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CFPB Taskforce Will Conduct Much Needed Review Of Consumer Financial Laws

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The Consumer Financial Protection Bureau has announced the members of a new task force that will undertake a complete review of U.S. consumer financial laws. Among them, the four members have decades of public service and consumer protection experience, and they include some of the country's leading consumer credit economists.

The taskforce members are:

- Dr. J. Howard Beales, III, former Professor of Strategic Management and Public Policy at the George Washington University and former Director of the Bureau of Consumer Protection at the Federal Trade Commission;
- Dr. Thomas Durkin, Senior Economist (Retired) at the Federal Reserve Board;
- L. Jean Noonan, Partner at Hudson Cook, former General Counsel at the Farm Credit Administration, and former Associate Director of the Bureau of Consumer Protection's Credit Practice at the Federal Trade Commission; and
- Todd J. Zywicki, Professor of Law at George Mason University (GMU) Antonin Scalia Law School, Senior Fellow of the Cato Institute, and former Executive Director of the GMU Law and Economics Center.

Zywicki will chair the taskforce. Longtime CFPB employee Matt Cameron has been named as the staff director.

Zywicki and Durkin coauthored Consumer Credit and the American Economy, the definitive text on consumer credit law and economics. It's difficult to imagine a better group of scholars to serve on this taskforce.

According to CFPB Director Kathy Kraninger, "The Taskforce will conduct a thorough examination of our current regulatory framework and report on how we can improve federal consumer financial laws to benefit and protect consumers."

There are surely many ways that federal financial consumer protection laws can be improved, especially given that consumer markets have changed so much since many of these laws were passed.

Unsurprisingly, this perspective means little to critics of the Bureau's current leadership. The critics see the last couple of years as a rollback of consumer protections, and they fear that the taskforce is a backdoor to some kind of deregulatory effort.

This view is largely due to an expansive view of consumer protection, one that requires the government to usurp the market in the name of protecting consumers from themselves.

One problem with this view, as Zywicki has forcefully argued, is that its implementation harms millions of consumers, usually low-income Americans who can least afford to lose access to credit. Zywicki labels the critics' approach as *market-replacing*, and argues that regulation should, instead, be *market-reinforcing*:

Market-replacing regulatory strategies seek to limit choice and competition through prohibitions or restrictions on particular products and terms, such as price controls on interest rates (known as usury regulations) or de facto or de jure bans on particular products such as payday loans or bank deposit advance products. Market-replacing regulations are characterized by a decision by regulators or legislatures to replace the terms to which the parties would voluntarily bargain with terms dictated by the regulator, and to prohibit consumers from entering into certain contracts even if those consumers believe that purchasing that product furthers their own goals. A market-reinforcing regulatory strategy, by contrast, seeks to promote competition and choice so that consumers can find those products that they think are best for themselves and their families.

The core of the market-reinforcing approach is a strong belief in people's ability to learn and make their own decisions. It is wholly compatible with – and indeed, often depends on – the ability of government to protect innocent people from those who would harm them. It fosters innovation and consumer choice.

Of course, most supporters of the CFPB as it was originally conceived, as well as the critics of its current leadership, do not to see things this way.

Instead, they want the government to outlaw payday loans, to control prices, and to design standardized mortgages in the name of protecting consumers. Simply put, they want the federal government to treat people like children, taking choices away from them.

A big problem with this approach is that it prevents people from learning valuable lessons and destroys many of the protections and benefits that come from interactions protected by *market-reinforcing* regulations. Moreover, Zywicki, has a history of staunchly defending consumers from fraudulent practices and promoting ways to uphold the rule of law. He has been a critic of the Bureau, but he has offered many ideas on how it could be reformed to promote market-reinforcing regulations.

Regardless of what the critics believe, there is no reason to think that the new leadership at the Bureau will ever waiver from its mission of protecting consumers. And there is no reason to believe that the taskforce would ever recommend any such thing – it is staffed with scholars dedicated to studying ways to better protect consumers without stifling innovation and consumer choice.

Americans should be encouraged that this group of professionals has been tasked with recommending ways to improve federal consumer financial laws.