

CCMR Letter Distributed to Key Regulatory Reform Legislators Says
CFPA Legislation Goes Too Far on Some Issues, Not Far Enough on Others
*Committee Proposes That Law Cover All Consumer and Investor Products;
Sees problem with Administration and Congressman Frank's CFPA Bills*

Washington, DC – October 14, 2009 -- The Committee on Capital Markets Regulation, an independent and nonpartisan research organization dedicated to improving the regulation and enhancing the competitiveness of the U.S. financial system, has delivered a letter to the Chairmen and Members of the House Financial Services Committee and the Senate Banking, Housing and Urban Development Committee urging them to both strengthen and moderate the proposed legislation to create a Consumer Financial Protection Agency.

Reiterating the central thrust of its May 2009 report, which insisted that the legal framework for regulatory reform must be comprehensive and effective, the Committee found weaknesses in both the Administration-backed H.R. 3126, the Consumer Financial Protection Agency Act (Act) of 2009—that would establish the CFPA—as well as in some of the modifications of that approach proposed by Chairman Frank of the House Financial Services Committee.

Hal S. Scott, Director of the Committee and Professor at Harvard Law School, said that “The Committee believes the CFPA does not go nearly far enough in consolidating oversight in the agency’s hands and, as proposed, it perpetuates the patchwork of supervision that has proven damaging and costly for the U.S. economy. With today’s increasingly complex financial products, distinctions between “investors” and “consumers” of financial services are artificial and unworkable. To give the CFPA the proper authority and scope to be effective, the agency should cover both investor and consumer products and federal preemption of consumer protection should be strengthened.”

Prof. Scott added that the Committee isn’t wedded to any one structure for achieving effective consumer protection, and that some members favored a CFPA under the umbrella of a new U.S. Financial Services Authority, an overarching prudential and market regulator that would consolidate all federal regulators other than the Federal Reserve, while others favored the creation of a separate agency. In addition to calling for the integration of consumer and investor protection, the Committee said in the letter that conflicts between the banking agencies and the CFPA should be resolved by the Secretary of the Treasury rather than left to a board with only one banking regulator, as proposed by the Administration, or through the dispute resolution procedure proposed by Chairman Frank. The Committee letter also recommends that stronger procedures than currently proposed be followed before products could be banned entirely. It also noted that creation of the CFPA should result in stronger, not weaker, federal pre-emption.

Finally, the Committee recommends that the agency be governed by a five person Commission, with a 3-2 party split in favor of the President’s party, along the lines of the Securities & Exchange Commission, to ensure political accountability.

The Committee’s letter is an outgrowth of the May 2009 Report (*The Global*

Financial Crisis: A Plan for Regulatory Reform). Among the Report's 57 specific recommendations, it recognized the central importance of a robust and effective legal framework for overseeing consumer protection as part of comprehensive regulatory reform.

A copy of the Committee's letter, delivered yesterday to Congress, is available online at the Committee's Web site www.capmksreg.org.

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