CENTER FOR RESPONSIBLE LENDING

Oppose H.R. 1121

Replacing CFPB Director with Commission Would Substantially Weaken CFPB's Ability to Protect Consumers from Predatory Practices

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H.R. 1121 would threaten the ability of the newly-enacted Consumer Financial Protection Bureau (CFPB) to protect consumers from predatory and abusive financial practices. The bill, which would fundamentally change the structure of the CFPB from a single, accountable director to a weak five-person commission, would derail the consumer protections enacted under the Dodd-Frank act (P.L. 111-203).

We urge Congress to reject this bill and keep the single director in place for the following reasons:

- **CFPB should be implemented and given a chance to succeed before changes to its structure are enacted.** CFPB will not be up and running until July 2011, still months away, and a Director has not even been named, let alone confirmed by the Senate. Dodd-Frank carefully crafted the structure of the CFPB to protect the public from abusive lending practices; Congress should give it a chance to do so, and then enact changes only when necessary to strengthen then Bureau's mission to protect consumers.

- **Greater accountability:** The reason CFPB was necessary and ultimately enacted is that previously, responsibility for consumer financial protection was scattered among too many agencies, and agencies charged with consumer protection did not use their authority to protect borrowers from predatory practices. CFPB was created to ensure accountability moving forward, and a single director structure maximizes that accountability. A single director is clearly answerable to Congress and the American people. Directors who overstep their authority or who do not go far enough to protect consumers cannot deflect blame for their actions. Commissioners, on the other hand, can avoid responsibility by pointing to the other four people who make up the Commission.

- **Checks on CFPB power are already in place:** Even with a single director, the CFPB rulemaking process is expected to be slower than normal because of the many checks to the agency's power under Dodd-Frank. Like other federal agencies, it will be subject to the Administrative Procedures Act. Unlike any other banking regulator, it will also have to convene small business panels under the Regulatory Flexibility Act before issuing a proposed rule—a process that is expected to add at least six months to the rulemaking process. In addition, the Financial Security Oversight Council (FSOC) may veto the rule by a 2/3 vote when a rule would pose a systemic threat to the financial sector. CFPB must also publicly review its rules every five years to ensure that they are not overly burdensome and address key problems. CFPB's funding is also statutorily capped. These additional checks on CFPB's power will surely lead to a slower rule-making process with a single director; under a commission structure, however, they could lead to gridlock and inaction.

- **Streamlined decision-making:** A single director is better able to exert decisive leadership in promulgating rules and enforcing them. This results in streamlined decision-making that avoids the lowest-common-denominator rulemaking that often faces commissions. The commission structure in H.R. 1121, however, could be slowed down or even halted if the Senate failed to confirm consumer-oriented nominees. This has happened previously in the case of other commissions, such as the Consumer Product Safety Commission and the Federal Trade Commission.

  In fact, the Senate's painfully slow confirmation process has become so bogged down that a bipartisan group of Senators (including Majority Leader Reid, Minority Leader McConnell, and Senators Schumer, Alexander, Collins, and Lieberman) have sponsored S. 679, which would reduce or streamline the number of executive branch positions requiring Senate confirmation by one-third. Getting a CFPB director through the Senate confirmation process is likely to be hard; getting five Commissioners through would be much more challenging.

- **CFPB's Director structure is comparable to the strongest banking regulator:** A major reason for the creation of CFPB was that federal banking regulators—in particular the Office of the Comptroller of the Currency (OCC), which regulates national banks—ignored consumer protection obligations and put the short-terms interests of banks over the long-term interests of consumers and the broader economy. What resulted was the mortgage crisis, which sparked one of the worst economic crises in our history. Even since enactment of CFPB, the OCC has advocated for preemption policies that would harm consumers. OCC's single-director structure has allowed it to act quickly and effectively to protect the short-term interests of the big banks. The CFPB's current single-director structure is necessary to ensure that there is counter-pressure to protect the interests of consumers and the overall economy.

Give the CFPB a chance to succeed before making changes to its structure – oppose H.R. 1121