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ICYMI: Warren Delivers Keynote Speech on Consumer Financial Protection Bureau Ahead of Supreme Court Case

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Washington, D.C. – Delivering a keynote speech at the Center for American Progress, U.S. Senator Elizabeth Warren (D-Mass.), laid out what is at stake as the Supreme Court is poised to consider *CFPB v. Community Financial Services Association of America.* The case could jeopardize the Consumer Financial Protection Bureau's (CFPB) independent funding structure and its ability to protect millions of consumers from predatory financial practices.

Since its founding, the CFPB has forced giant financial companies to return over $17 billion to consumers – service members, veterans, seniors, students, and working families – that they cheated. Senator Warren noted the threats posed by the Supreme Court case constructed and funded by payday lenders, who claim the CFPB is unconstitutional because Congress chose to fund it through the Federal Reserve, rather than through annual appropriations by Congress. Senator Warren warned that if the Supreme Court ignores more than a century of precedent by finding the CFPB unconstitutional, it could jeopardize the funding of all other federal banking regulators, as well as vital federal programs funded outside the annual appropriations process like Social Security, Medicare, and Medicaid.

Keynote Speech from Senator Elizabeth Warren
Remarks as prepared for delivery
Center for American Progress
September 28, 2023

Senator Elizabeth Warren: Hello, Center for American Progress! It's great to be here with you to talk about the importance of the Consumer Financial Protection Bureau – or as I often call it, the little agency that could.

It's been thirteen years since President Obama signed the *Dodd-Frank Act* into law and created the CFPB. So this agency is just a teenager and a lot, lot younger than most other federal agencies. But memories in D.C. can be short, so it's worth taking a moment to recall what consumer protection looked like before the CFPB came along.

Before *Dodd-Frank*, consumer protection laws were piecemeal, with responsibilities split up among more than half a dozen agencies.

And because consumer protection was no one's first job, it meant no one took responsibility—enforcing the rules was always somebody else's job.

There was no cop on the beat looking out for the American consumers – and the big banks liked it that way. After making billions of dollars scamming consumers, the mortgage finance industry imploded with the crash of Lehman Brothers followed by the failure of hundreds of other banks.

Even as they stood among the financial ruins that they had caused, the banks lobbied ferociously against the idea of a consumer agency.

But those big banks picked a fight with the wrong crowd – including some of you here today! We made the case that the big banks couldn't be trusted to police themselves, and we won!

Since its founding, the agency has handled nearly 4 million consumer complaints. In fact, the CFPB has forced big financial companies to return over $17 billion directly to Americans they cheated. Servicemembers, veterans, seniors, students and millions of regular families have gotten help from the CFPB. For families on a budget, getting their money back is a very big deal.

The CFPB is the cop on the beat for the finances of American families. It handles more than 3,000 complaints every day—day in and day out—and it reminds every lender that if they cheat, there's a serious chance they could get caught.

The CFPB does something else that's important: it makes markets work better. The CFPB promotes stability in the economy by laying out clear rules of the road.

Look at the qualified mortgage rule: by requiring mortgage issuers to ensure that borrowers can pay their loans, the rule directly addressed the underlying cause of the 2008 financial crisis and rebuilt a mortgage market that both homeowners and investors can trust. The rule ended banks' get-rich-quick subprime mortgage lending—and now more people can make lasting investments in housing.

The CFPB also weeds out cheaters and punishes repeat rule-breakers. And because of that, it helps level the playing field for companies that play by the rules.

In short, the CFPB helps make markets work more efficiently and helps build a stronger American economy.

But here's the truth: a handful of powerful financial companies don't want a level playing field. They've built business models on being able to cheat some of their customers. And if the banks' cheating wrecks families or destroys our economy, they don't really care.

These companies did not want the CFPB in the first place, and they have never stopped fighting to take down the agency and return us to a time where they could profit by deceiving consumers.

Among the lenders who make their profits by trapping their customers are the payday lenders.

Payday lenders are notorious for preying on servicemembers and charging interest and fees that can go to 400% or higher. They have fought off regulation by the CFPB, bringing—and losing—lawsuit after lawsuit. Since the agency was formed, payday lenders have spent more than $60 million lobbying to loosen the rules. Now they are throwing a Hail Mary pass to stop the CFPB in its efforts to protect soldiers and sailors and others who fall into the payday lenders' traps.

In just a few days, a case that was constructed and funded by the payday lenders will be before the Supreme Court. The payday lenders claim the CFPB is unconstitutional because Congress chose to fund it through the Federal Reserve, rather than through annual appropriations by Congress. The Fifth Circuit sided with the lenders, saying Congress can't fund the Bureau in that way.

The Fifth Circuit decision is radical because none of the federal banking regulators is funded through appropriations. Not the Fed, the OCC, the FDIC, the FHFA, the OTS, NCUA—and not the CFPB. Starting in 1863 with our first federal banking regulator, Congress decided to protect the integrity of these regulators from the chaos and politicking of the annual appropriations process by giving them independent funding structures. There is no constitutional basis for requiring Congress to do otherwise.

A few years ago, the Supreme Court would have refused even to hear a case as ridiculous as this one. But we have a very different court now, and the stakes are much higher.

The CFPB's future is at stake in this court decision—along with the future of every other banking regulator. And the possible fallout doesn't stop there. Social Security and Medicare are also operated outside of annual appropriations. A bad decision by the Supreme Court could wreck the financial security of millions of families and turn our economy upside down.

If Republicans control Congress, they could starve the CFPB of resources to neuter its ability to go after wrongdoing. And if the Supreme Court opens the door, the independence of the Fed, the FDIC, and others that use a funding model like the CFPB will evaporate. Instead of regulators that watch out for the safety and soundness of our economy, we'll have regulators who bow to the wishes of the most politically connected financial institutions.

The CFPB is under attack because it is good at what it does—and the American people support it. The Biden administration has made the CFPB even better, ramping up efforts to protect consumers, curbing predatory practices, and leveling the playing field for the majority of businesses that want to play by the rules.

President Biden has focused hard on making government work for real people. He's made getting rid of junk fees a signature move of his administration. Just last week, Vice President Harris unveiled a new plan with the CFPB to ensure that people who get sick won't see their credit ruined over medical bills that are riddled with mistakes and that don't predict their creditworthiness.

There's an extra dose of irony that this attack on the CFPB comes less than 48 hours away from a government shutdown. The financial regulators—all the financial regulators—from the Fed to the FDIC to the CFPB are designed to function all the time.

Even if Congress has a meltdown, it's critical that the Fed continue to set interest rates and ensure that banks have enough capital.

It's critical that the FDIC continues to audit the banks' books and insure customer accounts.

And it's critical that the CFPB keeps mortgage approvals running and handles those thousands of complaints that flood in every day from consumers.

House Republicans are producing enough chaos without taking the financial regulators off the playing field.

Yes, the payday lenders want to boost their profits by taking the cop off the beat, but we're not backing down without a fight.

For MAGA Republican lawmakers, pain is the point. Chaos is the point. Government that cannot work for the people is the point.

So here's what we need to do in the coming days.

First, we need to get the band back together—that is, we need to reassemble the coalition that beat the banks and founded the CFPB. We need the policy experts here at CAP, the consumer advocacy organizations, labor unions, and the academics. It took all of us to get this agency off the ground, and it's going to take all of us to keep it going.

Next, we get to work. Our biggest task? Educating American consumers about the essential work CFPB does on their behalf. The CFPB's efforts are kitchen table issues: taking on junk fees, medical debt, student loans, the list goes on. Because the Bureau's work is so far reaching, there are plenty of allies to pull into the fight with us.

And here's the final, essential piece to our plan: the CFPB is not up for sale. It will not be broken up and sold for parts as some sort of compromise. Not on my watch.

When I was fighting to get this agency established in law, there were some who told me we could have the agency, as long as we took away its independent regulatory authority and enforcement power.

In other words, we could have a pretend agency that would have a great name but wouldn't really do anything.

Some of those voices were even from so-called friends who liked to say they were on the side of working families, but they showed up over and over for the big banks.

I told those friends what I'll tell you now. My first choice is a strong consumer agency that can get the job done. My second choice is no agency at all and plenty of blood and teeth left on the floor. Blood and teeth because, instead of backing down, we're ready to fight.

It's not going to be an easy fight. The banks have a powerful lobby. But the CFPB is government that works for people all across this country—and that makes it worth fighting for. We beat back the big financial institutions last time, and, with all of us in the fight, we can do it again.

Thank you.

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