U.S. PIRG
Standing Up
To Powerful Interests

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OPPOSE FINANCIAL CHOICE ACT, GUTS CFPB, ROLLS BACK WALL STREET REFORM, REPEALS DURBIN AMENDMENT
"Wrong Choice Act" Leaves Consumers, Depositors, Small Investors, Taxpayers and Economy At Risk of Another 2008 Collapse

Dear Representative,

On behalf of U.S. PIRG, which serves as the non-partisan, non-profit association of state Public Interest Research Groups nationwide, we write to express our strong opposition to the "Financial Choice Act" and to urge you to oppose this bill. This legislation would be better dubbed "Wall Street's Choice Act", or the "Wrong Choice Act" or even the "Cruel Choice Act."

Have proponents and supporters of the bill forgotten that this September, we will have the 9th anniversary of the second-most extraordinary financial collapse in our nation's history? Both collapses were driven by Wall Street greed and risk-taking. Millions lost homes, millions lost jobs, and millions more lost trillions in retirement income. Ordinary taxpayers were forced to step in and bail out Wall Street before Congress, nearly two years later and after careful study and debate, in 2010, finally enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act to protect the rest of us. Now, the Financial Services Committee, according to widely-circulated news reports, appears ready to send this dangerous reversal of those critical protections to the floor next month after just one hearing, tomorrow.

The bill, if enacted, would have a devastating effect on the capacity of regulators to protect the public interest and defend consumers and investors from future Wall Street wrongdoing and the economy from financial risks created by too-big-to-fail financial institutions. It sends the wrong signal to the financial sector that unfettered risk-taking – much of it with other people's money -- is in vogue again.

It would expose consumers, investors, and the public to greatly heightened risk of abuse in their regular dealings with the financial system, and our entire economy to a far greater risk of instability and crisis.

This nearly 600-page bill – significantly amended from version 1.0 and, again, apparently to be the subject of only one committee hearing -- is a radical piece of legislation. Not only does it eliminate numerous major elements of the Dodd-Frank protections passed in the wake of the disastrous financial crisis of 2008, it would also weaken regulatory powers that long pre-date Dodd-Frank. If this bill passed, it would make financial regulation significantly weaker than it was even in the years leading up to the 2008 crisis.

Proponents of the bill claim that certain portions of the bill would somehow improve financial protections. This claim is deeply misleading. In fact, the so-called protections in the bill are in many cases simply more disguised deregulation. For example, the bill exempts banks that meet a ten percent leverage capital ratio from a broad range of risk controls that have been part of bank regulation since the 1950s if not before. While an increase in leverage capital would be a positive development, banks which took advantage of this provision could still pose major risks to the financial system – and the legislation would strip regulators of their ability to address those increased risks.

This legislation is crammed with deregulatory gifts that would facilitate abuses by financial institutions across the board, including giant mega-banks who want to return to the excessive borrowing and risky practices that led to the financial crisis; private equity and hedge funds who want to manipulate the rules to enrich their executives while harming workers and investors; mortgage lenders who want to undo the safeguards against the kind of unaffordable loans that drove the financial crisis, storefront payday and car title lenders pushing products that trap consumers in a cycle of ever increasing debt, and more.

Among other changes, this Wall Street's CHOICE Act would eviscerate the highly-successful CFPB, which in just under six years of service has returned nearly $12 billion to 29 million victims of financial chicanery, by firms ranging from Wall Street banks to usurious payday lenders and fly-by-night debt collectors:

- The bill completely strips the powers of the Consumer Financial Protection Bureau to stop unfair, deceptive, and abusive practices in consumer markets or to regularly examine banks and financial companies to determine whether they are breaking the law, returning to the regulatory patchwork that failed before the crisis and the CFPB was created to solve.
- The bill destroys the Bureau's independence by eliminating its independent funding, moving it under the executive branch and subjecting its director to political manipulation by allowing removal for any reason, including no reason. The bill also rejects over 150 years of national policy that bank regulators and the financial system should be insulated from the highly-politicized appropriations process by not only eliminating CFPB's independent funding, but also that of other bank regulators, including the FDIC, OCC and FRB, as well.

- The bill makes the Bureau’s highly successful statutory Offices of Financial Empowerment, Older Americans, Service Member Affairs and its Office of the Student Loan Ombudsman all “optional,” so a future director could simply eliminate them.
- The bill eliminates the CFPB’s Public Consumer Complaint Database, which would only benefit companies that don’t want to improve their customer service and don’t want to be transparent about their business.
- The bill eliminates the CFPB’s Congressionally-granted authority to ban or regulate arbitration in consumer contracts, which serves corporate wrongdoer Wells Fargo well, as it has been using an arbitration shield to defend itself against its fake-account scandal.
- Incredibly, despite that abusive high-cost small dollar lending is one of the largest financial problems consumers -- especially working class families -- face, the bill simply removes any authority of the CFPB to regulate or issue enforcement actions against small-dollar lenders.

Of course, the bill also takes aim at critical Dodd-Frank safety and soundness and investor protections:

- Creates unprecedented barriers to regulatory action that would effectively give large financial institutions power to overturn or avoid government oversight.
- Eliminates critical elements of regulatory reforms passed since the crisis, including restrictions on unaffordable mortgage lending, the Volcker Rule ban on banks engaging in hedge-fund like speculation, restrictions on excessive Wall Street bonuses, and more.
- Increases the ability of “too big to fail” financial institutions to hold up taxpayers for a bailout by threatening economic disaster if they failed.
- Weakens investor protection and oversight of the capital markets, including repealing crucial new fiduciary protections that save tens of billions a year for retirement investors.
- We concur with and associate ourselves with the additional detailed concerns described in a much longer letter from Americans for Financial Reform.

The bill also wrongly repeals the Durbin amendment. That wise provision helps limit the impact of anti-competitive “swipe fees” on merchants and their customers. If anything, the Durbin amendment should be expanded to credit, as well as debit, cards. All consumers, including cash customers, pay more at the store and more at the pump due to the Visa-Mastercard duopoly’s market power and the unfair conditions imposed on merchants to accept their cards.

Opponents of financial regulation have not presented convincing evidence that any significant deregulatory measures are needed, let alone the radical assault on financial oversight contained in this bill. In contrast to the lack of evidence for negative effects of post-crisis measures to improve financial regulation, we know exactly how disastrous failures of financial oversight can be. Non-partisan sources such as the Federal Reserve Bank of Dallas and the Government

Accounting Office have estimated that the financial crisis cost from $6 to $14 trillion in lost economic output alone.[1]

This does not incorporate the full human cost of millions of jobs lost and the millions of families who lost their homes due to foreclosure.[2] Extensive research also shows that the negative economic impacts of such major financial crises drag on for years, slowing recovery from recession, and leaving tens of millions of families across the country struggling with economic pain and uncertainty.[3] Meanwhile, apart from any crisis, left unchecked exploitation of consumers and investors costs everyday people tens of billions of dollars a year in their ordinary interactions with the financial system.

It is profoundly foolish to eliminate safeguards against the catastrophic consequences of a financial crisis. It is also wrong to place such severe restrictions on the ability of regulators to protect the public from exploitation in their everyday interactions with the financial system. We urge you to reject this radical and destructive legislation.

This is by no means a comprehensive description of the many dangerous provisions of the so-called Financial Choice Act. We will continue to evaluate it if it moves forward in the legislative process.

Please contact me at 202-461-3821 (d) or at edm@pirg.org if you or your staff have any questions.

Sincerely,

Edmund Mierzwinski
Consumer Program Director
U.S. PIRG

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[1] United States Government Accountability Office, "Financial Regulatory Reform: Financial Crisis Losses and The Potential Impact of the Dodd-Frank Act", GAO 13-180, January, 2013. Luttrell, David, Tyler Atkinson and Harvey Rosenblum, "How Bad Was It? The Costs and Consequences of the 2007-2009 Financial Crisis and Its Aftermath", Federal Reserve Bank of Dallas Staff Paper No, 20, July, 2013.

[2] Americans for Financial Reform, "Costs of the Crisis", Briefing Paper, Updated July 2015.

[3] Reinhart, Carmen and Kenneth Rogoff, "Recovery From Financial Crises: Evidence From 100 Episodes", American Economic Review, Volume 104, No.5, 2014.