Americans for Financial Reform

CFPB Structure and Funding

THE THREAT

The Consumer Financial Protection Bureau was created after the 2008 financial crisis for a simple reason: to get banks and lenders to treat people fairly. As the first and only federal financial regulator with that exclusive mission, the Consumer Bureau has made powerful enemies.

Now those enemies feel emboldened: with the White House and Congress under a single party's control, they're moving ahead with plans to cripple the CFPB's ability to function as an effective and politically independent watchdog. In addition to stripping the Bureau of many of its regulatory powers, they hope to:

- Place it under a five-member commission chosen by party leaders, instead of a single director.
- Take away its independent funding, forcing the agency to depend on annual congressional appropriations.

WHO'S BEHIND THE ATTACKS

All the money and energy is coming from the financial industry. This is a campaign manufactured by the very Wall Street banks, payday lenders, and other financial firms the CFPB was created to regulate.

The bureau has consistently stood up for ordinary consumers against the power of the financial industry. Since it got up and running in 2011, it has delivered nearly $12 billion in refunds and relief to more than 29 million Americans cheated by financial companies large and small. Americans, regardless of political party, overwhelmingly approve of both the idea of such an agency and its specific accomplishments.

THE COVER STORY – AND THE REAL STORY

Working with their allies in Congress, big banks and predatory lenders have concocted a phony story, depicting the CFPB as unaccountable and out of control. What they mean is that it has truly been doing its job and enforcing the law against powerful interests.

To justify their efforts, the bureau''s enemies claim there is something unique and unprecedented about its structure and funding. That's not true.

LIKE THE CFPB, OTHER BANK REGULATORS ARE NOT FUNDED THROUGH CONGRESSIONAL APPROPRIATIONS

The Federal Reserve, the Office of Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) are also funded independently of the appropriations process, through bank fees, in order to insulate them from political pressure and manipulation by big-bank political donors.

Why has the CFPB been singled out for attack? Because of the threat it poses to banking-industry tricks and traps and the stream of profits they produce.

THERE IS NOTHING UNPRECEDENTED ABOUT A SINGLE-DIRECTOR STRUCTURE

Another federal bank regulator, the much larger Office of the Comptroller of the Currency (OCC), has been led this way since it was established in 1863. The Federal Housing Finance Agency and the Social Security Administration are headed by single directors as well.

WHAT'S THE PROBLEM WITH LETTING CONGRESS FUND THE CFPB EACH YEAR?

Big banks would be able to use the politically charged appropriations process to deny funding for rule-writing or enforcement actions that Wall Street particularly dislikes. They could simply starve the agency of the basic funds it needs to do its job, or threaten to do so in order to intimidate the agency out of taking actions to curb abuses by powerful companies.

WHAT DO WE KNOW ABOUT "COMMISSIONS"?

Multi-member boards often fall into a pattern of gridlock, inactivity, and a chronic unwillingness to challenge the industries they are charged with overseeing. We saw the disastrous results of such behavior in the run-up to the financial crisis of 2008. Regulators at the Fed and the SEC, for example, were asleep at the switch for years. The costs – in taxpayer dollars spent bailing out Wall Street, as well in lost homes, jobs, income and economic security – were devastating.

Having a single public-interest-minded director is why the Consumer Bureau has been able to fulfill its mission without being cowed by lobbyists and revolving-door insiders. No matter who the Director is, a single-director structure means that someone can be held responsible for its actions, good or bad. A commission structure blurs responsibility, making it easier for special interests to get their way behind closed doors.

Moreover, Wall Street and predatory lenders wield tremendous influence with Congress. (The financial industry is consistently the single largest source of campaign donations.) For that reason, a commission, with a membership negotiated by congressional leaders, is just about never going to have a pro-consumer majority. There have even been times when a bloc of lawmakers has refused to vote on *any* nominations so that an agency they oppose would not have enough commissioners to be legally permitted to act.

These factors are exactly why the financial industry has pushed so relentlessly for such an arrangement.

WHAT ABOUT "GREATER ACCOUNTABILITY"?

Multiple mechanisms already exist to ensure the CFPB's accountability and transparency. The Financial Stability Oversight Council has the authority to veto the Bureau's (and no other financial regulator's) rules. The CFPB must report twice a year to Congress – an obligation shared only with the Federal Reserve. The CFPB is also accountable to the independent Inspector General for the Fed's Board of Governors, and to the Government Accountability Office. The GAO, both on its own behalf and in response to Congressional requests, has conducted oversight and audits of the CFPB on repeated occasions. And CFPB rules and enforcement actions can be challenged by industry in federal court.

The "accountability" argument is a sham. As a practical matter, the effect of these proposals would be to undermine the CFPB's ability to carry out its mission. Since its work is so important and popular, critics pretend to be interested in making the agency more "accountable," rather than coming right out and saying they're trying to undermine its effectiveness.