Consumer Financial Protection Bureau Nominee Richard Cordray Supports Price Controls and Borrower Bailouts

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Last Thursday, before the House Oversight and Government Reform Committee, Consumer Financial Protection Bureau architect Elizabeth Warren insisted that her priority was not to ban certain products, but just require better disclosure. While she refused to renounce the power the mammoth Dodd-Frank financial legislation signed into law almost a year ago gives the bureau to ban products deemed "abusive" as well as deceptive, she indicated that limiting choices should through bans or interest rate caps be a last resort.

"There's a lot of space between banning a product and making a product clearer to consumers," she said at the hearing as quoted by *The Hill.* "Let's get out there and try some real disclosure … I believe in markets."

But Richard Cordray, who was just nominated for the top spot at the bureau that many thought Warren would get, doesn't subscribe to this belief. As Ohio's attorney general, his philosophy was ban first, ask questions later. He seemed to never meet a price control, interest rate cap, or product ban he didn't like. The former Jeopardy! champion would constantly express the belief that less intelligent beings should not be burdened with deciding what product is best for them in the marketplace.

He was a driving force in Ohio's efforts in putting price controls interest on small, short-term loans. Ohio instituted one of the lowest interest caps in the country, driving legitimate small lenders out of the state, and Cordray would have gone even further. He championed outlawing basic fees that small-loan providers had been able to charge in the state since the '50s.

In statements as Ohio AG, Cordray would often make no claim of fraudulent or deceptive marketing of small loans, but just say that the interest rates offended his sensibilities. In a 2010 interview with DailyFinance.com, Cordray demanded that loan providers "find a way to provide loans with less burdensome interest rates for the needy."

As if government could make the market less "burdensome," when it can't even make compliance with its own regulation less so. And Cordray later admitted that these loans were only "burdensome" when misused.

First, something about the economics about short-term loans, also known as payday loans or cash advances. Typically, lenders will charge $15 per $100 borrowed for a period of two weeks. Often, misplaced outrage is expressed that that interest is more than 300 percent when measured as an annual percentage rate (APR). But this is an ill-fitting measure, because very few customers take a year to pay these loans off. Frequently, unexpected circumstances like a car breaking down or the need for travel hits folks who are low on cash at the moment but can pay back their loan in full in two to four weeks.

In a press conference posted on YouTube (and embedded at the bottom of this post), Cordray tellingly admitted, that if paid back on time, the loans are more than manageable. "391 percent interest doesn't sound quite so bad when it's $15 ever two weeks for a one-time loan," he said. "But we know and we've seen that what happens is many people fall into a debt cycle trap. It's just not sustainable for many families in our community."

So there you have it. "Many people" (and he didn't specify how many) fall into debt with certain products, and Cordray's answer is not more disclosure, not more financial education, but deeming the products as "not sustainable" and banning them for everyone, including the "many people" who are satisfied with the product.

After Ohio capped interest at 28 percent APR, which equals less than $1.50 for a $100 loan over a two-week period, many lenders left the state. But others found ways to utilize the state laws governing small lender that specifically allowed lenders to charge processing fees. The fees ended up being comparable to the old rates of interest. As explained by PaydayLoanIndustryBlog, "when a payday loan was transacted previous[ly] … a loan customer paid $575 to receive $500 in cash." But after the old laws were utilized in the wake of the interest cap, "with the check cashing fees added, customers pay the same $575 to walk out the door with $500 in cash"

Instead of taking this as evidence that the fees for small loans were never that excessive in the first place, something he basically admitted at the YouTube press conference, he called for the Ohio legislature to pass new laws so lenders wouldn't "continue gouging consumers through exorbitant fees"

The individual's lack of responsibility for his or her own circumstances has been a theme of Cordray's regulatory enforcement endeavors. As attorney general, he tried to strong-arm banks that service mortgages and mortgage investors into reducing loan principal and interest for borrowers, even when no lender wrongdoing was found.

"As foreclosures impact a larger and larger part of society, it is even more important that servicers and investors offer long-term sustainable solutions," Cordray said in a press release in early 2010. These mortgage investors whom he was urging to take a loss, by the way, were not necessarily fat cats, but pension funds and 401(k)s that serve middle-class investor.

Policy makers must remember that consumers are also investors and frequently. This tunnel vision of "pro-consumer" illustrates what's wrong with both Cordray's record and an agency set up to separate consumer interests from financial institution safety and soundness. In addition the bureau's structure — neither Congress nor a successor president has virtually any say over the director's actions during his six-year term once confirmed — raises concerns about transparency, accountability, and the Constitution's separation of powers, as detailed by the Cato Institute's Mark Calabria.

Both Cordray and the consumer bureau should face congressional scrutiny. And for that matter, so should Dodd-Frank. The law, which becomes a petulant one-year-old this Thursday, creates hundreds of rules for every type of business except for the government-sponsored enterprises Fannie Mae and Freddie Mac, which New York Times' reporter Gretchen Morgenson's new book *Reckless Endangerment* confirms were the sources of the crisis.