



Consumer and Shareholder Protection Association

Government's Failure to Protect Consumers

The current financial crisis has made clear that unregulated markets will *not*, despite market fundamentalists' claims, self-correct. Government has an important regulatory role to play.

Over the last few decades, Wall Street has been able to engage in increasingly reckless financial gambling by means of convoluted financial innovations coupled with lax governmental oversight. This combination has led to the creation, and subsequent bursting, of several asset bubbles – the housing bubble is the most recent example.

In his statement introducing his American Recovery and Reinvestment plans, President Obama said the financial crisis is "due to an era of profound irresponsibility that stretched from corporate boardrooms to the halls of power in Washington, D.C. For years, too many Wall Street executives made imprudent and dangerous decisions, seeking profits with too little regard for risk, too little regulatory scrutiny, and too little accountability." President Obama said we need to reform our "weak and outdated regulatory system" so that we can better protect consumers, investors, and businesses from the "reckless greed and risk-taking that must never endanger our prosperity again."¹

It is clear that our financial sector requires a regulatory overhaul. This overhaul must include both new regulations and an independent mechanism through which consumers can protect themselves.

Threats to Future Consumer Protection

What is not clear is how new regulations will hold up to the inevitable attempts by future financial players to free themselves from regulatory control. American citizens have no guarantee that existing and new financial innovations will not, yet again, lead to perverse incentives on the part of financial players to exploit American consumers.

So far neither Congress nor the Obama administration have introduced any significant protections for consumers and investors. This protection is becoming more crucial as we enter a period in which corporate power will become even more concentrated. Consumer advocate Ralph

Nader has pointed out that the "forced or willing mergers, acquisitions and panic takeovers of big banks by bigger banks along with bankruptcies of companies further reduce what is left of quality competition for consumer benefit." Nader warns that, "The fallout from the Wall Street binge is likely to lead to a country run by an even smaller handful of monopolistic global goliaths."²

Without adequate consumer protection, there is nothing to prevent future financial players from engaging, once again, in the "reckless greed and risk-taking" noted by President Obama. The remarks of Nobel Prize winning economist Joseph Stiglitz at a recent House Financial Services Committee hearing emphasize this point. He said it is important to be sensitive to the design of regulations because "There is always going to be some circumvention of regulation"³

In his opening remarks at a February 4, 2009 Senate Banking Committee hearing on modernizing the U.S. financial regulatory system, Committee Chairman Senator Chris Dodd (D-CT) recognized that consumers had been cheated. He pointed out that the current crisis began with brokers and lenders enticing borrowers to take out subprime and exotic loans despite the borrowers' inability to meet the terms of such loans. Dodd said that he would continue to seek answers to the question of how to protect consumers from abusive practices. He said, "We will explore whether to enhance the consumer protection mission of the prudential regulators or to create a regulator whose sole job is protecting the American consumer."⁴

In his testimony at the same committee meeting, Gene Dodaro, Acting Comptroller general of the United States, acknowledged that in the last few years, many consumers that received loans did not understand the risks associated with those loans nor how those risks compounded if housing prices did not continue to rise at the rate they had in recent years. He also predicted that

¹ Remarks of President-Elect Barak Obama as Prepared for Delivery, *American Recovery and Reinvestment*, January 8, 2009. [available at <http://www.whitehouse.gov/agenda/economy/>].

² Nader, Ralph., "Wither Wall Street," January, 30 2009. [available at <http://www.nader.org/index.php?archives/2099-Wither-Wall-Street.html>].

³ U.S. Congress. House. 2008. Committee on Financial Services. *Hearing on The Future of Financial Services Regulation*. 110th Congress., 2nd sess., October 21, 2008. Available at <http://financialservices.house.gov/hearing110/stiglitz102108.pdf>

⁴ U.S. Congress. Senate. 2009. Committee on banking, Housing, and Urban affairs. *Hearing on Modernizing the U.S. Financial Regulatory System*. 111th Congress., 1st sess., February 4, 2009. [Dodd's opening remarks available at <http://banking.senate.gov/public/files/DoddOpeningStatement14.pdf>].

new and more complex financial products will lead to more “challenges” in this area, and said that “opportunities need to be identified” that would protect and empower consumers through improving consumers’ financial literacy.⁵

Ultimately, our country is facing a need for financial regulatory controls that strengthen consumer protection. However the American consumer has little reason to believe that future regulations will prove adequate and that regulators will effectively perform their role. Additionally, consumers are lacking the empowerment and financial literacy necessary to protect themselves.

A Consumer Protection Solution

Congress can help empower consumers by passing the Consumer and Shareholder Protection Act, a bill introduced in the Senate in 2002 by the consumer crusader, Senator Paul Wellstone (D-MN). This act would create a Consumer and Shareholder Protection Association (CSPA), a citizen watchdog group that would work on behalf of the public interest to guarantee an end to abusive and exploitative practices on the part of large corporations and the financial sector. This Association would inform and represent consumers, shareholders, and the public interest in regulatory battles where financial services industry lobbyists currently far outnumber consumer groups, and conduct effective and vigorous oversight of corporate entities, especially financial institutions.

The CSPA’s mission would be to advance the rights and remedies available to consumers and shareholders with respect to financial services, securities investments, insurance, and consumer credit by developing initiatives that would improve the flow of accurate information provided by banks and other financial institutions to consumers and shareholders, and empower and represent shareholders about options for more democratic voting procedures and broader review authority.

The CSPA would be run initially by an interim board of directors which would be appointed by the President and the highest-ranking leaders in both houses of Congress. The members of this board would, to the extent possible, represent a diverse array of consumer groups. This interim board of directors will also be required to inform the public of the existence, nature, and purpose of the Association, and encourage association membership, participation in association activities, and contributions to the

Association. A \$5 million appropriation to the Federal Trade Commission would be used to jump start the CSPA – a small price tag for providing a means for adequate and effective consumer protection. This number seems especially modest when compared to the more than \$9 trillion that the government has committed in bailouts of the financial sector.⁶

Although the Association would be established under federal law as a consumer membership organization, the CSPA would be primarily supported by membership fees, not public funds. For just \$10, anyone 16 years of age or older who pays the annual membership fee would be eligible to become a member of the Association. Reduced-cost membership fees would be available for low-income populations and senior citizens.

An essential provision of the bill calls for the creation, maintenance and funding of the CSPA through the use of informational inserts included in periodic mailings of the large publicly traded corporations subject to this act, including financial institutions. Paid for by the CSPA, these inserts would inform consumers of the purpose and existence of the Association as well as membership benefits and fees.

As President Obama noted, the current financial crisis is due to the profound irresponsibility of both corporations and government. There is a clear need for strengthened consumer protection in order to prevent a repeat of the exploitative and greed-driven practices of the financial sector. The government must act now to prevent future failures of our regulatory oversight mechanisms. The way to guarantee adequate and effective consumer protection is for Congress to both implement prudent regulations and pass the Consumer and Shareholder Protection Act that would facilitate a member-run citizen watchdog group with a mission to represent, protect and promote the public interest.

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⁵ U.S. Congress. Senate. 2009. Committee on banking, Housing, and Urban affairs. *Hearing on Modernizing the U.S. Financial Regulatory System*. 111th Congress., 1st sess., February 4, 2009. [testimony by Gene L. Dodaro available at http://banking.senate.gov/public_files/DodaroTestimony2409.pdf].

⁶ New York Times., *Adding Up the Government’s Total Bailout Tab*. February 4, 2009., [available at <http://www.nytimes.com/interactive/2009/02/04/business/2009-0205-bailout-totals-graphic.html>].