

# The Financial CHOICE Act

*Creating Hope and Opportunity for Investors, Consumers and Entrepreneurs*

## Executive Summary

### KEY PRINCIPLES:

1. Economic growth must be revitalized through competitive, transparent, and innovative capital markets;
2. Every American, regardless of their circumstances, must have the opportunity to achieve financial independence;
3. Consumers must be vigorously protected from fraud and deception as well as the loss of economic liberty;
4. Taxpayer bailouts of financial institutions must end and no company can remain too big to fail;
5. Systemic risk must be managed in a market with profit and loss;
6. Simplicity must replace complexity, because complexity can be gamed by the well-connected and abused by the Washington powerful; and
7. Both Wall Street and Washington must be held accountable.

### **SECTION ONE: Provide for election to be a strongly capitalized, well managed financial institution.**

- Provide an “off-ramp” from the post-Dodd-Frank supervisory regime and Basel III capital and liquidity standards for banking organizations that choose to maintain high levels of capital. Any banking organization that makes a qualifying capital election but fails to maintain the specified non-risk weighted leverage ratio will lose its regulatory relief.
- Permit banking agencies to conduct stress tests (but not limit capital distributions) of a banking organization that has made a qualifying capital election. Require that the different sets of conditions under which stress tests are evaluated be made public and subject to notice and comment period.
- Exempt banking organizations that have made a qualifying capital election from any federal law, rule, or regulation that provide limitations on mergers, consolidations, or acquisitions of assets or control, to the extent the limitations relate to capital or liquidity standards or concentrations of deposits or assets.
- Exempt banking organizations that have made a qualifying capital election from any federal law, rule, or regulation that permits a banking agency to consider risk “to the stability of the United States banking or financial system,” added to various federal

banking laws by Section 604 of the Dodd-Frank Act, when reviewing an application to consummate a transaction or commence an activity.

## **SECTION TWO: End “Too Big to Fail” and Bank Bailouts.**

- Retroactively repeal the authority of the Financial Stability Oversight Council (FSOC) to designate firms as systematically important financial institutions (SIFIs).
- Repeal Title II of Dodd-Frank and replace it with a new chapter of the Bankruptcy code designed to accommodate the failure of a large, complex financial institution.
- Repeal Title VIII of the Dodd-Frank Act, which gives the FSOC authority to designate certain payments and clearing organizations as systemically important “financial market utilities” (FMUs) with access to the Federal Reserve discount window, and retroactively repeal all previous FMU designations.
- Restrict the Fed’s discount window lending to Bagehot’s dictum.
- Prohibit use of the Exchange Stabilization Fund to bailout financial firms or creditors.
- Repeal Dodd-Frank’s so-called “Hotel California” provision.

## **SECTION THREE: Empower Americans to achieve financial independence by fundamentally reforming the CFPB and protecting investors.**

- Change the name of the CFPB to the “Consumer Financial Opportunity Commission (CFOC),” and task it with the dual mission of consumer protection and competitive markets, with a cost-benefit analysis of rules performed by an Office of Economic Analysis.
- Replace the current single director with a bipartisan, five-member commission which is subject to congressional oversight and appropriations.
- Establish an independent, Senate-confirmed Inspector General.
- Require the Commission obtain permission before collecting personally identifiable information on consumers.
- Repeal authority to ban bank products or services it deems “abusive” and its authority to prohibit arbitration.
- Repeal indirect auto lending guidance.

## **SECTION FOUR: Demand accountability from financial regulators and devolve power away from Washington.**

- Make all financial regulatory agencies subject to the REINS Act, bi-partisan commissions, and place them on the appropriations process so that Congress can exercise proper oversight. (Exception: Fed monetary policy.)
- Impose an across-the-board requirement that all financial regulators conduct a detailed cost-benefit analysis of all proposed regulations.
- Reauthorize the Securities and Exchange Commission (SEC) for a period of five years with funding, structural, and enforcement reforms.
- Institute significant due-process reforms for every American who feels that they have been the victim of a government shakedown.

- Repeal the so-called Chevron deference doctrine.
- Demand greater accountability and transparency from the Federal Reserve, both in its conduct of monetary policy and its prudential regulatory activity, by including the House-passed FORM Act.
- Abolish the Office of Financial Research (OFR).

**SECTION FIVE: Demand accountability from Wall Street through enhanced penalties for fraud and deception.**

- Impose enhanced penalties for financial fraud and self-dealing and promote greater transparency and accountability in the civil enforcement process.
- Allow the SEC to triple the monetary fines sought in both administrative and civil actions in certain cases where the penalties are tied to the defendant’s illegal profits. Give the SEC new authority to impose sanctions equal to investor losses in cases involving “fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement” where the loss or risk of loss is significant, and increase the stakes for repeat offenders.
- Increase the maximum criminal fines for individuals and firms that engage in insider trading and other corrupt practices.
- All fines collected by the Public Company Accounting Oversight Board and Municipal Securities Rulemaking Board will be remitted to the Treasury for deficit reduction.

**SECTION SIX: Unleash opportunities for small businesses, innovators, and job creators by facilitating capital formation.**

- Repeal sections and titles of Dodd-Frank, including the Volcker Rule, that limit capital formation.
- Repeal the SEC’s authority to both prospectively and, possibly, retroactively eliminate or restrict securities arbitration.
- Repeal non-material specialized disclosures.
- Incorporate more than two dozen Committee or House-passed capital formation bills, including:
  - H.R. 1090 – “Retail Investor Protection Act”
  - H.R. 4168 – “Small Business Capital Formation Enhancement Act”
  - H.R. 4498 – “Helping Angels Lead Our Startups Act”
  - H.R. 5019 – “Fair Access to Investment Research Act”

**SECTION SEVEN: Provide regulatory relief for Main Street and community financial institutions.**

- Incorporate more than two dozen regulatory relief bills for community financial institutions, including:
  - H.R. 1941 – “Financial Institutions Examination Fairness and Reform Act”
  - H.R. 2896 – “Taking Account of Institutions with Low Operational Risk Act”
  - H.R. 1210 – “Portfolio Lending and Mortgage Access Act”
  - H.R. 766 – “Financial Institution Customer Protection Act”