

NATIONAL REVIEW

Consumers Harmed by Consumer Protection Bureau, Again

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Yesterday, the Consumer Financial Protection Bureau issued yet another rule that will harm consumers. A new rule on small dollar loans will kill off about 75 percent of the existing small dollar loan industry, according to the Bureau's own figures. Yet the Bureau and its boosters like to talk about how much it is helping consumers, cracking down on wrong-doers and returning money to consumers. What they don't admit is that regulators are making life difficult for many consumers – especially those on the margins of the banking system. Or that regulators missed the biggest frauds and missteps, like the Equifax security breach, until many consumers were harmed. Taken together, these problems mean that the CFPB may be doing as much harm as good.

For many people, the biggest consumer financial decision they will make is buying a house. Yet in these days of stagnating wages, high student loan debt, and house prices as expensive as before the financial crisis, it is harder and harder to own a home. Interference by the Bureau has not helped. Its “Qualified Mortgage” requirements result in fewer people able to get loans. According to a 2013 study by the Federal Reserve, 22 percent of people who got home loans in 2010 – after the financial crisis made banks much more wary of lending – would not qualify for a home loan under the CFPB rules.

The situation is even worse for the “underbanked” – people at the margins of the banking system. Many of them prefer to get their earnings on a prepaid debit card, which acts like a portable bank account. CFPB rules aim to make such cards much more difficult to use. Piling on, the new small dollar rule will likely kill off financial service centers that provide services to people who, surveys find, feel already frozen out of the banking industry. With banks too expensive for them and the alternative access to debit cards and loans regulated out of existence, they may have nowhere to turn to except illegal loan sources when they need hard cash and quickly (something the Bureau simply asserts will not happen). In other words, the CFPB's regulatory powers are a double-edged sword.

To be sure, there are indeed bad actors in the consumer finance industry, just as in any other. Yet often the worst problems come not from malice by the companies themselves but from perverse incentives within a company, as was the case with the recent Wells Fargo upselling scandal, or

from lax security, as appears to have been the case with the more recent Equifax data breach. Where was the CFPB? It was supposedly to prevent fraud, abuse, and negligence that the CFPB was handed supervisory powers over financial institutions.

When CFPB powers were extended over credit reporting bureaus in 2012, the CFPB announced the “companies will be subject to review of compliance systems and procedures, on-site examinations, discussions with relevant personnel, and they will be required to produce relevant reports.” None of this seems to have helped the Bureau stop the Equifax security breach. The Bureau was also supervising Wells Fargo during its upselling excesses, yet it was the Los Angeles Times and California regulators who actually noticed what was going on. The House Financial Services Committee has recently discovered the CFPB rushed to settle with the bank once it realized it needed to take action.

If the Bureau can't claim credit for stopping genuine scandals, what good are the massive fines it levies on finance companies? Pending litigation may shed some light on the Bureau's practices there. In the CFPB's 2014 action against mortgage company PHH Corporation, the initial court ruling found that the bureau had retrospectively redefined a long-standing interpretation of a law, unfairly finding PHH in breach of its reinterpretation and depriving the company of its due process rights. Adding insult to injury, the CFPB also appealed its own administrative law judge's findings to the CFPB director himself, who took it upon himself to singlehandedly multiply the damages charged to PHH from \$6 million to \$109 million. A grossly unfair way to proceed, to say the least.

Americans want financial services regulated but they don't believe more rules are the answer – they want existing laws enforced properly, according to a new survey by the Cato Institute. The CFPB appears to suffer from the hubris of its massive powers over the consumer finance industry, to the great detriment of American consumers. Congress must step in to fix this problem. It can do that through the reconciliation process, so the onus is now on the Senate to act to make sure regulators do more good than harm.