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Written Testimony of

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Before the House Financial Services Committee
Subcommittee on Financial Institutions and Consumer Credit

"Legislative Proposals to Improve the Structure of the Consumer Financial Protection Bureau"

April 6, 2011
10:00 am

Witness Background Statement

Adam J. Levitin in an Associate Professor of Law at the Georgetown University Law Center, in Washington, D.C., where he teaches courses in bankruptcy, commercial law, consumer finance, contracts, and structured finance. He has previously served as the Robert Zinman Scholar in Residence at the American Bankruptcy Institute and as Special Counsel to the Congressional Oversight Panel supervising the Troubled Asset Relief Program (TARP). Before joining the Georgetown faculty, Professor Levitin practiced in the Business Finance & Restructuring Department of Weil, Gotshal & Manges, LLP in New York, and served as law clerk to the Honorable Jane R. Roth on the United States Court of Appeals for the Third Circuit.

Professor Levitin holds a J.D. from Harvard Law School, an M.Phil and an A.M. from Columbia University, and an A.B. from Harvard College, all with honors.

Professor Levitin has not received any Federal grants nor has he received any compensation in connection with his testimony, and is not testifying on behalf of any organization.

Mr. Chairman Capito, Ranking Member Maloney, Members of the Subcommittee:

My name is Adam Levitin, and I am an Associate Professor of Law at the Georgetown University Law Center in Washington, D.C., where I teach courses consumer finance, contracts, and commercial law.

I have previously written on the need to reorganize federal consumer financial protection from a tangle of multiple agencies of limited authority and with conflicted missions to a single, dedicated, motivated agency.[1] I am here today to urge the Subcommittee not to adjust the structure of the Consumer Financial Protection Bureau (CFPB) or to roll back parts of the Dodd-Frank Act. In particular, I would counsel the subcommittee against the changes proposed by four bills, each of which I will address in turn:

(1) H.R. 1121, The Responsible Consumer Financial Protection Regulations Act of 2011, (the "Bachus Bill"), which would replace the CFPB's unitary Director with a five-person commission.

(2) H.R. 1315, The Consumer Financial Protection Safety and Soundness Improvement Act, (the "Duffy Bill"), which would reduce the voting threshold and findings necessary for a Financial Stability Oversight Council (FSOC) veto of CFPB rulemakings.

(3) H.R. ____ (the "first Capito Bill"), which would postpone transfer of any regulatory authority to the CFPB until a Director has been confirmed by the Senate.

(4) H.R. ____ (the "second Capito Bill"), which would eliminate authority for the CFPB to participate in bank examinations before the designated date for transfer of regulatory authority to the CFPB.

I. RESTRUCTURING THE CFPB FROM A UNITARY DIRECTORSHIP TO A FIVE-PERSON COMMISSION (THE BACHUS BILL)

H.R. 1121, the Responsible Consumer Financial Protection Regulations Act of 2011 (the "Bachus Bill") would replace the CFPB's unitary director with a five-person commission. While I understand the belief that a five-person commission might result in a more collegial rule-making discourse, there are several strong reasons to eschew such a structure, which will ultimately render the CFPB less effective and less accountable.

In structuring administrative agencies, Congress has variously elected between two models: the Founders' traditional model of a unitary agency director and the Progressive/New Deal model of five-person commissions. The Founding Fathers' model for executive agencies featured a single principal officer appointed by the President with the advice and consent of the Senate. This model is reflected in the federal cabinet agencies. Thus, the Treasury is governed by a single Secretary, rather than by committee. The traditional unitary director model is also featured in the Office of Comptroller of the Currency, the Office of Thrift Supervision, the Internal Revenue Service, the Social Security Administration, Medicare, and the Environmental Protection Agency. This model enhances accountability and enables streamlined, decisive leadership and decision-making.

[1] Adam J. Levitin, *The Consumer Financial Protection Agency*, Pew Financial Reform Project, Briefing Paper, No. 2, 2009.

An alternative agency model arose during the Progressive era and was warmly embraced by New Deal liberals. That is the five-person commission. Thus, Progressive era agencies like the Federal Trade Commission and the classic New Deal agencies like the Securities and Exchange Commission, Federal Deposit Insurance Corporation, National Credit Union Administration (three-member board), and National Labor Relations Board feature five-person commissions. The model is also featured by the Federal Reserve Board of Governors (albeit with an unusual geographic appointment requirement), the Federal Communications Commission, Federal Election Commission, Equal Employment Opportunity Commission, Commodities Futures Trading Commission, and Consumer Product Safety Commission.

The five-person commission model encourages more collegial discourse and deal-making, but comes at the expense of accountability and efficiency. Moreover, it often provides little protection for the minority party on the commission; minority commissioners' views are typically disregarded. Representative Bachus' bill would reject the Founders' traditional model that Congress chose for the CFPB and instead replace it with the bloated, big government structure favored by Progressives and New Dealers.

I would urge the Subcommittee against adopting a five-person commission model for the CFPB. The CFPB has not yet had a chance to get up and running and there is no reason to think that the unitary directorship is a particular problem; the CFPB should be given a chance to prove itself before it is reconfigured by Congress.

The CFPB Is More Accountable Than Any Other Federal Agency

I am aware that some members of Congress are concerned that the CFPB is insufficiently accountable for its actions. This concern is misplaced. *The CFPB has more limitations on its power than any other federal agency*.

First, CFPB is subject to many of the same restrictions as other federal agencies. Thus, the CFPB is subject to the Administrative Procedures Act and must follow notice-and-comment procedures for rule-making and adjudication.[2] This means that the CFPB will be required to take account of and respond to a range of views and concerns on any regulatory issue on which it undertakes rule-making. Similarly, CFPB rule-making is subject to Office of Information and Regulatory Affairs (OIRA) review for small business impact.[3] Only the Environmental Protection Agency and Occupational Safety and Health Administration are subject to similar requirements.

Second, the CFPB is specifically limited by statute in its rule-making power. Title X of the Dodd-Frank Act requires that the CFPB make particular findings in order to exercise its authority to restrict or prohibit acts and practices as unfair, deceptive, or abusive.[4] Title X of the Dodd-Frank Act also prohibits the CFPB from imposing usury caps[5] and prohibits the CFPB from regulating non-financial businesses.[6]

[2] P.L. 111-203, 124 Stat. 2025, § 1053, July 10, 2010, *codified at* 12 U.S.C. §5563 (making CFPB hearings and adjudications subject to the Administrative Procedures Act, 5 U.S.C. §§ 553-554).

[3] P.L. 111-203, 124 Stat. 2112, § 1100G; 5 U.S.C §§ 601-612; Executive Order 12866 of September 30, 1993.

[4] P.L. 111-203, 124 Stat. 2005-06, § 1031, July 10, 2010, *codified at* 12 U.S.C. § 5531

[5] P.L. 111-203, 124 Stat. 2003, § 1027(o), July 10, 2010, *codified at* 12 U.S.C. § 5517(o).

[6] P.L. 111-203, 124 Stat. 1995-98, § 1027(a), July 10, 2010, *codified at* 12 U.S.C. § 5517(a).

Third, the CFPB is subject to a budgetary cap unlike any other federal bank regulator. If the Office of Comptroller of the Currency or FDIC or OTS wish to increase their budgets, they can simply increase their assessments on banks without so much as a by-your-leave to Congress. Similarly, the Federal Reserve can simply print money. The CFPB, however, is restricted to a capped percentage of the Federal Reserve's operating budget.[7] This means that the CFPB actually has less budgetary independence than any other federal bank regulator.

Fourth, CFPB rulemaking is subject to a veto by the Financial Stability Oversight Council. This is unique for federal bank regulators.[8] The OCC and OTS's preemption actions, for example, are not subject to review by other federal regulators, even though they were a key element in fostering the excesses in the housing market.[9] The FSOC veto provides an unusually strong check on CFPB rulemaking, not least because no CFPB director would wish to risk a FSOC rebuke.

Finally, the CFPB is subject to oversight by Congress itself, and this subcommittee's actions in the past month have shown that this oversight is serious, diligent, and exacting. Congressional oversight is perhaps the best guarantor that the CFPB will not abuse the authority delegated to it.

When viewed against this backdrop of multiple safeguards against arbitrary and capricious agency action, it becomes apparent that changing the CFPB from a unitary directorship to a five-member panel would add little. Instead, switching to a five-member panel would tilt the balance at the agency to gridlock and inaction, would add unnecessary big government bloat, and would reduce accountability.

The CFPB's Unitary Directorship Fosters Efficient Decision-making and Avoids Gridlock

A single director is able to exercise decisive leadership in promulgating rules and enforcing them. Such a streamlined decision-making structure avoids the gridlock that often faces commissions. The five-person commission structure proposed by H.R. 1121, would induce inefficiency in government, as it permit rules to be promulgated only when a quorum (generally 3/5 commissioners) affirmatively votes for the rules.

The quorum requirement is a particular concern because of the frictions in the Senate confirmation process. Numerous administrative and judicial positions remain unfilled today because of the difficulty at achieving confirmation of nominees given the Senate's internal rules that effectively create supermajority requirements not found in the Constitution. The effect has been not only to block many nominations, but also to chill potential nominations. The Senate's confirmation process has become so dysfunctional that a bipartisan group of Senators (including Majority Leader Reid, Minority Leader McConnell, and Senators Schumer, Alexander, Collins, and Lieberman) has introduced legislation, S. 679, which would reduce or streamline the number of executive branch positions requiring Senate confirmation by one-third.

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[7] P.L. 111-203, 124 Stat. 1975, § 1017(a)(2), July 10, 2010, *codified at* 12 U.S.C. § 5497.

[8] The only other federal regulatory agency that I have identified that is subject to an override by another agency is the Public Company Accounting Oversight Board (PCAOB), and as discussed *infra*, the Supreme Court found the PCAOB structure to be unconstitutional.

[9] *See* Watters v. Wachovia Bank, N.A., 550 U.S. 1 (2007) (upholding OCC preemption of state attempts to regulate subprime mortgage lenders); Adam J. Levitin, *Hydraulic Regulation: Regulating Credit Markets Upstream*, 26 YALE J. ON REG. 143 (2009) (detailing OCC and OTS preemption of state mortgage regulations without substituting equivalent federal regulations).

This state of affairs presents the most serious threat to the effectiveness of the modern administrative state—federal agencies have had to operate without directors or chairmen or even quorums because of the increased frictions in the confirmation process. As a result, these agencies are less effective or simply ineffective at ensuring that the law is carried out. Thus, in recent years, the Federal Trade Commission, the Consumer Product Safety Commission, and the National Labor Relations Board have all gone through spells where they have been unable to operate because a quorum did not exist.

Simple math says that five confirmations are more difficult to achieve than a single confirmation (even if multiple appointments sets up opportunities to make political deals on appointments). Put differently, adopting a five-person commission instead of a unitary directorship is likely to hobble the CFPB. While I would hope that is not the motivation for such a proposal, it could well be the consequence.

A Five-Person Commission Would Create Unnecessary Big Government Bloat and Waste

Changing from a unitary directorship to a 5-person commission would also contribute to big government bloat. There is no reason to pay five people top-of-the-executive-branch pay scale salaries and benefits for work that could be done by one person, not to mention the personal staff, office space, and other accommodations for five commissioners. A five-person commission is simply wasteful and should not be pursued, particularly when we are facing a federal budget crisis.

A Five-Person Commission Would Reduce CFPB Accountability

A single CFPB director is clearly accountable to both Congress and the American people. A CFPB Director who oversteps his authority or who fails to do enough to protect consumers cannot deflect blame for his actions. A gang of commissioners, on the other hand, can always avoid responsibility by pointing to the other four people who make up the commission. If Congress wants to maximize CFPB's accountability, responsiveness, efficiency, and effectiveness, the unitary directorship should be retained.

The CFPB's Unitary Directorship Is Necessary as a Counterweight to the OCC

A major reason for the creation of CFPB was that federal banking regulators—particularly the Office of the Comptroller of the Currency (OCC), which regulates national banks and the Office of Thrift Supervision (OTS), which regulates federal thrifts—consistently put the short-term profit interests of banks ahead of the long-term interests of consumers and the economy and country as a whole. The failure of OCC and OTS to police the mortgage markets were a critical factor contributing to the financial crisis.

The OCC has been a powerful advocate for bank interests, but this has been at the expense of consumer protection. The overpowering logic for creating a CFPB was that a counterweight was necessary to the OCC in order to protect consumers' interests; the OCC has amply proven that when tasked with both bank safety-and-soundness—that is profitability—and consumer protection, it will always favor banks over consumers. If CFPB is to be an effective counterweight to the OCC, it needs a parallel structure that will allow it to act quickly and forcefully when necessary. The CFPB's current single-director structure is necessary to ensure that it can protect the interests of consumers and the overall economy.

If Subcommittee is convinced, however, that a five-person commission is the proper structure for the CFPB, I would urge the Subcommittee to also adopt a five-person commission structure for the Office of Comptroller of the Currency, which would then be the sole federal financial regulator with a unitary directorship.

II. Financial Stability Oversight Council Review Authority (The Duffy Bill)

H.R. 1315, the Consumer Financial Protection Safety and Soundness Improvement Act, (the "Duffy Bill") would amend section 1023 of the Dodd-Frank Act[10] to reduce the thresholds for a Financial Stability Oversight Council veto of CFPB rulemaking. It would do so in two ways. First, it would reduce the necessary vote from a supermajority of 2/3s of the FSOC members (including the CFPB Director), that is 7 out of 10 votes if all members were present, to a simple majority of FSOC members, not including the CFPB, that is 5 of 9 votes. It would also reduce the necessary finding from the CFPB "regulation or provision would put the safety and soundness of the United States banking system or the stability of the financial system of the United States at risk" to a less exacting finding merely that the CFPB rulemaking is "inconsistent with the safe and sound operations of United States financial institutions." Finally, by deleting section 1023(c)(5) of the Dodd-Frank Act, the bill would require the FSOC to take a vote if any FSOC member raised an objection to a CFPB rulemaking.

The FSOC veto power provides an unnecessary and possibly unconstitutional check on the CFPB and should be eliminated, rather than made more stringent.[11] Irrespective, *the Duffy Bill's proposed finding for an FSOC veto would render virtually every CFPB rulemaking in doubt*. Indeed, under the Duffy Bill's proposed standard—whether the CFPB rulemaking is "inconsistent with the safe and sound operations of United States financial institutions"—it would be impossible for the CFPB to implement several recent pieces of Congressional legislation, including Title XIV of the Dodd-Frank Act, the Mortgage Reform and Anti-Predatory Lending Act.[12]

Safety and soundness means, first and foremost, profitability. It is axiomatic that a financial institution that is not profitable is not and cannot be safe and sound. To the extent that a proposed CFPB regulation would reduce the profitability of a financial institution, it would reduce that institution's safety and soundness. Thus, any CFPB regulation, even if it merely increased compliance costs, would be "inconsistent with the safe and sound operations" of a financial institution.

Consumer financial protection is often inconsistent with bank profitability. Financial institutions only engage in unfair, deceptive and abusive acts and practices because they are profitable; they are not done for spite. While bank regulators have argued that consumer protection goes hand in hand with safety and soundness because it is unsafe for a bank to systematically exploit its customers or engage in unfair and deceptive practices, the run up to the financial crisis provides clear evidence that federal bank regulators were unwilling to put the brakes on unfair and deceptive mortgage lending. Similarly, the run up to the Credit CARD Act of 2009 shows that federal regulators were unwilling to act on unfair and deceptive credit card acts and practices until Congress itself started to move.

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[10] P.L. 111-203, 124 Stat. 1985, § 1023, July 10, 2010, *codified at* 12 U.S.C. § 5513.

[11] I would urge that if Congress adopts the five-person commission model for the CFPB per the Bachus Bill, it should eliminate the FSOC veto over CFPB actions

[12] P.L. 111-203, 124 Stat. 2137-2212, §§ 1401-1498, July 10, 2010.

To understand just how overbroad the Duffy Bill's proposed rule is, consider, for example, consider if there had been a CFPB in 2005, and it had proposed a rule that would have severely restricted the underwriting of payment-option adjustable-rate mortgages. Such a restriction would have significantly curtailed Countrywide's mortgage lending business, and would surely have resulted in the OCC or OTS demanding an FSOC veto. Similarly, if the CFPB had proposed rules like the ones Congress itself passed in section 1411 of the Dodd-Frank Act[13] or section 109 of the Credit C.A.R.D. Act[14] that restrict lending without consideration of the ability to repay, there would have been grounds for an FSOC veto under the Duffy Bill's standard.

Indeed, we actually have an example from 2008 of a bank regulator challenging a proposed consumer financial protection regulation on safety-and-soundness grounds. In August 2008, Comptroller of the Currency John C. Dugan wrote to the Federal Reserve Board to urge it to insert two significant exceptions to the proposed Regulation A (unfair and deceptive acts and practices) credit card rule that would limit the ability of card issuers to reprice or colloquially "rate jack" card holders.[15] Duggan wrote that the restrictions "raise safety and soundness concerns" because they limited the ability of issuers to re-price their loans if issuers determined that the risk profile of the customer had worsened.[16] If the CFPB had proposed such a rule, the OCC would surely have challenged it before the FSOC as "inconsistent with the safe and sound operations of United States financial institutions." Yet, Congress itself passed an even tougher restriction on credit card repricing less than a year later.[17]

Indeed, under the Duffy Bill's standard, several laws passed by Congress in recent years, such as the Credit C.A.R.D. Act and the Mortgage Reform and Anti-Predatory Lending Act would themselves be unenforceable by regulation because the laws themselves might reduce bank safety-and-soundness (i.e., profitability), so any faithful rule-making would have to as well. The effect of the Duffy Bill would be to eviscerate several recent, popular, consumer financial protection statutes.

The Consumer Financial Protection Bureau is a new agency tasked with protecting the financial security of American families, ensuring that they can get the information necessary to make responsible, informed financial choices. Congress created the Bureau to ensure that American families can trust the financial products they use to help them achieve their goals, rather than ensnare them with tricks and traps that lead to financial distress. The Duffy Bill's proposed expansion of the FSOC veto would place bank profits ahead of the well-being of American families, and would put us on a return course to the financial crisis of 2008.

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[13] P.L. 111-203, 124 Stat. 2142, § 1411, July 10, 2010, *codified at* 15 U.S.C. § 1693c ("no creditor may make a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance (including mortgage guarantee insurance), and assessments.").

[14] P.L. 111-24, 123 Stat. 1743, § 109, May 22, 2009, *codified at* 15 U.S.C. § 1665e ("A card issuer may not open any credit card account for any consumer under an open end consumer credit plan, or increase any credit limit applicable to such account, unless the card issuer considers the ability of the consumer to make the required payments under the terms of such account.").

[15] Letter from Comptroller of the Currency John C. Dugan to Jennifer Johnson, Secretary, Board of Governors of the Federal Reserve System, Re: Docket Number R-1314, August 18, 2008.

[16] *Id.*

[17] P.L. 111-24, 123 Stat. 1736-37, § 101, May 22, 2009, *codified at* 15 U.S.C. § 1666i-1.

The FSOC Veto Is Possibly Unconstitutional

I would also note that the FSOC veto under section 1023 of the Dodd-Frank Act is already of dubious constitutionality. On June 28, 2010, a fortnight before the enactment of the Dodd-Frank Act, the Supreme Court handed down its judgment in a case captioned *Free Enterprise Fund v. Public Company Accounting Oversight Board*.[18] In this case, the Supreme Court held that it was an unconstitutional violation of the separation of powers to restrict the President in his ability to "remove a [principal] officer of the United States, who is in turn restricted in his ability to remove an inferior officer, even though that inferior officer determines the policy and enforces the laws of the United States".[19] This ruling raises the question of whether by giving the FSOC veto power over CFPB rulemaking, Congress has impermissibly restricted the power of the President to "take Care that the Laws be faithfully executed" through his appointee as Director of the Bureau of Consumer Financial Protection.

The existing FSOC veto power is already constitutionally suspect, and the Duffy Bill, which would make exercise of the veto authority mandatory and on a hair-trigger basis, would only increase the likelihood that section 1023 of the Dodd-Frank Act offends the Constitution.

III. Postponement of CFPB Functions Until a Director Is in Place

A presently unnumbered bill sponsored by Chairman Capito (the "first Capito Bill) would delay transfer of all regulatory authority to the CFPB until a CFPB Director is in place.[20] I urge the Subcommittee not to postpone the transfer of authority to the CFPB in any way, including making it contingent upon the appointment of a Director.

A critical reason for the creation of the CFPB was the recognition that the current system of consumer financial protection does not work. In the current system, 17 separate statutes are enforced by ten federal agencies with other primary and often conflicting missions.[21] A chart at the end of this testimony (Figure 1) illustrates the current crazy quilt structure. Not surprisingly, consumer financial protection frequently falls between the cracks—it is an orphan mission.

Congress rightly recognized the severe shortcomings of the current system when it enacted Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act and created the Bureau of Consumer Financial Protection. Congress also recognized that the Senate confirmation process has often become excruciatingly slow and therefore created transitional authority for the Treasury Secretary to assume the functions of the CFPB Director under Subtitle F of Title X of Dodd-Frank. While it would be preferable to have a true CFPB Director in place, the exercise of CFPB's Subtitle F powers by the Treasury Secretary is vastly preferable to the current dysfunctional system of consumer financial protection.

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[18] 130 S. Ct. 3138 (2010).

[19] *Id.* at 3147.

[20] The bill also seems to insist upon "confirmation" by the Senate of the Director for authority to vest in the CFPB. Such insistence, if taken seriously, would put the Constitutionality of the bill in serious doubt. Article II, Section 2 of the Constitution states that "The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session." Congress has no ability to abrogate or delimit the President's Constitutional recess appointment power by statute.

[21] *See* Levitin, *supra* note 1.

IV. Removal of Authority to Participate in Examinations Before the Designated CFPB Transfer Date

A fourth bill, currently unnumbered (the "second Capito Bill") would remove Section 1067(e) of the Dodd-Frank Act, which provides authority for the CFPB to participate in bank examinations before July 21, 2011 (the "transfer date") when the CFPB becomes effective. Section 1067(e) provides that:

> In order to prepare the Bureau to conduct examinations under section 1025 upon the designated transfer date, the Bureau and the applicable prudential regulator may agree to include, on a sampling basis, examiners on examinations of the compliance with Federal consumer financial law of institutions described in section 1025(a) conducted by the prudential regulators prior to the designated transfer date.[22]

This provisions is designed to ensure a smooth flow in the examination process for compliance with the 17 federal statutes and rulemaking thereunder that are being transferred to the CFPB. It is an extremely prudent provision, to ensure that there is continuity in the examination process and that CFPB examiners can learn from examiners at other bank regulators.

The reason for eliminating pre-transfer date examination participation is not clear; there is no affirmative argument for doing so. Irrespective, the second Capito Bill would have a significant effect on the on-going multi-agency federal-state investigation of mortgage servicing fraud. The CFPB has provided federal and state regulators with advice regarding the investigation and settlement possibilities and by all accounts has taken servicing fraud much more seriously than some of the federal bank regulators. Eliminating pre-transfer date examination participation prevents CFPB examiners from being able to examine bank mortgage servicers, lest the CFPB's examiners uncover further evidence of mortgage servicing fraud and counsel for a more demanding resolution. This bill would have the effect of shielding a special interest group—large banks—from the consequences of failing to comply with the law by interfering with the bank regulatory process and an on-going investigation. While political interference with the bank safety-and-soundness regulatory process is surely not intended, that would be the inexorable effect of the bill, and I urge the Subcommittee not to adopt it.

Conclusion

The Consumer Financial Protection Bureau has not even had an opportunity to begin to exercise its regulatory authority. It is simply premature to consider reforms to its structure, as it is not yet clear whether any changes are needed, much less what those changes are. The four proposed bills would all diminish the effectiveness of the CFPB as a regulatory agency. I strongly urge the subcommittee not to adopt these bills, which would start us on the path back to the pre-2008 period when the lack of effective consumer financial protection facilitated the destructive housing bubble and financial collapse from which we have still not recovered.

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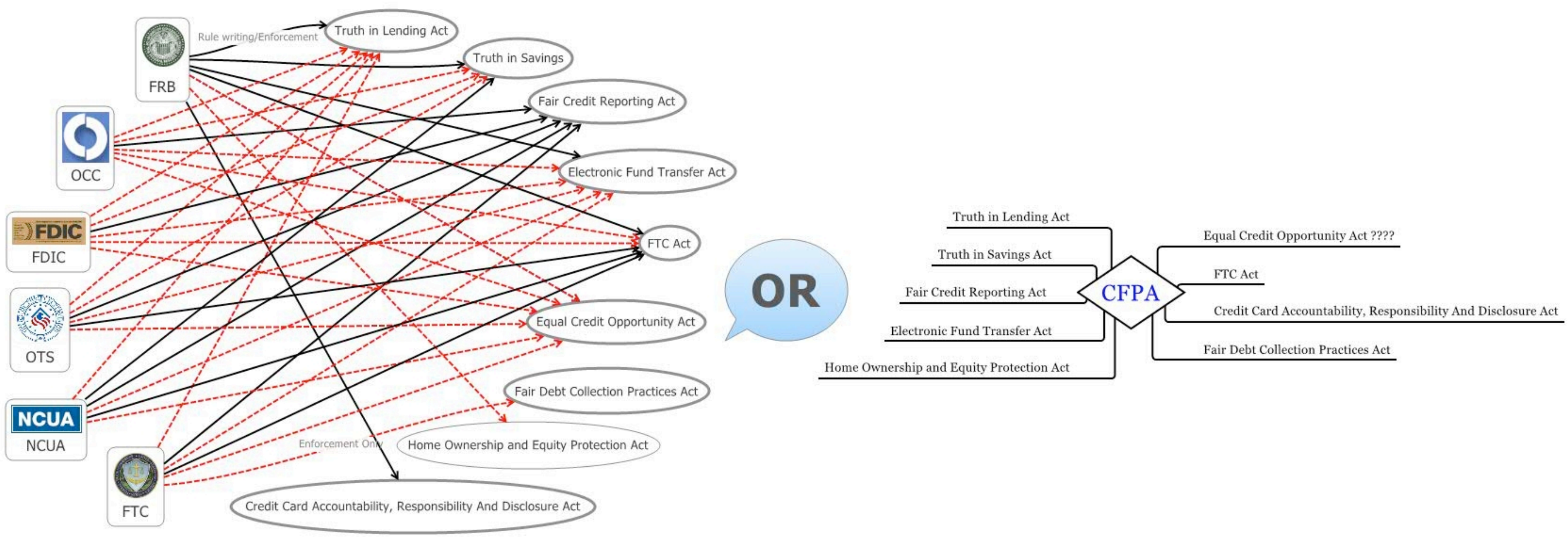
[22] P.L. 111-203, 124 Stat. 2056, § 1067(e), July 10, 2010, *codified at* 12 U.S.C. § 5587.

Figure 1. The Current Consumer Financial Protection Regulatory Structure vs. the Regulatory Structure with the Consumer Financial Protection Bureau.[23]



[23] Consumer Federation of America. The current regulatory structure is depicted on the left, with solid black lines indicating rule writing & enforcement authority and dashed red lines indicating only enforcement authority. Also note that the Consumer Financial Protection Bureau is referred to as CFPA, not CFPB.