



STATE AG TRACKER

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Arizona AG Supports Federal Consumer Financial Protection Agency

On October 14, Arizona Attorney General Terry Goddard (D) voiced his strong support for President Obama's proposal to consolidate existing federal consumer protection authorities into a single federal agency. A measure now before Congress, H.R. 3126, would create the Consumer Financial Protection Agency ("CFPA") to set and enforce nationwide rules for the financial services industry. The CFPA would have broad authority over consumer financial products like mortgages, credit cards, and payday loans. Currently, there are roughly 50 different federal consumer protection programs spread across six different agencies. The proposed legislation would consolidate those programs under one agency, which proponents suggest will lead to more consistent enforcement and more efficient rule making. The bill would also give state attorneys general the authority to enforce state consumer protection laws against federally-chartered institutions, a power they currently lack.

Attorney General Goddard believes that the new federal regulations are necessary to protect consumers. In a written statement, Goddard said, "[a]busive lending practices and regulatory loopholes are at the heart of the mortgage crisis that has devastated Arizona families and our State's economy." Goddard also stated, "I am aggressively prosecuting those who defraud Arizonans, but state action alone is not enough. Federal policy makers must reform the system to be more efficient and operate in the best interests of consumers."

According to Attorney General Goddard, these regulations will help

By Jeff Hall

locally owned Arizona banks. His statement notes that the current system of regulations puts community banks at a disadvantage compared to unregulated mortgage brokers and mortgage finance companies. According to his statement, the CFPA "would put an end to community banks' competitive disadvantage by extending the reach of federal oversight to all financial firms, banks and non-banks alike."

Attorney General Goddard joined with the attorneys general of 23 other states and territories in a letter to House Financial Services Committee Chairman Barney Frank endorsing the plan to expand federal oversight of the financial markets. The joint letter supports "[t]he creation of a new agency whose sole mission is to address consumer protection." According to the letter, the new agency should allow state attorneys general to work with federal regulators to enforce rules, while preserving state consumer protection laws. The letter was signed by 22 Democratic attorneys general; one Republican, Mark Bennett of Hawaii; and one independent, Alicia Limtiaco of Guam.

Critics of the proposal, including the U.S. Chamber of Commerce, the American Bankers Association, and the Independent Community Bankers of America, suggest that allowing each state to enforce its individual consumer protection laws, alongside those of the new CFPA, will create an inefficient patchwork regulation system. Bill Himpler, executive vice president of the American Financial Services Association, said that "[p]utting an untested, inexperienced agency in charge of consumer protection for the entire financial marketplace could

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exacerbate existing problems, rather than reducing them.”

In contrast to Attorney General Goddard’s statements about the necessity of a CFPA, Federal Reserve Chairman Ben Bernanke testified in June before the Senate Committee on Banking, Housing and Urban Affairs that the proposed CFPA is unnecessary because the Fed can handle the issues. “The Federal

Reserve’s combination of expertise in financial markets, payment systems and supervision positions us well to protect the interests of consumers in their financial transactions,” Bernanke wrote.

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In an effort to increase dialogue concerning the role of state attorneys general, the Federalist Society’s STATE AG TRACKER highlights recent activities of attorneys general across several states. Some argue that state attorneys general overstep their roles by prosecuting cases and negotiating settlements with extraterritorial and sometimes national consequences. Others contend that they are simply serving the interests of their own citizens and filling a vacuum left by the failure of other state and federal agencies to address these issues. STATE AG TRACKER will draw attention to these matters by publishing submissions regarding recent activities of state attorneys general.

Opinions expressed herein do not necessarily reflect those of the Federalist Society. We invite readers to submit pieces for publication to info@fed-soc.org.