



April 23, 2010

Dear Senator:

As you consider legislation on financial regulatory reform, we urge you to give utmost attention to the need to ensure that U.S. consumers and our economy have a strong, independent consumer protection regulator at the federal level, and that states and state law enforcement are allowed to protect consumers from harmful practices by providers of financial products and services.

Consumers Union, the non-profit publisher of *Consumer Reports* magazine, urges you to **support** and strengthen the provisions in the Restoring American Financial Stability Act (RASFA), S. 3217, that would modify the OCC's current overbroad interpretation of federal preemption of state law with respect to nationally chartered banks and thrifts, and that would protect states' powers to enforce federal and state law against all types of providers of financial services, including nationally chartered banks, and federally chartered thrifts.

We urge you to oppose any provisions or amendments that would weaken states' powers to protect their residents, including reducing the threshold for bank regulators to preempt state laws, or allowing preemption for non-bank subsidiaries of national banks and thrifts. We also urge you to oppose any effort to treat rules issued by the federal consumer protection regulator as the maximum instead of the baseline protection for consumers of financial products and services. Consumers and the economy will benefit from the modest changes to federal preemption of state laws as applied to national banks and thrifts which are contained in RASFA:

- States are "first responders" to new problems. States can often act to address dangerous practices in the sale of financial products before those practices spread nationwide, and before those practices get the attention of either Congress or federal regulators.
- Federal preemption of state laws as applied to national banks and federally chartered thrifts stymies the ability of states to restrict practices that are engaged in by both banks and non-banks, because the non-banks object to rules that won't apply to their direct competitors.

Consumers also need state law enforcement to be able to actively enforce both federal and state consumer protection laws. The rules developed by the newly created federal consumer protection regulator will address unfair, deceptive, and abusive features and practices in the provision of financial products and services. It will also write the rules to implement a variety of existing federal consumer protection statutes addressing financial

products. Those rules, however, will only be effective if they are enforced. Any company that violates these rules should be held accountable. The federal consumer protection regulator may not have the resources to bring enforcement actions against every company that breaks the law. State attorneys general must also have the power to enforce federal consumer protection law, including the federal rules, against any type of company that breaks them. This will ensure that families' budgets and honest businesses are truly protected.

Preserving the power of the states to prosecute companies which break the law is essential for two essential reasons:

- Early state enforcement action can protect honest competitors who may otherwise face market pressure to follow the practices of less scrupulous players.
- Injured consumers are likely to complain to state enforcement agencies, and those agencies should be permitted to respond to problems experienced by consumers in their states.

The Restoring American Financial Stability Act makes critical improvements in our federal financial regulatory system. But the bill must also continue to ensure that states can protect their residents with new laws and enforce both state and federal law against all types of financial services providers.

We look forward to the passage of a strong financial reform measure so that the economic pain experienced by so many U.S. households as a result of irresponsible use of financial products and services does not recur in the future.

Very truly yours,

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