



Top Priorities for Real Financial Reform

Reconciling H.R 4173 and S. 3217

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During recent years, regulators stood by and allowed the most costly reckless lending in history, largely because they were heavily influenced by the very businesses they were supposed to oversee. Lax regulation has already cost trillions of dollars. For the final financial reform bill, these four issues will be vital in protecting taxpayers from another crisis in the future:

#1 The independence of the Consumer Financial Protection Bureau (CFPB) must not be compromised. Its funding must be independent, not tied to politics. (Support the base text.)

If the CFPB's funding is tied to the appropriations process, it will always be at risk of becoming a political football. Independent funding will preserve the bureau's integrity and independence. *CRL supports the base text's funding mechanism because it would limit the ability of big banks and other financial players to exert undue political influence on the rulemaking process. We urge conferees to oppose attempts to modify the base text in this area.*

#2 Lenders must be accountable for bad mortgages and we must prevent unnecessary foreclosures. (Support the base mortgage text; add House foreclosure prevention measures.)

The base text includes comprehensive, common-sense rules for mortgage origination, along with appropriate remedies to make lawbreakers accountable for violating these rules while helping to restore the private secondary market for mortgages. We strongly support the adoption of this language and urge Conferees to oppose changes in this area to weaken the remedies language. However, it is crucial that Conferees add the foreclosure prevention provisions from the House-passed bill, including provisions to: 1) establish a loan program to help unemployed homeowners facing foreclosure and 2) establish funding for nonprofit lawyers helping homeowners at risk of foreclosure.

#3 Oppose any special-interest carve-out for auto dealers who abuse their customers. (Support the base text.)

Abusive car loans made by unscrupulous auto dealers have drained billions of dollars from consumers, disproportionately affecting people of color and American military families. In February 2010, the Department of Defense sent a letter to the Department of Treasury noting that the CFPB is a badly-needed tool to stop common abuses in the auto industry, including bait-and-switch financing, the falsification of loan applications, loan discrimination, and the failure to repay liens on trade-in vehicles.¹ In fact, auto dealers operate in a similar manner to mortgage

To be successful, the new CFPB needs an independent source of funding and a fair and transparent rule-making process. CFPB must be able to write rules across industries. And new mortgage rules must directly address the perverse incentives that encourage lenders and investors to prefer home loans that are likely to fail.

¹ <http://www.detnews.com/article/20100309/AUTO01/3090413/1022/rss10>.

brokers in that they are often paid “yield spread premiums” to put borrowers into higher-cost loans than they qualify for.

Not all auto dealers engage in these tactics, of course, but the problems are pervasive enough to be of concern to military leaders, who recognize that car loans are typically the largest financial obligation held by military personnel. For this reason, the White House, the Under Secretary of Defense, Secretary of Army, Secretary of Air Force, 31 military advocacy organizations representing over 55 million active and retired military personnel, the Independent Community Bankers Association, Credit Union National Association, civil rights organizations, consumer protection groups, and labor unions have all opposed a special interest carve-out for auto dealers.

CRL strongly supports the base text, which contains no special-interest carve-out for auto dealers. We urge Conferees to oppose any attempt to add such a loophole, which would be wasteful and inefficient. Such a loophole would at least two agencies to write rules – one for auto dealers, and one for everyone else.

#4 Rulemaking must not favor check-cashers and payday lenders over ordinary families and taxpayers. (Remove the “Snowe-Pryor” language from the base text.)

The Snowe-Pryor amendment incorporated into the base text calls for an extra layer of review by a special panel even before the CFPB issues an initial proposal for a new rule to the public. This additional layer of bureaucracy, which is expected to add an additional six months to the rule-making process, is not only redundant; it is also dangerous. For example, it:

- Favors special financial interests. Allowing "advance look" review panels a chance to squelch rules before they are even proposed gives favored treatment of entities who may be trying to avoid fair lending rules -- such as payday lenders, check-cashers and mortgage brokers.
- Ignores existing rules that protect small businesses. The existing rulemaking process gives ALL stakeholders an opportunity to air concerns. Existing law that would apply to CFPB without Snowe-Pryor already requires special consideration of small businesses. That protects small businesses without the unfair advantage Snowe-Pryor would give to opponents of needed reform.
- Benefits industry at the public's expense. The Snowe-Pryor provision adds costly and time-consuming hurdles solely for the benefit of industry. By prioritizing industry's interest over those of all other stakeholders—including families and children—this provision would threaten the Bureau's independence and undermine public confidence in fair and transparent rulemaking.

CRL urges Conferees to delete this provision or at least to replace it with a less onerous small business review process, such as the Landrieu-Kerry-Dodd proposal, which unfortunately was never brought up for a vote in the Senate.