidelines for the trial disclosure program and fostering innovation.

Sincerely,

Rachel Schneider
Senior Vice President, Insights and Analytics