Consumer Federation of America
1620 I Street, N.W., Suite 200 * Washington, DC 20006

Q & A on the Consumer Financial Protection Agency (CFPA)

Properly enacted and enforced consumer financial protections would have averted much of the current economic downturn. To ensure that this crisis can't be repeated, President Obama has proposed the creation of the Consumer Financial Protection Agency to protect consumers from unfair, deceptive, and abusive practices and to improve the transparency, fairness, and appropriateness of consumer and investor products and services.

The same banks and financial institutions that brought the global economy to the brink of collapse with their reckless lending and poor risk management are pulling out all the stops to oppose the creation of this agency. Clearly, they fear that this new agency could finally force them to end the abuses that industry-dominated federal banking regulators have tolerated for years. The following Q & A is designed to provide the facts to counteract their campaign of misinformation.

Don't regulators like the Fed already have the powers that the CFPA would be given? Why do we need a new agency?
The President has proposed a new agency because existing regulators failed to stop abusive lending practices before these practices harmed millions of consumers and the economy. Right now, consumer protection is a lesser responsibility for a number of agencies but not a priority for any one of them. Even worse, some of these agencies actually seemed to view their consumer protection function as in conflict with their other missions, which included ensuring the soundness of financial institutions. The CFPA will clean up this mess and streamline the rules since consumer protection will be its sole priority.

If the regulators had just done their job, wouldn't that have prevented this economic crisis? Don't we just need them to do their job, rather than adding another agency?
No regulator saw its main job as protecting consumers, or the economy and financial system as a whole. The CFPA's sole mission will be to protect consumers. As recent history has demonstrated, protecting consumers better will also have a positive impact on financial institutions and the economy

How can we be sure that this Agency will be effective?
The CFPA will write the rules under existing laws, plug the holes in current laws to promote fair practices and understandable financial products, handle consumer complaints, and promote the development of products that consumers can understand and use safely. No single agency has ever had this sole mission of protecting consumers.

Isn't it important to keep consumer protection and "safety and soundness" oversight within the same agency because these two roles are so closely linked?

Combining the two functions has inevitably relegated consumer protection to the back seat. Regulators have apparently decided that their overriding mission is to protect the short-term balance sheets of financial institutions. As a result, these agencies have been less likely to determine that certain profitable but highly questionable practices are harmful to consumers, such as charging exorbitant interest rates for overdraft loans. Separating the two missions, but requiring coordination between safety and soundness and consumer regulators, will ensure that consumer protection is front and center and that regulators cooperate in performing their separate but related efforts.

Won't the CFPA require firms to offer "plain vanilla" products, thus limiting consumer choice?

The House bill, H.R. 3126, does not require firms to offer "plain vanilla" or standardized products or services. It states that the Agency may choose to issue rules regarding the offer of a standard consumer financial product or service, including providing warnings to consumers about the heightened risk of certain financial products or providing a meaningful opportunity for the consumer to decline to purchase a standard consumer financial product or service. Any rules that the Agency might develop would only cover those who offer a product or service that is similar to a standard product or service.

Nothing in the bill will prohibit the tailoring of products or services to a consumer's specific needs, so long as that tailoring is not harmful to consumers. Consumers can't make responsible decisions if the information they are given is complex, confusing, or deliberately incomplete or misleading. One role of the new agency would be to ensure that consumers receive the clear, honest information they need to make informed choices.

Won't the CFPA just be another redundant layer of bureaucracy?

The new agency will consolidate and streamline enforcement of roughly 20 laws currently overseen by seven different agencies. This should reduce the level of regulatory burden on providers, not increase it.

How would the CFPA fix our nation's financial problems?

The CFPA will be able to quickly respond to emerging harmful practices, before they spread throughout the country, become large enough to undermine family economic stability, and threaten the economy. We can't be certain where the next problems will emerge, but, had we had effective regulation of mortgage lending along the lines this agency is designed to provide, the current crisis might never have developed.

Won't a single agency focused on consumer protection stifle innovative products and services? Will firms still be allowed to tailor products to particular consumers?

The CFPA will enhance beneficial innovation and stifle harmful innovation, by preventing deceptive and dangerous products from pushing truly innovative products out of the market. Nothing in the legislation would prohibit the tailoring of products to a consumer, so long as that tailoring is not harmful to consumers.

Won't the CFPA place an unfair regulatory burden on small banks and thrifts?
The CFPA should improve the position of small banks and thrifts that offer responsible credit and payment products by driving dangerous products offered by large bank competitors out of the market. The CFPA will lower the regulatory burden for transparent, safe products and will ensure a level playing field across the market.

Shouldn't consumers take personal responsibility for making responsible decisions regarding financial products and services?
Consumer responsibility is still essential, but consumers can't make responsible decisions if the information they are given is complex, confusing, or deliberately incomplete. One role of the new agency would be to ensure that consumers receive the clear, honest information they need to make informed choices. People who charge too much on their credit cards or who buy houses they can't afford won't be bailed out by this agency, but everyone should have a fighting chance to understand the terms and conditions of credit and make good financial decisions.

Won't this agency actually end up costing consumers more money as firms have to comply with new rules and standards?
The modest costs of complying with this agency, which the agency will be required to consider when setting new rules, pale by comparison to the costs of regulatory failure. If this agency had been in place before the mortgage crisis occurred, it could have saved consumers, financial institutions, and the nation overall hundreds of billions of dollars. Moreover, as the CFPA will streamline enforcement of laws and rules that currently fall under seven different government agencies, costs to the companies and prices for consumers may well decline.

Will consumers have to pay extra to fund the Agency?
The President's proposal directs the CFPA to write rules to determine how it will be funded, based on several funding options, such as fees or assessments on credit accounts, total assets under management, or consumer financial transactions. Once again, by streamlining regulation, the CFPA could actually reduce overall compliance costs. At the very least, costs passed through to individual consumers for these funding options should be negligible and more than offset by money consumers save through improved product information and protections.

Will the CFPA determine compensation for an employee, agent or contractor of a company that deals with consumers, such as mortgage brokers or bank loan officers?
The President's proposal allows the CFPA to stop compensation procedures that provide an incentive for agents or lenders to overcharge consumers. This provision is aimed at curbing abuses by lenders and brokers who, for example, offered or received kickbacks for unjustifiably increasing loan costs for certain consumers or who steered borrowers into more expensive loans than those for which borrowers would qualify. The CFPA is prohibited from limiting the total dollar amount of compensation paid to any person.