

The Financial CHOICE Act

Creating Hope and Opportunity for Investors, Consumers and Entrepreneurs

Executive Summary

KEY PRINCIPLES:

1. Taxpayer bailouts of financial institutions must end and no company can remain too big to fail;
2. Both Wall Street and Washington must be held accountable;
3. Simplicity must replace complexity, because complexity can be gamed by the well-connected and abused by the Washington powerful;
4. Economic growth must be revitalized through competitive, transparent, and innovative capital markets;
5. Every American, regardless of their circumstances, must have the opportunity to achieve financial independence;
6. Consumers must be vigorously protected from fraud and deception as well as the loss of economic liberty; and
7. Systemic risk must be managed in a market with profit and loss.

End “Too Big to Fail” and Bank Bailouts.

- Repeal Title II of the Dodd-Frank Act, and its Orderly Liquidation Authority, and replace it with a new chapter of the Bankruptcy code designed to accommodate the failure of a large, complex financial institution.
- Retroactively repeal the authority of the Financial Stability Oversight Council (FSOC) to designate firms as systematically important financial institutions (SIFIs).
- Repeal Title VIII of the Dodd-Frank Act, which gives the FSOC authority to designate certain payments and clearing organizations as systemically important “financial market utilities” (FMUs) with access to the Federal Reserve discount window, and retroactively repeal all previous FMU designations.
- Restrict the Federal Reserve’s discount window lending to Bagehot’s dictum.
- Prohibit the use of the Exchange Stabilization Fund to bailout financial firms or creditors.

Demand Wall Street Accountability through enhanced penalties for fraud and deception.

- Impose enhanced penalties for financial fraud and self-dealing and promote greater transparency and accountability in the civil enforcement process.
- Allow the SEC to triple the monetary fines sought in both administrative and civil actions in certain cases where the penalties are tied to the defendant’s illegal profits. Give the SEC new authority to impose sanctions equal to investor losses in cases involving “fraud,

deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement” where the loss or risk of loss is significant, and increase the stakes for repeat offenders.

- Increase the maximum criminal fines for individuals and firms that engage in insider trading and other corrupt practices.
- Remit all fines collected by the Public Company Accounting Oversight Board and Municipal Securities Rulemaking Board to the Treasury for deficit reduction.

Demand accountability from financial regulators and devolve power away from Washington.

- Make all financial regulatory agencies subject to the REINS Act, and place them on the appropriations process so that Congress can exercise proper oversight. (Exception: Fed monetary policy.)
- Impose an across-the-board requirement that all financial regulators conduct a detailed economic analysis of all proposed and final regulations to ensure the costs imposed are outweighed by the benefits.
- Reauthorize the Securities and Exchange Commission (SEC) with funding, structural, due process and enforcement reforms.
- Increase transparency of financial regulations’ costs to state and local governments and private sector entities.
- Require public notice and comment for any international standard-setting negotiation.
- Institute significant due-process reforms for every American who feels that he or she has been the victim of a government shakedown.
- Repeal the so-called *Chevron* doctrine.
- Demand greater accountability and transparency from the Federal Reserve, both in its conduct of monetary policy and its prudential regulatory activity, by including the House-passed Fed Oversight Reform and Modernization (FORM) Act.
- Abolish the Office of Financial Research (OFR).
- Prohibit the financial regulators and the Department of Justice (DOJ) from using settlement agreements to require donations to non-victims.
- Increase transparency and accountability in the Federal Reserve’s conduct of the supervisory stress tests while streamlining duplicative and overly burdensome components.
- Institute criminal penalties for leaks of sensitive, market-moving information related to the Federal Reserve’s stress test and living will processes.

Provide for election to be a strongly capitalized, well managed financial institution.

- Provide an “off-ramp” from the post-Dodd-Frank supervisory regime and Basel III capital and liquidity standards for banking organizations that choose to maintain high levels of capital. Any banking organization that makes a qualifying capital election but fails to maintain the specified non-risk weighted leverage ratio will lose its regulatory relief.
- Exempt banking organizations that have made a qualifying capital election from any federal law, rule, or regulation that provide limitations on mergers, consolidations, or acquisitions of assets or control, to the extent the limitations relate to capital or liquidity standards or concentrations of deposits or assets.

- Exempt banking organizations that have made a qualifying capital election from any federal law, rule, or regulation that permits a banking agency to consider risk “to the stability of the United States banking or financial system,” added to various federal banking laws by Section 604 of the Dodd-Frank Act, when reviewing an application to consummate a transaction or commence an activity.

Unleash opportunities for small businesses, innovators, and job creators by facilitating capital formation.

- Repeal sections and titles of the Dodd-Frank Act, including the Volcker Rule, that limit or inhibit capital formation.
- Repeal the SEC’s authority to eliminate or restrict securities arbitration.
- Repeal the Dodd-Frank Act’s non-material specialized disclosures.
- Incorporate almost two dozen Committee or House-passed capital formation bills, including:
 - H.R. 79 – “Helping Angels Lead Our Startups Act” (115th)
 - H.R. 910 – “Fair Access to Investment Research Act” (115th)
 - H.R. 1219 – “Supporting America’s Innovators Act” (115th)
 - H.R. 1312 – “Small Business Capital Formation Enhancement Act” (115th)
 - H.R. 3868 – “Small Business Credit Availability Act” (114th)

Provide regulatory relief for Main Street and community financial institutions.

- Incorporate almost two dozen regulatory relief bills for community financial institutions, including:
 - H.R. 1116 – “Taking Account of Institutions with Low Operational Risk (TAILOR) Act” (115th)
 - H.R. 766 – “Financial Institution Customer Protection Act” (114th)
 - H.R. 1210 – “Portfolio Lending and Mortgage Access Act” (114th)
 - H.R. 1941 – “Financial Institutions Examination Fairness and Reform Act” (114th)
 - H.R. 4500 – “Community Bank Reporting Relief Act” (114th)

Empower Americans to achieve financial independence by fundamentally reforming the CFPB and protecting investors and retirement savings.

- Change the name of the CFPB to the “Consumer Law Enforcement Agency (CLEA),” and task it with the dual mission of consumer protection and competitive markets, with cost-benefit analyses of rules performed by a newly-formed Office of Economic Analysis.
- Restructure the agency as an Executive Branch agency with a single director removable by the President at will, and make the agency subject to Congressional oversight and the normal Congressional appropriations process.
- Eliminate the CFPB’s supervisory function and hold it responsible for enforcing the enumerated consumer protection laws.
- Remove the agency’s opaque and ill-defined “unfair, deceptive, or abusive acts and practices” (UDAAP) authority.
- Establish an independent, Senate-confirmed Inspector General.

- Eliminate the CFPB's sweeping market-monitoring function and require the Agency obtain permission before collecting consumers' personally identifiable information.
- Repeal the Department of Labor's (DOL's) fiduciary rule.
- Promote new investment products and choices with a streamlined application process.
- Modernize the corporate governance system to better promote value creation for public companies and their shareholders.