

Warren could save CFPB through compromise with Republicans

By: Alexandra Villarreal – February 4, 2013

Sen. Elizabeth Warren (D-Mass.), one of the Senate Banking Committee's newest members and the creator of the CFPB, may play a key role in protecting the federal watchdog from scale-backs and downsizing by critics.

Last week, a U.S. appeals court ruled that President Obama's recess appointment of Richard Cordray was unconstitutional, which increases the likelihood that the rules developed and implemented by the agency over the past year could be nullified. The uncertainty has led some Democrats to seek out a deal with Republicans, who want to scale back the agency, to protect Cordray's nomination and the CFPB's legal authorities, American Banker reports.

Warren, who is widely credited with the creation of the CFPB, may be able to assure the agency's legal powers and oversight responsibilities.

"She has the ability to play that role because she's essentially insulated from criticism on this," Mark Calabria, a former top Republican aide and the current director of financial regulation studies at the Cato Institute, said, according to American Banker. "She can do what she wants on CFPB and the left can't criticize her. It's a 'only Nixon can go to China' kind of thing."

Republican critics of the CFPB have called for the replacement of CFPB Director Richard Cordray with a five-member panel, the placement of the CFPB's budget under the congressional appropriations process, and increased input and oversight by other regulators. Many observers expect Warren to acquiesce to only one of the changes—the replacement of Cordray with the five-member commission.

Warren's original proposal for a consumer protection agency was labeled the Financial Product Safety Commission, which was modeled after the Consumer Product Safety Commission that is run by a three-member board.

"It's not like you're asking her to a retreat on positions she hasn't already held," Calabria said, American Banker reports.

Sheila Bair, the former chairman of the FDIC, said that a compromise on the five-member commission may be effective.

"It's a legitimate discussion point," Bair said, according to American Banker. "There are pro-consumer arguments in favor of a commission structure. If there were to be a compromise, that's likely the common ground."