Consumer Federation of America

Top Examples of Financial Regulatory Failure
Why we need the Consumer Financial Protection Agency

Current banking and consumer protection regulators already have many of the powers that the Consumer Financial Protection Agency (CFPA) would be given, but they often haven't used these powers. Moreover, consumer protection authority (for approximately 17 different consumer finance and fair lending statutes) is fragmented among seven different agencies, making consistent and effective enforcement virtually impossible. Conflicts of interest at the agencies and a lack of regulatory will work against consumer enforcement. Numerous actions and inactions by the federal banking regulators have led to or encouraged unfair practices, higher prices for consumers, and less competition. Below is a list of examples of actions or inactions that have harmed consumers in recent years:

1. The Federal Reserve Board ignored the growing mortgage crisis for years even after receiving Congressional authority to enact anti-predatory mortgage lending rules in 1994.

2. The Office of the Comptroller of the Currency (OCC) engaged in an escalating pattern of preemption of state laws that were designed to protect consumers from a variety of unfair bank practices and to quell the growing predatory mortgage crisis, culminating in its 2004 rules preempting both state laws and state enforcement of laws over national banks and their subsidiaries.

3. As unfair credit card practices increased over the years, these agencies took little action except to propose greater disclosures, until Congress stepped in.

4. The Federal Reserve has allowed Debit Card Cash Advances ("Overdraft Loans") without consent, contract, cost disclosure or fair repayment terms.

5. The Federal Reserve has allowed a shadow banking system (Prepaid Cards) to develop outside of consumer protection laws and target the unbanked and immigrants. The Office of Thrift Supervision (OTS) is allowing bank payday loans (which preempt state laws) on prepaid cards.

6. Despite advances in technology, the Federal Reserve has refused to speed up availability of deposits to consumers.

7. The Federal Reserve has supported the position of payday lenders and telemarketing fraud artists by permitting remotely created checks (demand drafts) to subvert consumer rights under the Electronic Funds Transfer Act.

8. The Federal Reserve has taken no action to safeguard bank accounts from Internet payday lenders.

9. The Banking Agencies have failed to stop banks from imposing unlawful freezes on accounts containing Social Security and other funds exempt from garnishment.

10. The Comptroller of the Currency permits banks to manipulate payment order to extract maximum bounced check and overdraft fees, even when overdrafts are permitted.

11. The regulators have failed to enforce the Truth In Savings Act requirement that banks provide account disclosures to prospective customers.

12. The Federal Reserve actively campaigned to eliminate a Congressional requirement that it publish an annual survey of bank account fees.

13. The Federal Reserve refused to improve disclosures to make annual percentage rate comparisons more meaningful or to improve confusing and meaningless disclosures for variable rate mortgages.

14. The Banking Agencies refused to deal with student loan abuses like creditors who partnered with unscrupulous schools to lure students into scam operations.

15. The Federal Reserve and other Banking Agencies have failed to ensure that financial institutions furnish accurate data to credit reporting agencies.

16. Years of campaigns against bank regulators were needed to stop rent-a-bank payday loan abuses.

17. The OCC and OTS, which have the authority to interpret the National Bank Act and the Home Owner's Loan Act, respectively, have used that power to wipe out state consumer protection laws with nothing to replace them at the federal level.

18. The OCC has developed regulations prohibiting states from enforcing their own fair lending statutes.