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Op-Ed Columnist

Derailing Help for Consumers

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Washington

Why should there be any significant opposition to the creation of an independent agency with strong powers of enforcement to protect consumers from exploitation by banks, mortgage companies, auto dealers and other purveyors of credit?

The dragons lurking in the fine print of some credit agreements are enough to give you heart failure. Payday loans, for example, typically carry annual interest rates in the vicinity of 400 percent. Or look at the lineup of fees, penalties and interest rates on your credit cards and overdraft privileges. Don't even start on mortgage abuses. That would take too long, and it's too depressing.

We're talking here about exploitation run wild. The Mob, which used to have a stranglehold on loan-sharking, can only look on with envy.

So I guess it's understandable that the financial industry and other big-money interests are all but hysterical in their opposition to the Consumer Financial Protection Agency that has been proposed by the Obama administration as part of its overall reform of financial regulations. You'd hardly expect the people rifling the pockets of middle-class Americans and the poor to be

happy about an agency with oversight and enforcement authority homing in on their nefarious and wildly profitable activities.

The U.S. Chamber of Commerce is spending millions trying to prevent the agency from ever seeing the light of day.

The antiregulatory mania of the past three decades and the stagnant wages of most American workers during that period have left families at the mercy of an increasingly predatory financial sector. As a briefing paper by the progressive think tank Demos noted:

“An increasingly strapped middle class became the ideal consumer for banks: highly reliant on loans for paying for the basics of family life; savings easily depleted by emergency events such as an illness or home repair; a paycheck-to-paycheck budget easily leading to overdraft fees and payday loans.

“Consumers were less and less able to avoid any one lender’s high fees, penalties and interest rates because of government’s newfound willingness to approve financial industry mergers.”

Ordinary Americans need someone on their side in the wild world of consumer credit. The big companies have their accountants and economists and lawyers and lobbyists and trade associations, and their good buddies on Capitol Hill — all of them figuring out new and better ways to separate consumers from their money. But as Elizabeth Warren has asked again and again: Who is looking out for the consumer?

The answer is no one. Consumers have to navigate the treacherous credit terrain on their own, often with the equity in their homes or their life’s savings at stake.

Ms. Warren, a bankruptcy expert, Harvard professor and head of Congressional oversight for

the Troubled Asset Relief Program, came up with the idea of a consumer financial protection agency. It would shield individuals and families from the deceptive practices and outright fraud that is rampant in the credit industry. As Timothy Geithner, the Treasury secretary put it, “This agency will have only one mission: to protect consumers.”

But the proposal, bombarded with criticism from corporate interests with enormous stakes in the status quo, is already being weakened. A bill that emerged from the Senate banking committee this week provides for a consumer protection agency that would be housed in the Federal Reserve, which would limit its independence somewhat.

More important, the bill would allow bank regulators from outside the agency to veto the agency’s rules under certain circumstances. That’s a recipe for undermining the agency’s effectiveness.

Heather McGhee, the director of Demos’s Washington office, noted that the Senate bill would also prevent the agency from enforcing its own rules in the case of certain smaller lenders. “So what’s being left out,” she said, “are the smaller payday loans, private student lenders, debt collectors, auto title loans, and so forth.”

When you allow so-called smaller businesses to escape enforcement of consumer protection rules, you encourage the creation of companies and other entities that are just small enough to escape the enforcement threshold. And that’s where the bad practices will flow.

An interesting concept at work here is the notion that consumer protections that work too well would end up hurting the “safety and soundness” of the nation’s financial sector. (That’s the reason the Senate bill provides for bank regulators to have a veto over the proposed agency’s

rules under some limited circumstances.)

“Safety and soundness” is a euphemism for profitability. What’s really being said is that when the profitability of the big banks and other financial agencies and institutions are in conflict with the fair treatment of consumers, it’s the fair treatment of consumers that has to give way.

Now would be a good time to start putting that notion to rest.

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