



**HOUSE COMMITTEE ON FINANCIAL SERVICES**

Hearing on:

Banking Industry Perspectives on the Obama Administration's Financial Regulatory  
Reform Proposals

Wednesday, July 15, 2009

WRITTEN TESTIMONY OF CHRIS STINEBERT  
PRESIDENT AND CHIEF EXECUTIVE OFFICER  
THE AMERICAN FINANCIAL SERVICES ASSOCIATION

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Thank you, Mr. Chairman, for the opportunity to speak here today.

Founded in 1916, the American Financial Services Association (AFSA) is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. The association's 350 members includes consumer and commercial finance companies, card issuers, mortgage companies, auto finance and leasing companies, industrial banks and industry suppliers. AFSA member companies provide approximately 30 percent of all consumer credit and offer many types of credit products, including credit cards, vehicle loans and leases, personal installment loans and mortgages.

While banks play a vital role in the economy and the consumer credit market, Federal Reserve Board statistics show that the majority of non-mortgage consumer credit is provided by finance companies and others who raise funds through securitization. Finance companies have a long history of meeting the credit needs of consumers – from buying a car to get to work, to paying college costs for a son or daughter. Most of AFSA's member companies are state chartered and regulated.

Given its significance to our membership, we appreciate the opportunity to discuss the proposal to create a Consumer Financial Protection Agency (CFPA) focused on protecting consumers in the financial services markets. As I just mentioned, our membership includes industrial banks so I'll also comment on a provision within the administration's regulatory relief proposal that calls for the elimination of industrial bank charters.

Let me say at the outset that AFSA fully supports changes that will result in improvements in consumer protection for customers. What's troubling, however, is the notion that improved consumer protection is dependent upon the creation of a new federal agency in charge of determining product choices for consumers.

We believe the country does not need a vast new bureaucracy – and that the goals of the administration and Congress can be achieved through other ways that will be more efficient, less costly and more successful. Before I give our recommendations, let me outline the industry's concerns with the proposed new agency.

Congress is Rushing to Create a New Agency Without Knowing its Potential Impact on the Economy

If signed into law today, the CFPA's earliest action is at least two to three years in the future – well beyond the current financial crisis. During this interim period, the current federal and state regulators would continue their accelerated efforts to improve and strengthen consumer protections.

The availability of credit is an important part of Americans' everyday lives. Why, then, would Congress rush to launch a new agency before evaluating the potential consequences on credit availability and the overall economy? We believe a careful assessment is needed to determine if the benefits will outweigh the risks and the costs.

### Consumers Will Pay More for Financial Products and Services

In essence, the proposal would impose a new tax on consumers at a time when they are least able to afford it. A recent Rasmussen Reports survey found that 61% of voters say taxes are a very important issue for them.

Congress should think carefully about setting up a new government agency that would cost taxpayers more money at a time when they are already struggling to stay afloat financially. Given the vast scope of the proposed CFPA's authority, its funding needs could be staggering. The proposal does not suggest moving existing funds from other agencies commensurate with the proposed personnel transfers. The existing agencies will still need funding to step into the CFPA's role at times. Instead, the proposal seeks to fund the CFPA by assessing fees on those it regulates.

Any assessment on financial services providers undoubtedly will be passed on to consumers. The result will be an increase in the cost and availability of credit – a cost that could be avoided by making better use of the existing consumer protection framework.



## Splitting the Prudential and Consumer Protection Functions Won't Yield Better Results

AFSA supports, and believes consumers will be better served by, a regulatory structure where prudential and consumer protection oversight is housed within a single regulator. Congress tried to separate these two intertwined functions with the Government Sponsored Enterprises (GSEs). Federal Housing Finance Agency Director James Lockhart recently cited this separation of functions as one of the primary reasons for the failure of Fannie Mae and Freddie Mac. Today, no evidence shows that a separation of prudential and consumer protection regulation will offer better results in the financial services arena – in fact, indications are to the contrary. We urge Congress to support a regulatory structure that does not separate financial products and services from the viability of the companies that offer them.

Indeed, given that the agency would be required only to “consult” with prudential regulators, it is all too likely that the agency would embark on a mission to severely restrict sound business and financial practices it perceives as not “consumer friendly.”

## The Proposed Agency Could Take Us Backward, Rather than Forward

With its vast, unfettered authority, the proposed regulator has the potential to roll back the clock 30 years, when consumers had only standard, “plain vanilla” borrowing options. From 1977 to 2007, in inflation-adjusted dollars, consumer credit increased from \$882 billion to \$2.6 trillion, household mortgages from \$2 trillion to \$10.4 trillion

and revolving credit from \$127 billion to \$970 billion. For the last 30 years, financial innovation has been the fuel of the economy.

In the auto sector, for example, car sales in the mid-1970s only averaged six to eight million units each year, in large part because securitization didn't exist back then to provide liquidity for additional sales. In 2009, sales are expected to be just under 10 million units, with the 2010 number projected to be somewhere slightly over 11 million. If the economy continues to stabilize and lending regulations do not change, IHS Global Insight estimates that auto sales could be around 15 million in 2012. The uncertainty created by the CFPA, however, is likely to have a dampening effect on the securitization market, perhaps taking us in the direction of the units sold in the mid-1970s.

AFSA is not here to claim that some instances of financial innovation did not contribute to the problems the economy and consumers suffer today. But regress is not progress. Financial services reform should take us forward, not backward.

#### Creating a New "Watchdog" Doesn't Guarantee Better Consumer Protection

The authority proposed to be vested in a CFPA is astounding in its scope and effect. It would cover many entities and persons who had little or no involvement in activities leading to the current economic crisis, including coffee shops and retailers that offer prepaid cards, as well as small real estate investors and jewelry appraisers. Without any demonstrated need, these and many other unsuspecting persons will be swept into a web of scrutiny and reporting requirements that will yield little in the way of consumer protection and much in the way of increased costs for consumers. Attorneys,

accountants, consumer reporting agencies, auto dealers, title companies, and independent financial literacy educators will find themselves subject to review, potential liability and the CFPA's corresponding costs – with no evidence that they are behaving unfairly.

### Strong National Standards are Needed

Most AFSA members are regulated primarily at the state level and subject to a patchwork of varying and sometimes inconsistent requirements. Under the CFPA proposal, lenders and consumers would be faced with 50 different disclosures, forms and requirements. As this ad-hoc approach to regulation is costly and inefficient, AFSA supports strong national consumer protection standards that will allow its members to meet their consumer protection obligations in an efficient and cost-effective manner. These standards must limit the ability of the states to impose additional requirements or apply inconsistent enforcement standards. To do otherwise would only encourage states to exaggerate the federal minimum standard and further limit access and increase the cost of consumer credit.

In addition, strong national consumer protection standards will provide a benefit to citizens and our economy only to the extent they are consistent with sound prudential regulation. Consumer protections that threaten the safety and soundness of financial services will promote conflicts between prudential regulators and the CFPA. The proposed legislation does not address how to resolve agency conflicts arising from the tension between appropriate consumer protection and institutional safety and continuity.

## AFSA's View

AFSA does not oppose consumer protections – it embraces them. We support rational consumer protection that is regulated and enforced in a manner that allows financial services providers to plan and price for risk, to operate their businesses efficiently and safely, and promote access to a full range of credit products for Americans.

To that end, we offer the following suggestions:

1. Allow time to evaluate the effects of other government initiatives.

The Credit Cardholders' Bill of Rights Act was just signed into law less than two months ago. What's more, the administration has undertaken several programs to reduce foreclosures and stabilize the mortgage market. We should give these initiatives time to work before rushing to create a new agency that would do many of the same things.

2. Make current and future consumer protection rules applicable to all financial services providers by implementing national standards.

Congress should ensure that all federal consumer protection laws and regulations apply with equal force to all providers of financial services with respect to similar classes of products and services. These laws should include strong national standards that preempt state laws and permit all Americans to



enjoy a consistent level of service and access with respect to financial products and services, regardless of their location.

3. Pursue a regulatory structure that does not separate financial products and services from the viability of the companies that offer them.

All prudential agencies should work together to coordinate on consumer protection regulation for financial products and services with the goal that the regulations be preemptive, consistent and uniform.

4. Leave enforcement of rules with existing regulators and give backstop enforcement authority to the Federal Trade Commission (FTC).

AFSA supports maintaining and strengthening the current regulatory structure whereby consumer protection regulatory authority is vested with the prudential regulator. This structure will ensure that consumer protection regulation is enforced in a manner consistent with sound prudential management and that it properly balances consumer protection with safety and soundness concerns. The structure also will assure that national consumer protection standards will enhance the efficiency and quality of enforcement and supervisory activities. The FTC should be granted authority to step in if the prudential regulator fails, or is unable to address consumer protection concerns in a timely manner.

5. Step up enforcement of existing consumer protection laws.

The current financial regulators already have many enforcement tools at their disposal. What they may lack is the necessary resources or support to fully use them. Congress should focus its lawmaking efforts toward correcting this situation.

6. Continue efforts to improve financial education.

The President's Advisory Council on Financial Literacy and the U.S. Treasury's Office of Financial Education play important roles in working with the financial services industry and others in the private sector on financial literacy initiatives. Ultimately, an educated consumer is the best defense against fraud and unscrupulous practices.

7. Preserve the industrial bank charter.

The administration's regulatory relief proposal calls for eliminating charters for industrial banks, which provide a safe, sound and appropriate means to deliver financial services to the public and have not been part of the problem. We do not believe that the elimination of the industrial bank charter is warranted or would benefit consumers. To the contrary, it would be the worst possible time to eliminate the charter, as this would lead to further job loss and less financial options in communities across the country.

Industrial banks did not contribute to collapse of the financial system in 2008 and none have failed in 2009. While over 52 community banks have failed already in 2009, industrial banks have been the best capitalized and most profitable banks in the nation. Industrial banks are adequately supervised and regulated by the FDIC and their home state regulators and have steadily provided financial services to a variety of consumers and businesses across America.

As I said at the outset, we fully support the goal of the administration and this committee to improve the quality and effectiveness of consumer protection for all Americans. I appreciate the opportunity to testify here today and am happy to answer any questions Members may have.