CFA

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HOUSE MOVES TO HANDCUFF NEW CONSUMER FINANCIAL AGENCY AND KEEP DANGEROUS DERIVATIVES MARKETS IN THE SHADOWS

The Consumer Federation of America (CFA) today called on the House Financial Services Committee to reject legislation that would undermine the ability of the new Consumer Financial Protection Bureau (CFPB) to stop abusive financial practices and delay crucial oversight of the derivatives markets for eighteen months. The Committee will be marking up bills today to delay implementation of most derivatives rules required under the Dodd-Frank Act until 2013, to significantly increase the ability of financial regulators to block important consumer protection measures initiated by the CFPB, and to change the leadership structure of that agency.

"These bills ignore the lessons that have been learned about the regulatory failures that triggered a housing and economic crisis and caused extraordinary pain for millions of Americans," said CFA's Legislative Director, Travis Plunkett. "The message that these bills send is that, once again, big banks and financial firms are more important to Congress than families who need a cop on the beat and common sense regulation to protect them."

"Bringing over-the-counter derivatives markets out of the shadows and into the light of appropriate regulatory oversight was one of the most significant achievements of the Dodd-Frank Act. This bill threatens to reverse that progress," said CFA Director of Investor Protection Barbara Roper. "By delaying essential derivatives reforms for more than a year, this legislation would expose the financial system to great risk and tie the hands of regulators attempting to rein in those risks. As a result, this bill is bad for taxpayers, bad for investors and consumers, bad for the Main Street companies that rely on these markets to hedge their risks, and bad for the safety and stability of the financial system. Indeed, the only people likely to benefit from this bill are the Wall Street executives already raking in record bonuses and profits on the high-risk casino economy that effective derivatives regulation would help to shut down."

CFA pointed out that the CFPB already has unprecedented restrictions on its powers. Nowhere else in federal law can one set of regulators – in this case two-thirds of the members of the Financial Stability Oversight Council (FSOC) – veto the actions of another agency. The Dodd-Frank Act also caps the amount of funding provided to the CFPB, a statutory limit imposed on no other financial regulator. The CFPB is also the only financial regulator that must comply with the federal Regulatory Flexibility Act, which allows small businesses to see proposed rules before the public does and will add months to the already lengthy rulemaking process.

H.R. 1315 (Duffy) would allow a simple majority of bank regulators and others on the FSOC to veto CFPB rules because they are inconsistent with safe and sound operations of financial institutions. CFA expressed concerns that this vague standard could be manipulated to stop significant consumer protection measures that might affect the profitability of financial institutions. H.R. 1121 (Bachus) would alter the leadership structure of the agency from that of a single director to a five-member commission.

"The CFPB bills would decrease accountability and muddle decision-making at the agency, while expanding the power of disgraced banking regulators to stop strong consumer protections," said Plunkett. "Passage of these bills would virtually guarantee that the CFPB would be a weak and timid agency without the will or ability to curb the kind of financial abuses that caused the nation's worst financial crisis since the Great Depression."

H.R. 1573 would delay implementation of most of the Dodd-Frank derivatives rules to 2013. That would put on hold plans already well underway to begin clearing most standardized derivatives contracts, a key element of efforts to bring greater safety to our financial markets. In addition, market participants would be denied access to data, keeping these markets in the shadows for another 18 months. Meanwhile, the ability of the Securities and Exchange Commission (SEC) and Commodity Futures Trading Commission (CFTC) to prevent market manipulation, fraud, and excessive speculation would also be delayed. H.R. 1573 would also authorize U.S. regulators to exempt foreign companies from any U.S. derivatives regulation, potentially creating significant loopholes in the derivatives oversight regime.

"H.R. 1573 is both ill-advised and unnecessary," said Roper. "The CFTC and SEC have already bent over backwards to provide all interested parties multiple opportunities to comment on rule proposals both as those proposals were being developed and after they were proposed. They have promised an additional opportunity for comment after all the rule proposals have been released, so that affected parties can see how the various proposed rules interact and comment on the proposed new rulebook in its entirety. And they have promised to stage implementation to minimize any potential for harmful impact. Under the circumstances, there is therefore absolutely no need for Congress to step in and delay the process further."

CFA joined a broad coalition consumer, civil rights, business and labor organizations that wrote House Financial Services Committee members in opposition to the CFPB (link to letter here) and derivatives legislation.

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