The Financial CHOICE Act: The Wrong Choice for America

Congressional Republicans seem to have already forgotten the wreckage left in the wake of the financial bubble of the late 2000s. During the 2008 financial crisis and related recession, 8.7 million Americans lost their jobs, 3.8 million homes were foreclosed on, and households lost $17 trillion in wealth.[1] As a result of Wall Street's actions, the U.S. economy lost an estimated $7.6 trillion in goods and services from 2008 to 2018—lost output that Americans are still feeling today.[2] Less than a decade later, though, House Republicans are hoping to overturn the financial safeguards put in place to prevent the next financial crisis and to protect consumers from the costs of reckless, abusive, and fraudulent behavior on Wall Street.

Republicans' proposal, the Financial CHOICE Act (Choice 2.0), is a wrong choice for America.

The bill will:
- Green-light America's next financial crisis
- Dismantle consumer protections
- Shift consequences onto working families
- Minimize small investors' rights and money
- Provide freerides to Wall Street, CEOs, and white collar criminals

Most Americans, including consumers, small and first-time investor saving for retirement or other future expenses, small banks and credit unions, middle- and low-income workers, and taxpayers all stand to lose by the proposed undoing of financial safeguards.

Green-lighting America's Next Financial Crisis

Choice 2.0 reopens the door to reckless financial behavior by gutting prudential regulations and capital requirements, and stripping away financial regulators' oversight and supervision abilities– necessary tools meant to detect and stop future crises and predatory behavior. With ten of the largest banks holding 70 percent of banking assets, and many of them also the largest players in the entire global financial system, reckless behavior and financial fraud in one can easily risk overall systemic stability.[3]

The Republican proposal undoes sensible regulations in Dodd-Frank to avoid financial panics and crises. Choice 2.0 allowing banks to circumvent many rules that limit risky speculative activities in exchange for just keeping a modest ratio of money on hand compared to the amount they borrow. Larger ratios force banks to have some skin in the game, but do not eliminate the risk posed to the rest of the system. These banks would also be exempt from Federal Reserve oversight and annual stress tests that assess whether or not banks are able to withstand financial crises of different kinds. Weakening oversight, exempting banks from the annual stress test,

eliminating reserve requirements, and turning a blind eye to risk and fraud will make financial crises more frequent.[4]

Another key provision Republicans are seeking to eliminate is Orderly Liquation Authority (OLA). This provision, which allows regulators to contain the fallout of a large financial institutions and making it easier to unwind without posing a significant risk to the financial stability, is an essential tool to ensure that financial strain does not escalate into a largescale financial crisis. OLA also ensures that taxpayers are not held liable for another bailout, instead putting the burden on shareholders, managers, and creditors.[5] Eliminating OLA would make it more difficult to unwind large financial institutions without adverse impacts on other systemically important financial institutions.[6]

Dismantling Consumer Protections

At a time when consumer complaints and support for tighter bank regulations continue to rise, Choice 2.0 undermines the Consumer Financial Protection Bureau (CFPB)'s authority to protect consumers and enforce fair play in the financial system.[7]

The CFPB created for the first time a public advocate for the financial well-being of regular Americans. CFPB's mission is to protect American households from abusive or fraudulent practices when they borrow, save, and invest in our financial system.

The Bureau has been extraordinarily successful to date, helping return $11.8 billion dollars to more than 29 million individual consumers taken advantage of by banks and financial firms.[8] The CFPB has uncovered deceptive banking practices at major financial institutions and has brought action against these banks, returning due relief to injured consumers. Enforcement actions have also focused on deceptive online lenders, credit card and prepaid cards, payday lenders, among others. The Bureau has also created and proposed new rules that stop abusive and deceptive practices that harm consumers, like limiting the number of times a debt collector can contact a borrower and making it easier for borrowers to dispute debts.[9] These efforts have been critical in leveling the playing field and protecting consumers from financial misdeeds.

Choice 2.0 dismantles CFPB's ability to protect consumers from financial misdeeds. The bill diminishes the CFPB's consumer protection enforcement role, and limits the ability to bring enforcement actions related to deceptive, unfair, or abusive practices, putting consumers in harm's way when shopping for financial products.[10]

Shifting Consequences onto Working Families

When financial crises and recessions strike, all Americans are affected through lost jobs, decreasing wealth, and falling home values. However, these impacts are typically distributed

unevenly across population groups—with middle- and low-income families hit the hardest. Financial deregulation under Choice 2.0 increases systemic risk for which these groups will ultimately bear the cost.

Recessions hit workers at the bottom the hardest, as they tend to have the most volatile employment, the least employment prospects once laid off, the smallest financial cushions to rely on when disaster strikes, and lack access to the financial resources and products that allow well-off investors to more aptly hedge financial risks.[11] This results in middle- and low-income workers ending up worse off than higher income workers during and after recessions, with often permanent reductions in their assets that fail to return to pre-crisis highs.[12] Thus, a financial crisis sets working people farther back while those at the very top of the distribution can better weather the storm, or even profit off the misfortune of others during times of crisis.

Federal taxpayers provided $457 billion in bank bailouts, nearly $831 billion on the American Recovery and Reinvestment Act that cushioned the economic downturn, and $500 billion more on increased safety net payments to help those who fell on hard times.[13] Altogether, the federal deficit increased from less than $200 billion in 2007 to nearly $1.5 trillion by 2009.[14] The recession also decreased revenue coming into the federal government. By 2019, the necessary policy responses to the recession and financial crisis will have added nearly $1.7 trillion to the national debt – a burden shifted onto the backs of middle- and low-income families.[15]

Choice 2.0 would make similar bailouts and payments more frequent, longer, and costlier, requiring more and larger stimulus packages, and higher levels of safety net payments to account for the high unemployment. In the end, American taxpayers will end up paying for the deregulation and destabilization that Choice 2.0 condones in one way or another.

Minimizing Investors' Rights and Money

Choice 2.0 prioritizes the interests and compensation of investment firms over those of small and first-time investors– including workers with pension plans, IRAs, 401(k)s, and similar retirement plans. The bill takes a multipronged approach to undermining and minimizing investors.

Provisions in the bill would diminish small and first-time investors' voice in the direction, ownership, and governance of firms, including in determining board nominations and advancing governance proposals from shareholders, essentially stripping the rights of minority investors to participate in the company they own.[16] Small and first-time investors will also find it more difficult to bring litigation against investment firms for a break of securities law or fiduciary breach under this bill.

Choice 2.0 also effectively revokes the "fiduciary rule," established by the Department of Labor that puts savers' interest ahead of investment brokers' commissions. Simply revoking this fiduciary rule would mean that higher fees will passed onto small and first-time investors,

substantially diminishing an investors assets. For example, even a fee of 2.4 percent can seriously undermine an individual's retirement savings.[17] Choice 2.0 would enable investment brokers to increase fees and operate without care to conflicts of interest, risking years of savings.

Finally, by reshaping the bankruptcy code, Choice 2.0 will make sure that in the event of a failed bank or company, big Wall Street investors will get their payout before small investors – including in workers' pension plans and in IRA, 401(k), and similar individual retirement savings plans. Provisions in Choice 2.0 would leave ordinary investors hanging when an institution files for bankruptcy.[18]

Freerides to Wall Street, CEOs, and White Collar Criminals

Not everyone would lose under Choice 2.0. Large financial institutions would be able to operate in less regulated markets, allowing for bigger financial bets on riskier investments. Their focus would return to generating short-term profits and Americans would be on the hook for the long-term financial and economic impacts.

Executives would face less oversight, permitting them to reap substantial paydays, similar to the era before the financial crisis when the Lehman Brothers CEO earned half a billion dollars while running his firm into the ground and triggering a larger crisis.[19] They would also be allowed to push the boundaries of predatory lending and deceptive practices.

White collar criminals and those who wish to do harm with other peoples' money would be granted additional protections and operate with impunity under the new plan. By reducing incentives for whistleblowers, Choice 2.0 makes it harder for regulators to investigate and prosecute white collar crime.

The Wrong Choice

Most Americans would be harmed if Choice 2.0 is passed. The financial system would suffer from more common crises, Main Street investors and savers would have fewer protections, and financial consumers would lose a valuable advocate. In the end, all taxpayers would end up paying the costs for this handout to the financial sector. Instead, Congress should focus on bipartisan bills, such as the Community Lending Enhancement and Regulatory Relief Act (CLEAR Act) that address financial and banking regulatory issues raised by small banks and credit unions.

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