Wall Street Riders

Here are some of the major goals that the financial industry and its political allies hope to achieve through language attached to end-of-year appropriations bills.

The first group of riders involve the Consumer Financial Protection Bureau. All would weaken the Bureau in one way or another (and this is an incomplete list of riders with that purpose). Together, they reflect a death-by-a-thousand-cuts attack on the agency. They are followed by three riders that will offer more broad attacks on Wall Street regulation, and three more riders rolling back Fair Housing Act protections.

Purpose: Put the Consumer Financial Protection Bureau under the control of a "bipartisan" commission instead of a single director

This rider would change the structure of the Consumer Bureau, turning it into a five-member commission instead of a director-led agency.

Background: Such commissions, normally chosen by party leaders, are a well-known Washington recipe for gridlock, lack of leadership accountability, and increased industry influence. Most of those supporting this proposal (originally in the form of a stand-alone bill, HR 1266) opposed the creation of the CFPB in the first place. The Bureau's performance speaks for itself, with over $10.8 billion dollars returned to consumers and 67 enforcement actions taken against abusive or deceptive practices and products. The CFPB's current structure is working well; don't "fix" what isn't broken.

See AFR sign-on letter.

Purpose: Remove the CFPB's independent funding

Rider would eliminate the CFPB's guaranteed funding through the Federal Reserve, making the Bureau subject to annual congressional appropriations.

Background: Like the other bank regulatory agencies, the CFPB is currently funded in a way that insulates it from the highly politicized appropriations process. Changing this would leave the CFPB more vulnerable to industry influence than the Federal Reserve, the OCC, or the FDIC, relegating its mission of protecting consumers to a lower level or importance.

See AFR letter

Purpose: Block or impede the CFPB's ability to curb the use of class-action bans in the consumer finance marketplace

Rider would limit, delay or remove the CFPB's authority to restrict such practices in consumer contracts under its jurisdiction. As a practical matter, the CFPB would be unable to issue a rule on forced arbitration, restoring consumer's rights in the market place.

Background: Arbitration clauses, most of which also restrict consumers' participation in class action lawsuits, result in the funneling of consumer complaints into a secret and biased system controlled by Wall Street banks and other lenders. Any appropriations proposal that would interfere with the agency's ability to act on forced arbitration would be extremely damaging to the public interest.

See statement by AFR and letters from AFR and NACA.

Purpose: Sharply limit the CFPB's authority to crack down on discriminatory auto lending

Rider would invalidate a March 2013 guidance in which the CFPB advised lenders on how to comply with fair lending laws; it would also subject any further CFPB auto-lending guidance to notice-and-comment process.

Background: More than two decades of experience and data show that car dealer interest rate markups result in discrimination in auto lending. Car dealers receive a large bonus from lenders for increasing the interest rate above that for which the borrower otherwise qualifies. Car dealers and lenders are attacking the guidance because they do not want the CFPB to enforce anti-discrimination laws in car lending. They have known for decades that car dealer markups lead to discriminatory lending, and they would rather have the CFPB ignore this particular injustice. To give a sense of the scope of the problem, the Center for Responsible Lending (CRL) estimates that consumers who took out car loans in 2009 will pay $25.8 billion in additional interest over the lives of their loans due to these markups.

See Leadership Conference letter, Coalition Letter, and CRL fact sheet.

Purpose: End Operation Choke Point

Rider would prohibit the CFPB and other regulatory agencies from implementing or participating in Operation Choke Point, a Justice Department crackdown on money laundering and payment fraud.

Background: Operation Chokepoint, contrary to the claims of its opponents, is focused only on banks and payment processors that willingly facilitate fraud. None of its activities are aimed at curtailing the legal operations of payday lenders, pawnbrokers, gun sellers, or other legitimate businesses. In these days of escalating data breaches, terrorism threats, and internet fraud, we need to encourage, not discourage, efforts to deprive criminals of access to the banking system.

See AFR letter opposing Crapo amendment and AFR letter opposing HR 1413 & HR 766.

Purpose: Put roadblocks in the way of the CFPB's efforts to regulate abusive payday lending

Rider would impede the CFPB's ongoing rulemaking process, most likely by falsely asserting that the Bureau has not adequately engaged stakeholders.

Background: To date, the Consumer Bureau has conducted two public field hearings on payday lending, added a payday-lending representative to its Consumer Advisory Board, solicited input from smaller credit providers as part of its small business review process, and released two comprehensive analyses of the payday loan market, clearly documenting the cycle of debt caused by unanticipated back-to-back lending and growing loan balances.

See AFR letter of opposition

Purpose: Sharply roll back the mortgage-safety and systemic-risk reforms of the Dodd-Frank Act (Shelby bill)

Originally introduced as stand-alone legislation by Senate banking committee Chairman Richard Shelby (R-Ala.), this far-reaching measure was later added as a rider to the Senate version of a bill to fund the financial regulatory agencies. Among other things, it would:

- **Introduce sweeping new exemptions to Dodd-Frank mortgage underwriting requirements;**
- **Add (under the guise of relief for "community banks") a cumbersome, time-consuming, and impractical designation process before the Federal Reserve could apply stronger risk controls to some of the largest banks in the country;**
- **Require extensive re-review and re-examination of all Dodd-Frank regulations that have been adopted in the last few years, including rules that have not yet been implemented; and**
- **Weaken the ability of the Financial Stability Oversight Committee to designate giant non-bank financial institutions for Federal regulatory oversight.**

Background: The Shelby bill adds up to a radical assault on Dodd-Frank reforms. It would open the door to a new wave of toxic mortgages (with abusive fees and other predatory features) like those that helped bring on the financial crisis. It would relax the risk-control rules for multi-hundred-billion dollar institutions comparable in size to banks like Washington Mutual and Countrywide, which played a major role in the financial crisis. It would make it significantly harder to monitor the activities of large nonbank entities such as AIG, another principal player in events leading up to the financial crisis. And it would force all the financial oversight agencies to go through a series of new procedural hoops before issuing rules or taking enforcement actions.

See joint letter of opposition to Shelby bill.

Purpose: Prevent the Department of Education from cracking down on for-profit career colleges that leave their students with crippling debt and worthless degrees

Rider would block DOE from implementing its “gainful employment” rule, which would cut off the flow of federal funds to career education programs that routinely fail to deliver on their promises and leave students with unmanageable debt.

Background: Numerous investigations have revealed appalling practices in the for-profit college industry, including deceptive and aggressive recruiting of students; false or inflated job placement rates; and dismal completion rates. Thirty-seven state attorneys general are jointly investigating allegations of fraud and abuse by for-profit colleges, multiple attorneys general have filed suits and reached multi-million dollar settlements, and the DOJ, SEC, and CFPB have suits pending against colleges that received billions of dollars in taxpayer funding. The DOE is seeking to protect future students and taxpayers from being exploited by schools like Corinthian and ITT. Under the rule proposed by the department, such programs would be forced to improve, or lose eligibility for federal funding.

See sign-on letter to Congress

Purpose: Delay the Department of Labor’s effort to insist that retirement investment advisers look out for the best interests of their clients.

Versions of this rider would either defund the Department of Labor’s (DOL) efforts to update and strengthen protections for retirement savers or place restrictions or delays on the Department’s rulemaking. For instance, Labor-HHS 2016 appropriations bill approved by House and Senate Appropriations Committees would simply defund the DOL initiative. .

Background: The retirement market today works well for broker-dealers, insurance companies, and mutual fund companies that reap billions of dollars in profits by providing services to tax-subsidized retirement accounts. But it works much less well for working families and retirees who struggle with complex decisions about how best to save and invest for retirement. Rules to protect ordinary savers have not been updated for 40 years. Under the existing, outdated rules, advisers may recommend investments that boost their compensation while saddling clients with high fees and low returns. Americans collectively lose an estimated $17 billion a year as a result of conflicted retirement investment advice of this kind. Protections for working families and retirees need to be strengthened by requiring the financial professionals they turn to for retirement investment advice to act in their best interests. That is what the Department of Labor has proposed.

See Save our Retirement Website and Op Ed in the Hill by Ray Ferrara.

Purpose: Gut private Fair Housing enforcement

Rider would zero out Private Enforcement Initiative (PEI) grants in the Fair Housing Initiatives Program. This program is the only dedicated source of federal funding for private nonprofit organizations to investigate complaints of housing discrimination and educate the public and housing providers about their rights and responsibilities in their local housing markets.

Background: Ending these grants would result in little or no local fair housing enforcement in major metropolitan areas. Qualified private nonprofit fair housing organizations investigate over 69% of complaints of housing discrimination annually; more than double the complaints investigated by local, state, and federal agencies combined.

See Fact Sheet, AFR letter, and Fair Housing sign-on letter.

Purpose: Prohibit HUD from implementing and enforcing its long-awaited fair housing planning rule

Rider would prohibit HUD from using appropriated funds to implement and enforce its rule to carry out a Fair Housing Act requirement that all federal housing and community dollars be be used in a manner that removes barriers to fair housing choice.

Background: This measure would leave local and state governments and public housing authorities without effective guidance on how to meet their fair housing obligations under current law. HUD's rule provides local leaders with the tools and incentives necessary to make the most out of existing federal assistance by 1) investing in under-resourced neighborhoods, 2) connecting those in disinvested neighborhoods to opportunities and vital resources, and 3) creating housing options for lower income households in high opportunity neighborhoods.

See Fact sheet and Fair Housing Sign on Letter.

Purpose: Bar HUD and DOJ from enforcing HUD's Discriminatory Effect (Disparate Impact) Rule

Rider would prohibit DOJ and HUD from enforcing HUD's disparate impact rule.

Background: The Fair Housing Act has a framework to root out plainly intentional discriminatory acts as well as unnecessary policies or practices that have discriminatory outcomes, or a "disparate impact." Without HUD's disparate-impact rule, victims of housing discrimination would have increasing difficulty bringing claims, and housing providers and lenders would be left with little direction on how to effectively comply with the Fair Housing Act.

See Fact sheet and Fair Housing Sign-on Letter.