THE REPUBLICAN STUDY COMMITTEE

Rep. Steve Scalise, Chairman

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Legislative Bulletin………………………………….………February 27, 2014

Contents:

H.R. 3193 — Consumer Financial Protection and Soundness Improvement Act of 2013 (Duffy, R-WS)

Order of Business: H.R. 3193 is scheduled to be considered on Thursday, February 27, 2013, subject to a rule.

Summary: H.R. 3193 changes the structure and name of the Consumer Financial Protection Bureau (CFPB). Under this bill, the Director of the CFPB is replaced with a five-member bipartisan commission that will be called the Financial Product Safety Commission (the “Commission”). The members of the Commission have to be approved with the advice and consent of the Senate and will serve staggered terms. Instead of receiving its funding directly from the Federal Reserve, the Commission will be subject to the appropriations process. In addition, the bill also requires the pay for all employees of the Commission to be set according to the General Schedule for Federal Employees. The bill would provide important privacy protections by requiring the Commission to obtain a consumer’s consent before collecting non-public personal information on the consumer.

Additional Background: H.R. 3193 combines five bills (H.R. 3193, H.R. 3519, H.R. 2385, H.R. 2446, and H.R. 2571) that passed out of the House Committee on Financial Services on November 21, 2013. A Committee Memorandum on the bills included in H.R. 3193 can be found here.

The CFPB was created by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act).

This bill subjects the newly composed and renamed Financial Product Safety Commission to the annual appropriations process. This would place the Commission on similar footing as other financial regulatory agencies such as the Securities and Exchange Commission and the Commodity Futures Trading Commission. The appropriation process would result in increased

Congressional oversight of the Commission. Currently, the CFPB is funding solely through transfers from the Federal Reserve.

Subjecting the Financial Product Safety Commission to the appropriations process could result in a savings over current funding levels.

The House Committee on Financial Services Committee Memorandum that discusses several of the bills included in H.R. 3193 is available here.

Committee Action: The bills that are incorporated in H.R. 3193 passed out of the House Committee on Financial Services on November 20, 2013.

Outside Groups in Support:
American Bankers Association
Credit Union National Association
Financial Services Roundtable
Independent Community Bankers of America
Mortgage Bankers Association
National Association of Federal Credit Unions
National Installment Lenders Association

Administration Position: The Executive Office of the President issued a Statement of Administration Policy (SOP) in opposition to H.R. 3193. The SOP states that "the President's senior advisors would recommend that the President veto any bill, including H.R. 3193, that makes the Nation's economy more vulnerable to another devastating financial crisis by undermining the core reforms included in Wall Street Reform."

Cost to Taxpayers: According to the Congressional Budget Office (CBO) cost estimate of this bill reduces direct spending by $6.2 billion from 2014-2024. However, the estimate also states "in addition to reducing direct spending, H.R. 3193 would authorize the appropriation of $300 million in each of fiscal years 2014 and 2015 to carry out the statutory authorities of the Financial Product Safety Commission. CBO estimates that implementing this provision would cost $525 million over the 2014-2019 period, subject to appropriation of the necessary amounts. Although spending for the agency beyond 2015 would not be authorized by H.R. 3193, CBO estimates that continued operations over the 2014-2024 period would cost about $6 billion, subject to appropriation of the necessary amounts. CBO has not prepared an intergovernmental or private-sector statement for H.R. 3193."

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: CBO did not prepare an intergovernmental or private-sector mandate for H.R. 3193.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: According to the sponsor, "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8: To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof." Congressman Duffy's statement in the Congressional Record can be viewed here.

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Amendments to H.R. 3193 — Consumer Financial Protection and Soundness Improvement Act of 2013 (Duffy, R-WS)

1. **Rigell (R-VA):** This amendment requires the Commission to conduct regulatory flexibility analysis for each proposed rule or regulation. This analysis must include an assessment of whether the proposed rule or regulation will impair the ability of individuals or small businesses to have access to credit. In addition, the Commission must submit a report to Congress on each analysis conducted and also make that report available to the public. The Commission is required to use existing resources to implement the requirements of this amendment.

2. **DeSantis (R-FL):** This amendment repeals the exclusive rulemaking authority of the Consumer Financial Protection Bureau.

3. **Stivers (R-OH), *Walz (D-MN)*:** This amendment creates an inspector general for the Financial Product Safety Commission. The inspector general would be Senate-confirmed and independent. The President would be required to appoint the Inspector General no later than 60 days after enactment of the act.

4. ***Moore (D-WS):*** This amendment expresses the sense of Congress that "Congress acknowledges and honors the tremendous work of the Bureau of Consumer Financial Protection in protecting and providing relief to consumers from instances of unfair, deceptive, and abusive practices in financial markets."

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H.R. 899 — Unfunded Mandates Information and Transparency Act of 2013 — (Foxx, R-NC)

Order of Business: H.R. 899 will be considered on Friday, February 28, 2014, under a structured rule. This rule provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Government Reform.

Summary: First, this bill amends the Congressional Budget Act of 1974 to require the Congressional Budget Office (CBO), at the request of the chairman or ranking member, to conduct an assessment comparing the authorized level of funding in legislation to the prospective costs of carrying out any changes. To codify current CBO practice, it amends the definition of direct costs to ensure that federal agencies account for the costs of federal mandates. It also expands the scope of reporting requirement under the Unfunded Mandates Reform Act (UMRA) to include independent regulatory agencies with the exception of the Board of Governors of the Federal Reserve and the Federal Open Market Committee. Finally, it makes the raising of points of order in the consideration of congressional legislation applicable to legislation that would increase the direct cost of private sector mandates beyond limits established by UMRA.

H.R. 899 amends the Unfunded Mandates Reform Act (UMRA) to set detailed criteria to guide each agency's assessment of the effect of federal regulatory actions on state, local, and tribal governments and the private sector. It also requires federal agencies to measure and prepare a written statement if a proposed or final rule's annual effect on State, local, or tribal governments, or the private sector aggregate to $100,000,000 or more in one year. The Office of Information and Regulatory Affairs is given oversight responsibilities to ensure each agency is compliant with statements under this bill and other applicable law.

Finally, the bill allows chairmen and ranking members to request retrospective analysis of federal regulation.

Major Changes Since the Last Time This Legislation was Before the House: In the 112th Congress, Representative Foxx introduced H.R. 373, the Unfunded Mandates Information and Transparency Act of 2011, which was referred to the Committee on Oversight and Government Reform. H.R. 373 was not voted on during the 112th Congress.

Additional Background: The purpose of the Unfunded Mandates Reform Act (UMRA) of 1995 was to promote informed and deliberate decisions by Congress and federal agencies concerning the appropriateness of federal mandates and to ''retain competitive balance between the public and private sectors.'' It was enacted to address concerns about federal statutes and regulations that require nonfederal parties to expend resources to achieve legislative goals without being provided federal funding to cover the costs. However, the committee has discovered that over time it has failed to curtail substantially the imposition of unfunded mandates. The several loopholes, exemptions and exclusions embedded in the law are largely to blame. H.R. 899 makes reforms addressing key deficiencies in the law identified by experts and regulated entities.

The committee report can be found here.

Committee Action: H.R. 899 was introduced on February 28, 2013, by Rep. Virginia Foxx and referred to the Committee on Oversight and Government Reform. The bill was also referred to the Committee on Rules, the Committee on the Budget and the Committee on Judiciary. On July 24, 2013, the Committee on Oversight and Government Reform marked-up H.R. 899 and it was favorably reported out of Committee.

Outside Groups: National Taxpayers Union urges a yes vote.

Administration Position: No statement of administrative position was available at this time.

Cost to Taxpayers: CBO estimates that enacting H.R. 899 would result in no net effect on direct spending over the 2014-2023 period. Assuming the appropriation of necessary amounts, the legislation also would have a discretionary cost of $4 million over the 2014-2018 period.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: H.R. 899 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

Constitutional Authority: According to the sponsor, "Congress has the power to enact this legislation pursuant to the following: The authority to enact this bill is derived from, but may not be limited to, Article I, Section 8, Clause 3 of the United States Constitution, and Article I, Section 8, Clause 18 of the United States Constitution." Read the statement here.

Amendments Made it Order:

Cummings #1 - Strikes section five of the bill, which would eliminate the current exemption from the Unfunded Mandate Reform Act for certain independent agencies

Connolly #5 – Amends the section on enhanced stakeholder consultation to include other impacted entities such as public interest organizations.

Jackson Lee #4 – Adds a new section to the end of the bill which clarifies the Unfunded Mandates Reform Act of 1995 would not apply to regulatory action if a cost-benefit analysis demonstrates the benefits of the regulatory action exceed the costs of the regulatory action.

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