Summary of H.R. 4173[1] **December 11, 2009**

Title	Pros	Cons
CFPA	- Independent agency with rulemaking, enforcement, and examination authority - Unfairness and deception rulemaking bound to 1980s FTC policy statements; excessively narrow definition of "abusive" - Jurisdiction over most lenders - Authority to restrict forced arbitration - For-profit school private loan loophole closed - Establishes Office of Fair Lending and Equal Opportunity - Strong whistleblower protections	- Exempts banks and credit unions with assets under $10bn from exam and primary enforcement - Auto dealers, pawnbrokers exempted - National bank regulator can preempt state consumer law if it prevents, significantly interferes or materially impairs the business of banking - No Community Reinvestment Act enforcement
Systemic Risk / Too Big to Fail	- (Weak) authority to break up risky institutions - Permissive authority for progressive capital requirements - Initial resolution fund funded by bank assessments - 15-to-1 leverage ratio for risky institutions (slight improvement) - FDIC winds down failed institutions; can take 10% loss from secured creditors - Fed audit provision	- No hard limits on size/interconnectedness - Can only break up institutions when necessary to prevent grave threat to the economy - Removed discretionary breakup authority for Fed - Taxpayer money can be used after $300bn exhausted - No limits on Fed 13(3) authority
OTC Derivatives	- Clearing for trades among big dealers, capital and margin requirements for big dealers. - Murphy amendment eliminated phrase "balance sheet" from end user exemption, which keeps hedge funds out of the exemption and might bring in another 16% of derivatives market - Strengthens authority to set aggregate position limits and tamper speculative pressure on commodity prices - Improves bankruptcy process for counterparties	- Trades of "bona fide hedgers" exempt, even though they purchase derivatives from the big 5 banks (~21% of market) - Trades between big banks can go through "swap execution facility" rather than exchange (could be just a telephone call); therefore no transparency - Foreign exchange exempt (~8% of market) - States can't enforce gambling & insurance laws or sue - Illegal contracts can't be cancelled
Investor Protection	- Brokers that give investment advice have same fiduciary duty as advisors - Replaces exemption for Investment Adviser registration applicable to private fund advisers with exemption for foreign private advisers - Allows SEC to establish record keeping and reporting requirements for private funds – very broad language - Authorizes periodic and special SEC examinations and requires advisers to disclose information to SEC on request	- SOX 404 exemption for smaller firms - No public reporting requirement - Definition of private fund may not capture advisers that are moving toward managed accounts - Exempts venture capital
Credit Ratings	- Ability to sue credit rating agencies for negligence, etc. - Would require registered NRSROs to use the risk of default as the standard for rating municipal bonds - Better oversight and transparency, and reduced reliance on ratings	- No change to business model; no public alternative

[1] Public Citizen is a member of Americans for Financial Reform (AFR), a coalition of more than 200 national, state and local consumer, labor, retiree, investor, community, business and civil rights organizations that are campaigning for real reform in our nation's financial system. AFR partners assisted with this chart.