Asset Building Program Issue Brief

The Consumer Financial Protection Agency

Can it Remake the Financial Services Landscape?

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Given the role played by the financial sector in the Great Recession of 2008-2009, the case for reform of the financial sector is strong. The Obama Administration has proposed that a key element of reform should be the creation of a new and independent Consumer Financial Protection Agency, whose primary mission would be to look out for the interest of consumers. Advocates of this approach argue that it was the proliferation of deceptive, unfair, and predatory financial products which hurt consumers and ultimately undermined the larger economy. The House of Representatives has passed a sweeping financial reform bill that includes the establishment of a robust agency with rulemaking and enforcement powers. As policy deliberations unfold, the specifics of this proposal deserve scrutiny—especially with an eye toward the policy features which would be most effective in protecting consumers and creating a safer and sustainable marketplace for financial services.

Federal Reserve Chair Ben Bernanke recently wrote that "strengthening our financial regulatory system in ways that take the appropriate lessons from the crisis is essential for the long-term economic stability of our country."[1] The far reaching impact of the greatest economic downturn since the Great Depression and the subsequent policy response of the newly-created Office of Financial Security—in charge of administering the $700 billion Troubled Asset Relief Program (TARP)—have generated considerable discussion as to the precise nature of those lessons and future prescriptions for reform.[2] What does seem clear is that the previous regulatory regime did not include sufficient safeguards to prevent a near total collapse of the national economy. Indeed, the performance and governance of the financial sector appeared to exacerbate the risks of financial instability rather than mitigate them.[3] It is difficult to argue against the imperative nature of a major overhaul of the rules which govern the financial sector.

[1] Letter from Federal Reserve Chair Ben Bernanke to Senators Chris Dodd (D-CT) and Richard Shelby (R-AL), January 13, 2010, on the Public Policy Case for a Role for the Federal Reserve in Bank Supervision and Regulation.

[2] The TARP was created by the Emergency Economic Stabilization Act of 2008 to buy up "troubled" or other assets whose purchase would promote financial stability. Accordingly, TARP funds have been used for a variety of activities, such as to purchase assets, inject capital into financial institutions, support foreclosure mitigation, purchase ownership shares of American Insurance Group (AIG), and lend capital to automakers General Motors and Chrysler.

[3] Bair (2010).

In the spring of 2009, the Obama Administration released its framework for financial regulatory reform.[4] It was a far-reaching plan that included a focus on improved supervision of individual firms, comprehensive regulation of financial markets, new policy tools to manage financial crises, and a bold proposal to protect consumers and investors from financial abuse through the creation of a new Consumer Financial Protection Agency. In recent years, with the spread of subprime mortgages and other financial products that gained market share even though they were mismatched to consumers, the concept of a government watchdog agency emerged that would focus specifically on financial products.

Elizabeth Warren, a Harvard Law professor, is credited with articulating an initial version of the proposal in a 2007 article in the Democracy Journal, arguing that consumer protections should apply to financial products.[5] During the presidential primaries, the idea was incorporated into the campaign platforms of several of the Democratic aspirants before finally appearing as one of the centerpieces of the Obama Administration's financial reform program. Senator Chris Dodd (D-CT) and Representative Barney Frank (D-MA) were both early supporters and as Chairmen of the relevant committees in the Senate and House, would be tasked with advancing financial reform proposals. Both policymakers saw merit in creating an independent agency whose primary objective is ensuring consumers have access to financial products and services that are safe, suitable, and sustainable.[6]

The new agency would be mandated to promote a set of far-reaching principles, including transparency, simplicity, fairness, accountability, and equal access. Rather than relying on the traditional practice of disclosing the terms of financial transactions—which increasingly has been performed in ways that obscure rather than clarify—the new agency would be on the lookout for unfair or deceptive practices in the financial services industry. The next question would become what would happen when such practices were uncovered. Would the agency have the authority to change behavior, either through publicity or punishment?

Throughout 2009, a series of hearings were convened by Barney Frank (D-MA), chair of the House Financial Services Committee, on the diverse aspects of financial reform. This led to a legislative proposal designed to modernize the country's financial rules. On December 11, 2009, the House of Representatives passed by a partisan vote of 223 to 202 the Wall Street Reform and Consumer Protection Act of 2009 (H.R. 4173).

The bill was sweeping in a number of respects. First, it called for the creation of a Financial Stability Council of regulators that would be tasked to identify firms that are so large and interconnected to others that their collapse would threaten the stability of the entire system. These firms would be subject to increased oversight. Second, the bill would establish an orderly process for "resolution," which is the shutting down of large and failing financial firms, such as AIG, in ways that limit public sector exposure and prevents contagion to other firms. Third, firms would be required to disclose compensation structures in ways that are transparent to shareholders and regulators in an attempt to rein in executive pay. Fourth, new rules would be proposed to govern the derivatives marketplace and the hedge fund industry in ways that would increase transparency and accountability. Derivatives would have to be cleared and traded on an exchange. Hedge fund managers would have to register with the SEC and subject to a systemic risk evaluation. And Title IV of the bill would create the Consumer Financial Protection Agency (CFPA), a new and independent federal agency with a mission to protect consumers from unfair and abusive financial products and services.

Consumer groups, such as the Center for Responsible Lending and the Consumer Federation of America, have lined up to support the bill, while the large financial services firms opposed the bill and the U.S. Chamber of Commerce led an advertising campaign specifically against

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[4] U.S. Treasury (2009). Financial Regulatory Reform: A New Foundation. June 17, 2009.
[5] Warren (2007).
[6] Dodd (2009).

the creation of the CFPA. As the policy debate shifts to the Senate, there is a need to focus greater attention on the policy issues in play. This paper will contribute to this process by presenting the case for creating a new agency with a mandate to protect consumers when they access financial services and products, describing key features of the legislation as passed by the House of Representatives, and reviewing some of the primary issues as stake in future policy deliberations.

The Case for Creating the Consumer Financial Protection Agency

The Consumer Financial Protection Agency would be an independent agency whose mission is to protect consumers when they borrow money, make deposits, or access other financial services and products. Currently, the responsibility to protect consumers is under the purview of existing bank regulators, which have a primary responsibility to ensure the "safety and soundness" of particular institutions. Consumer issues are nominally considered but have historically been overlooked. This means that when a bank is examined, the regulator is focused on performing an assessment of the bank's assets and liabilities, so there is enough of the former to cover the latter.[7] The innovation of deposit insurance, backed by the federal government and refined over the years by the Federal Deposit Insurance Corporation (FDIC), emerged in response to bank failures during the Great Depression. It functioned as a consumer protection that offered a safeguard to depositors when their money was held by a covered institution. But it also has its limits, which have been exposed by recent developments in the economy and in the market for financial products.

The evolution of the financial services industry over the last fifteen years has included the development of a suite of products which were inappropriately sold to people who did not need them or understand their basic terms. This occurred with respect to credit cards, mortgages, payday loans, and other financial products. For example, in the mortgage industry, brokers were paid more when they steered borrowers into higher-priced, subprime loans even when they could have qualified for a more conventional (and less costly) loan.[8] The payday lending industry has grown since the 1990s by selling a product that routinely comes with a 400 percent annual percentage rate.[9] With terms that include a required short-term, balloon payment, the payday loan industry has grown on the backs of repeat customers caught in a long-term debt trap. Even in commercial banking, increased use of debit cards became more expensive when banks began charging higher fees for overdrafts, creating a $26 billion profit center almost overnight. While some of these financial services may offer value, others are high-cost and low-value. In recent years, there was no check on the provision of abusive, deceptive, or predatory practices in the financial services market. Products and services have been sold even when they are poorly understood or are inappropriate given the client's income and economic circumstances.

These practices were able to spread unabated because the providers were not subject to examination by the existing set of bank regulators. The rise of the non-bank, alternative financial sector into a $27 billion a year industry is one of the most striking features of the recent financial services landscape.[10] The growth of the subprime mortgage market and the payday loan industry are two of the primary examples of this trend. The alternative sector also includes car title loans, check cashing outlets, and pawn shops, which are often concentrated in poorer neighborhoods and used by people with lower-incomes and without mainstream bank accounts.[11] The result is a bifurcated financial services system where families with fewer resources are steered toward higher-cost services in order to conduct basic financial transactions. The growth of the alternative financial sector has meant that borrowers and lenders often met in space that has lacked public oversight.

[7] A bank's primary federal regulator could be the Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), or the Federal Reserve Board. Credit Unions are supervised by the National Credit Union Administration.

[8] Jackson and Burlingame (2007).

[9] Parrish and King (2009).

[10] Parrish and King (2009).

[11] Temkin and Sawyer (2008).

The case for establishing a new Consumer Financial Protection Agency (CFPA) should be made in the context of these trends. When the interests of consumers are considered by the current bank regulators, they are secondary to performing an assessment of the institution's fiscal health. Additionally, many products and services are now offered without the oversight of any regulator since they are provided in the alternative financial sector. Consumers should not have to accept different levels of protections depending on which entity provides their financial service or offers their product. Consumers should be protected through common supervision covering both traditional banks and nonbank actors. The new agency should be able to write rules and ensure they are enforced. This would connect the work of this new agency to existing consumer finance laws, such as the Truth and Lending, and ensure it has access to strong enforcement mechanisms, such as the ability to sue, seek damages, and step in on a variety of fronts when it identifies unfair, deceptive, and abusive practices.

This additional regulatory layer would be guided by a set of principles rather than mandates on product disclosure. Since people are easily overwhelmed by information and, of course, the fine print is intentionally written in unintelligible legalese, there are severe limits to the impact of disclosure rules. Instead, there should be a set of principles that govern future product regulations, such as transparency, simplicity, fairness, and accountability.

Making the transition from a rule-based regulatory regime to a principles-based framework would be a significant paradigm shift in the oversight of the financial marketplace. By better matching consumers with appropriate savings and credit products in a fair and transparent manner, the CFPA may create a new foundation for the financial system by restoring the previously essential characteristics of integrity and trust.

What is in the House Bill?

This section will provide a review of key features of the CFPA proposal that was included in the Wall Street Reform and Consumer Protection Act of 2009 (H.R. 4173). At its core, the bill establishes the Consumer Financial Protection Agency as "an independent agency charged to regulate the provision of consumer financial products and services."[12]

What is the Mandate and Objectives of the Agency?

The mandate of the agency is "to promote transparency, simplicity, fairness, accountability, and equal access in the market for consumer financial products or services."[13]

The objectives of the agency are defined so that with respect to consumer financial products and services:

- Consumers have and can use the information they need to make responsible decisions about consumer financial products or services;
- Consumers are protected from abuse, unfairness, deception, and discrimination;
- Markets for consumer financial products or services operate fairly and efficiently with ample room for sustainable growth and innovation; and
- Traditionally underserved consumers and communities have equal access to responsible financial services.[14]

What Will the Agency Do?

The agency shall have four function units that will include research, consumer affairs, consumer complaints, and consumer financial education.[15] An *Office of Fair Lending and Equal Opportunity* will be created to oversee and enforce Federal laws with respect to the provision of consumer financial products and services.

The *research* function will be used to examine issues related to financial counseling and education, consumer awareness and behaviors, market developments, and the experiences of traditionally underserved consumers. For financial education issues, there is to be a focus on topics of

[12] H.R. 4173, Title IV, Sec. 4101.
[13] H.R. 4173, Title IV, Sec. 4201.
[14] H.R. 4173, Title IV, Sec. 4201.
[15] H.R. 4173, Title IV, Sec. 4105 (c).

debt, credit, savings, financial product usage, and financial planning as well as an exploration of ways to incorporate new technology for the delivery of education efforts and evaluating the impact of these efforts to determine the most effective measures. Research on market trends will include market areas of alternative consumer financial products or services with high growth rates. Consumer awareness assessments will focus on the use of disclosures and an understanding of costs and risks of financial products and services. Examining the experiences of traditionally underserved consumers will include un-banked and under-banked consumers as well as assessing the impact of Federal policies, such as resource limits in means-tested Federal benefit programs, on banking behavior.[16]

The *community affairs* function will include "providing information, guidance, and technical assistance regarding the provision of consumer financial products or services to traditionally underserved consumers and communities."[17]

The *consumer complaints* function shall coordinate the Federal banking agencies, the Federal Trade Commission, and other enforcement authorities to collect and track information on consumer complaints about financial products or services as well as the resolution of complaints. This material shall be readily available to the public through the creation of a web site and the public will be able to register complaints through this web site and a toll-free telephone number.[18]

Consumer financial education will be directed by a unit to be named the "Office of Financial Literacy." This office shall provide information and resources to assist in the education of consumers about financial products and develop a marketing strategy to promote such efforts. Additionally, this office will develop program goals for helping individuals understand basic banking and savings tools, their credit scores and history, ways to plan for major purchases and improve their financial stability, and design plans for long-term savings. Further, this office will develop recommendations regarding the effective certification of people and programs engaged in financial education as well as track outcomes of education efforts to identify effective methods, tools, and technologies to educate and counsel consumers.[19]

What are the Authorities of the Agency?

The CFPA will have rule-making, examination, and enforcement authorities.

Rule-making authority of the CFPA will be executed by the Director who "may prescribe regulations and issue orders and guidance" as necessary or appropriate to meet the statutory objectives of the agency. The bill authorizes the transfer to the CFPA the consumer financial protection functions of the Federal Reserve Board, the Comptroller of the Currency, the Office of Thrift Supervision, the FDIC, the Federal Trade Commission, the NCUA, and the Secretary of Housing and Urban Development. The new agency will be able to write rules under existing consumer finance laws, such as the Truth in Lending Act, fair Credit Reporting Act, Home Mortgage Disclosure Act, Real Estate Settlement Procedures Act, Truth in Savings Act, and the Equal Credit Opportunity Act.[20]

In writing these rules, the Director shall consider the potential benefits and costs to the consumer as well as the providers of financial products and services. The Director is also instructed to consult with the Federal banking agencies, State bank supervisors, the Federal Trade Commission, or other Federal agencies regarding the consistency of a proposed regulation with prudential, consumer protection, civil rights, market, or systemic objectives.

The CFPA will have to power to conduct *examinations* on a periodic basis of financial service providers in order to ensure compliance with issued rules and standards. These examinations can be conducted without regard to "charter or corporate form" based on an assessment of the risk posed to consumers in the relevant product or geographic

[16] H.R. 4173, Title IV, Sec. 4105 (c) (1).
[17] H.R. 4173, Title IV, Sec. 4105 (c) (2).
[18] H.R. 4173, Title IV, Sec. 4105 (c) (3).
[19] H.R. 4173, Title IV, Sec. 4105 (c) (4).
[20] H.R. 4173, Title IV, Sec. 4202 (b).

markets. These examinations shall be conducted in coordination by the other Federal banking agencies and State bank supervisors.[21]

With assurances of confidentiality from the agency, providers will be expected to provide access any report of examination or financial condition made by a Federal banking agency. This would provide the CFPA access to deposit, loan, and other data regarding the provision of financial products or services.

The CFPA is authorized to *enforce* its rules and its mandate. Within the CFPA, there will be established the *Office of Fair Lending and Equal Opportunity*. This office shall provide oversight and enforcement of Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities. This office shall work coordinate with other state and federal fair lending enforcement efforts and work with private industry, fair lending, civil rights, consumer and community advocates on the promotion of fair lending compliance and education. It is through this office that the CFPA is authorized to take actions to prohibit unfair, deceptive, or abusive acts or practices connected to the provision of a consumer financial product or service.[22]

The CFPA shall have primary enforcement authority but is instructed to coordinate with the Federal Trade Commission. In meeting its enforcement authorities, the CFPA will have the power to bring suit and seek damages from providers that are found to be noncompliant. A process for review and appeal is specified in the bill.

What Activities and Institutions are Covered?

The bill defines consumer financial activity broadly—if they are products or services used by a consumer primarily for personal, family, or household purposes. Both credit products and savings (deposit-taking activities) are included as well as check cashing, debt collection, real estate settlement, money transmission, and financial advice.[23]

Given the broad description of products and services, the work of the CFPA can be considered to cover the activities of banks and non-banks alike. Some smaller banking entities will not be formally examined by the CFPA but their products and services can still be scrutinized; these include insured depository institutions (with assets of under $10 billion) and smaller credit unions (with assets under $1.5 billion). These entities would be examined respectively by the FDIC and the National Credit Union Administration.

The CFPA will have limited authority to oversee the activities merchants, retailers, and sellers of nonfinancial services.[24] This is defined as credit extended directly to a consumer in order to enable the consumer to make a purchase of a non-financial product directly from the seller.

How are the Prohibited Unfair, Deceptive, or Abusive Acts or Practices Defined?

The CFPA may take action to prevent a person from committing or engaging in an unfair, deceptive, or abusive act or practice in connection with providing a financial product or service. Similarly, the Director of the CFPA may prescribe regulations identifying such practices.

Unfair and deceptive acts or practices are defined according to a standard described in Section 5 of the Federal Trade Commission and its adopted policy statement. *Deceptive practices* are identified by the FTC if "there is a representation, omission or practice that is likely to mislead the consumer acting reasonably in the circumstances, to the consumer's detriment."[25]
Unfairness is identified according to three primary factors; these include (1) whether the practice injures consumers; (2) whether it violates established public policy; and (3) whether it is unethical or unscrupulous.[26]

Abusive acts or practices are defined in the CFPA Act if the Director finds that:

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[21] H.R. 4173, Title IV, Sec. 4202 (c).
[22] H.R. 4173, Title IV, Sec. 4202 (e).
[23] H.R. 4173, Title IV, Sec. 4002.

[24] H.R. 4173, Title IV, Sec. 4205.
[25] Federal Trade Commission (1983).
[26] Federal Trade Commission (1980).

"(a) the act or practice is reasonably likely to result in a consumer's inability to understand the terms and conditions of a financial product or service or to protect their own interests in selecting or using a financial product or service; and

(b) the widespread use of the act or practice is reasonably likely to contribute to instability and greater risk in the financial system."[27]

How Will the Agency be Funded and Administered?

The agency will be run by a director who will be appointed by the President to a 5-year term, subject to approval by the Senate.[28] The Director can only be removed "for cause." There will be a seven-member *Oversight Board* comprised primarily of leaders of existing bank regulators. This Board may not exercise any executive authority but will advise the Director on strategies and policies to promote consumer financial protection.

In addition, the Director shall establish a *Consumer Advisory Board* to advise and consult with the Director and to provide information on emerging practices in the consumer financial products or services industry. Membership of this board will include experts in financial services, community development, fair lending and civil rights, and consumer protection.[29]

The CFPA will be funded primarily through the transfer of funds from the Federal Reserve Board of Governors. Each year the Federal Reserve will transfer the equivalent of 10% of the Federal Reserve System's total system expenses.[30]

The Director may also assess fees on covered entities to meet the Agency's expenses for carrying out their duties. These fees shall be based on and appropriate to the size, complexity of, risk posed by, and the compliance record of the covered entities, which include covered depository institutions and credit unions. This means that the CFPA can charge higher assessments on institutions with a poor track record.

Key Policy Issues at Stake

As deliberations unfold to address whether or not a consumer oversight body will be created and what role it will be expected to play in the marketplace, a number of key policy issues must be addressed. They include a consideration of what financial service providers are covered, what powers the new entity will have, how ascribed powers are exercised, and what is the relationship to other regulators and authorities.

Oversight of Non-Bank Providers

The final House bill included a provision that exempted small banks and credit unions from formal examinations conducted by the CFPA. These institutions would still each be examined by their primary regulator. However, these firms would still be covered by the rules issued by the CFPA regarding the provision of financial services and products.

Similarly, the agency's rules would cover all firms that offer financial services and products as defined by law, and not just by the firm's that are currently examined by bank regulators. If these services and products are defined broadly, the new agency will have oversight of the non-bank sector, which would include payday lenders, check cashers, and other money transfer operations. Given the rise of predatory lending and other asset stripping practices that have emerged in the non-bank sector, extending oversight coverage to these types of businesses would increase the potential for the agency to significantly transform the financial services landscape. If all of these products and services were brought under common supervision, consumers would not have to accept different levels of protection depending on where they made their transaction.

Extent of Rule-Making Authority

The Obama Administration and the House bill propose to transfer the regulatory authority for consumer protections

[27] H.R. 4173, Title IV, Sec. 4301.
[28] H.R. 4173, Title IV, Sec. 4101.
[29] H.R. 4173, Title IV, Sec. 4107.
[30] H.R. 4173, Title IV, Sec. 4111.

from the existing set of bank regulator agencies to the new CFPA. The subsequent consolidation of this authority in one agency could have a number of impacts, including increase accountability by elevating the status of consumer protection issues, separate consumer protection from safety and soundness regulation, encourage the development of greater regulatory expertise and knowledge, and end the opportunity of regulatory arbitrage where firms search for the most favorable regulator.[31]

Rule-making should be one of the primary tools of the agency to carry out a mission of protecting consumers. If done right, it would acquire rule-making authority that currently exists under existing consumer protection statutes, such as the Truth-in-Lending Act, Fair Credit Reporting Act, Home Mortgage Disclosure Act, Real Estate Settlement Procedures Act, the Equal Credit Opportunity Act, and others. Furthermore, the new agency will have authority to write rules designed to achieve its mandate to prohibit unfair, deceptive, and abusive practices in the provision of financial services. It allows the agency to prescribe duties on the providers of financial services, such as fiduciary responsibilities, know-the-customer obligations, and other operational procedures. This type of proactive and discretionary authority is essential for the operation of a strong agency.

Enforcement Mechanisms

Without the ability to enforce its rules, a consumer protection agency will be ineffectual in achieving its stated goals. Policymakers should make sure that the new agency has sufficient power to act. This should include the power to sue and seek damages in addition to prohibiting the provision of financial products and services that have been found to be unfair, deceptive, or abusive. With strong enough enforcement mechanisms, the new agency will create the conditions to better match consumers with appropriate savings and credit products, and do so in a fair and transparent manner. There has been some additional debate as to whether the agency needs to be a stand-alone, independent body, such as the Security and Exchange Commission, or could be effective if it was located within another agency, such as the Treasury Department. There may be ways to make both models work effectively, especially if the enforcement mechanisms at its disposal were clearly delineated. In either case, strong and empowered leadership is equally important, so the work of the agency is not undercut by political changes in Congress or the executive branch.

Relationship to Other Regulators

If the new agency is given distinct and separate authority over consumer protection issues, there is the potential for conflict with other regulators focused on the assessment of a firm's "safety and soundness." Previously, these conflicts would have been addressed within the confines of a single regulator. Under a new regime these conflicts would managed in an inter-agency fashion, where consumer protections are made an equal concern to safety and soundness issues. In practice, the relationship between the new CFPA and banking regulators might work like a mutual veto, where each entity could raise a flag that would trigger greater scrutiny.[32] By requiring this type of coordination, it might raise the costs of oversight, but in the long run it is the consumer who is likely to benefit.

Interaction with State and Local Authorities

Traditionally, the police power granted the states the right to regulate commercial practices in the interests of their citizens. This meant that at times state rules governing financial transactions imposed additional requirements which exceeded the standards set at the federal level. In recent years, these state-imposed standards have been undermined by federal banking regulators, whose assertion of preemption has advantaged banks at the expense of states seeking to create higher degrees of consumer protections. While there may be value in having a single federal standard for banks to adhere to, there is also value in have states operate as laboratories where different approaches can be tested. This would have been particularly important in addresses the problems associated with the relatively new forms of predatory lending. The CFPA

[31] Levitin (2009).

[32] Levitin (2009).

should focus on establishing a floor of consumer protections and not a ceiling. This means that states and other entities might need the authority to continue to develop consumer protection laws, which may extend beyond mere enforcement of state and federal law. Many of the non-bank financial products, which may eventually fall within the jurisdiction of the CFPA, have been previously under the purview of the states. Consequently, state and local authorities have developed valuable expertise in identifying predatory products, which should be drawn upon by a new agency.

Impact on Cost, Access, and Innovation

There are concerns that a consumer protection agency may add another layer of regulation and enforcement to the financial services marketplace which could drive up costs, lower access, and stifle innovation. The Obama proposal to mandate firms to offer a low-risk, default ("plain vanilla") products was criticized by banks and subsequently not included in the House bill. The theory behind this approach is that such default products would be trusted by customers and would provide a basis for comparison. Others believe it will increase costs by forcing firms to offer products they otherwise would not offer. Estimating the impact on the costs of providing financial services is difficult because it is hard to know ahead of time how a new agency will pursue and enforce its regulatory power. Similarly, if risk-based pricing is restricted, there will be more limited access to certain financial services for riskier borrowers. This concern underscores the importance of making sure issues of cost, access, and innovation are considered in their own right by the new agency.

Currently, it is difficult to compare products based on their price and functionality. If a new agency can improve information disclosure, then the consumer financial services marketplace should become more competitive by price. Yet some offerings depend on volume and the ability to cross-subsidize among different customers. If financial products cannot be differentiated through price structure, product bundling, or advertisement, then they will have to differentiate themselves on function. This may spur future innovation. On the other hand, rather than innovation, what many consumers need is greater value in their financial services. For this reason, the new agency should make sure that ensuring greater access to a basic set of high-quality and low-cost financial services is a focus of its work.

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