

"Consumer in Financial Crisis: Lessons Learned and Ways Forward"

The Financial Crisis in the United States: *How it happened?* *What are we doing about it?*

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How U.S. Consumer Policies Made It Happen

- Deregulation
- Preemption/Maximum Harmonization
- Securitization

DEREGULATION

Federal Legislation

- Disclosure instead of Substantive Protections
- The end of Glass/Steagall

Regulatory Agency Failure

- Structural problems
- Bank capture

Tort Reform

- Limits on Collective and Consumer Action
- “Forced Arbitration” clauses

Legislation

- Monetary Control Act (1980)

Supreme Court Decisions

- *Marquette Bank and Smiley*

Regulatory Over-reaching

- Comptroller of the Currency
- Office of Thrift Supervision

Securitization

What havoc did U.S. securitization policy create?

- Eliminated “perception” of risk
- Eliminated accountability between the consumer and the producer
- Eliminated accountability between seller and investor
- Turned consumers into products to be sliced, diced and repeatedly traded

Deregulation + Preemption + Securitization

- Credit Products with **NO** underwriting
- Bank Profits based on consumer **FAILURE**
- Houses as a credit product, **NOT** a home
- Massive consumer debt/ **Negative** savings
- A **House of Cards** destined to collapse

AND COLLAPSE IT DID!!!

The U.S. Today

- Unprecedented **Foreclosures**
- Massive **Debt**// Minimal **Savings**
- 10% **Unemployment**
- Numerous **failed** banks
- A fundamentally **damaged** economy dependent on consumer debt to function

The U.S. Response (so far)

- **Bail out the Banks**
 - With few strings attached
- **Bring them before Congress**
- **Berate them Publicly**
- **Begin to Bring Enforcement Actions (see Goldman-Sachs)**

U.S. Response (so far)

- **Help Consumers (not so much)**
 - Passed a law that stops some of the worst credit card practices
 - Created a very mediocre program (HAMP) that has helped some homeowners save their homes from foreclosure

The U.S. Response (as we speak)

- **Debating Financial Reform Bill that could:**
 - Create a new federal consumer financial protection agency
 - Limit the size and scope of banks
 - Better regulate the trading of derivatives
 - Create fiduciary duties for investment brokers
 - Regulate the Credit Ratings Agencies

What The U.S. Needs to Do

- Help create a financial system that rewards banks when consumers do well (save, invest, pay on time, etc.)
- **But how?**

BUT HOW??

Substantive consumer protections

- Reintroduce usury standards
- Prohibit bad products and unfair terms
- Create ability to pay standards

Liability and accountability for all actors in the creation of financial products

Multiple levels of rule-making + enforcement

- National role -- minimum standards
- States -- provide additional consumer protection
- National, state and private enforcement