



Americans for Financial Reform
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April 27, 2010

Senator Christopher Dodd
United States Senate
Washington, DC 20510

Re: Support Attorney General Enforcement and a Strong Role for States in
S.3217, Restoring American Financial Stability Act

Dear Senator Dodd,

As you continue efforts to improve and achieve bipartisan support for S. 3217, the Restoring American Financial Stability Act, we urge you to resist calls from Wall Street lobbyists to weaken the bill by gutting attorney general enforcement of consumer rules or weakening the current minimal protections in the bill against unnecessary and excessive preemption of state consumer protection laws. Please heed the bipartisan call of attorneys general and governors in the attached letters to give states a role in protecting their consumers.

We are facing the worst crisis since the Great Depression because lax enforcement of federal consumer protection laws and preemption of state predatory lending laws combined to leave consumers at the mercy of bank abuses. The bill already contains numerous concessions to the banking industry, including dramatic weakening of the protections in the initial draft against excessive preemption. Yet the banks are asking for more because they don't want to be held accountable to federal or state law. They want bank regulators to continue insulating banks from state law without even looking at whether a state law significantly interferes with banking or whether it addresses new abuses that fall in a gap in federal protections. And they don't want state cops on the beat to make sure they comply with the nationwide federal rules the CFPB will be adopting

Any wrongdoer who violates federal law should expect to be held accountable. The bill already has serious flaws in its enforcement provisions. It does not give injured consumers any private remedy against wrongdoers, and does not give the Consumer Financial Protection Bureau (CFPB) full enforcement powers against smaller institutions, leaving enforcement to those who failed us in this crisis. These flaws should be fixed, and the bill should certainly not be weakened by taking state cops off the beat. Even a strong federal agency will not have sufficient resources to address all violations. For example, foreclosures will affect 13 million consumers. The resources of AGs are critical to making sure that all consumers are protected against reckless Wall Street practices.

Banks largely are immune from state laws, so full, nationwide enforcement of federal rules is essential. Even with the modest preemption changes in the bill, banks will still have the freedom to ignore many state consumer protection laws. So vigorous enforcement of federal laws is essential. The bill has a variety of mechanisms to vet CFPB rules before they are enacted, but once they are, no one should get a pass on compliance. Consumers are much more likely to complain to, and get a response from, state-based enforcement agencies. And federal regulators are more likely to be responsive if they know they do not have a monopoly on enforcement.

AGs regularly enforce other federal laws, and consistent enforcement everywhere levels the playing field. AGs can already enforce many federal laws against banks, including the Home Owner Equity Protection Act, the Fair Credit Reporting Act and others. Under the bill, AGs must notify both the CFPB and the bank's prudential regulator before acting. The Bureau can intervene and provide guidance on its rules and bank regulators regularly file amicus briefs. Inconsistent interpretations of federal law have never been a problem. The bigger threat is gaps in enforcement, with violations in some states catching national attention and others going unaddressed. Consumers everywhere need protection, and responsible industry players do better when bad actors do not compete unfairly.

States need to be able to address new problems before they spread nationally and catch the attention of federal regulators. Beginning in the late 1990s and culminating in the 2004 regulation of the Office of the Comptroller of the currency, state laws that applied to national banks were wiped out through preemption, with nothing in their place. Studies show that states that adopted tough anti-predatory lending laws before that preemption had lower foreclosure rates than states without those laws. National banks made riskier loans after preemption was extended. Colorado Attorney General John Suthers (R), explained in testimony to the FCIC this year that “ [w]ith respect to the few laws we did have back in 2005, we were largely powerless to enforce those laws against national banks and their lending affiliates and subsidiaries due to the aggressive stance federal regulators took to preempt state law, even with respect to discriminatory lending and deceptive advertising.” In 2006, from 32% to 50% of toxic loans, depending on the type, were made by banks and subsidiaries that states could not touch, and that share was growing. The states are still ahead of federal law in enacting protection against mortgage abuses.

The bill gives the OCC too much power to preempt state consumer protection laws, and the modest steps to give states some room to protect consumers from new bank abuses should be strengthened, not weakened. Senator Dodd's original bill would have required national banks to comply with state laws, but the current bill merely requires the OCC to first assess whether a state law or similar ones interfere with banking and whether there are any federal protections in place. That is the least we can ask if we care at all about bank abuses and consumer protection. A case-by-case assessment is critical if state laws are not to be wiped out thoughtlessly, across the board. And if federal protections are lacking, that is precisely when state laws should not be preempted. The bill does not prescribe any particular degree of protection. In addition, state banks must comply with state laws regardless of preemption, so any law that had serious impacts on banking would be challenged by these state banks and not survive on a variety of

grounds. Most important, the protections in the bill against excessive preemption, need to be strengthened, substantively and procedurally, so that the OCC will undertake a serious inquiry and not a pro forma one.

In Summary, respect for the role of states in our constitutional system of federalism and for the importance of consumer protection demand that states be allowed to protect their citizens and that state laws not be preempted cavalierly.

Sincerely,

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Americans for Financial Reform

Following are the partners of Americans for Financial Reform.

All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.

National Organizations

- A New Way Forward
- AARP
- Accountable America
- ACORN
- Adler and Colvin
- AFL-CIO
- AFSCME
- Alliance For Justice
- American Family Voices
- American Income Life Insurance
- Americans for Democratic Action, Inc.
- Americans for Fairness in Lending
- American Sustainable Business Council
- Americans United for Change
- Business for Shared Prosperity
- Calvert Asset Management Company, Inc.
- Campaign for America's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Responsible Lending
- Center for Justice and Democracy
- Center of Concern
- Change to Win
- Clean Yield Asset Management
- Coastal Enterprises Inc.
- Color of Change
- Common Cause
- Communications Workers of America
- Community Development Transportation Lending Services
- Community Law Center
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO
- CTW Investment Group
- Demos

- Economic Policy Institute
- Essential Action
- Green America
- Greenlining Institute
- Good Business International
- Help Is On the Way, Inc
- HNMA Funding
- Home Actions
- Housing Counseling Services
- Information Press
- Institute for Global Communications
- Institute for Policy Studies: Global Economy Project
- International Brotherhood of Teamsters
- Institute of Women's Policy Research
- Keystone Research Center
- Krull & Company
- Laborers' International Union of North America
- Lake Research Partners
- Lawyers' Committee for Civil Rights Under Law
- Leadership Conference on Civil Rights
- MoveOn.org Political Action
- NAACP
- NASCAT
- National Association of Consumer Advocates
- National Association of Investment Professionals
- National Association of Neighborhoods
- National Coalition for Asian Pacific American Community Development
- National Community Reinvestment Coalition
- National Consumer Law Center (on behalf of its low-income clients)
- National Consumers League
- National Council of La Raza
- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Institute
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National Peoples Action
- National Council of Womens Organizations
- National Workright Institute
- Next Step
- OMB Watch
- Opportunity Finance Network
- Partners for the Common Good
- National People's Action (NPA)
- PICO
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council
- Public Citizen
- Responsible Endowments Coalition

- Sargent Shriver Center on Poverty Law
- Scam Victims United
- SEIU
- State Voices
- Taxpayer's for Common Sense
- The Association for Housing and Neighborhood Development
- The Carrots and Sticks Project
- The Fuel Savers Club
- The Seminal
- UNET
- Union Plus
- United for a Fair Economy
- U.S. PIRG
- Unitarian Universalist for a Just Economic Community
- United Food and Commercial Workers
- United States Student Association
- USAction
- Veris Wealth Partners
- Veterans Chamber of Commerce
- We The People Now
- Western States Center
- Woodstock Institute
- Working America
- World Business Academy
- World Privacy Forum

State Organizations

- 207 CCAG
- 9 to 5, the National Association of Working Women (CO)
- AARP Rhode Island
- Alaska PIRG
- Arizona PIRG
- Arizona Advocacy Network
- Arizonans for Responsible Lending
- Arkansas Community Organizations
- Arkansas Public Policy Panel
- Association for Neighborhood and Housing Development (NY)
- Audubon Partnership for Economic Development LDC (New York, NY)
- Aurora NAACP
- BAC Funding Consortium Inc. (Miami, FL)
- Beech Capital Venture Corporation (Philadelphia, PA)
- Bell Policy Center (CO)
- California PIRG
- California Reinvestment Coalition
- Center for Media and Democracy
- Center for NYC Neighborhoods
- Century Housing Corporation (Culver City, CA)
- Changer(NY)
- Chautauqua Home Rehabilitation and Improvement Corporation (NY)
- Chicago Community Loan Fund (Chicago, IL)

- Chicago Community Ventures (Chicago, IL)
- Chicago Consumer Coalition
- Citizen Potawatomi CDC (Shawnee, OK)
- Coalition on Homeless Housing in Ohio
- Colorado AFL-CIO
- Colorado Center on Law and Policy
- Colorado Immigrants Rights Coalition
- Colorado PIRG
- Colorado Spring NAACP
- Colorado Center on Law and Policy
- Community Action of Nebraska
- Community Capital Development
- Community Capital Fund (Bridgeport, CT)
- Community Capital of Maryland (Baltimore, MD)
- Community Development Financial Institution of the Tohono O'odham Nation (Sells, AZ)
- Community Redevelopment Loan and Investment Fund, (Atlanta, GA)
- Community Reinvestment Association of North Carolina
- Community Resource Group (Fayetteville, AR)
- Connecticut Association for Human Services
- Connecticut Citizen Action Group
- Connecticut PIRG
- Consumer Assistance Council
- Cooper Square Committee (New York, NY)
- Cooperative Fund of New England (Wilmington, NC)
- Corporacion de Desarrollo Economico de Ceiba (Ceiba, PR)
- CWA 7777 (CO)
- Delta Foundation, Inc. (Greenville, MS)
- Economic Opportunity Fund (EOF) (Philadelphia, PA)
- Empire Justice Center (NY)
- Enterprises, Inc., Berea KY
- Fair Housing Contact Service OH
- Federation of Appalachian Housing Enterprises, Inc. (Berea, KY)
- Fitness and Praise Youth Development, Inc. (Baton Rouge, LA)
- Florida Consumer Action Network
- Florida PIRG
- Forward Community Investments (Madison, WI)
- Funding Partners for Housing Solutions (Ft. Collins, CO)
- Georgia PIRG
- Grow Iowa Foundation (Greenfield, IA)
- Homewise, Inc. (Santa Fe, NM)
- Humanitas Community Development Corporation
- Idaho Chapter, National Association of Social Workers
- Idaho Community Action Network
- Idaho Nevada CDFI (Pocatello, ID)
- Illinois PIRG
- Impact Capital (Seattle, WA)
- Indiana PIRG
- Indiana University PIRG
- Information Press (CA)
- Iowa PIRG
- Iowa Citizens for Community Improvement

- JobStart Chautauqua, Inc. (Mayville, NY)
- Keystone Research Center
- La Casa Federal Credit Union (Newark, NJ)
- Low Income Investment Fund (San Francisco, CA)
- Long Island Housing Services NY
- MaineStream Finance (Bangor, ME)
- Maryland PIRG
- Massachusetts Consumers' Coalition
- Massachusetts Fair Housing Center
- MASSPIRG
- Michigan PIRG
- Midland Community Development Corporation (Midland, TX)
- Midwest Minnesota Community Development Corporation (Detroit Lakes, MN)
- Mile High Community Loan Fund (Denver, CO)
- Missouri PIRG
- Montana Community Development Corporation (Missoula, MT)
- Montana PIRG
- Mortgage Recovery Service Center of L.A.
- Neighborhood Economic Development Advocacy Project
- New Hampshire PIRG
- New Jersey Community Capital (Trenton, NJ)
- New Jersey Citizen Action
- New Jersey PIRG
- New Mexico PIRG
- New York PIRG
- New York City AIDS Housing Network
- Next Step (MN)
- NOAH Community Development Fund, Inc. (Boston, MA)
- Nonprofit Finance Fund (New York, NY)
- Nonprofits Assistance Fund (Minneapolis, MN)
- North Carolina Association of Community Development Corporations
- North Carolina PIRG
- Northern Community Investment Corporation (St. Johnsbury, VT)
- Northside Community Development Fund (Pittsburgh, PA)
- Ohio Capital Corporation for Housing (Columbus, OH)
- Ohio PIRG
- Oregon State PIRG
- Our Oregon
- PennPIRG
- Piedmont Housing Alliance (Charlottesville, VA)
- Rhode Island PIRG
- Rights for All People
- The Rocky Mountain Peace and Justice Center
- Rural Community Assistance Corporation (West Sacramento, CA)
- Rural Organizing Project OR
- San Francisco Metropolitan Transportation Authority
- Seattle Economic Development Fund dba Community Capital Development
- SEIU Local 105 (Colorado)
- SEIU Rhode Island
- Siouxland Economic Development Corporation (Sioux City, IA)
- Southern Bancorp (Arkadelphia, AR)

- TexPIRG
- The Association for Housing and Neighborhood Development
- The Fair Housing Council of Central New York
- The Help Network
- The Loan Fund (Albuquerque, NM)
- Third Reconstruction Institute (NC)
- V-Family, Inc.
- Vermont PIRG
- Village Capital Corporation (Cleveland, OH)
- Virginia Citizens Consumer Council
- Virginia Poverty Law Center
- War on Poverty – Florida
- Washington Community Action Network
- WashPIRG
- Westchester Residential Opportunities Inc. NY
- Wigamig Owners Loan Fund, Inc. (Lac du Flambeau, WI)
- WISPIRG

Businesses

- Blu
- Bowden-Gill Environmental
- Diversified Env. Planning
- Hayden & Craig, PLLC\
- The Holographic Repatterning Institute at Austin
- Mid City Animal Hospital (Phoenix, AZ)
- UNET