FOR IMMEDIATE RELEASE: September 24, 2015
CONTACT: Chip Unruh (Reed), 202-224-4642
Annie Clark (Collins), 202-224-2523
Greg Vadala (Brown), 202-224-7391

Senators Urge Federal Government to Target Abuse of Structured Settlements

Bipartisan group of U.S. Senators ask regulators to take a look at unscrupulous companies who may be swindling lead poisoning and other victims out of lifetime payments known as "structured settlements"

WASHINGTON, DC – A bipartisan group of U.S. Senators are calling on the nation's foremost consumer and financial watchdogs to investigate an industry that may be preying on recipients of structured settlements, convincing them to trade decades of future payouts for an immediate lump sum payment worth a fraction of their value. Following a disturbing report by *The Washington Post*, U.S. Senators Jack Reed (D-RI), Susan Collins (R-ME) and Sherrod Brown (D-OH) are urging the heads of the Consumer Financial Protection Bureau (CFPB), the Federal Trade Commission (FTC), the Internal Revenue Service (IRS), and the Securities and Exchange Commission (SEC) to investigate these allegations and take steps to curb unscrupulous activities in the industry.

A structured settlement is a settlement of a lawsuit in which a personal injury, product liability, or medical malpractice victim agrees to receive periodic payments over the long-term rather than a lump sum up front. It is often designed to provide victims who are sick or have been hurt with a steady stream of future income for life. And while there may be legitimate cases of individuals needing to sell part or all of their structured settlements for a lump sum payment, it is critical that those individuals have access to adequate information about the value of what they are selling and getting in return.

The Washington Post details a case in which a young lead paint poisoning victim may have been bilked into selling her structured settlement for pennies on the dollar: "*One day soon after, a notary arrived at her house and slid her a 12-page "purchase" agreement. Rose was alone. But she wasn't worried. She said she spoke to a lawyer named Charles E. Smith on the phone about the contract. She felt confident in what it stated. She was selling some checks in the distant future for some quick money, right? The reality, however, was substantially different. Rose sold everything to Access Funding — 420 monthly lead checks between 2017 and 2052. They amounted to a total of nearly $574,000 and had a present value of roughly $338,000. In return, Access Funding paid her less than $63,000.*"

The Washington Post also details several other victims of this type of lead-paint structured settlement practice, including the family of the late Freddie Gray who, together with his sisters, signed over $435,000 worth of their structured settlements for about $54,000.

"I am concerned that a burgeoning industry of financial scammers is targeting vulnerable members of the community, such as lead poisoning victims, by buying their structured settlements for a fraction of their value, and then selling them off for a huge profit on the secondary market," **said Senator Reed**, a senior member of the Senate Banking Committee. "We have a responsibility to prevent individuals receiving compensation for their suffering from being victimized yet again. This issue warrants closer scrutiny by our consumer and financial watchdogs. And if further federal reforms are needed, I am committed to working with my colleagues in Congress on a bipartisan basis to provide additional tools and resources."

"It is appalling that some companies are making big profits by preying on the most vulnerable Americans, including the elderly, people with disabilities, and children. Federal regulators need to crack down on shadowy companies that victimize consumers by offering fast cash in exchange for selling their structured settlements at a fraction of their value," **said Senator Brown**, the Ranking Member of the Senate Banking Committee.

The Senators are asking the CFPB, FTC, IRS, and SEC to clarify their authorities to take action against purchasers of settlement rights that engage in abusive tactics, and identify ways their agencies can better protect consumers from bad actors in this industry.

Over the past several years, nearly every state has enacted some measure of protection when it comes to the sale of structured settlements, also known as "factoring" transactions. Congress also passed the Victims of Terrorism Tax Relief Act of 2002, which imposed an excise tax of 40% on the purchaser of these structured settlement transactions, unless the transaction itself is approved in advance by a state judge or in accordance with state law.

The full text of the letter is as follows:

September 22, 2015

Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Edith Ramirez
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Mary Jo White
Chair
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Dear Director Cordray, Commissioner Koskinen, Chair Ramirez, and Chair White:

We write regarding a recent Washington Post article, which describes how individuals who settled lead-paint lawsuits in exchange for monthly future payments over the course of several years, may have sold the rights to these future payments for an immediate one time lump-sum payment that grossly undervalued the financial value of the original settlement. For example, the article alleges that the rights to a structured settlement of 420 monthly lead checks to be paid between 2017 and 2052, which totaled nearly $574,000 in aggregate and had a value of roughly $338,000 in today's dollars, was sold to a company for less than $63,000. In short, this company may have unfairly reaped a gain of more than $275,000. As such, we ask each of you to utilize your existing authorities to investigate these allegations and take steps to curb these unscrupulous activities.

Over the past several years, nearly every state has enacted some measure of protection when it comes to the sale of structured settlements, also known as factoring transactions. Congress has also acted, by passing in 2002 the Victims of Terrorism Tax Relief Act, which imposed an excise tax of 40% on the purchaser of these structured settlement transactions, unless the transaction itself is approved in advance by a state judge or in accordance with state law.

Several federal agencies also appear to have a potential role in protecting consumers in the sale of structured settlements. The Internal Revenue Service enforces the requirements under the Victims of Terrorism Tax Relief Act; the Securities and Exchange Commission and the Federal Trade Commission have published guidance on factoring transactions; and the Consumer Financial Protection Bureau is responsible for protecting against unfair, deceptive, or abusive practices in consumer financial products, such as payday loans. Though many agencies may have a role in policing these types of factoring transactions, it would be helpful to understand better how each of the agencies are working together to protect consumers from unscrupulous settlement purchasers.

With this in mind, we would appreciate responses from each of you to the following questions:

1. What existing authorities does your agency currently have with respect to factoring transactions?

2. What actions have been taken, to date, against purchasers of settlement rights who engage in abusive tactics? What further actions can your agency take?

3. To the extent you have jurisdiction over some aspect of factoring transactions, how does your agency coordinate with other federal and state agencies that may also have jurisdiction?

4. Are there any legislative proposals that would be helpful to your agency in protecting consumers in factoring transactions?

Thank you in advance for your attention to this request, and we would appreciate a response no later October 16, 2016.

Sincerely,

Jack Reed
United States Senator

Susan Collins
United States Senator

Sherrod Brown
United States Senator