Consumer Financial Protection Bureau

This was a landmark win that will result in substantial new protections for consumers from the tricks and traps in personal financing that indirectly and otherwise led to the financial crisis. The resulting Bureau has the independence and authority it needs to get the job done. Whatever compromises were made does not change the overall significance of this victory for consumers.

Battles won, lost and somewhere in between …..

Independence:

- **We won**: The agency will be led by a director appointed by the president and confirmed by the Senate. It is housed in the Federal Reserve but not subservient to it. That is consistent with the original vision for the agency.
- **We compromised:**
  - The bureau's rules could be overridden by the new Financial Stability Oversight Council if the panel decided that they threatened the safety, soundness or stability of the U.S. financial system.

Authority:

- **We won**: the bureau will write consumer-protection rules for banks and other firms that offer financial services or products. It will enforce those rules for banks and credit unions with more than $10 billion in assets. This includes, for example, the authority to require credit-card issuers like Citgroup to reduce interest rates and fees, or mortgage lenders to give clear information to borrowers.
- **We lost**:
  - CFPB does not have examination or enforcement authority over smaller banks and financial institutions
  - CFPB does not have blanket authority to step in if prudential regulators fail to do their jobs with regard to small banks and financial institutions.

Funding for Bureau

Reformers wanted to ensure the Bureau's funding was not dependent on the appropriation process, which is unstable.

- **We won**: Upon request of the director the CFPB gets a percentage of the total operating expenses of the Federal Reserve System. The agency can also request up to $200 million more through the appropriations process.

Specific financial products and practices

Private student loans: These are some of the sketchiest financial products out there. These loans have typically been variable rates with no cap no deferment options, affordable payment plans, loan forgiveness programs or cancellation rights in the cases of death or disability that federal loans provide.

- **We won**: The CFPB will write rules that apply to all private student loans, including those made by Sallie Mae, by big banks and by career colleges that offer private loans. CFPB will enforce those rules for all private loans provided by all nonbanks and by banks with more than $10 billion in deposits. This enforcement power includes power over Sallie Mae, the nation's largest provider of student loans. This was a major battle because as originally written, Sallie Mae could have been exempted because it actually makes the loans through a spin- off entity, Sallie Mae bank, which has smaller than $10 billion in deposits.

- **We compromised**: For small banks and credit unions, their current regulator will be responsible for enforcing the CFPB rules.

- **We lost**: The House bill required private student lenders to confirm with the school that the borrower is eligible to borrow the requested amount and has been notified of any untapped federal loan eligibility. This did not make it into the final package.

Arbitration:
Forced arbitration clauses are hidden in the fine print of consumer and investment contracts and strip the consumer and investor of the right to file claims against major Wall Street firms, instead funneling those claims in an unaccountable and biased private system.

- **We won**:
    - The SEC and CFPB can ban forced arbitration within their respective jurisdictions.
    - Forced arbitration in residential mortgages is banned outright.
- **We compromised**: The CFPB must study the issue first before instituting a ban

Auto loans:
Most car dealers make the bulk of their profit not from the sale of the cars but from financing – much of which is not advantageous to the buyer. Tricks and traps abound

- **We lost**: Amazingly, car dealers – the least trusted most complained about businesses in most states – managed to win an exemption from oversight by the CFPB
- **We compromised**: The Federal Trade Commission, which currently regulates car dealers, can now operate under a much quicker and simpler procedure for making rules related to auto financing

Swipe fees
Visa Inc. and MasterCard Inc., the world's biggest payments networks, set interchange rates and pass that money to card- issuers including Bank of America and JPMorgan. Interchange is the largest component of the fees U.S.

merchants pay to accept Visa and MasterCard debit cards. The fees totaled $19.7 billion and averaged 1.63 percent of each sale last year

- **We won**:
    - The Federal Reserve will get authority to limit interchange, or "swipe" fees that merchants pay for each debit-card transaction. Retailers can refuse credit cards for purchases under $10 and offer discounts based on the form of payment.
    - Merchants will be able to route debit-card transactions on more than one network, which will provide competition in a previously non-competitive market.

- **We compromised**:
    - The bill exempts lenders with assets of less than $10 billion, or 99 percent of U.S. banks.
    - Electronic benefits transfer (EBT) and other prepaid cards are also exempted

Other

- **We won**: Authority to enforce rules for smaller payday lenders. Clarification that CFPB has authority in cases involving sham use of a legal license.

- **We lost**: Payday and other lenders will have the opportunity to influence CFPB rule writing before the rules are proposed to the public