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## Consumer Financial Protection Act of 2010

**Purpose:** implement & enforce Federal consumer financial law consistently to ensure that all consumers have access to markets for consumer financial products and services that are fair, transparent and competitive.

**Objectives:** see that consumers are provided with understandable information to make responsible decisions about financial transactions, protection from UDAP and discrimination, identify outdated, unnecessary or unduly burdensome regulations, see that federal consumer financial laws are consistently enforced, see that markets for consumer financial products and services operate transparently and efficiently.

**Primary Functions:** conduct financial education programs, collect, investigate and respond to consumer complaints, collect & publish information on the functioning of markets for consumer financial products and identify risks to consumers, supervise “covered persons” and take appropriate enforcement actions on compliance with Federal consumer financial laws, issue rules, orders and guidance implementing federal consumer financial laws.



***The Consumer Finance Industry Will Get a “Seat at the Table”***

**Director will be appointed by the President for five year term, and will be at the top of policymaking for the national financial system.**

On the five member Board of Directors of the FDIC, whose responsibility is to “maintain stability and public confidence in the nation's financial system” which it does by insuring deposits, examining and supervising financial institutions for safety and soundness and consumer protection.

On the nine member new Financial Stability Oversight Council whose responsibility is to identify and respond to emerging risks throughout the financial system.

**The first Director will be important. American Banker, July 2, 2010 identified five persons: Elizabeth Warren, Michael Barr, Eric Stein, Allen Fishbein, and Ellen Seidman.**

All consumer advocates but have some “big picture” exposure. *Elizabeth Warren*, Chair of the C.O.P., is most controversial, *Barr* and *Stein* are in Treasury Department, *Fishbein* is now at the Fed, and *Seidman* was with OTS.



## Goals of the Bureau of Consumer Financial Protection

**“Fair Lending” defined as “fair, equitable and nondiscriminatory access to credit for consumers.” 1002(13).**

Purpose of CFPB is to ensure that all consumers have access to markets for consumer financial products and services. 1021(a).

Function of the Office of Fair Lending and Equal Opportunity to oversee and enforce laws intended to ensure access.

***Nondiscrimination.* “Nondiscriminatory access” is in the definition of Fair Lending.**

1013(c) It is a function of the Office of Fair Lending & Equal Opportunity to ensure that access to credit is nondiscriminatory.

1041(c)(2)(B) It is a limitation on rule making authority in relation to state laws.



**Office of Fair Lending and Equal Opportunity.** Responsible for oversight & enforcement of federal laws that insure nondiscriminatory access to credit, including ECOA and HMDA. § 1013(c) .

**Consumer Advisory Board.** Experts in consumer protection, community development, financial services, fair lending and civil rights, consumer financial products, depository institutions primarily serving underserved communities and communities significantly impacted by high-priced mortgage loans. § 1014.

Six members from regional federal reserve banks.



### **Rulemaking Authority.** § 1022.

- Director may prescribe rules and issue orders to carry out the purposes and objectives of the federal consumer financial laws, and prevent evasions.
- Director has the power to exempt persons and financial products or services from the statute and rules.
- Rules promulgated by CFPB will preempt rules made by all other agencies (FTC will be able to enforce its rules (§ 1022(b)(4)(A))).
- Courts must defer to CFPB's interpretation of its rules (§ 1022(b)(4)(B)).
- Rules will be assessed 5 years after their effective date after comments and recommendations from the public.
- The Financial Stability Oversight Council can set aside a CFPB regulation that puts the safety and soundness of the banking system or stability of the financial system at risk. § 1023(a).