

The Consumer Financial Protection Agency

Financial reform has to include a fairer deal for consumers and a more stable financial system. Consumers Union has been fighting for financial regulatory reform to require banks to have more capital, to make regulators do their jobs, and put all federal consumer protection about loans, credit cards and bank accounts under a new agency not beholden to the banks. An essential piece of this necessary financial reform is the Consumer Financial Protection Agency (CFPA) which will have the authority and accountability to promote honest competition and protect the economy by making sure that consumer protection regulations are written fairly and enforced vigorously. In early December the House passed the Wall Street Reform and Consumer Protection Act of 2009, which would create the CFPA as well as regulate other important parts of the financial system.

This is why Consumers Union supports a CFPA:

- The CFPA's job will be to ensure that loans, credit cards, bank accounts, gift cards and similar products and services are offered in a fair manner without "gotcha" terms. The job will include **quick response to emerging harmful practices**, before they spread throughout the country or become large enough to undermine family economic stability or threaten the economy.
- The CFPA will **address most forms of credit, deposit, payment products and similar financial services offered to consumers**. It will also oversee related products and services such as prepaid debit cards, loan servicing, debt collection, and debt-related services.
- The CFPA will have the **power to determine that products, features, or practices are unfair, deceptive or abusive**. Its powers will include banning, restricting, or imposing conditions on practices, products or features, and requiring the agency to monitor for risky practices.
- The CFPA will be **one federal agency with the job of writing consumer protection rules under a large number of existing federal statutes**, and the job of writing rules for harmful or deceptive practices that the current laws never contemplated, but that should be outlawed or restrained.
- Importantly, the reform bill will also restore to states their traditional power to **play a role in protecting their consumers from conduct by nationally chartered banks**. State law will only be displaced if it prevents, significantly interferes, or materially impairs the ability of a national bank to engage in the business of banking.

Summary of the
Consumer Financial Protection Agency Provisions
of the
Wall Street Reform and Consumer Protection Act of 2009

- **CFPA Authority:** The Agency has rulemaking, examination and primary enforcement authority over consumer financial products and services.

The CFPA will have the power to address consumer problems with:

- Bank accounts
- Most types of lending, including credit cards and mortgages
- Check cashing & payday lending
- Debt collection
- Credit reports
- Tax planning
- Gift cards and prepaid cards
- Certain other financial products or practices

Exempted activities include:

- Most broker-dealers & investment/financial advisors
- Insurance companies
- Pawnbrokers
- Accountants
- Tax preparers and attorneys
- Real estate licensees
- Employee benefit plans

The bill as passed by the House also exempts merchants and retailers of non-financial goods as well as auto dealers from governance by the CFPA. Consumers Union believes that these entities should be covered just like any other creditor when they make or arrange a loan or sell a financial product or service.

- **Small Banks and Credit Unions:** The CFPA's rules will apply equally to all banks, but primary enforcement of small banks and small credit unions will be done by another agency. The CFPA will have back-up enforcement authority over these entities.
- **Preemption:** States' traditional power to play a role in protecting their consumers from conduct by nationally chartered banks will be restored. State law can only be displaced if it prevents, significantly interferes, or materially impairs the ability of a national bank to engage in the business of banking. Courts can decide whether that determination was proper.
- **New Regulations:** CFPA is required to issue new regulations on overdraft protection disclosures, reverse mortgages and private education loans.