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# Regulatory: If banks don't do anything wrong, they have nothing to worry about, right?

*The cost related to the bureau's regulatory power is choking consumers.*

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By Martin Bishop

*This column is part of a series of articles on the new Consumer Financial Protection Bureau and the upcoming wave of regulations affecting the consumer financial industry.*

The debate over whether the Consumer Financial Protection Bureau gets to be as powerful and independent as provided in the Dodd-Frank Act rages on even though the statute has been in place for more than a year. Title X—the bureau's enabling statute—has been fully effective since July; fully effective, that is, other than it has no director.

Forty-four republican members of Congress vowed long ago not to approve anyone nominated to the position of bureau director until the director's unitary powers were severed and the bureau's funding placed back within the budgetary control of Congress. So far, these 44 senators have kept that vow by dodging a recess appointment and refusing to seriously consider President Obama's nomination of Richard Cordray as the bureau's first director. Political views aside, this remains stunningly good theater, albeit theater that approaches the absurd.

Meanwhile, one thing that is easily overlooked is that Dodd-Frank, Title X, and the bureau will continue to increase costs to every consumer of financial products and services. Mortgages are going to cost more. Credit cards are going to cost more. Virtually any type of consumer loan product that you can imagine is going to have added costs associated with them. Why?

First, and most significantly, new regulations mean increased costs. There is simply no way around this truism. The regulations expected to spawn from the Dodd-Frank Act may exceed 10,000 pages before all is said and done. And for the consumer financial services industry, that is not all there is to worry about and comply with. There is a new agency with some very broad powers and new statutory provisions that attempt to legislate fairness in the industry. The compliance issues here are manifest and beyond debate.

Second, the uncertainty of where the bureau is going is not helping to reduce costs. Planning these days consists of a series of "what if's," not the least of which is "what if the bureau has a director," and "what if the director is Cordray."

The market for consumer credit is just not like it was before. Care to hazard a guess at why?

David Lazarus, a well-respected business columnist for the Los Angeles Times, recently and succinctly argued that "[i]f banks do nothing wrong, they have nothing to worry about." He is not alone in that sentiment, of course. The bureau was built with this concept as one of its pillars. But it is flawed. Banks can do nothing wrong and still suffer the consequences of the legislation. And guess who will share in those consequences? If you said "consumers," give yourself a high five.

"But these are banks, they can afford it." Naïve. All banks are not made equal. The costs of complying with Dodd-Frank will easily fly into the billions. This has the potential to strain even the major banks. Plainly, though, small town community banks that so many people love are likely to suffer the most. They simply do not have the same level of resources that the majors or even the regionals have. Surveys suggest that many community banks are looking for exit strategies, a tall order in this economy.

So, what to do?

There is little in the way of choice at this point. If you are a bank or any other type of financial services company that services consumers, you do your best to comply. You spend the money and hope. If you are a consumer, you can take some comfort that you have a new "cop on the beat," as the bureau likes to call itself. But you must wonder, if you have not already, why things cost more while the credit you may really need seems relatively scarce. Can we blame Title X for all this? I do.

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