COMMITTEE ON FINANCIAL SERVICES

Protecting Consumers, Promoting Job Growth

Financial Services Committee Working To Protect Consumers And Ensure Employers Can Grow, Hire, And Invest

Fixing Dodd-Frank Provisions That Are Anti-Growth, Anti-Jobs, And Anti-Taxpayer

The Financial Services Committee is working to fix provisions of the Dodd-Frank Act that will hinder economic growth, impede the creation of new jobs, and hurt America's competitiveness.

Real consumer protection involves consumer choice, vigorous enforcement of anti-fraud laws, effective and simplified disclosure, product innovation, and competitive markets.

One of the provisions of Dodd-Frank that will hinder economic growth and the creation of new jobs is the massive new bureaucracy called the Consumer Financial Protection Bureau, or CFPB. Everyone supports consumer protection, but the CFPB was given virtually unlimited power to dictate the types, terms and prices of financial products and services that consumers and small businesses can obtain from their bank or other credit provider. The result will be fewer loans for people to buy a car, purchase a home, go to college and start a small business. It will limit the ability of small businesses to obtain the credit they need to grow and create jobs. The burden of this credit rationing will fall most heavily on lower-income and middle class families, as well as the small businesses that create about 80 percent of all new jobs. Rather than being protected, consumers are likely to be denied the products they want and need.

Moreover, the creation of the CFPB is based on a premise that "Washington knows best," and as a result, it ignores the inconvenient truth that it was government failure that brought us the financial crisis. It was a failure of government housing policy, which pushed homeownership on people who weren't ready or able to handle the financial responsibilities. It was a failure of the regulators in the financial sector who did not use the tools at their disposal to carry out their missions. Now Washington's answer to "consumer protection" is to create a new bureaucracy with more than 1,000 federal employees. The CFPB assumes regulators are always right and can make better, wiser decisions than individual Americans.

Real consumer protection involves consumer choice, competitive markets, vigorous enforcement of anti-fraud laws, effective disclosure and product innovation. The Financial Services Committee has proposed four common sense bills that will improve the CFPB to make sure it functions in a way that is best for both consumers and our economy.

Promoting Robust Consumer Protection, Ensuring Employers Can Create Jobs And Spur Economic Activity

"Empanelling a five-member commission is an important first step in ending predatory financial practices without inappropriately limiting access to credit that small businesses and individuals want and need. We can achieve consumer protection without a credit czar."

---Financial Services Committee Chairman Spencer Bachus

The Dodd-Frank Act gives incredible power and authority over our economy to one unelected bureaucrat — a new "credit czar" who will be able to substitute his or her judgment for that of consumers and the free market. Under the Dodd-Frank Act, this one person will determine who comes under the jurisdiction of the CFPB and what financial products and services can be denied to consumers and small businesses. Never in the history of the United States has one person been given such power.

H.R. 1121, the Responsible Consumer Financial Protection Regulations Act, restructures the CFPB so it is governed by a five-member, bipartisan commission rather than a single director. A multi-member commission structure is the same that has worked well for nearly every other Federal regulatory body in this country, including the FTC, FDIC, CFTC, FCC and SEC.

Having a commission govern the CFPB has already received support from Republicans and Democrats in the House. H.R. 1121 is identical to provisions adopted by the House during the debate on financial regulatory reform in the last Congress. This approach, despite receiving bipartisan support, was later dropped by the Democratic Conferees to the Dodd-Frank Act.

"A commission form of governance would allow for a variety of views on issues before the Bureau and thus build in a system of checks and balances that a single director form of governance simply can't do."

-- Independent Community Bankers of America announcing its support for H.R. 1121

5 Facts On How The CFPB Does More Harm Than Good

1. **It Exemplifies a "Washington Knows Best" Attitude.** The CFPB is based on the view that Washington bureaucrats can make better decisions for individual Americans.
2. **It Separates Prudential Supervision From Consumer Protection.** The CFPB separates consumer protection from safety and soundness regulation which ignores the root causes of the financial crisis. Fannie Mae and Freddie Mac are key examples of the consequences of bifurcating consumer mandates and safety and soundness regulations.
3. **It Adds a New Layer Of Bureaucracy.** The Dodd-Frank Act undermines the national financial markets by encouraging states to add additional layers of regulation and enforcement on top of those implemented by the new CFPB.
4. **No Checks And Balances**. The CFPB was intentionally structured in a way that escapes Congressional oversight, as well as any other checks and balances. Its funding is not subject to Congressional appropriations.
5. **Bigger, More Expensive Government.** The CFPB is a new, massive bureaucracy with more than 1,000 Federal employees. Additionally, the Director of the CFPB was given unprecedented power to set its own budget drawn from the Federal Reserve.

FACTS On H.R. 1121

Ensuring Due Diligence In Consumer Financial Protection.
The Dodd-Frank Act invests too much power in the hands of one unelected bureaucrat.

H.R. 1121, the Responsible Consumer Financial Protection Regulations, creates a five-member, bipartisan commission to govern the CFPB. A commission, instead of a credit czar, will promote robust consumer protection by ensuring that there is greater accountability and due diligence in writing and enforcing consumer protection laws. The commission will help guarantee that CFPB rules are balanced, fair and reasonable, and not reliant upon the wisdom and judgment of just one individual.

H.R. 1121 is identical to legislation that received overwhelming bipartisan support and passed the House in 2009.

A Commission Structure Has Worked Well For Financial Regulatory Agencies

The Federal Reserve and the FDIC operate under a board structure (seven members in the case of the Federal Reserve and five in the case of the FDIC). Moreover, financial regulatory agencies with consumer and investor protection missions similar to the CFPB's – the FTC and the SEC – also operate under five-member board structures. This bill simply seeks to use the same model for the CFPB that is the norm for most other regulatory agencies. Republicans reject the notion that an area as important as consumer protection should be the domain of just one single individual who operates with no checks and balances.

"We think a bipartisan, five-person commission would provide a lot more balance and accountability than a single director."

-- Thomas Donohue, Chairman and CEO

U.S. Chamber of Commerce

Federal Agencies with consumer and investor protection missions all are structured with a multi-member commission. The CFPB is the only one with a single directorship. The Independent Community Bankers of America says a commission for the CFPB, rather than a single director, "would help ensure that the actions of the CFPB are measured, non-partisan and result in balanced, high quality rules and effective consumer protection."

Checks And Balances To CFPB's Rule Making

The expansive powers given to the CFPB to write rules will have far-reaching implications. Yet, the Dodd-Frank Act makes the CFPB's judgments essentially unreviewable.

The Dodd-Frank Act did include a review process, but the process is essentially meaningless . The Act allows the Financial Stability Oversight Council to review rulemaking by the CFPB, but it must meet virtually impossible prerequisites in order to overturn any CFPB rulemaking.

Among the extreme standards the FSOC must meet to overturn a rule are:

- Two-thirds of FSOC members must approve;
- The FSOC must find the rule endangers the stability of the entire financial system;
- The FSOC has only 90 days to review draft rules; and
- A review petition must be filed within 10 days of publication in the Federal Register of the draft rule.

The Consumer Financial Safety and Soundness Improvement Act (H.R. 1315), introduced by Rep. Sean Duffy on April 1, improves the FSOC review process and makes the review process meaningful. H.R. 1315 improves the FSOC review process by changing the vote to overturn a CFPB rule from a super-majority of two-thirds of the FSOC to a simple majority; ensuring the FSOC must set aside a rule if it is inconsistent with the safe and sound operations of United States financial institutions; and giving the FSOC sufficient time to consider the safety and soundness implications of rules.

FACT CHECK: WHO ARE THE VOTING MEMBERS OF FSOC?

Among the impossible prerequisites the FSOC must meet to overturn a CFPB rule is a 2/3 super-majority vote. The following are the members of the FSOC, most of whom are appointed by the President:

- The Secretary of the Treasury
- the Chairman of the Board of Governors of the Federal Reserve System,
- the Comptroller of the Currency
- **the Director of the Consumer Financial Protection Bureau**
- the Chairman of the Securities and Exchange Commission
- the Chairman of the Federal Deposit Insurance Corporation
- the Chairman of the Commodity Futures Trading Commission
- the Director of the Federal Housing Finance Agency
- the Chairman of the National Credit Union Administration Board, and
- an independent member with insurance expertise that is appointed by the President and confirmed by the Senate for a six-year term

No Backdoor Appointment for CFPB

Financial Services Committee Chairman Spencer Bachus leads a news conference on the impact the CFPB will have on the economy and consumers.

Eight months after the Dodd-Frank Act was signed into law, the President still has not nominated someone to lead the CFPB as Director. This increases the amount of uncertainty faced by America's job-creators, who still do not know who will be leading this powerful new agency.

Last October, then-Senator Chris Dodd said the Administration needs to act quickly and name a CFPB Director. "They just need to send us a director, a nominee," Dodd said. "We need a nominee that can be confirmed by the Senate to run the place ... the sooner the better."

While the President has refused to act, the clock is ticking. On July 21, the CFPB will obtain consumer protection powers that currently resident in seven Federal agencies — whether or not a Director is nominated by the President and confirmed by the Senate.

As a result, Financial Institutions and Consumer Credit Subcommittee Chairman Shelley Moore Capito has offered two discussion drafts. One proposal removes the prudential regulators' ability to allow the CFPB to participate in bank examinations before responsibility for promulgating all new federal consumer financial protection regulations is transferred to the CFPB on July 21. The second prevents that transfer from taking place unless and until a CFPB Director has been nominated by the President and confirmed by the Senate.

The goal of these proposals is to bring greater accountability to the CFPB and ensure there is a confirmed Director in place before the Agency receives broad new regulatory authority with no one at the helm to carry out the duties.