Shelby Statement at Hearing on Consumer Finance Regulations

April 5, 2016

WASHINGTON, DC – Tuesday, April 5, 2016 – U.S. Senator Richard Shelby (R-Ala.), Chairman of the United States Senate Committee on Banking, Housing, and Urban Affairs, today delivered the following opening remarks during a full committee hearing on "Assessing the Effects of Consumer Finance Regulations."

The text of Chairman Shelby's remarks, as prepared, is below.

"Today, the Committee will hear from private-sector experts on consumer finance regulation. This Thursday, we will hear from Director Richard Cordray.

"Nearly five years ago, the Bureau of Consumer Financial Protection opened its doors.

"Because of the Bureau's structure and the means by which it is financed, it remains one of least accountable agencies in the federal government.

"As a result, the very consumers that the CFPB was designed to help have been harmed by the Bureau because some of its rules make it more difficult for companies to lend and offer products in the marketplace.

"For example, certain rules will make it more difficult for a consumer to get a prepaid card or take out a short-term, small-dollar loan.

"Such regulations may restrict access to credit entirely for individuals, households and businesses.

"I have long advocated for sensible consumer protections, but I do not believe they should be used as a substitute for an individual consumer's independent judgment.

"Also, so-called protections should not be implemented without regard to their costs or their effects on economic growth or the safety and soundness of any particular financial institution.

"The Bureau has enormous power over consumer financial matters. It has, however, no statutory mandate to write balanced regulations that protect the economy or promote institutional safety and soundness.

"As it continues to exercise its considerable regulatory powers, it does so without any meaningful statutory check by Congress.

“For example, its actions in the indirect auto lending space have pushed the envelope on its jurisdiction under Dodd-Frank.

“In order to circumvent Dodd-Frank’s explicit exemption for auto dealers, the Bureau has targeted auto lenders.

“To do so, it has also circumvented the regular rulemaking process that has been in place for 70 years. This process ensures transparency and accountability in federal regulations.

“Instead of setting clear rules, the Bureau is using enforcement actions to reshape the auto finance industry.

“As demonstrated by settlements with the Bureau, its goal has been to limit the interest rate that dealerships charge based on factors other than financial risk.

“What’s more, these limits often differ leading to an uneven playing field not only among companies that have settled, but also between them and the rest of the market.

“I fear that this has set a dangerous precedent for the role of a regulator in our financial markets.

“In addition, the Bureau continues to base its fair lending enforcement on the controversial legal theory of disparate impact, under which a company can be held liable for policies that lead to different results, even without any intent to discriminate.

“Further, as part of this process, the Bureau uses a methodology to identify ‘victims’ that is known to produce inaccurate results. As a consequence, settlement funds may regularly go to individuals who have not been harmed in any way.

“Outcomes like this should cause the Bureau to seriously reevaluate its approach in this area.

“Instead, we have seen the Bureau and its Director double-down on the same faulty methodology.

“Equally troubling is the Bureau’s look at the use of arbitration clauses for financial products. Its 2015 study on this matter relies on a series of questionable assumptions and conclusions.

“It should surprise no one that the final study makes sweeping conclusions that arbitration agreements harm consumers, and downplays or altogether ignores its potential benefits to individuals.

“One can only assume that any final rule on arbitration will incorporate many of these dubious findings.

“As the Bureau continues to reshape the consumer finance landscape, it is important that these and other issues be fully vetted before Congress and the American public.

“Today, we will hear from our witnesses on how we can improve the regulation of consumer finance and ways to prevent the Bureau from overstepping its boundaries at the consumer’s expense.”

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