

Statement on the Financial CHOICE Act

We support the reform principles that underlie the proposed Financial CHOICE Act (Creating Hope and Opportunity for Investors, Consumers and Entrepreneurs) which promote higher economic growth without bailouts, reduced risk of crises, and simplification of the regulatory process by emphasizing market mechanisms operating through the rule of law.

The Act would encourage banks to rely on much more capital by offering them relief from complex, costly and loan-impeding regulations in return. The more banks are financed by capital, the less dangerous they are to the financial system and to the taxpayer, and so need less regulation.

The Act offers increased penalties for financial fraud, and also strengthens due process rights. As too many people have gotten away with fraudulent behavior, too many institutions have been shaken down for large settlements by overzealous regulators.

The Act would incorporate a new “bankruptcy not bailout” chapter into the bankruptcy code so that a large financial institution that takes on unsustainable risks could fail without disrupting the financial system. By relying on the rule of law rather than discretion it creates more certainty about how stakeholders will be treated and avoids the chaotic ad hoc bailout policies which can bring about financial crises. This reform has already passed the House of Representatives as the Financial Institution Bankruptcy Act.

The Act would require sensible cost-benefit tests of new regulations. In recent years Congress and the Court have allowed Congress’s power to legislate, as specified in Article 1 of the Constitution, effectively to be transferred to the executive branch in areas relating to regulation. The Act would help to reverse that trend by requiring that all major financial regulations be approved by Congress before they can take effect.

The Act would make financial regulatory and supervision activities at the Federal Reserve—including the Consumer Financial Protection Bureau (CFPB)—subject to the normal congressional appropriations process, while preserving monetary policy independence by continuing to allow monetary policy activities to be funded through Federal Reserve earnings.

To further increase accountability, the Act would convert financial regulatory agencies now headed by single directors—including the CFPB, the Office of Comptroller of the Currency, and the Federal Housing Finance Agency—into bipartisan commissions.

The Act would require that the Fed “describe the strategy or rule of the Federal Open Market Committee for the systematic quantitative adjustment” of its policy instruments. This reform, which would lead to more predictable rules-based monetary policy, is based on evidence and experience that monetary policy works best when it follows a clear, predictable rule or strategy. The Fed would choose the strategy and how to describe it. The Fed could change its strategy or deviate from it if circumstances warranted a change, in which case the Fed would have to explain why. This reform has already passed the House as Requirements for Policy Rules of the Federal Open Market Committee, Section 2 of the Fed Oversight Reform and Modernization Act, which would be incorporated into the Financial CHOICE Act.

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