

Informing the Regulatory Restructuring Debate

Please find below brief descriptions of six studies that give context to the regulatory restructuring debate. The title of each study is a clickable link to the study itself. These studies cover the following subjects:

- History and purpose of preemption
- Economic impact of eliminating preemption
- Estimated costs for funding the CFPA
- Impact of the CFPA on bank supervision
- Effect of the CFPA on consumer credit
- Bank charter diversity

[A Preemption Primer](#) [By Raymond Natter](#)

- Preemption is based on the Supremacy Clause of the Constitution.
- From the inception of the national banking system, preemption has been recognized by Congress and the courts as necessary to accomplish the goals of the National Bank Act.
- Preemption permits the establishment of uniform nationwide standards that facilitate creation of an efficient banking system with nationwide capabilities.
- Preemption enhances the safety and soundness of our banking system by providing a check against state actions that would otherwise impede the safe operations of insured institutions.
- Preemption did not enable national banks to originate unsound mortgage loans, and the overwhelming majority of these loans were originated by state regulated entities.

[The Economic Impact of Eliminating Preemption of State Consumer Protection Laws](#) [By Joseph R. Mason, Robert Kulick, and Hal J. Singer](#)

- Preemption generates many clear economic benefits for banks and their customers. Uniform national laws, and the court and regulatory determinations pursuant to them, have been used as a device to open markets, thwart state-sponsored protectionist measures, reduce the price of credit, increase the availability of credit, and increase the efficiency of national banks.
- Case studies from the U.S. wireless and wine industries provide empirical evidence that the imposition of uniform, national regulations for interstate commerce increases economic efficiency.
- From a policy perspective, elimination of preemption would jeopardize the significant economic benefits created by a uniform regulatory environment. Policymakers should create new federal rules for the problem areas while taking advantage of the gains uniform national standards can offer the lending industry and the economy.

[Funding and Staffing the New Consumer Financial Protection Agency](#) [By Jim Chessen](#)

- Estimated costs for the creation of a new agency are expected to be large:
 - A comparison of the budgets of three existing federal agencies that have an examination function gives estimates that range from \$1.2 billion (the Food Safety and Inspection Service) to \$5.5 billion (the Centers for Disease Control and Prevention).
 - Building the annual budget based on the estimated cost of a base examination, and then adding the myriad staff that supports (but does not conduct) examinations indicates a budget in the \$5 billion range.
- A new agency would require the duplication of many staff functions from other regulators, such as finance, operations, research, information technology, human resources, etc.
- Bringing this staff from six agencies together under a new agency would introduce new inefficiencies through new information systems, new hierarchies and new paths of internal and external communication.

[The Impact of the Consumer Financial Protection Agency Act of 2009 on Effective Bank Supervision](#) [By Daniel T. Krabill and Michael A. Mancusi](#)

- Separation of consumer protection from safety and soundness supervision and regulation of depository institutions through the proposed CFPA would weaken both efforts.
- The incomplete separation of consumer protection regulation from safety and soundness regulation in many areas in the Administration's proposal demonstrates that the two types of regulation are integrally related and cannot be separated cleanly.
- Little or nothing of significance would be done by the CFPA with regard to non-depository providers of consumer financial services for at least two to three years after its creation, since the initial focus would be on depositories. It is doubtful that the CFPA would have the resources even after that delay to adequately focus on non-depository institutions, leaving an opening for further abuses.

[The Effect of the Consumer Financial Protection Agency Act of 2009 on Consumer Credit](#) [By David S. Evans and Joshua D. Wright](#)

The CFPA envisioned by the Administration proposal would:

- Make it harder and more expensive for consumers to borrow and would risk reversing the decades-long trend towards the democratization of credit.
- Create a “supernanny” agency that is designed to substitute the choice of bureaucrats for those of consumers.
- Jeopardize the financial recovery by reducing credit when the economy is fragile and there is already too little credit.

Charter Shopping? Not Likely.

By Richard Riese and Mark Tenhundfeld

- Fewer than 1 percent of banks change charters in any year, primarily driven by business model needs.
- The dual banking system ensures adaptability. As business models change, banks are free to change charters.
- Banking agency coordination via overlapping supervision eliminates supervisory arbitrage for safety and soundness concerns.
- A single prudential or consumer protection regulator is not a structurally sound reform for the size and diversity of the American financial system.