Consumer Financial Protection Bureau

Eliminate the Consumer Financial Protection Bureau

RECOMMENDATION

The Consumer Financial Protection Bureau (CFPB) is likely the most powerful and unaccountable regulatory agency in existence. It unduly restricts access to credit without oversight from either Congress or the executive branch.

Congress should eliminate the CFPB and transfer enforcement authority for consumer protection statutes to the Federal Trade Commission, which has a long history of promoting consumer welfare and market competition. Americans would be just as protected against unfair, deceptive, and fraudulent practices as they are today—without the harmful constraints imposed by the CFPB.

RATIONALE

The CFPB was established in the wake of the 2008 financial crisis to "regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws."[1] Before its creation, authority for some 50 rules and orders stemming from 22 consumer protection statutes[2] was divided among seven agencies.[3]

The Dodd–Frank Act granted the new agency unparalleled rulemaking, supervisory, and enforcement powers over virtually every consumer financial product and service. It was designed to evade the checks and balances that apply to most other regulatory agencies.

The CFPB has restructured the mortgage market by broadening lenders' fiduciary responsibilities and standardizing home loans. There are new restrictions on credit cards, ATM services, auto lending and leasing, electronic funds transfers, and student loans. More rules are in the pipeline for credit reporting, overdraft coverage, arbitration, debt collection, and general-purpose reloadable cards.

The CFPB is also amassing the largest government database of consumer data ever compiled to monitor virtually every credit card transaction.[4] And, it is aggressively soliciting unverified complaints from consumers with which to impugn the reputations of lenders and creditors.[5]

CFPB advocates claim that the agency is vital for protecting consumers against "vulture capitalism."[6] But if Congress reforms the CFPB or even eliminates it altogether, consumers will be just as protected against unfair, deceptive, and fraudulent practices as they are today.[7] In addition to the 22 federal statutes, consumers are protected under state laws and regulations and local ordinances too numerous to count.[8]

Prior to the 2008 financial crisis, there certainly was a need to modernize the federal consumer protection regime. But a lack of consumer protection was not a major factor in the 2008 financial crisis.[9] Now, however, the structural flaws of the CFPB are contributing to a different crisis: an ever-expanding administrative state that is suffocating free enterprise and individual liberty.

ADDITIONAL READING

- Alden F. Abbott and Todd J. Zywicki, "How Congress Should Protect Consumers' Finances," chap. 19, in Norbert J. Michel, ed., *Prosperity Unleased: Smarter Financial Regulation* (Washington, DC: The Heritage Foundation, 2017).
- Diane Katz, "Consumer Financial Protection Bureau: Limiting Americans' Credit Choices," Heritage Foundation *Backgrounder* No. 3102, April 28, 2016.
- Diane Katz and Norbert J. Michel, "Consumer Protection Predates the Consumer Financial Protection Bureau," Heritage Foundation *Backgrounder* No. 3214, May 11, 2017.
- Norbert J. Michel, "Opportunities to Reform the Federal Financial Regulatory System," testimony before the Financial Institutions and Consumer Credit Subcommittee, Committee on Financial Services, U.S. House of Representatives, April 6, 2017.

ENDNOTES

1. H.R. 4173, Dodd–Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 111th Cong., July 21, 2010, 124 Stat. 1376, 12 U.S. Code § 5301, Title X, Section 1011(a).
2. Including the Truth in Lending Act, the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, the Equal Credit Opportunity Act, and the Electronic Funds Transfer Act, among others.
3. (1) The Board of Governors of the Federal Reserve; (2) the Federal Deposit Insurance Corporation; (3) the Office of the Comptroller of the Currency; (4) the Office of Thrift Supervision; (5) the National Credit Union Administration; (6) the Federal Trade Commission; and (7) the Department of Housing and Urban Development.
4. News release, "CFPB's Mass Data Collection Threatens Consumers' Financial Safety," House Financial Services Committee, December 16, 2015, http://financialservices.house.gov/news/documentsingle.aspx?DocumentID=400102 (accessed May 30, 2017).
5. Jonathan Thessin, "Request for Information Regarding Consumer Complaint Database," American Bankers Association, August 31, 2015, http://www.aba.com/Advocacy/commentletters/Documents/cl-ConsumerComplaintDB-Aug2015.pdf#_ga=1.88021978.353812757.1444751158 (accessed May 30, 2017).
6. K. Sabeel Rahman, "The Return of Vulture Capitalism," *The Boston Review*, April 25, 2017, http://bostonreview.net/class-inequality/k-sabeel-rahman-return-vulture-capitalism (accessed May 31, 2017).
7. Diane Katz and Norbert J. Michel, "Consumer Protection Predates the Consumer Financial Protection Bureau," Heritage Foundation *Backgrounder* No. 3214, May 11, 2017, http://www.heritage.org/government-regulation/report/consumer-protection-predates-the-consumer-financial-protection-bureau.
8. Thomas A. Durkin, Gregory Elliehausen, Michael E. Staten, and Todd J. Zywicki, *Consumer Credit and the American Economy* (New York: Oxford University Press, 2014), p. 417.
9. Norbert J. Michel, "The Myth of Financial Market Deregulation," Heritage Foundation *Backgrounder* No. 3094, April 28, 2016, http://www.heritage.org/research/reports/2016/04/the-myth-of-financial-market-deregulation.