

Consumer protection agency would burden banks? Precisely.

For better or for worse, the proposed Consumer Financial Protection Agency - already being shrunk in Washington shorthand to CFPB - would create another level of government bureaucracy.

Its advocates have a two-word response: "So what?"

If the agency, as its supporters envision it, burdens the banking industry with another set of rules and enforcement, oh well, mission accomplished! On Thursday, however, came sudden word that the Obama administration is willing to throw some of the unborn CFPB under the bus already, capitulating to opponents who don't want to see the creation of a separate and independent agency, independent being perhaps the operative descriptor.

Why is it that the opposition - Republicans, in general - are working to prevent the CFPB from ever seeing the light of day? The answer/answers is/are contained in a time capsule from last summer, which is when we heard the initial debate over the agency. Little progress for or against has been made since, as the issue has been kicked down the road to make way for the health care fight, the back-and-forth on a jobs bill, the argument over the Volcker Rule, the painful but gradual consensus on big-bank "resolution authority" and ... well, surprisingly little else, really, considering the scope of our problems.

So today on the CFPB we're roughly where we were in June, when the American Bankers Association proffered its objections to it. Edward Yingling, president and CEO of the group, has some very detailed (and still current) testimony against it. Among his objections:

-- "Requires communications with consumers to be "reasonable," an incredibly vague and unworkable standard."

-- "Will create uncertainty, increase consumer costs, and lead to constant litigation."

-- "Saddles consumers and providers with a new regime of fees to fund yet another agency."

For an alternate summation, see "What Would Obama's Planned Consumer Financial Protection Agency Do?" a short rundown posted last summer on one of the WJS's blogs. Indeed, the CFPB is a formidable-sounding outfit (you can read for yourself the enabling legislation here), but people like Elizabeth Warren, who's in charge of the congressional oversight panel on the bank bailout, say it should be formidable and that it won't be much good if it's not truly independent. Nonetheless, this is where the Obama administration and its allies in Congress have shown signs this week of a willingness to deal.

Getting to the political heart of the matter, Jeff Merkley, a Senate Democrat from Oregon, says he'd be okay if the CFPB were relegated to sub-agency status as long as it's anyplace but the Federal Reserve: "The problem you have in the Fed is that monetary policy is in the penthouse, safety and soundness are on upper floors, and consumer protection in the basement. We've got to get it out of the basement."

What Merkley imagines, in my view, is what will come to pass. If the discussion hasn't been advanced much since last summer, it's not going to advance much at all, and the issue will be settled by the kind of rationale offered in July on mint.com in an assertion that's hard to either improve upon or dispute: "Opponents argue that the CFPB would limit product innovation and dictate what type of loans consumers should receive in certain situations. Didn't product innovation and offering 'customized' loans mostly get us into this mess?"

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