



A Call to Action

Veteran Wall Streeter warns that the financial services industry is lapsing into pre-crisis mode

By Peter J. Solomon

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The debate over the bureaucratic location and independence of a **Consumer Financial Protection Agency** as part of the financial reform bill raises legitimate concerns about the relationship of consumer advocacy to the “safety” and “soundness” of the credit system.

Consumers, however, were certainly abused, and the existing regulatory structure failed to protect them. Opponents of an independent agency fail to overcome the fact that consumer interests buried within another bureaucracy have been inadequately represented.

Given this history, **President Obama** should continue his post-health-care-reform assertiveness and not settle for the Senate’s version. He should insist on a truly independent agency.

First, let me reiterate. There is sufficient regulation to protect the consumer. But protection did not occur.

Does one really think that the **Federal Reserve** (where Sen. **Chris Dodd** proposes the agency be housed) will suddenly reverse years of neglect and become the prosecutor of bad practices when its primary jobs are monetary policy and the “safety and soundness” of our financial system? Even the Consumer Advisory Council of the Fed favors an independent agency, saying the central bank failed to protect consumers.

If not the Fed, what other agency does the Congress have in mind?

Second, the argument that a new independent agency will enlarge the federal bureaucracy misses an obvious point — namely, that each agency from the Department of Housing and Urban Affairs to the **National Credit Union Administration** already has a consumer affairs division. Their employees number in the thousands. Rep. **Barney Frank’s** proposed legislation calls for consolidation of these bureaucrats into the consumer agency.

Third, it is not only Main Street that needs protection. Sophisticated investors cannot penetrate the fog of bank practices.

Two banking friends related examples of bizarre banking practices. When changing his bank credit card, one was told that it would cost \$15 to overnight the card. When he asked why he should pay such a fee when it was in the bank’s interest to get the card to him ASAP, the bank representative immediately waived the charge. A second friend tried to prepay a credit balance to stay within his

limits. The bank told him it could not be done without talking to a representative and that this would cost \$20. The charge was also immediately waived when the customer complained.

These are examples from sophisticated investors. Think now of the Main Street consumers who can't understand a word on their credit agreement.

Recently, I lunched with a dean of securities law, and he reiterated the common complaint about the inability of even a skilled attorney to understand the gobbledygook of today's bank credit agreements.

Why, then, has this argument generated so much heat and become a pivotal partisan issue?

There is a valid argument that the agency must have some regard for the issues of "safety" and "soundness."

There is a fear that rules promulgated by an independent agency would force financial intermediaries to issue credit cards or mortgages to uncreditworthy people or to take actions that would undermine the financial system.

It is hard to argue that a new, independent agency would function any worse or, in fact, do more harm to the credit system than the financial industry has already done to itself and the country.

Fourth, the advocates of an independent consumer financial protection agency scare the financial industry in the same way **Ralph Nader** scared the consumer products establishment.

I understand this point. Characterizing the argument as a fight between "families" and "banks" is class warfare and adds little beyond hysteria to the cause.

Change, regrettably, requires some level of hysteria, but the president's good judgment in advocating the agency will be reinforced by supporting a dedicated, intelligent regulator and not, inevitably, the proponent with the loudest voice.

Finally, safeguards can be put in place. "Safety" and "soundness" are important concepts.

The regulations issued by the agency should be subject to review by the central bank with the Fed having a limited time to object to them.

The monitors of the agency might include members of the **Federal Deposit Insurance Corp.**, the Fed, insurance regulators and others who are responsible for oversight of the financial system. A process requiring public hearings on significant proposals could be required.

It is time to get financial reform done. More jabber is a loser for both parties. Republicans look as though they are kowtowing to financial lobbyists. On the other hand, Dodd and the administration look indecisive. Frank and the House look smarter.

The financial system is lapsing into its pre-Lehman-crisis mode. Financial reform and, with it, an independent consumer agency are needed — and now.

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