

Consumer Financial Protection Division
Within the FDIC

Overview

The alternative amendment on consumer protection establishes a Division within the Federal Deposit Insurance Corporation (FDIC) that will have the authority to promulgate rules for all of the enumerated consumer protection statutes. The Division will be led by a presidentially appointed and Senate confirmed Director. The Director will serve a term of four years and will be required to testify before Congress at least twice annually. All rules regulations and orders will have to receive the approval of the Board of the FDIC. The Board approval will ensure that actions taken by the Division appropriately consider the safety and soundness of financial institutions while ensuring that consumer safeguards are in place.

The FDIC was created as the original consumer protection regulatory agency as it protects the deposits of ordinary citizens from loss if their bank fails. In addition, the FDIC demonstrated a clear willingness to protect consumers during this period of economic uncertainty. Therefore, we believe that it is entirely appropriate and consistent with the mission of the FDIC to place the Division of Consumer Financial Protection with the FDIC.

Authority

The Division will have primary supervision and enforcement authority over large non-bank mortgage originators, and other financial services providers who have violated the consumer protection statutes. Primary supervision and enforcement for our nations' banks, thrifts and credit unions will remain with their primary prudential regulator. In addition, the FDIC will continue to have backup enforcement authority over banks and thrifts. This scheme for supervision and enforcement will establish clear lines of accountability to ensure that consumers are protected, while also utilizing existing resources within the federal regulatory system, including relying on the existing authority of the FTC which oversees non-depositories engaged in activities covered under the enumerated consumer protection statutes.

State Law Preemption

This amendment ensures the continuation of more than a century of precedent on preemption with respect to national banks.