

## **The Real Victim of Political Stalemate? The American Consumer**

by Wassim Malas

Despite the “I’m right and you’re wrong” rhetoric commonly heard in the political arena, most decisions by government officials probably lie somewhere between the two, at least when assessed from strictly objective principles. Richard Cordray’s appointment as Director of the Consumer Financial Protection Bureau (CFPB) is no different.

Using the controversial executive power of recess appointments, President Obama managed to install Cordray (a Democrat) as director of the already controversial CFPB without having to first overcome the procedural requirement of getting the Senate’s approval. Congress created the CFPB back in 2010; however, due to a Republican-led filibuster in the Senate blocking each nomination for director, the agency lacked the full extent of its powers. It took almost two years, but it appears the CFPB can finally attempt what it was originally designed to do: protect the American consumer.

The newly empowered CFPB did not waste any time putting its stalled plans in motion. The day after Cordray’s appointment, the CFPB introduced its “nonbank supervision program.” The CFPB has the authority to supervise “nonbanks” – a lender that doesn’t have a bank, thrift, or credit union charter – which include such businesses as payday lenders, mortgage companies, credit bureaus, debt collectors, and private student lenders. Perhaps most upsetting to its opponents is the CFPB’s authority to prescribe rules or issue orders to any entity that “poses risks to consumers with regard to the offering or provision of consumer financial products or services.” If businesses that fall under this description are not paying attention, they will be susceptible to significant fines or sanctions in the future.

In light of the CFPB’s potential power, the nonbank supervision program does not impose any new regulations on nonbanks, but rather attempts to ensure nonbanks comply with existing federal regulations, especially businesses unaccustomed to federal oversight (i.e. mortgage companies). Through this program, the CFPB hopes to identify and eliminate problems before they injure consumers or spiral out of control.

As the biggest victim of the 2008 financial meltdown, American consumers can take some comfort in knowing that a federal agency is working for the sole purpose of protecting the public from predatory lending, Ponzi schemes, fraud, and other unfair financial practices. While it looks like the CFPB is on the right track, can we rely on it to properly protect us in the future?

Most of the big time conglomerates in the financial world have remained relatively silent on the CFPB appointment thus far, but a recent Citibank blog by its VP of Global Government Affairs sheds some light on the issue. From its perspective, legal challenges to the appointment are likely to come from every quarter – from individuals to community and labor groups to possibly even Congress. If litigation follows, Citibank asks whether “the rules, regulations, and proposals coming out of the Bureau [will] be stuck in limbo for the foreseeable future and what impact will such uncertainty have on those who must decide how to comply with their rulings?” Important questions with no clear answers.

Whether or not you think President Obama abused his presidential powers; whether or not you think the Republic-led filibuster was unjust; and whether or not you think the CFPB’s powers infringe on the rights of private business; one thing is certain: the CFPB, at least in the foreseeable future, will not be able to properly protect the public from financial abuse.

So who can you rely on? Private law firms that aggressively fight for the rights of their clients. However, not all law firms are good, just as not all politicians are bad. At Mahany & Ertl, we have a strong track record of helping victims of unfair financial practices recover from those that wronged them.

For a confidential consultation, contact the fraud and asset recovery attorneys at Mahany & Ertl. Attorney Brian Mahany can be reached directly at (414) 704-6731 or by email at [brian@mahanyertl.com](mailto:brian@mahanyertl.com)

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