

[Banking and Finance Law Daily Wrap Up, TOP STORY—House passes Financial CHOICE Act after last push of support, opposition, \(Jun. 8, 2017\)](#)

Banking and Finance Law Daily Wrap Up

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By [Stephanie K. Mann, J.D.](#)

The House of Representatives has passed H.R. 10, the Financial CHOICE Act, in an effort to "reign in" the Dodd-Frank Act; provide regulatory relief to community banks and access to credit for consumers; eliminate "too big to fail;" cut the deficit by \$24 billion over the next 10 years; and restructure the Consumer Financial Protection Bureau. The bill was passed in a 233 to 186 [roll call](#) vote, with no Democrats voting in favor of the bill and one Republican voting against the bill.

The following amendments were passed and incorporated into the bill:

- Proposed by Rep. Jeb Hensarling (R-Texas), revises provisions subjecting certain Federal Deposit Insurance Corporation and National Credit Union Association functions to congressional appropriations, relating to appointments of positions created by H.R. 10, and providing congressional access to non-public Financial Security Oversight Council information.
- Proposed by Rep. Joseph Hollingsworth (R-Ind), allows closed-end funds that are listed on a national securities exchange, and that meet certain requirements to be considered "well-known seasoned issuers."
- Proposed by Rep. Lloyd Smucker (R-Pa), expresses the sense of Congress that consumer reporting agencies and their subsidiaries should implement stronger multi-factor authentication procedures when providing access to personal information files to more adequately protect consumer information from identity theft.
- Proposed by Rep. Martha McSally (R-Ariz), requires the Treasury Department to submit a report to Congress regarding its efforts to work with federal bank regulators, financial institutions, and money service businesses to ensure that legitimate financial transactions along the southern border move freely.
- Proposed by Rep. Ken Buck (R-Colo), requires the General Services Administration to study the Consumer Law Enforcement Agency's real estate needs due to changes in the agency's structure. It would then authorize the GSA to sell the current building if the real estate needs have changed and there is no government department or agency that can utilize the building.

'Final push.' Prior to its passage, multiple legislators and trade associations made a "final push" to advocate or denounce the bill.

Dangerous legislation. [According to](#) Sen. Sherrod Brown (D-Ohio), Ranking Member of the Senate Banking Committee, the bill would effectively "gut" the CFPB, which has returned almost \$12 billion to 29 million Americans who were the victims of "shadowy debt collectors, for-profit school, and payday lenders." He continued, "This partisan, dangerous legislation would once again leave families, seniors, and servicemembers at the mercy of predatory lenders, and put taxpayers back on the hook to pay for Wall Street's greed and recklessness. Democrats have shown we're willing to work with Republicans to tailor the rules where it makes sense, but not if it means killing the reforms that have made the financial system safer and fairer."

Competitive markets. The bill's sponsor, House Financial Services Committee Chairman Jeb Hensarling (R-Texas), [argues](#) that consumer protection comes from competitive, transparent, and innovative markets that are constantly monitored for fraud. According to Hensarling, this is exactly what the Financial CHOICE Act would do, imposing "the toughest penalties in history for those who commit financial fraud." Along those lines, the CFPB

would be reestablished as a civil enforcement agency that would enforce the consumer protection laws written by Congress, particularly for servicemembers.

"Bad bill." According to Financial Services Committee Ranking Member Maxine Waters (D-Calif), H.R. 10 puts the interests of Wall Street ahead of hardworking American consumers, paving "the way right back to the dark days of the financial crisis by dismantling Wall Street reform." She continued by [saying](#), "It is an immensely bad bill that would bring harm to consumers, investors and our whole economy. It must be stopped." Waters noted that over 350 groups and experts have submitted letters opposing all or part of The Wrong Choice Act.

Waters emphasized the rushed nature of the bill, with only one hearing before the nearly 600-page bill was advanced to Committee markup. On the contrary, Democratic members held a successful Minority Day hearing in order to examine the effects of the legislation on the American economy, which highlighted "all the ways in which the Wrong Choice Act would be disastrous for consumers, investors, and the American economy."

Preventing a repeat of history. Representative Danny Heck (D-Wash) [urged](#) his fellow representatives to oppose the Financial CHOICE Act in order to preserve financial stability. "If we do not learn the lessons of the Great Recession and its causes, then we will be condemned to repeat them," Heck said. "Passage of the Wrong Choice Act will only hasten the repeat of those very, very painful experiences."

Short-term memory lapse? Also questioning the short-term memory of Republicans is Rep. Dan Kildee (D-Mich). Speaking at the House Democrats weekly press conference, Kildee [stated](#), "As the House considers the 'Wrong Choice Act' this week, I have one question: Have Republicans forgotten just how much pain the Great Recession caused so many American families?" According to Kildee, these "failed policies" will lead Americans back to a time when more than 8 million Americans lost their jobs, unemployment was up to 10 percent, and 11 million people lost their homes to foreclosure.

Expanded economic opportunity. "America's workers, farmers, businesses, households, savers and investors deserve the flexibility and the access to credit that the CHOICE Act puts in place for our financial system," [said](#) Rep. Mia Love (R-Utah). Currently, said Love, community banks are closing at a rate of one a day under the Dodd-Frank Act. Therefore, middle- to low-income Americans are getting charged higher fees with less customer service. Love concluded saying, "The CHOICE Act is a bold step toward achieving the American priority of faster economic growth and job creation, and expanded economic opportunity for Every American."

Military families must be protected. The Veterans of Foreign Wars has [applauded](#) Hensarling's commitment to protect servicemembers and veterans from predatory financial practices, but maintains that the proposed Consumer Law Enforcement Agency must retain the authority of the CFPB in protecting military families. "The CFPB investigates and penalizes financial and educational institutions for predatory financial practices that violate federal laws aimed at protecting the financial well-being of our nation's service members and veterans," said VFW Adjutant General Bob Wallace. "Its watchful protection of those who have taken an oath to defend this country has resulted in financial institutions reversing predatory practices and repaying millions of dollars in civil fines and restitution to our nation's heroes."

Mutual holding companies. In their support of the H.R. 10, the American Bankers Association specifically [addressed](#) a substitute amendment to the Financial CHOICE Act. The amendment, proposed by Rep. John Faso (R-NY), would reinstate regulatory treatment of Mutual Holding Companies (MHCs) with minority shareholders that allows them to pay market rate dividends. According to the trade association, the amendment will place MHCs on a more level playing field with stock holding companies and provide them the ability to raise additional capital to meet the lending needs of their customers and communities without placing their mutual structure at risk.

Deregulatory gifts. In a [letter](#) addressed to every member of the House, Americans for Financial Reform expressed their opposition to the bill, saying that it would be an unprecedented blow to effective oversight of the nation's financial sector and to the protection of ordinary consumers, investors, and members of the public who depend on the fairness, transparency, and stability of the financial system. Littered with deregulatory "gifts," said the trade association, it allows financial institutions to return "to the excessive borrowing and risky practices that

led to the financial crisis, private equity and hedge funds who want to manipulate the financial system and exploit investors, lenders who want to sell predatory subprime mortgages, payday lenders pushing products that trap consumers in a cycle of ever-increasing debt, and more."

Contrary to evidence. Strongly [opposing](#) the bill, dubbed the "Wall Street's Choice Act," "Wrong Choice Act," or "Cruel Choice Act," is U.S. PIRG, which stated that opponents of financial regulation have failed to present convincing evidence that deregulation is needed, "let alone presented a case for the radical assault on financial oversight contained in this bill." On the other hand, it continued, recent history has demonstrated that a recession can cost the economy \$6 to \$14 trillion in lost economic output alone. Additionally, extensive research also shows that the negative economic impacts of major financial crises can drag on for years, slowing recovery from recession, and leaving tens of millions of families across the country struggling with economic pain and uncertainty. Therefore, the trade association strongly opposes the Republican-led alternative to the Dodd-Frank Act.

Companies: American Bankers Association; Americans for Financial Reform; U.S. PIRG; Veterans of Foreign Wars

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