Bureau of Financial Protection (BFP)

Structure -- Create a BFP inside of Treasury with a Presidentially-appointed director; a dedicated budget (through assessments on large banks, non-banks, and with the Fed making up the shortfall); autonomous rule-writing authority with the regulations to apply across-the-board to all entities offering financial services or products; and examination and enforcement authority for large banks and mortgage companies, small banks in a back-up capacity, and other non-banks on a risk basis, as described below.

The independent agency proposal would be dropped.

Check on Rule-Writing -- In order to ensure that a proposed consumer regulation does not conflict with the safe and sound operation or stability of the financial system, the proposal would require enhanced consultation and create an appeals process for the prudential regulator.

(1) Consultation -- The proposal would require the BFP to consult with the prudential regulator before a proposed or final rule is issued and to make public in the Federal Register any objections the prudential regulator may have raised and to explain the how the Bureau addressed the concerns raised by the prudential regulator or the reasons it chose to go forward despite the concerns.

(2) Appeal to Council -- If the prudential regulator determines that a consumer protection regulation would put the safe and sound operation or stability of the financial system at risk, the regulator could appeal the issuance of the regulation to the Systemic Risk Council. If the Council agrees, it could either veto the rule or remand it back to the Bureau to be rewritten. The Council would have to act within certain time limits.

Examination & Enforcement Powers

(1) Smaller Banks -- BFP would not have direct exam and enforcement authority over banks and credit unions with assets of $10 billion and less. (Note: the House bill retains a direct role for the CFPA through a complaints process. This proposal would eliminate that.) Prudential regulators (FIRA, FDIC and NCUA) would do the primary examinations and enforcement, with ride-along authority for BFP. The Bureau would have some back-up enforcement authority. However, there would be a check on this back-up authority -- it could only be exercised if the prudential regulator's Inspector General agrees that the prudential regulator is not acting properly.

(2) Large Banks -- BFP would have primary exam and enforcement authority for large banks and credit unions (assets of more than $10 billion) using authorities equivalent to current bank regulators. BFP would have to consult with the appropriate prudential regulator and consider the regulator's concerns prior to taking any enforcement action.

(3) Non-Banks – BFP would have exam and enforcement authority for all non-bank mortgage companies. Based on consumer complaints made through the financial consumer hotline system, the BFP could petition the FFIEC to acquire exam and enforcement authority over other non-bank sectors. We need to investigate the authorities the BFP would need to effectively exercise this authority. We may also need to adjust the FFIEC's statute to ensure they have the power to play this role.

Financial Consumer Hotline – Create a national hotline within the BFP to take consumer complaints.

Preemption – Adopt the House-passed preemption standard.

Scope of Authority – Authority to administer and write rules for the enumerated consumer statutes and unfair, deceptive and abusive acts or practices; provide for plain language disclosures (including those developed through testing); eliminate mandatory arbitration while specifically allowing for voluntary arbitration after a dispute has arisen; and establishing duties for covered persons.

Financial Literacy – Centralize financial literacy activities in the BFP, including housing the FLEC in the BFP.