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ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

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### Opening Statement of Rep. Henry A. Waxman Chairman, Committee on Energy and Commerce H.R. 3126, the Consumer Financial Protection Agency Act of 2009 Full Committee Markup October 29, 2009

Today, the Committee is meeting to consider H.R. 3126, the Consumer Financial Protection Agency Act of 2009.

This legislation is based upon an Obama Administration proposal, and is one component of a broad financial regulatory reform package. The Financial Services Committee considered this bill last week and ordered it to be reported favorably. It is now our turn to consider the legislation.

It is clear that our system for protecting consumers in the financial marketplace is broken. The structure and division of responsibilities among the banking agencies has led to a regulatory race to the bottom. The Federal Trade Commission (FTC) has taken steps to protect consumers, but its jurisdiction is limited and it has been hampered by a slow and burdensome rulemaking process.

A new approach is warranted.

The legislation before us creates a new Consumer Financial Protection Agency (CFPA) that will be responsible for consumer protection across the entire financial marketplace. It also provides for important new authorities for the Federal Trade Commission that will improve FTC's rulemaking and enforcement capabilities.

I have examined this proposal with two key goals in mind.

First, we must structure any new agency so that it meets its mission and serves as a strong, authoritative voice for consumers.

And second, we must ensure that the Federal Trade Commission is strengthened, not weakened, by any changes. Unlike the banking agencies, FTC has consumer protection as its

core mission.

I worked closely with Chairman Frank as he conducted his committee's consideration of this legislation, and I am pleased that he made many essential changes to the bill, particularly with regard to the impact on FTC. His amendments would preserve FTC's full authority under the FTC Act and enable FTC to continue to aggressively enforce against financial fraud.

Chairman Frank also improved the CFPB itself. His changes would make CFPB fully independent from the executive branch and would prevent banking regulators from having a direct role in the governance of the agency. These and other changes strengthened the legislation.

I do have some concerns about amendments that were added to the bill during consideration at the Financial Services Committee. A primary goal of this legislation is to ensure that consumers are protected from unfair, deceptive, and abusive practices throughout the financial marketplace. I am concerned that too many exemptions and exclusions were put into the bill.

The broad exclusions that prevent CFPB from regulating or enforcing against merchants and retailers, auto dealers, and others could weaken the agency and create confusion in the marketplace. I will not seek to amend any of these exclusions today, but I will want to examine them closely as we move toward consideration on the Floor.

I'd like to thank Subcommittee Chairman Rush for his diligent work on this issue in recent months. His subcommittee held an important hearing on this proposal just one week after the legislative language was introduced. The testimony at that hearing has informed the debate about the proposal and been essential for our preparations.

At the appropriate time, I will be introducing a Manager's Amendment jointly with Ranking Member Barton. We have worked together in preparation for this mark-up, and have found agreement in important areas.

I will also be introducing an amendment to further strengthen FTC's litigation authority.

I urge my colleagues to support the manager's amendment, my amendment on FTC authorities, and final passage.