

## America's Small Businesses Are Counting on Congress to Pass Financial Reform

It has now been two years since the collapse of Bear Stearns and over a year since the financial crisis peaked. Trillions of dollars in families' and small businesses' wealth were erased and millions of jobs were lost, in large part because of failures in our regulatory system. And yet today that same failed system remains in place.

Many small businesses still can't get the loans they need to maintain cash flow, invest in inventory, or hire new workers. And many small businesses have seen their employees stressed out about their financial problems at home, as a result of abusive lending and failures of consumer protection. The current failed financial system has created massive instability, killed jobs and threatened America's small businesses.

Small businesses need a stable and predictable financial system, so that banks have the confidence to lend and small businesses can concentrate on creating jobs. They can't afford any further delays of financial reform.

*"Talk to the start-up company who is still starved for capital. . . . This financial system has not been good for American business. The business community should not put up with it. And the business community should not be leaving the debate about reform to the protectors of banks and finance companies."* – Treasury Secretary Timothy Geithner, March 22, 2010

### **Financial Reform Will Restore Certainty and Confidence to the Financial Markets and Small Businesses**

#### **The current financial system brought the economy to its knees, bankrupting many small businesses:**

- **Under-investment**: The current failed financial system has funneled trillions of dollars into risky mortgage speculation, while under-investing in entrepreneurs and new technology.
- **Massive failure and instability**: Small businesses need a stable financial environment and predictable funding so they can thrive. The current system produced the biggest financial crisis since the Great Depression, causing massive failures of productive enterprise and widespread unemployment. Eighty percent of small businesses were impacted by the credit crunch.<sup>1</sup> The community banks and credit card companies on which small businesses depend have pulled back.
- **Continuing credit restraints**: The current failed system is still subjecting small businesses to tight credit, even as the economy has begun to turn around. In January 2010, a Federal Reserve survey indicated that some banks were still tightening lending standards for small businesses, and none of the survey respondents reported loosening them.<sup>2</sup> This slows job creation.

#### **Enacting financial reform quickly is the best way to resolve uncertainty and rebuild the American economy:**

- **More certainty**: We have a chance to enact the strongest, most important financial reforms since those that followed the Great Depression, so that banks and small businesses can get back to the business of rebuilding the American economy. If we delay reform, we force small businesses to live with continued uncertainty.
- **No more loopholes**: Loopholes and weaknesses in financial regulation were major contributors to the financial crisis. That is why we need financial reform. The Obama plan will ensure that no large financial institution can escape effective oversight and put the rest of the economy at risk.
- **More stability**: Businesses do better when funding sources are more stable. President Obama's proposals are designed to make our financial system more stable and safer for those in the real economy that depend on the flow of credit.

## **The New Consumer Agency will Benefit Small Business Owners, their Employees, and their Customers**

### **For small business owners, personal finances and business finances are often closely tied:**

- **Credit scores:** Banks often review the personal credit scores and history of small business owners in deciding whether to extend commercial credit. Errors in small business owners' credit reports can prevent them from accessing loans to start or expand their businesses. But no federal agency regularly examines national credit bureaus for compliance with the Fair Credit Reporting Act, and conservative estimates suggest that six million Americans have errors serious enough to result in a denial of credit.<sup>3</sup>
- **Family finances support business investment and consumer activity:** Polls show that small business owners recognize the advantages of creating a strong and independent consumer agency.<sup>4</sup> Many of them are having difficulty accessing the mainstream credit market for their businesses and are forced to borrow heavily against their main source of financial stability, their homes, to grow their businesses. They know that better protection for family finances will help them save money to invest in their businesses and allow their customers to purchase more goods and services.
- **Strong linkage:** The National Small Business Association and National Federation of Independent Businesses (NFIB) supported the Credit CARD Act of 2009—the strictest credit card rules ever adopted. A 2008 NFIB poll found “that small business owners, as credit card consumers, often experienced unfair practices by the industry.”<sup>5</sup> The new consumer agency will ensure that the CARD act is properly enforced.

### **The new consumer agency will benefit all businesses by helping their employees perform at their best:**

- **Productive employees:** All businesses—and especially small ones—count on their employees to work hard to satisfy their customers day in and day out, and employees can't focus if they are facing stress from financial problems at home. We need financial reform so that people who work for small businesses can focus on their jobs instead of worrying about unfair credit card bills or other loans.
- **The Defense Department recognizes the link between financial security and effectiveness at work:** The Pentagon supports a new consumer financial protection agency so our military members can focus on their jobs, not worry about unfair auto loans.

**Creating a new agency will make consumer financial markets more transparent—and that's good for everyone:** The new agency will give Americans—including small business owners, their employees, and their customers—the tools they need to comparison shop for the best prices and the best loans. Greater transparency will increase competition and innovations that *benefit* borrowers, not take advantage of them through hidden costs and traps. For example:

- **Credit cards:** The current system has allowed steep penalty fees and surprise rate hikes on personal credit card accounts. The new agency will enforce the credit card law signed by President Obama that bans rate hikes on existing balances and other unfair practices.
- **Mortgages:** The piles of forms needed for a mortgage can be overwhelming, and many brokers have taken advantage of that confusion to give borrowers loans they didn't need or couldn't afford. The new consumer agency will combine and simplify two overlapping Federal mortgage forms. The agency will, for the first time, provide Federal oversight of all participants in the mortgage market, and it will protect borrowers from unfair, deceptive or other illegal mortgage lending practices.
- **Auto loans:** Auto dealers arrange the vast majority of auto loans, and these loans can upend families' finances if they are unfair or unaffordable. Like mortgage brokers, dealers are paid more to arrange more expensive loans. Some car lenders take advantage of their customers, including many members of the military, by packing loans with expensive and unnecessary add-ons. The new agency would be able to limit unfair practices, so families can choose affordable car loans.

## The Truth About a New Consumer Agency and Small Business

**Credit card companies, Wall Street firms, and other big businesses that oppose financial reform are claiming to speak for small business. But they are protecting their own interests, not the interests of small business.**

*Myth: The new consumer financial protection agency would constrain small business lending.*

**Facts: The agency will NOT limit access to credit for small businesses.**

- The agency will focus on financial products or services that are provided for use by consumers.
- The agency will have no authority over commercial loans. Other than protecting individuals who own small businesses under the existing Equal Credit Opportunity Act, the agency would have no authority to regulate business loans. Period.
- The agency will help prevent errors on credit reports, which can keep responsible individuals from getting the consumer and small business credit they need. The new agency will be a watchdog over large credit bureaus.

*Myth: The new agency will regulate retailers, advertisers, and others that are not in the financial industry.*

**Facts: Retailers and other firms not in the financial services business are not covered by the new agency.**

- Retailers and utilities that do not offer financial services are not covered. Period. If Sam the Butcher lets customers run a tab, he is not covered. If he charges a late fee, he is not covered. If he refers late customers to debt collectors, he is not covered.
- No store is covered simply for accepting a credit card for payment.
- Internet providers or sellers or creators of off-the-shelf software are not covered.
- Realtors and homebuilders that merely sell or build houses are not covered.
- The media is not covered, nor are advertisers that just sell space or time.
- Financial literacy courses are not covered. Tax planning is not covered. Only financial advisory services *on an individual basis*—such as credit counseling and excluding tax planning—are covered.
- Accountants and lawyers are not covered unless they enter the financial services business—such as a lawyer acting as a debt collector or engaged in a “foreclosure avoidance” scheme.
- Companies that provide financial data processing and storage services are not covered unless they provide the services *directly to consumers*.

*Myth: The new agency will impose new costs on small businesses.*

**Facts: Regulation of non-financial firms won't change. The agency will focus on financial services businesses—banks, mortgage brokers, debt collectors, payday lenders, check cashers, etc.**

- Same laws: If Joe the Orthodontist regularly extends credit with interest or that is payable in more than four installments to his patients, he is already subject to the federal Truth in Lending Act. That won't change.
- Targeted focus: Under the Senate bill, the new agency will supervise financial service providers that pose the biggest risks to consumers and markets—big banks, mortgage companies, and larger nonbank firms. Smaller nonbank financial service providers would remain subject to state and Federal Trade Commission enforcement, as they are today.

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<sup>1</sup> National Small Business Association, “2009 Mid-Year Economic Report,” 2009 Survey.

<sup>2</sup> At the same time, some banks are easing lending standards for large firms. Fifteen percent more loan officers surveyed reported tightening the costs of small business credit lines than reported loosening them, and similar numbers reported increasing rather than decreasing the spread of loan rates over the bank's cost of funds. Board of Governors of the Federal Reserve System, “The January 2010 Senior Loan Officer Opinion Survey on Bank Lending Practices,” February 2010, available at [www.federalreserve.gov/boarddocs/snloansurvey/201002/fullreport.pdf](http://www.federalreserve.gov/boarddocs/snloansurvey/201002/fullreport.pdf).

<sup>3</sup> NCLC, “Automated Injustice: How a Mechanized Dispute System Frustrates Consumers Seeking to Fix Errors in Their Credit Reports,” January 2009.

<sup>4</sup> A recent poll of 1,200 small business owners found that two thirds of small business owners favor the creation of the Consumer Financial Protection Agency. “Main Street Policy Pulse,” January 2010, available at [mainstreetalliance.org/wordpress/wp-content/uploads/MSPP\\_financial\\_reform\\_webversion.pdf](http://mainstreetalliance.org/wordpress/wp-content/uploads/MSPP_financial_reform_webversion.pdf).

<sup>5</sup> National Federation of Independent Businesses, “NFIB's Letter to the Senate in Support of the Credit Cardholder's Bill of Rights,” May 13, 2009, available at [www.nfib.com/issues-elections/issues-elections-item/cmsid/49156/](http://www.nfib.com/issues-elections/issues-elections-item/cmsid/49156/).