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PASS CONSUMER FINANCIAL PROTECTION: IT'S A NO-BRAINER

On Tuesday, the House Financial Services Committee resumes mark-up of legislation to create a new Consumer Financial Protection Agency. A core component of President Obama's blueprint for financial reform, the CFPA is intended to centralize consumer protection functions now held by seven federal regulatory agencies and rein in widespread abuses in the financial services industry.

Creation of the CFPA, whose sole mission is to ensure fairness in the marketplace, should be a no-brainer. But far from being a slam-dunk, the bill is in serious jeopardy of being weakened to the point of irrelevancy, if not gutted altogether, in Committee. The banking lobby (one sector of the economy boasting full employment) is waging an all-out assault to defeat the legislation. The U.S. Chamber of Commerce is also trying to kill the bill with a \$2 million ad campaign that features a butcher talking about how the CFPA would hurt his business.

Elizabeth Warren, Chair of the Congressional Oversight Committee and Harvard Law Professor, first proposed the idea for the CFPA in 2007, to fix what she has described as a broken financial system, in which over-priced, unfair and deceptive financial products, including many that fall outside of any regulatory oversight, have flourished. But to hear it from Republican Committee members at last week's markup, the CFPA is positively un-American, draconian, and nothing short of an attempt by the federal government to take over all aspects of people's lives.

Unfortunately, the industry can also count on several Democrats on the Committee to do its bidding. Last week, the Committee approved an amendment proposed by Brad Miller, a Democrat of North Carolina, to exempt small banks and credit unions, which constitute 98% of all banking institutions, from CFPA oversight. Committee Chairman Barney Frank, a Democrat of Massachusetts, had earlier back-tracked on a bill requirement that creditors offer consumers a "plain vanilla" product, such as a 30-year, fixed rate mortgage, alongside any of their more exotic offerings.

Industry lobbyists hope to secure the biggest prize of all when mark-up resumes this week: federal preemption. The bill now sets a federal floor for consumer protection, and explicitly leaving states the power to establish tougher standards. In recent years, states were out front in confronting abusive financial practices, passing laws, for example, to ban predatory mortgage lending, in the face of federal inaction. On Tuesday, Republicans and some New Democrats like Melissa Bean from Illinois will argue that CFPA should set a national ceiling, using oft-recited rhetoric that creditors and other financial services providers should not have to comply with a patchwork of state laws.

Democrats on the Committee must hold firm on non-preemption. As the foreclosure crisis has demonstrated, lending practices affect not only individuals but also communities, and states have a critical role to play in responding to these local manifestations. States should have room to set strong consumer protections. Out front Through its usury law, for example, New York has effectively banned payday lending, a usurious, short-term loan product that exploits working people struggling to get by from paycheck to paycheck. Many complaints to the CFPB will bubble up from local jurisdictions, and the interplay between the federal government and state enforcement agencies will be indispensable.

High-cost and abusive financial products – from risky subprime mortgages to usurious payday loans and credit card debt traps – have left millions of Americans financially devastated and worse. By promoting fairness and cracking down on predatory products, the CFPB would help restore public confidence in the financial system. The Committee should stop chipping away at the bill and approve a strong, non-preemptive CFPB.

How Committee members vote on the CFPB and proposed amendments this week will reveal whether they see themselves as public servants or as agents of the financial services industry, which so generously lines their campaign coffers.