Americans for Financial Reform
1825 K Street NW, Suite 210
Washington, DC 20006

February 18, 2010

The Honorable Christopher Dodd
Chairman
Committee on Banking, Housing
and Urban Affairs
U.S. Senate
Washington, D.C. 20510

Dear Chairman Dodd:

The undersigned consumer, civil rights, labor and community organizations would like to thank you for your strong efforts to enact an independent Consumer Financial Protection Agency. Existing bank regulators utterly failed to protect consumers from abusive lending practices in the marketplace because they were not independent of the lenders they regulated and because they subordinated consumer protection concerns to a dangerously shortsighted focus on the near-term profitability of these institutions. We strongly support the CFPA because it will transform this failed regulatory approach by creating an independent agency focused on protecting consumers from deceptive, unfair or discriminatory financial practices. Correspondingly, we will oppose any CFPA proposal that undermines the ability of the agency to make and implement independent decisions about the needs of consumers, such as placing the agency within a new prudential regulator. In fact, putting the CFPA under the OCC or a new, more consolidated national bank regulator would be worse for consumers than the existing regulatory system.

It is dismaying that some are proposing to give the same prudential regulators whose failures harmed millions of American families and brought our economy to the brink of collapse even more power to make decisions about consumer protection. The OCC, for example, not only failed to stop widespread mortgage and credit card lending abuses by banks it regulated, it actually opposed consumer protection measures to curb these abuses. In August of 2008, Comptroller of the Currency John Dugan wrote the Federal Reserve Board to propose significantly weakening core elements of a proposed rule to address unfair and deceptive credit card lending practices. Dugan said that the first reason he wanted to eviscerate these provisions was because they "raise safety and soundness concerns." Even the Federal Reserve Board rejected the OCC's anti-consumer views and finalized a rule that Congress then improved when it passed the Credit CARD Act.

It would be equally impossible to assure the necessary degree of independence for a CFPA if its rules were effectively subject to veto by a political appointee such as the Secretary of the Treasury, at the behest of a banking regulator. The models for "independent" agencies within the Treasury – the OCC and the OTS – *have statutory guarantees of autonomy from the*

Secretary in rule-making and enforcement, in addition to other attributes necessary for independence, such as independent funding.[i]

We can think of no other circumstance in which an agency charged with protecting the American public can have its actions vetoed because of a challenge by another agency focused on the priorities or profitability of a regulated industry. Though the auto industry is important to the American economy, we do not let the Commerce Department attempt to override NHTSA's auto safety rules or vehicle emissions standards. We would not give another agency the legal authority to get a FAA airline safety rule or EPA clean water regulation vetoed because of the impact on industry. We do not let the Small Business Administration trigger a legal process to OSHA's worker safety rules because they might eat into business profitability.

Given the very poor consumer protection track record and lack of independence from the institutions it regulates, neither the OCC nor its successor should have the ability to oversee or, in effect, veto decisions by a CFPA. It should also be prevented from trying to use phony claims regarding "safety and soundness" to slow or stop consumer protection measures.

The evidence is clear that strong consumer protection measures will also protect the long-term stability of financial institutions, even if these measures impinge on short-term profitability. For example, if the OCC and other banking agencies had paid more attention to the impact of abusive subprime mortgage loans on consumers, it would have better protected the solidity of the institutions it regulated as well. It is no longer appropriate to allow prudential regulators to narrowly (and improperly) focus on the short term profitability of the institutions they regulate by rejecting measures that are in the best interest of consumers.

Our organizations strongly urge you to reject all proposals to allow prudential regulators to oversee or veto legitimate consumer protection decisions by an independent regulatory agency. Once again, we commend you for your strong support of the CFPA and look forward to working with you to achieve this crucial goal.

Sincerely,

Americans for Financial Reform
AFL-CIO
California Reinvestment Coalition
Center for Responsible Lending
Ctw Investment Group
Consumer Action
Consumer Federation of America
Consumer Union

Consumer Watchdog
Demos
Empire Justice
International Brotherhood of Teamsters
National Association of Consumer Advocates
National Community Reinvestment Coalition
National Consumer League
National Consumer Law Center (on behalf of its low income clients)
National Fair Housing Alliance
National People's Action
New Jersey Citizen Action
Public Citizen
Sargent Shriver Center on Poverty Law
SEIU
The Leadership Conference on Civil and Human Rights
U.S. PIRG
Western States Center

Cc: Members of the Senate Banking Committee

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[i] 12 U.S.C. § 1; 12 U.S.C. § 1462a(b).