



Consumer Federation of America

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Special Interests Swarm Senate Banking Committee as Debate Starts on Financial Reform Legislation

Consumer's Guide Shows Whether Americans Win or Lose on Key Provisions

Washington, DC – The Consumer Federation of America (CFA) today commended the Senate Banking Committee for moving quickly to enact comprehensive legislation to overhaul the regulation of financial services. Unfortunately, only 18 months after bringing the economy to the brink of collapse, large bank and Wall Street lobbyists are working hard to gut this legislation.

As the Senate Banking Committee begins consideration of the “Restoring American Financial Stability Act,” CFA released a handy “consumer’s guide” to help concerned citizens determine whether the American people or the big banks will be the real beneficiaries of this legislation.

“Recklessness among big banks and Wall Street firms and regulatory failures by federal agencies triggered a prolonged recession that continues to cause great hardship for many Americans,” said CFA Legislative Director Travis Plunkett. “The American people are looking to the Senate to strengthen consumer and investor protections and restore the safety and soundness of the financial system by closing gaps in the regulatory system.”

Currently, it is unclear how many of the 500 amendments to the bill that have been proposed will actually be considered. Some could be adopted as part of the underlying bill, others could be offered and withdrawn without a vote, and some may never be offered for debate. CFA has identified amendments in two key areas where Senators will face a stark choice between consumer and business interests:

- ◆ Creation of a truly independent consumer financial regulator to rein in abusive lending by banks, credit card issuers, mortgage and payday loan companies and auto dealers.

- ◆ Strengthened protections for average investors and new powers for shareholders to hold the managers and directors of the companies they own accountable.

“How these amendments fare could tell us a lot about whether the public interest or special interests are winning out as the bill moves forward,” Plunkett said. “Unfortunately, bank and business lobbyists have spent millions – an estimated \$1 million per member of Congress – to defeat and weaken desperately needed financial reforms like these.”

“The proposed new consumer financial protection regulator has been singled out by banks as a leading target for weakening amendments, particularly concerning its independence from indifferent and hostile bank regulators and its oversight and enforcement powers to address unfair, deceptive or abusive practices that target consumers, no matter what type of entity engages in these bad practices,” continued Plunkett.

In some areas, industry pressure has already had a negative effect. “In response to lobbying by brokers and insurance agents, the bill’s single most important provision to protect average investors – a requirement that brokers and insurance agents act in customers’ best interests when recommending securities – has already been stripped from the bill, as has a provision allowing defrauded investors to sue those who aid and abet the fraud,” said CFA Director of Investor Protection Barbara Roper. “Meanwhile, a provision authorizing the SEC to limit forced arbitration is threatened, measures to give shareholders new powers to hold company managers and directors accountable for their actions face weakening amendments, and even a provision seeking to give investors a greater voice in investor protection regulatory policy has come under attack. In the age of Madoff, these would hardly seem like controversial measures, but Wall Street has found at least a handful of senators ready and willing to champion its cause and resist modest new investor protections,” Roper added.

“Americans need to know who’s on their side and who is offering amendments that will leave them vulnerable to dangerous gaps in our regulatory system for which consumers and taxpayers have had to foot the bill,” said Susan Weinstock, Financial Reform Campaign Director for CFA. “We strongly encourage all Americans to follow this debate and let their Senators know how they feel about the positions their members are taking.”

The Consumer Federation of American is a non-profit association of more than 280 groups that, since 1968, has sought to advance the consumer interest through advocacy and education.

Amendment	Who Wins?	Who Loses?	Thumbs Up/Thumbs Down
Consumer Regulator			
<p>Bank Regulator Veto Power: Eliminate Systemic Risk Council veto of consumer regulator decisions (offered by Senator Reed)</p>	<p>Allowing the same bank regulators who failed to protect consumers from abusive lending to have veto power over the consumer regulator will discourage the regulator from addressing harmful practices as they develop. Consumers will win with the establishment of a robust entity that is functionally independent and that will protect families from unfair or deceptive financial products.</p>	<p>Banks and other lenders which have been able to convince regulators that consumer protections should be subordinate to lenders' profits.</p>	
<p>Consumer protection divisions subsumed in other agencies: Creation of consumer divisions within the Federal Reserve or FDIC or a consumer protection council that are not independent. (Senators Shelby and Bennett)</p>	<p>Only relatively recently have the Fed or FDIC taken any action on consumer protections from abusive financial products. Banks and other lenders like credit card issuers will be able to continue to prey on consumers without an independent entity to rein in abuses if any of these amendments pass.</p>	<p>Consumers will continue to be at the mercy of lenders' tricks and traps without an independent entity looking out for their interests.</p>	
<p>Federal Pre-emption: Allow federal agencies to block stronger state consumer protection laws. (Senator Corker)</p>	<p>Bank and nonbank lenders in states with strong consumer protection laws could ensure that there is a race to the bottom for consumer protections. Without this amendment, the consumer</p>	<p>Strong state consumer protection laws could be gutted by pre-emption. States would be unable to act before local problems become national catastrophes that</p>	

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	regulator will be able to enact appropriate nationwide rules and states will be able to augment these rules to address emerging problems.	bring down the entire economy.	
<p>Non-Bank Enforcement: Consumer Regulator authority to enforce its rules over nonbanks like payday lenders and back-up enforcement authority over banks up to \$10 billion in size. (Senators Schumer and Reed)</p>	<p>Consumers who have paid billions in fees for loans from nonbanks like payday lenders, auto lenders, consumer reporting agencies, and debt collectors will have a regulator without gaps in authority. Consumers who bank at over 90 percent of financial institutions would have a regulator with back up enforcement authority to bring cases arising from consumer complaints.</p>	<p>Payday lenders, debt collectors, and banks of less than \$10 billion in assets will not be able to flaunt consumer protection rules due to lack of enforcement power from the consumer regulator.</p>	
Investor Protections			
<p>Fiduciary Duty: Strengthen the bill's provisions on fiduciary duty, including by substituting the House language or by giving the SEC the authority to act to impose a fiduciary duty by rule if the required study finds that to be in the public interest. (Senators Akaka and Menendez)</p>	<p>Average investors, who would be assured that the recommendations they receive from brokers and insurance agents are designed with their interests in mind.</p>	<p>Brokers and insurance agents who want to market themselves as advisers without having to act in the best interests of their clients.</p>	

Amendment	Who Wins?	Who Loses?	Thumbs Up/Thumbs Down
<p>Mandatory Arbitration: The Dodd bill authorizes, but does not require, the SEC to adopt rules limiting the ability of brokers and investment advisers to require investors to sign a pre-dispute binding arbitration clause. Two amendments would eliminate the rulemaking authority and require a study instead. (Senators Shelby and Corker)</p>	<p>Brokers and investment advisers, who will continue to force investors to arbitrate disputes in an industry-run forum they do not perceive as fair.</p>	<p>Average investors, who will lose the ability to choose to bring complaints to court or arbitrate in an alternative forum.</p>	
<p>Accounting Fraud: Exempt most public companies – those with public “floats” of \$150 million or less – from the law requiring them to include an assessment by the auditor in the annual financial audit of the company’s policies and procedures to prevent fraud and ensure accurate financial reporting. (Senators Shelby and Hutchison)</p>	<p>Dishonest company managers who use accounting tricks to cook the books or misappropriate company funds.</p>	<p>Shareholders, who will continue to be denied basic protections designed to ensure they receive accurate financial information about the companies in which they invest. Honest companies will also lose investment funds to companies that use accounting tricks to attract new capital.</p>	
<p>Investor Advocate: The bill creates a new Office of Investor Advocate within the SEC to ensure that investor interests are represented in agency policy-making, to serve as an independent</p>	<p>Wall Street and the business community, which will both gain a new ally within the SEC to promote their interests and eliminate a threat that investors would have significant input regarding</p>	<p>Investors, who will have a powerful new ally to ensure that the SEC fulfills its mandate to put the public interest before industry interests.</p>	

Amendment	Who Wins?	Who Loses?	Thumbs Up/Thumbs Down
<p>guard within the agency against any tendency to elevate industry concerns over investor interests, and to help investors resolve any difficulties they may have dealing with the agency. An amendment would delete that provision and replace it with an ombudsman responsible for helping members of industry resolve any problems they may have with the Commission. (Senator Shelby)</p>	<p>regulatory policy.</p>		
<p>Corporate Governance: The bill has strong provisions to give owners of public companies greater power to elect board members who represent their interests and greater say over executive pay. Several amendments would weaken that section, in particular an amendment to eliminate the provision giving the SEC clear authority to adopt proxy access rules. (Senator Corker)</p>	<p>Corporate executives, who won't have to face meaningful shareholder elections on such issues as executive pay, and entrenched board members, who will not risk losing their position when they fail to protect shareholder interests.</p>	<p>Shareowners of public companies, who will have little ability to hold the managers and directors of the companies they own accountable, and taxpayers, who will bear the cost of industry-funded lawsuits challenging the SEC's authority to adopt proxy access rules.</p>	