



May 1, 2017

The Honorable Jeb Hensarling
Chairman
Financial Services Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Hensarling:

On behalf of the Consumer Bankers Association (CBA), I write to express our appreciation for your leadership in crafting H.R. 10, the Financial CHOICE Act. H.R. 10 marks the first major step in the legislative process for the 115th Congress in bringing about much needed reforms to the Dodd-Frank Act and the financial regulatory environment. CBA is the voice of the retail banking industry whose products and services provide access to credit for consumers and small businesses. Our members operate in all 50 states, serve more than 150 million Americans, and collectively hold two-thirds of the country's total depository assets.

[Durbin Amendment Repeal](#)

CBA and our member institutions strongly support Section 735 of the Financial CHOICE Act that will repeal Section 1075 of the Dodd-Frank Act, otherwise known as the Durbin Amendment. This flawed policy forced the Federal Reserve to impose price-controls on debit interchange fees, manipulating the free market by unfairly picking winners and losers with little consideration of the market impact and harm to consumers. Merchants promised price-controls would allow them to pass along savings—about \$8 billion annually—to consumers in the form of lower prices. ***Ironically, this call for market intervention came from some of the same merchants who have demanded the government stay out of their business decisions on the size of soft drinks, menu offerings and even the price of airline fares – just to highlight a few examples of how the retail industry refuses to allow government mandated market interruption in their businesses.***

Evidence clearly demonstrates the Durbin Amendment has resulted in a \$42 billion windfall for merchants and little if any savings for consumers. A Federal Reserve Bank of Richmond study found that more than three-fourths of merchants surveyed did not change their prices and nearly one in four merchants actually increased prices since the Durbin Amendment took effect. Consumer surveys by Phoenix Marketing International and Morning Consult have reiterated that consumers have not seen the promised savings at the checkout. To make matters worse, the \$8 billion per year merchants are siphoning away has reduced the funding the financial services industry used to provide consumers with low-cost banking solutions. These results clearly demonstrate the unintended consequences of interfering with a functioning market—consumers are hurt the most.

CBA appreciates your leadership on this issue and **we strongly urge every Member on the Financial Services Committee to support the elimination of government-mandated price controls by repealing the harmful Durbin Amendment.**

Governance of the Consumer Law Enforcement Agency

The breadth of power granted to the Consumer Financial Protection Bureau (CFPB) by the Dodd-Frank Act through its centralization of all supervision, enforcement and rulemaking for consumer financial products and services into the hands of one individual is unprecedented within our regulatory framework. As currently constructed, the Director of the CFPB has the ability to promulgate regulations and levy enforcement actions that have sweeping and long-lasting effects on credit availability for consumers. In addition to his vast authority, the Director has great autonomy from the executive and legislative branches and can operate with little oversight or consideration of the economic impact the CFPB's actions have on the financial marketplace.

If enacted, the Financial CHOICE Act would eliminate the CFPB and create the Consumer Law Enforcement Agency (CLEA) to enforce and write rules related to the enumerated consumer protection laws. The CLEA would be headed by a single Director for a five year term, removable "at will" by the President of the United States. In addition, the Financial CHOICE Act makes many welcomed changes to Title X of the Dodd-Frank Act which would focus the duties and responsibilities of the newly created agency.

As an enforcement and rulemaking agency, the CLEA will have considerable power to impact the consumer products and services offered by banks and other financial institutions. While CBA appreciates the Chairman's work to insert accountability into the CLEA through the executive branch's ability to remove the Director at will, we remain steadfast in our belief that a single director model that is subject to dramatic political shifts could lead to uncertainty for consumers, industry, and the economy.

As the Financial CHOICE Act moves through the legislative process, CBA encourages Congress to consider the long-term benefits a five-person bipartisan commission could provide to the federal agency responsible for consumer protection. Legislation to create a commission has a proven history of bipartisan support and passage in the Financial Services Committee. On September 30, 2015, H.R. 1266, a bill authored by Financial Institutions Subcommittee Chairman Randy Neugebauer to create a commission at the CFPB passed with overwhelming support from committee members.

A bipartisan commission would allow for diverse viewpoints, ensuring a balanced and deliberative approach to regulation and enforcement, and offer a stable form of leadership that would provide for a more effective regulator, regardless of which political party is in the White House. Moreover, a commission structure is the traditional and customary structure for independent federal agencies, helping to ensure bipartisanship and impartiality through changes in Administrations.

CBA thanks the Chairman for introducing the Financial CHOICE Act and welcomes the opportunity to work with the committee to enact legislation that will reform the financial services regulatory framework and reduce the regulatory burden for banks, credit unions and consumers.

Sincerely,



Richard Hunt
President and CEO
Consumer Bankers Association