AMERICANS
FOR FINANCIAL REFORM
ACCOUNTABILITY ★ FAIRNESS ★ SECURITY

Americans for Financial Reform
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May 19, 2015

Dear Senator,

On behalf of Americans for Financial Reform (AFR), we are writing to express our views on the Democratic substitute amendment to Chairman Shelby's "Financial Regulatory Improvement Act of 2015".

The Democratic substitute amendment represents a better approach to protecting consumers and the broader stability and security of the financial system, as well as to balancing attention to the concerns of real community banks and the need for key standards to apply across the system. As we have detailed in a separate opposition letter, Chairman Shelby's proposed legislation constitutes a major rollback of new financial protections adopted in the Dodd-Frank Wall Street Reform Act, and would significantly undermine rules critical to safeguarding consumers and the broader public. While we have some concerns with one or two of its provisions, the Democratic substitute would not undermine basic financial or consumer protections in this manner, and it also includes important positive steps for consumers.

Unlike the Chairman's draft, the Democratic substitute amendment also focuses on smaller community banking institutions that may face greater difficulties in regulatory compliance than larger banks and non-banks. While the Shelby legislation does include some provisions aimed at community banks, many of the most significant pieces of the legislation would benefit larger banks and financial institutions. A recent FDIC study found that some 99.8 percent of community banks were under $5 billion in asset size, and over 94 percent held less than $1 billion in assets. Yet Chairman Shelby's legislation focuses on banks holding over $50 billion in assets, which are among the largest few dozen banks in the country, as well as large non-bank financial institutions holding hundreds of billions or even over a trillion dollars in assets.

Furthermore, the Democratic substitute amendment also includes two provisions that should be of substantial benefit to consumers. Section 201 grants the Consumer Financial Protection Bureau additional authority to work concurrently with the Department of Justice to enforce the Service members Civil Relief Act (SCRA). This change would allow the expertise of the CFPB on consumer finance to be brought to bear to more effectively protect active duty service members from violations of this important law, which have unfortunately been all too frequent. Section 202 re-establishes provisions in the Protecting Tenants at Foreclosure Act that ensure landlords coming into possession of a foreclosed property must observe pre-existing lease terms and give proper notice of tenant eviction. We support both of these provisions, which will be of real benefit to consumers.

Other provisions in the legislation will benefit smaller banks, credit unions, and thrifts. We do not oppose various of these provisions, including for example the changes in exam cycles in Section 103. With regard to the changes in the rules for qualified mortgages in section 101, they are much more reasonable than the qualified mortgage provisions in Senator Shelby's legislation, which would effectively eliminate most ability to repay and abusive feature mortgage lending protections for an unacceptably broad range of mortgages. However, while there are some positive features of the changes, such adjustments should be left to the CFPB, which has, and has used, substantial flexibility, to make changes responsive to the concerns of smaller community based institutions and continues to pursue practical approaches to consumer protection. Also, while we understand the extremely broad support for modernizing privacy notice requirements, we believe that greater attention to how to take advantage of technology could produce new standards more beneficial to both the public and industry.

Thank you for the opportunity to express our views on this legislation. Should you have additional questions on this issue, please contact Marcus Stanley, AFR's Policy Director, at marcus@ourfinancialsecurity.org or 202-466-3672.

Sincerely,
Americans for Financial Reform