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Updated: June 30, 2009

FOR IMMEDIATE RELEASE: June 30, 2009
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Administration's Regulatory Reform Agenda Moves Forward: Legislation for Strengthening Consumer Protection Delivered To Capitol Hill

With leaders in Congress committed to enacting regulatory reform by the end of the year, the Administration today delivered to Capitol Hill a bill that would create the Consumer Financial Protection Agency. The agency will be dedicated to looking out for American families when they take out loans or use other financial products or services – with a mission to promote access and protect consumers from unscrupulous practices across the market. This new agency will implement and enforce the new credit card bill signed into law by President Obama and Congress and have authority to combat the worst abuses in mortgage markets. This legislation creates an agency to promote transparency, simplicity, fairness, accountability, and access – laying the cornerstone for the effort to fundamentally reform our system of financial regulation.

"This agency will have the power to set standards so that companies compete by offering innovative products that consumers actually want – and actually understand. Consumers will be provided information that is simple, transparent, and accurate. You'll be able to compare products and see what's best for you. The most unfair practices will be banned. Those ridiculous contracts with pages of fine print that no one can figure out – those things will be a thing of the past. And enforcement will be the rule, not the exception."

– President Obama on 6/17/2009

"This agency will have only one mission – to protect consumers – and have the authority and accountability to make sure that consumer-protection regulations are written fairly and enforced vigorously. Consumer protection will have an independent seat at the table in our financial regulatory system. By consolidating accountability in one place, we will reduce gaps in federal supervision and enforcement, drive greater clarity in the information consumers receive around products they are sold, set higher standards for those who sell those products and promote consistent regulation across the system."

– Secretary Geithner on 6/29/2009

An Agency Dedicated to the Interests of Consumers

A Balanced Mission to Protect Consumers and Promote Access to Financial Products: The agency's proposed mission is explicitly balanced to achieve the true needs of consumers – protection against unscrupulous practices as well as efficient and innovative markets and increased access. The agency will be responsible for:

- Concise and clear information that consumers can understand and use.
- Consumers from unfair or deceptive practices.
- Fair, efficient, and innovative financial services markets for consumers.
- Access to financial services.

Bring Together Fragmented Responsibility for Consumer Protection: The current financial system spreads responsibility for consumer protection across multiple agencies, many of which are primarily focused on the prudential supervision of financial institutions, not consumers. A single agency will be able to be more responsive to changes in the market and more vigorous in addressing unfair and abusive practices.
Required to Monitor for Risks to Consumers: The agency will be required to monitor the market continuously for risks to consumers, and publish significant findings at least once yearly.
Required to Weigh Benefits and Costs: The proposed legislation explicitly requires the new agency to weigh the benefits of a regulation as well as the costs – in terms of access

to credit and burden on financial institutions.
Streamline and Consolidate Regulatory Requirements: The agency will help to simplify and reduce regulatory burdens in areas where current authorities overlap or conflict.

- For instance, the agency will continue the work of HUD and the Federal Reserve to create a single federal mortgage disclosure – eliminating confusing and unnecessary paperwork.

Single Point of Accountability For Consumer Protection
Responsibility to Take a Broad View and Create Consistent Standards: As part of the President's plan, the new agency will have broad authority to protect consumers of credit, savings, payment and other consumer financial products and services, and to regulate all providers of such products and services.

- Full authority to create consistent standards and enforcement with respect to banks and non-banks alike.
- Ability to gather information in any part of the market, from any kind of entity making the loan or providing the product or service, to respond to changes and address bad practices as they develop.
- Rules that serve as a floor, not a ceiling with respect to state laws; states will be empowered to enforce these strong rules.

Create Level Playing Field and Enforce Compliance Across All Institutions: For the first time, a single agency will have authority to examine and enforce compliance against any institution, bank or non-bank, that provides consumer financial products or services. Community banks and credit unions will not need to compete against unregulated, unsupervised providers who pushed the market to bad practices.
Accountability for Effective Rule-writing and Enforcement: The agency will be the primary federal financial consumer protection supervisor. The agency will be fully accountable for:

- Writing rules and implementing existing statutes for consumer protection, and for creating consistent rules for unregulated and lightly regulated institutions.
- Supervising and examining institutions to ensure compliance.
- Enforcing compliance through orders and, if necessary, penalties.

Independent Agency, Accountable to the Public: The agency will be structured to be independent and accountable, with a stable source of funding.

- Director of the agency will be appointed by the President and confirmed by the Senate.
- The agency will be governed by a Board, with one seat on the board reserved for a federal prudential regulator.

Regular Reviews of New Regulations: The agency will be required to assess the costs and benefits of each newly enacted regulation no more than five years after the rule takes effect – to assess its effectiveness in protecting consumers and preserving innovation and allow for public comment on the need to expand, modify, or eliminate the regulation.

Addressing the Causes of the Home Mortgage Crisis

- Many of the worst abuses in the mortgage markets developed first in unregulated or lightly regulated non-bank institutions.
- No agency was charged with looking at mortgage lenders of all types across the market as whole to see whether home mortgage loans were being made fairly and transparently.
- Had the new agency existed, its examiners could have gotten inside the operations of these unregulated mortgage companies and detected unfair, deceptive, and abusive lending practices that so damaged the markets.
- This agency would have the authority to gather information and set rules for all institutions and the responsibility to respond to unfair practices without waiting for problems to spread through the entire market.

What This Means For Consumers

- Protection Against Unfair Credit Card Rate Increases, Late Fee Traps: The agency will enforce the credit card bill enacted by Congress and President Obama this spring, taking responsibility for enforcing the ban on unfair rate increases and for the implementation of new rules preventing late fee traps.
- Guidelines for Simple "Plain Vanilla" Products: The agency could create guidelines for standard mortgages without prepayment penalties; that are fully underwritten with documented income; that collect escrow for taxes and insurance; and have predictable payments.
- Duties of Care for Mortgage Brokers: The agency could require mortgage brokers to owe a duty of best execution among available mortgage loans to avoid conflicts of interest between themselves and the homeowners, and a duty to help ensure that only appropriate loans are offered.
- Ban Unfair Side Payments: The agency could ban unfair practices such as "yield spread premiums" – side payments from lenders that encourage mortgage brokers to push consumers into higher priced loans.

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LEGISLATION

- Title X - Consumer Financial Protection
- Title XI - Improvements to the Federal Trade Commission Act

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