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FOR FINANCIAL REFORM
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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. This list does not provide an exhaustive list of potential financial regulatory riders to funding bills, but does highlight the potential riders that have recently been most prominent in the debate.

Undermine Consumer and Housing Market Protections

Forced Arbitration: Block or impede the CFPB's ability to curb the use of forced arbitration clauses and class-action bans in the consumer finance marketplace

Rider would limit, delay or remove the CFPB's authority to restrict forced arbitration in consumer contracts under its jurisdiction. As a practical matter, this would deny consumer access to the courts to seek redress for exploitative behavior.

Background: Forced arbitration clauses deny consumers access to the courts, and force consumer complaints into a secret and biased system dominated by Wall Street banks and other lenders. Many also ban participation in class action suits. Any appropriations proposal that would interfere with the CFPB's ability to properly regulate forced arbitration would prevent consumers from seeking a fair settlement for

See statement by AFR and letters from AFR and NACA.

Subprime Mortgage Lending: Create massive exemptions in new mortgage 'ability to pay' requirements that would mostly benefit big banks. *(Included in Senator Shelby's S. 1484)*

Rider would exempt any mortgage held 'on portfolio' from new 'Qualified Mortgage' (QM) rules. There would be few restrictions on the exemption offered, which would be available to banks of any size and for a wide range of loans, including loans sold into the secondary market. As regulators have already granted small community banks broad regulatory exemptions from QM rules, this would mostly benefit big banks.

Background: Under Dodd-Frank rules, lenders are given a safe harbor from legal liability for abusive mortgage loans if they meet Qualified Mortgage (QM) standards. These standards require loans that are in reasonable proportion to borrowers income and wealth, and which do not have exploitative fees or 'tricks and traps' that can harm borrowers. Granting automatic QM standing to loans that have bad underwriting or abusive features could result in a return of destructive subprime mortgage lending practices seen before the 2008 crisis.

See Coalition Opposition Letter to HR 1210 and AFR Opposition Letter to Shelby Bill

Student Loans: 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 Coalition Opposition letter to Congress

Loans for Manufactured Housing: Exempt loans for manufactured housing from consumer protections for mortgages.

This rider would essentially exempt sellers of manufactured housing from Dodd-Frank provisions intended to protect consumers from higher-risk, higher-fee loans. Should this legislation pass, borrowers purchasing manufactured homes could experience interest rates as high as 14 percent, as well as fees totaling from 5 percent to as much as 15 percent of the loan value, without triggering basic consumer protections designed to stop exploitation by lenders.

Background: Various Dodd-Frank provisions protect consumers from being steered into high-cost mortgages By exempting sellers of manufactured housing from being defined as 'mortgage originators' this legislation would exempt such loans from these provisions.

See Coalition Opposition Letter to HR 650 and AFR Opposition Letter to Shelby Bill

Payday lending: Prevent or hamper the CFPB from regulating abusive payday lending.

Exploitative pay day loans are costing consumers billions of dollars per year in excessive fees—frequently resulting in overdraft fees, involuntary account closure, and even bankruptcy. These riders would impede the CFPB's rulemaking regarding payday loans, mostly 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. The CFPB analysis clearly documents that many payday loans are part of an abusive cycle of debt.

See AFR letter of opposition

Weaken the Consumer Financial Protection Bureau

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, 67 enforcement actions taken against abusive or deceptive practices and products, and rules passed to make consumer markets safer and fairer in areas ranging from credit reporting to remittances to mortgages and more. The CFPB's current structure is working well; don't "fix" what isn't broken.

See AFR sign-on letter.

Remove the CFPB's independent funding

This 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 such as the FDIC, OCC, and Federal Reserve the CFPB is currently funded independently in order to insulate it from inappropriate influence by regulated entities. Changing this would leave the CFPB more vulnerable to industry influence than other bank regulators, undermining its consumer protection mission and sending the implicit message that consumer protection is less important than other forms of financial regulation.

See AFR sign on letter

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

Such legislation 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 discriminatory pricing in auto lending. Car dealers receive a large bonus from lenders for increasing the interest rate above the lowest rate for which the borrower actually qualifies. Car dealers and lenders are attacking the guidance because they do not want the CFPB to enforce anti-discrimination laws. 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 hidden dealer markups.

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

End Operation Choke Point

Rider would prohibit the CFPB and other regulatory agencies from participating in Operation Choke Point, a Justice Department led 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 businesses that are following the law. 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.

Weaken Regulatory Authority To Control Risks At Large Financial Institutions

Regulation of Large Banks: Sharply limit the Federal Reserve's authority to oversee 'large regional' banks. *(Included in Senator Shelby's S. 1484)*

This rider would ban the Federal Reserve from implementing key Dodd-Frank risk reforms at so-called 'large regional' banks, unless this supervision was first approved by a two-thirds majority of 10 financial regulators on the Financial Stability Oversight Council (FSOC). The cumbersome multi-year approval process required in this proposal would create a major and unprecedented roadblock to bank regulator oversight of major bank holding companies. Risk controls affected would include key measures designed to ensure that banks hold adequate capital to absorb potential losses and can be resolved in an orderly manner in case of failure.

Background: 'Large regional' banks are banks with over $50 billion in assets but which are not among the largest eight banks designated as 'systemically significant' by international regulators. This includes about two dozen banks, which are all among the largest one-half of one percent of banks in the country. During the 2008 financial crisis, large regional banks like Countrywide (with about $200 billion in assets) and Washington Mutual (about $300 billion in assets) failed and required government intervention. These failures, and the irresponsible subprime mortgage lending that led to them, placed major stress on the financial system. Congress reacted by requiring the Federal Reserve to improve risk controls at all banks over $50 billion, in a manner that is tailored to size and complexity. This rider seeks to roll back these improved risk controls.

See AFR opposition letter to HR 1309 , Fact Sheet, and AFR opposition letter to Shelby bill

Regulation of Large Non-Bank Financial Institutions: Restrict the power of the Financial Stability Oversight Council (FSOC) to designate non-banks for supervision. *(Included in Senator Shelby's S. 1484)*

A variety of riders have been proposed that would greatly hamper the ability of the FSOC to designate giant non-bank financial institutions that are central to the financial system for improved Federal Reserve regulatory oversight. Among them are proposals to add years of additional bureaucratic requirements to the already slow and cumbersome FSOC designation process and to hamper efforts by the FSOC's research arm (the Office of Financial Research) to independently examine risks in the financial system.

Background: Large financial institutions that were not regulated as commercial banks played a central role in the financial crisis. Among them were insurance companies like AIG, which received the largest single-institution bailout in U.S. history, and investment banks such as Lehman Brothers. The regulation of these institutions, while it did exist, was not oriented to spotting and addressing major risks to the entire financial system that could result from inadequate systemic risk controls. To ensure that such institutions were properly regulated in the future, Congress established the FSOC, a council of financial regulators which can designate entities for Federal Reserve systemic risk oversight. The FSOC designation process in current law already contains numerous transparency provisions and process requirements, and already takes approximately two years to complete.

See AFR opposition letter to House FSOC legislation and AFR opposition letter to Shelby bill

Bank Supervision: **Create a cumbersome outside appeals process that would delay action to address risks found by regulators** *(Included in Senator Shelby's S. 1484)*

This rider would create a new 'examination ombudsman', outside of the various bank regulatory agencies, which could be used by regulated banks to challenge examination findings and greatly delay addressing significant risks uncovered during bank supervision. This would apply both to prudential safety and soundness risks and to risks to consumers uncovered by the CFPB. This external appeals process would be in addition to internal ombudsmen and appeals processes that are already in place at all banking regulators. Access to the examination ombudsman is not limited to community banks, but would be available to banks of any size.

Background: Much of the most important work of banking regulators is carried out through the examination process, which allows individual bank supervisors to spot high-risk issues in bank lending and work with banks to address those issues. Bank supervisory findings can already be appealed internally within each banking regulator, or banks can sue in the courts if they feel their rights have been violated. Adding an additional external appeals process would seriously slow and hamper this process, particularly for large banks which could appeal hundreds of different findings in order to delay regulatory action.

See AFR opposition letter to HR 1941

Undermine Efforts to Protect Retirement Investors

Department of Labor Fiduciary Duty: Delay or prevent 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, the Labor-HHS 2016 appropriations bill approved by House and Senate Appropriations Committees would eliminate the DOL's ability to strengthen retirement investor protections by blocking all funding necessary to complete it. .

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.

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 tens of billions a year as a result of conflicted retirement investment advice of this kind. The Department of Labor has proposed to strengthen protections for working families and retirees by requiring the financial professionals they turn to for retirement investment advice to act in their best interests, while still retaining the flexibility for providers of investment advice.

See Save Our Retirement Coalition Letter, Op Ed in the Hill by Ray Ferrara, Save Our Retirement Web Site

Business Development Companies (BDCs): Deregulate BDCs by allowing them to double their permitted levels of borrowing and loosen restrictions on portfolio investments.

This legislation would increase permitted leverage at BDCs from 1-1 to 2-1. Once borrowing among portfolio investments is taken into account, the total level of leverage at these funds would be about ten dollars in borrowing for each dollar of own capital. The legislation would also permit BDCs far higher investments in other financial companies such as banks, payday lenders, and other funds, all of which also tend to be highly leveraged.

Background: BDCs are a type of investment fund which gains regulatory benefits in exchange for channeling investment into small and medium sized enterprises. BDCs are already less stringently regulated than competitor mutual funds. These major deregulatory changes would make them even riskier to investors than they currently are, while also reducing the benefits of BDCs to real economy small businesses.

See AFR Opposition Letter to HR 3868

‘Regulatory Reform’ Initiatives That Would Effectively Block Financial Protections

Regulatory Process: Add numerous additional procedural and legal hurdles before a rule could be passed or enforced.

Many ‘regulatory reform’ proposals contain statutory requirements for financial regulators to conduct numerous additional analytic or procedural steps before a rule could be issued and finalized. Since these requirements are statutory (not simply included in executive orders or guidance to agencies) any one of them could be the basis for a lawsuit by well-funded industry interests seeking to block regulatory action, claiming that such a step had not been conducted correctly. Other proposals would require independent financial regulators to submit all of their rules through an additional time-consuming approval process at the OMB level.

Background: Financial regulatory agencies already must comply with numerous statutory requirements to consider and analyze costs and benefits of their actions, and allow extensive public comment before finalizing a rule. These existing procedural requirements have led to a situation where many Dodd-Frank rules are not yet finalized or implemented even though the law was passed over five years ago. Existing requirements have also led to numerous industry lawsuits seeking to block new rules. Adding dozens of additional requirements is not an attempt to improve the regulatory process, but a transparent attempt to block and hinder regulatory action.

See AFR Opposition Letter to HR 185, Coalition for Sensible Safeguards Web Site

Federal Reserve: Require the Fed to share advance details of their oversight methods; add numerous additional cost-benefit requirements before rulemaking.

This proposal would require the Federal Reserve to share details of their 'stress testing' models in advance with regulated banks, who could then tailor operations to 'game' the tests. It would also impose dozens of additional cost-benefit requirements prior to a Federal Reserve rulemaking.

Background: The Federal Reserve is the major regulator of the giant global Wall Street institutions that dominate the financial sector, and so has been a special target for efforts to weaken regulation. The Federal Reserve has engaged in extensive economic analysis, including extensive cost-benefit analysis, prior to key rulemakings. The stress testing process conducted by the Fed is a vital independent check on bank risks, and providing the details of these tests in advance would significantly weaken their effect.

See AFR Opposition Letter to Federal Reserve Accountability and Transparency Act

Damage Enforcement of Fair Housing Laws

Prevent 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.

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 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.

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.