Senate Bills Threaten the Consumer Financial Protection Bureau’s Ability to Protect Consumers

The Consumer Financial Protection Bureau was established by Congress in response to the abusive marketplace practices that led to the 2008 financial crisis. Its mission is to uncover and stop unfair, deceptive, and abusive financial practices and to keep the rules governing bank accounts, credit cards, and loans up-to-date to ensure consumers are treated fairly.

Since the CFPB opened its doors in 2011, it has won almost $12 billion in refunds and relief for an estimated 29 million Americans who’ve been harmed by some of the predatory practices of banks and other financial companies. In addition, the CFPB promotes consumer financial literacy, maintains a consumer complaint database, and provides guidance and technical assistance to traditionally underserved consumers, with a purpose of ensuring that all consumers have access to safe financial products.

But the CFPB’s ability to continue protecting consumers would be seriously undermined if legislation being pushed by the financial industry wins approval in Congress. The proposals include legislation introduced by Senator Deb Fischer (S. 105), which would create more bureaucracy and gridlock by replacing the CFPB’s director with a five-member commission and Senator David Perdue’s proposal (S. 387), which would politicize the CFPB’s budget by subjecting it to the congressional appropriations process.

The CFPB’s structure and funding is not unique: Even among financial regulators, the CFPB’s leadership structure is not unusual. Both the Federal Housing Finance Agency and the Office of the Comptroller of the Currency are led by a single director and are subject to significantly less oversight than the CFPB. Other agencies with a single director include the Social Security Administration and the Office of Special Counsel. A key feature of the Office of Federal Housing Enterprise Oversight (now the FHFA) was its single director structure, which was popular among lawmakers for its political insulation.

Like other federal financial industry regulators, such as the Office of the Comptroller of the Currency, Federal Deposit Insurance Commission, and the Federal Reserve, the CFPB receives its funding independently from the congressional appropriations process. In the case of the CFPB, it receives a small percentage, subject to a statutory cap, of the Federal Reserve’s annual budget, which comes primarily from the interest it earns on government securities.

A commission structure would lead to gridlock and inaction: Replacing the CFPB’s director with a multi-member commission would slow down its decision-making process and make it more prone to internal discord and gridlock. Multi-member boards like the Securities and Exchange Commission are prone to excessive delay that can hamper their effectiveness. By contrast, having a single director enables the CFPB to respond more quickly and decisively to new and emerging threats to consumers.
For years, consumer advocates warned that subprime and other exotic mortgage lenders were putting homebuyers at risk. It’s now clear that the failure of federal regulators to act quickly and effectively to protect consumers from these lending abuses led to a record number of foreclosures that helped trigger the country’s deep recession.

**A multi-member commission is less accountable than a single director:** Appointing a five-member commission would not make the CFPB more accountable to the public. By deflecting responsibility from one director to five, the members can easily pass the buck to any one of the commissioners any time the CFPB takes an unfavorable policy position. By contrast, a single director structure clearly designates one person as accountable for all agency actions.

**Politicizing the CFPB’s budget would undermine its ability to protect consumers:** Congress deliberately set up the CFPB with independent funding to protect it from banking industry lobbyists and other opponents determined to muzzle the watchdog by shrinking its budget. Subjecting the CFPB to the annual budget process would threaten the stability of its funding and its ability to vigorously police the marketplace and protect consumers. As Senator Richard Shelby, former Chairman of the Senate Banking Committee noted recently, bringing the CFPB under annual appropriations would “give Congress the power to shrink its budget, or bar it from spending money on certain activities.”

**The CFPB is already held accountable by statutory limitations:** When Congress created the CFPB, it sought to protect the agency from politics and industry pressure, while ensuring that it was held accountable for its actions. Specifically, the CFPB Director must testify semi-annually before the House Committees on Financial Services and on Energy and Commerce, as well as the Senate Committee on Banking, Housing, and Urban Affairs. In addition, the CFPB is required to produce annual reports to congressional committees and the President on several topics including significant rulemakings, budget justifications, and state enforcement actions.

The Government Accountability Office conducts an annual audit of the CFPB and an independent Inspector General also reviews the agency’s activities to inform Congress and the public about its actions. All of the CFPB’s proposed regulations are subject to a cost-benefit analysis and the agency must explain what the economic impact of a proposed regulation will be. Further, CFPB rules are subject to an additional layer of scrutiny, as CFPB-issued regulations may be overturned by Congress or the Financial Stability Oversight Council made up of other federal bank regulators.

**TAKE ACTION**

Please sign Consumers Union’s [petition](#) to keep a strong CFPB.

**PRESS CONTACT**

Michael McCauley, mmccauley@consumer.org, 415-902-9537 (cell) or 415-431-6747, ext. 7606 or David Butler, dbutler@consumer.org, 202-462-6262