Consumer Federation of America

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Consumer Federation Hails Passage of H.R. 4173, the "Wall Street Reform and Consumer Protection Act"

House of Representatives Passes Landmark Protections for Consumers with Enactment of the Consumer Financial Protection Agency

Legislation includes needed expansion of investor protections but weakens protections against accounting fraud and leaves significant gaps on derivatives regulation

Washington, DC -- The Consumer Federation of America today praised the House of Representatives for passage of a new agency to protect consumers and investors.

"The significance of the passage of this bill cannot be underestimated," said Travis Plunkett, Legislative Director of the Consumer Federation of America. "Its passage is an important step toward delivering on the promise Congress made when it called on taxpayers to bail out the big banks, that it would adopt comprehensive reform to prevent a recurrence. We look forward to working with the Senate to include additional improvements, particularly regarding regulation of derivatives."

Consumer Protection

"This is a big win for consumers," continued Plunkett. "The Consumer Financial Protection Agency (CFPA) will ensure that credit and payment products do not have predatory or deceptive features that can harm consumers or lock them into unaffordable loans. The Agency will be able to prohibit or limit dangerous or unsuitable financial products, product features, or practices and conduct ongoing research and investigation into credit industry products and services. The CFPA will rein in deceptive marketing practices and require improved disclosure of terms. The CFPA will allow consumers to shop or take out a loan knowing that there is an agency looking out for their best interests and eliminating the tricks and traps that have plagued borrowers for far too long."

Credit Rating Agencies

The House passed a strong set of provisions to strengthen regulatory oversight of credit rating agencies, to hold ratings agencies accountable when they behave irresponsibly, and to reduce the financial system's vulnerability to ratings failures.

"Credit rating agencies' willingness to slap triple-A ratings on securities whose risks they did not understand and could not calculate played a central role in allowing risky mortgage-backed securities to spread throughout the global financial system. This legislation takes important steps to reduce the likelihood that ratings agencies will act so irresponsibly in the future and to limit the financial system's vulnerability should they do so," said CFA Director of Investor Protection Barbara Roper.

Derivatives

Unfortunately, the provisions in the bill to regulate the over-the-counter derivatives market – while they bring some much needed new oversight to that massive market – are disappointingly weak. They allow too many trades to escape the central clearing requirement, provide an unwarranted and unsafe exemption from regulation for foreign exchange swaps, do too little to put an end to inherently abusive contracts, and prevent illegal contracts from being voided. Amendments that would have corrected these defects were defeated, while an amendment expanding the already dangerously expansive end user loophole was adopted.

"When Congress called on taxpayers to bail out the big banks in order to stabilize the economy, they promised the comprehensive regulatory reform necessary to prevent a recurrence. The derivatives reform measures in this bill fall short of that promise. It will be up to the Senate to repair these serious short-comings," Roper said.

Investor Protections

"The bill includes a number of long-sought and much needed reforms to strengthen investor protections, including measures to improve the disclosures provided to investors about investment products and services, to restrict mandatory arbitration clauses in brokerage contracts, to increase resources for regulatory oversight, and to require brokers who give investment advice to act in the best interests of their customers.

In an important victory for investors, an amendment was adopted removing a provision from the bill that would have allowed the SEC to delegate sweeping authority for investment adviser rulemaking and oversight to FINRA, the broker-dealer self-regulatory organization. CFA had opposed that delegation of authority. "Although FINRA has recently spoken in favor of the fiduciary requirement, its commitment to promoting the highest standards must inevitably remain in doubt in light of its past adamant opposition to holding brokers to a fiduciary duty when they give advice and its failure to rein in deceptive industry practices." Roper said.

In a major set-back, however, the House voted to weaken existing protections against accounting fraud at roughly half of all public companies. Ignoring extensive evidence that the requirements are both affordable and effective, 101 Democrats joined with all but one of the Republicans voting to permanently exempt companies with under $75 million in market capitalization from Section 404(b) of the Sarbanes-Oxley Act. "It is frankly scandalous that a bipartisan majority of the House would vote to weaken investor protections adopted in the wake of the last major financial crisis in the bill that is designed to respond to the current financial crisis. Clearly, the misguided regulatory philosophy that got us into our current mess, a philosophy that views responsible regulation as a burden rather than a benefit, is still alive and well in the House of Representatives," Roper said.

The Consumer Federation of America is a non-profit association of more than 280 groups that, since 1968, has sought to advance the consumer interest through advocacy and education.

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