Consumer Financial Protection Agency
<u>Myths versus Reality</u>

July 2009

1. ***<u>Myth:</u>*** *The CFPA would duplicate the work of existing agencies, and increase regulatory burden on businesses.*

   <u>Reality:</u> **The new Agency would consolidate the consumer protection rule-making and enforcement that is currently scattered across several agencies. The functions would not be duplicated; rather, they would be stream-lined into a single agency, thereby reducing regulatory burden and expense.**

2. ***<u>Myth:</u>*** *Giving the CFPA supervisory authority over consumer protection matters will create duplication and confusion. With the "safety and soundness" regulators examining institutions for "prudential" concerns and the CFPA examining for consumer protection concerns, there'd be two separate teams of people examining each institution. This would create confusion, coordination problems, and waste.*

   <u>Reality:</u> **No new examiners or examinations would be involved. The existing regulators already each have two separate teams of examiners for separate examinations on consumer protection and "safety and soundness" risk management. All that would happen is that the consumer protection examination teams from all the agencies would be consolidated in the CFPA. This would facilitate consistency, economy, efficiency and coordination. No new regulatory burden would be added.**

3. ***<u>Myth:</u>*** *The CFPA will stifle innovation and limit consumer choice.*

   <u>Reality:</u> **There will be no limits on innovation. All that will be limited are abusive practices of the sort that led to the current crisis. These practices limited consumer choice by crowding out of the market the better loans for which many borrowers qualified but which they were not offered. The CFPA would ensure that consumers are offered the best loans for which they qualify, and not just the riskiest loans that are most lucrative for brokers. The CFPA will increase consumer choice by ensuring that responsible products are not crowded out of the market and by making sure that consumers are offered a wider range of options.**

4. ***Myth:*** *By requiring companies to offer "standard products" as an alternative to riskier products, the CFPA will limit consumer choice. For example, for mortgages, consumers would be limited to fixed rate or traditional adjustable rate loans.*

   Reality: **Requiring companies to offer safer alternatives to riskier products will increase consumer choice. For mortgages, lenders typically already have "standard" products in the form of traditional fixed or adjustable rate mortgages. Consumers were pushed into riskier products not because traditional products were not available, but because riskier products were more profitable for the broker or investors. Standard products would simply be the benchmark consumers could use to understand their options and compare alternatives.**

5. ***Myth:*** *Having an Agency focused on consumer protection will lead to delays in bringing new products to the market, as lenders will have to seek the Agency's prior approval.*

   Reality: **The legislation does not require pre-approval of any new products or services. The CFPA will ensure that specific affordable products are offered to consumers and will work to make information about financial products clear and transparent, so that consumers can shop. Fairness and transparency are critical to an efficient market and will improve financial security for the economy and taxpayers.**

7. ***Myth:*** *Separating consumer protection from "safety and soundness" regulation could lead to problems if the CFPA fails to take safety and soundness into account.*

   Reality: **Agencies throughout government routinely coordinate on overlapping areas of authority. Consultation is the norm in government, not the exception, and there is no reason to believe the CFPA will be any different. Indeed, the CFPA bill has added safeguards to ensure this outcome. Not only does the bill specifically require the CFPA to consult and coordinate with the prudential ("safety and soundness") regulators, but it reserves for a prudential regulator a seat on the CFPA's 5-member Board. It also requires the CFPA to share confidential examination reports with the prudential regulators and vice versa. The confidential exchange of information will give the CFPA greater insight into any significant safety and soundness concerns expressed by prudential regulators, and will help the banking agencies to understand consumer protection concerns exposed by CFPA examinations.**

8. ***Myth:*** *The CFPA could excessively interfere with market activities, making products and services less available or more expensive.*

   Reality: **Market participants will have the opportunity to weigh in on proposed rules before they are issued to ensure that the risk of unintended consequences are appropriately taken into account. Moreover, Congress will oversee the CFPA as it does other federal agencies. It will have oversight as a function of funding the Agency, since part of the CFPA's funding will likely come from appropriations, as a backup to fees. Congress also will have oversight based on CFPA's performance. Further, Congress will have the prerogative to amend the statute and to restrict the CFPA's authority if it is used inappropriately. Finally, should the CFPA take action or write rules that are arbitrary and capricious in not fully considering safety and soundness concerns, stakeholders can seek further review by a federal court.**

9. ***Myth:*** *Regulation gives rise to the risk of unintended consequences. This risk militates against having a consumer protection agency or giving it broad authority.*

   Reality: **The current foreclosure crisis shows that the opposite is true—inaction by regulators and the absence of clear rules contributed to an environment that allowed lenders to make risky loans and resulted in millions of foreclosures. What is important is to ensure there that consumer protection does not again fall through the cracks imperiling families and the economy.**

10. ***Myth:*** *We don't need to create a new Agency. It would be better just to improve the performance of existing regulators.*

    Reality: **The existing agencies failed for a reason. The existing structure has built in incentives for regulators to discount the significance of consumer protection problems, and to err on the side of too little protection. The CFPA will consolidate the existing functions now scattered across several agencies, and bring them into a single Agency that will be freed from the constraints that led the existing agencies to fail in their missions.**

11. ***Myth:*** *The Agency's rules should preempt State law. Agency rules should make additional State law protections unnecessary, and requiring companies to master the specific rules of every state they operate in is unduly burdensome and inefficient.*

    Reality: **Permitting States to address the problems that arise within their borders is an essential part of our federal system, and is particularly beneficial in the area of consumer protections. It is undesirable to wait until problems spread nationwide before they policymakers respond, and it is inefficient and inappropriate to require national solutions for problems that**

exist in particular States or regions. Moreover, States have proved more nimble at responding to problems that arise. The presence of State level solutions provides federal policymakers with information that proves useful when and if the problems rise to a level that requires a federal response. Finally, businesses manage to comply with the laws of the 50 states on all kinds of matters, from taxes to employee relations to zoning, to real estate law. Consumer protection should not be singled out for lesser treatment.

About the Center for Responsible Lending

The Center for Responsible Lending is dedicated to protecting home ownership and family wealth by working to eliminate abusive financial practices. CRL is a national nonprofit, nonpartisan research and policy organization that promotes responsible lending practices and access to fair terms of credit for low-wealth families.

For additional information, please visit our website at **www.responsiblelending.org**.