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Op-Ed: Measure would end abusive lending practices

By Reps. Bill Delahunt (D-Mass.) and Brad Miller (D-N.C.)

The current patchwork system of consumer financial protection is broken. It has too many holes and does not work. It is time for a complete overhaul.

The financial industry argues that the Consumer Financial Protection Agency (CFPA), a consumer watchdog to ensure that financial products sold to consumers are safe, responsible, accountable and transparent will stifle innovation, limit consumer choice, and make borrowing more expensive. This is the same "plain vanilla" argument they made against reforms in mortgage lending, credit card practices, overdraft fees, and on and on.

Would the CFPA "stifle innovation"? Some "innovation" in consumer lending has been useful in extending needed credit to borrowers who don't belong to the country club. But let's get serious: Innovation in consumer lending isn't going to cure cancer. "Innovation" in consumer lending just means changing the wording of contracts, usually to make the contracts more profitable for the lender. There is no Nobel Prize for that.

Will the CFPA limit consumer choice? Consumers didn't ask for credit card contracts with "double-cycle billing." Consumers didn't ask for a higher interest rates on their mortgage so the lender could pay the broker extra, for a prepayment penalty, or for the monthly payment to go up 50 percent after two years. Consumers didn't ask lenders to process checks, debit card charges and ATM visits in the order that results in the most overdraft fees. Most consumers would gladly relinquish their right to get gouged by lenders.

The industry's argument that the CFPA will make borrowing more expensive for consumers is patently ridiculous. Consumer protection that gives consumers a fighting chance to make informed decisions in their best interest when they borrow money and restore effective competition in consumer lending will result in enormous savings for consumers.

Here's what's happened in the last 30 years: Business, government and household debt combined has increased from 1.4 times our total economy, the GDP, in 1981 to 2.2 times the GDP in 2006, and household debt inched up to 44 percent of that debt, the highest percentage ever.

Those 30 years were good to the financial sector: Profits in the financial sector went from less than 10 percent of all corporate profits to more than 40 percent, and pay per worker in the financial sector went from about what other workers made to about 180 percent of average U.S. compensation.

There are more than 8,000 banks and thrifts, and countless other lenders. Why has price competition not squeezed compensation and profits among lenders? How are such profits and compensation possible? The answer is simple: The dense legalese in consumer lending contracts makes it impossible for consumers to shop for the best deal, which is just what lenders intend.

President Obama has joined our call for a "watchdog" for lending similar to the Consumer Product Safety Commission. This proposal is similar to the legislative plan we introduced earlier this year, along with Sens. Dick Durbin (D-Ill.), Charles Schumer (D-N.Y.) and Edward Kennedy (D-Mass.) in the Senate, and based on a proposal developed by Harvard Professor Elizabeth Warren.

Warren argues that the Consumer Product Safety Commission would prohibit the sale of a toaster that had a one in five chance of bursting into flames, but financial regulators, until very recently, allowed subprime mortgages that had a one in five chance of causing a family to lose their home to foreclosure. The Consumer Products Safety Commission would not expect consumers to examine a toaster's wiring for safety. The dense legal language in a mortgage is as incomprehensible to most consumers as a toaster's wiring, but financial regulators left consumers to fend for themselves.

American families are living the statistics on household debt. Almost half of all credit card holders have missed payments in the last year. More than 2 million families have missed a mortgage payment. One in seven families is dealing with a debt collector. They deserve better.

The CFPA would protect consumers from abusive lending practices, applying existing regulations and adopting new regulations to meet new abuses. And by collecting and reporting data on consumer lending, the CFPA would help us see the next financial crisis coming in time to prevent it.

Effective consumer protection in lending will help businesses in the "real economy."

Consumer credit helps dreams come true. Americans borrow to buy homes, cars and pay for a college education. Those purchases power the economy. Decent consumer protections will give consumers confidence that they can borrow to make those purchases without fear that financial ruin lurks in the fine print of the contract.

The financial crisis revealed many sins in the financial system, but the crisis began with abusive residential mortgage lending practices. Preventing another financial crisis requires consumer protection against abusive lending practices.

Delahunt, a member of the House Judiciary Committee, and Miller, a member of the House Financial Services Committee, have introduced a Financial Product Safety Commission bill in the House.