



## Consumer Federation of America

### **Position Paper** **The Need for the Consumer Financial Protection Agency**

#### **Background - the Problem for Consumers**

The job of protecting consumers from lending abuses is fragmented between seven different federal agencies, which between them enforce almost 20 separate laws. These agencies too often have treated consumer protection as less important than or even in conflict with their mission to ensure the safety and soundness of financial institutions.<sup>1</sup> Yet if regulatory agencies had acted to prevent loan terms or practices that harmed consumers, they would also have vastly improved the financial solidity of the institutions they regulated and the economy in general.

#### **Problem for Consumers: Unchecked Lending Abuses**

Widespread abusive lending practices include:

- Unfair application of penalty and “default” interest rates that can rise above 30 percent on credit cards;
- Application of interest rate hikes on existing credit card debt;
- High and increasing penalty fees for late payments or exceeding the credit limit;
- Requiring consumers to waive their right to pursue legal violations in the courts and forcing them into arbitration proceedings to resolve a dispute, often before an arbitrator with a conflict of interest;
- Sharply raising consumers’ credit card interest rate because of a supposed problem a consumer is having paying a different creditor;
- Overdraft loans provided to consumers without consent, contract, cost disclosure or fair repayment terms;
- Slow availability of bank deposits to consumers, and manipulation of payment order to extract maximum bounced check and overdraft fees.

#### **Problem for Consumers: Mission of Regulatory Agencies**

Currently, bank regulators are also charged with regulating the soundness of financial institutions. Abusive lending is often quite profitable, at least on a short-term basis. As a result, regulators have often been willing to ignore or overlook protecting consumers from unsafe credit products.

---

<sup>1</sup> Agencies that are charged with ensuring the safety and soundness of financial institutions and protecting consumers are the Office of Comptroller of the Currency, Office of Thrift Supervision, Federal Reserve, Federal Deposit Insurance Corporation and National Credit Union Administration. The Federal Trade Commission and Department of Housing and Urban Development also have some authority over consumer financial protection laws.

### **Problem for Consumers: Funding and Independence of Regulatory Agencies**

The independence of two key regulatory agencies – the Office of the Comptroller of the Currency and the Office of Thrift Supervision -- has been threatened because they are directly and almost entirely funded by the institutions they oversee. As a result, federal agencies dithered for years in implementing regulations to stop unfair and deceptive mortgage and credit card lending practices, only acting after the current foreclosure and consumer debt crisis took hold.

### **Problem for Consumers: Financial Institution “Charter-Shopping”**

Right now, financial institutions are allowed (and have frequently exercised their right) to choose the regulatory body that oversees them and to switch freely between regulatory charters at the federal level and between state and federal charters, known as “charter shopping.” Many financial institutions have switched charters in recent years seeking regulation that is less stringent.

### **The Solution for Consumers: the Consumer Financial Protection Agency (CFPA)**

The Consumer Federation of America supports the enactment of a Consumer Financial Protection Agency that would have as its sole mission the development and effective implementation of standards that ensure that all credit products offered to borrowers are safe. The agency should enforce these standards for the same types of products in a transparent, uniform manner.

The CFPA was included in President Obama’s June 30 [proposal](#) on financial regulatory reform and the House Financial Services Committee amended and passed, [H.R. 3126](#), the Consumer Financial Protection Agency Act, on October 22, 2009.. CFA has identified a number of important areas that would improve the CFPA legislation as passed out of the House Financial Services Committee. CFPA should have the authority to:

- Oversee auto dealers who receive lucrative compensation in financing auto loans;
- Examine the books of all financial institutions, no matter what size, without cumbersome barriers;
- Stop the sale of credit-related insurance policies that are virtually worthless;
- Provide a floor of consumer protection, allowing states to rein in abusive products and services.

Senate Banking Committee Chairman Christopher Dodd released his Chairman’s [mark](#) on November 10, 2009. Read a summary of the bill [here](#). The provisions in Senator Dodd’s bill enacting the Consumer Financial Protection Agency provide for a strong, independent agency to monitor the market and write and enforce the rules. The bill provides the CFPA with examination and enforcement authority over lenders, allows the states to apply their own laws to national banks to ensure that local issues do not become national crises, and does not include special interest exemptions for auto financing.

The CFPA would be required to make consumer protection its top priority, which will also better ensure the soundness of financial institutions. If regulatory agencies had acted to prevent loan terms or practices that harmed consumers, they also would have vastly improved the financial solidity of the institutions they regulated.

- CFPA would be empowered to ensure that credit and payment products do not have predatory or deceptive features that can harm consumers or lock them into unaffordable loans, such as pre-payment penalties, unjustified fees, or hair-trigger interest rate increases and should have the ability to prohibit dangerous financial products.
- The agency also would conduct ongoing research and investigation into credit industry products and services. In addition, it should provide consumers with high-quality information about how to avoid abusive lending or credit problems.
- The CFPA would rein in deceptive marketing practices and require improved disclosure of terms.
- The CFPA would restrict or ban specific product features or terms that are harmful or not suitable in some circumstances, or that don't meet ordinary consumer protections.

For more information:

[www.consumerfed.org](http://www.consumerfed.org)

<http://www.facebook.com/pages/Enact-the-Consumer-Financial-Protection-Agency>

[www.ourfinancialsecurity.org](http://www.ourfinancialsecurity.org)

[www.defendyourdollars.org](http://www.defendyourdollars.org)

<http://www.uspirg.org/consumer-blog>