THE SEMI-ANNUAL REPORT OF THE CONSUMER FINANCIAL PROTECTION BUREAU

HEARING

BEFORE THE

COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES

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CONTENTS

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Thursday, September 20, 2012

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 2128, Rayburn House Office Building, Hon. Spencer Bachus [chairman of the committee] presiding.

Members present: Representatives Bachus, Hensarling, Manzullo, Biggert, Capito, Garrett, Neugebauer, McHenry, Pearce, Posey, Luetkemeyer, Huizenga, Hayworth, Hurt, Dold, Schweikert, Grimm, Canseco, Stivers, Guinta; Frank, Maloney, Velazquez, Sherman, Meeks, Capuano, McCarthy of New York, Baca, Miller of North Carolina, Scott, Green, Cleaver, Perlmutter, Himes, and Carney.

Chairman BACHUS. The hearing will come to order. As previously agreed with the ranking member, there will be 10 minutes on each side for the purpose of making opening statements, and without objection, all Members' written statements will be made a part of the record.

The Chair will now recognize himself for the purpose of delivering an opening statement.

Today, we welcome back to the committee Richard Cordray, the Director of the Consumer Financial Protection Bureau (CFPB), to present the Bureau's second semi-annual report, as required by Congress in the Dodd-Frank Act. These statutorily required hearings are one of the very limited forms of oversight that Congress can exert over the CFPB.

Many of us have been frustrated by the lack of accountability in the CFPB's leadership structure and the lack of transparency in the CFPB's funding structure. The absence of adequate checks and balances is especially troubling given that neither Congress nor the Executive Branch can fully review the Bureau's spending. The CFPB's requests to draw millions of dollars from the Federal Reserve often take the form of nothing more than e-mails that lack any details as to how the money will be spent.

Mr. Cordray, all of us on both sides of the aisle support consumer protection. Under your direction, the Bureau has attempted to tackle a number of issues it perceives to be problematic for consumers. Some may prove to be helpful; others may warrant reconsideration.

For instance, in the semi-annual report the CFPB discusses at length the consumer complaint data it has received. While I applaud the Bureau's efforts to give Americans a forum for reporting potential abuses, many question its decision to release raw, unverified complaint data to the public.

Rather than help consumers, publicly disclosing unverified information could instead mislead consumers. It is my hope that the CFPB will take the steps necessary to ensure the data it releases to the public is accurate.

The CFPB's efforts to rewrite the rules governing the mortgage market are also of particular interest to many Americans. These regulations are already very complex, and in carrying out its responsibilities the CFPB must avoid adding to that complexity.

For example, the CFPB's long-awaited proposed rule for consolidated mortgage disclosure forms is more than 1,000 pages long. The new disclosure forms required by the proposal add up to eight pages. It appears the dream of a one-page mortgage disclosure form is officially dead.

As the CFPB goes forward in the mortgage rulemaking process, I encourage you and it to consider how the complexity of this and other mortgage-related rules might burden consumers and small businesses.

Mr. Cordray, welcome back. I look forward—and I think we all look forward—to the civil discussion we will have today. And thank you for being here.

At this time, I recognize the ranking member for the purpose of making an opening statement.

Mr. FRANK. I am, frankly—I was about to say I am pleased to be here, but it is too late in my career to pretend. Here we go again. We will listen for a couple of hours to my Republican colleagues complain that they have no chance to have oversight during an oversight hearing.

In fact, I ask unanimous consent to submit for the record a list of the 26 prior occasions on which either Mr. Cordray or other officials of the CFPB have testified before Congress. It has been very closely monitored.

Chairman BACHUS. Without objection, it is so ordered.

Mr. FRANK. Thank you.

The objection to its structure and financing would be more persuasive to me as a genuine objection on those merits rather than a complaint about independent consumer protection if I had ever heard them before about the other Federal financial regulatory agencies, which are exactly similarly situated. The Comptroller of the Currency gets funding from fees, does not get appropriations, is independent of the Treasury, is appointed to a fixed term. As a matter of fact, we have a pattern of Comptrollers of the Currency lasting from one Administration to another across partisan lines in some cases.

None of my Republican colleagues, in my hearing or in my reading, have ever objected, and it is, in fact, even more insulated than the CFPB. The Federal Reserve itself, yes, gets money from the Federal Reserve, which is self-funding and doesn't get money from appropriations. And when we had a vote to subject CFPB to appropriations I offered an amendment to subject the Federal Reserve to appropriations and the Members voted it down.

When people give a reason and then don't apply it logically—and I am not talking about taking it to an extreme; I am talking about simply applying it very logically to identically situated agencies—it means that is not the real reason. What we have is an objection to the fact that we have, for the first time, an independent consumer agency. It is not subject to brow-beating; it is not subject to having its funds cut.

By the way, if it was subjected to the regular appropriations process, we know what would happen with this congressional alignment, because we have seen it with the Commodities Futures Trading Commission. One of the gravest problems we had in the first part of this century was largely unregulated derivatives trading. It led directly to the crisis at AIG and it caused problems elsewhere, led to unlimited speculation that hurt the prices for farmers. That is why our friends on the Agriculture Committee were strongly in favor of derivatives regulation.

We conferred significant regulatory authority over derivatives on the Commodities Futures Trading Commission and the response of my Republican colleagues has been to deprive it of the funds it needs—to keep it so inadequately funded that derivatives cannot be adequately regulated. And that is clearly what they would want to do here. There is no example of these kinds of objections ever being made to the other Federal agencies to which it applies.

So what we have here is, as I said, an objection to the CFPB being independent.

The chairman said once he thought the regulators were there to serve the banks. He later said that wasn't exactly what he meant. But what my Republican colleagues want to do is to put the other bank regulators, who have a historic record of not being very serious about consumer protection, and putting concern for the financial well-being of the banks well ahead of consumer protection. And obviously, there has to be a balance. They want to put them back in charge.

I am also struck that there have been no substantive objections to the—Mr. Chairman, how much time did I consume? How much time have I consumed?

Chairman BACHUS. Four minutes.

Mr. FRANK. Four minutes. But I will take another minute. I will yield myself 1 minute.

The lack of substantive objection is very important. There was an argument that there were too many pages. There were often a lot of pages because the entities being regulated come to the regulator and say, "Well, wait a minute. Provide for this exception. Provide for that exception."

I think the merger—one of the good things we did was to take two statutes dealing with real estate settlements, RESPA and TILA, that were given to different agencies and put them together. So I think Mr. Cordray can be proud of the fact that he has presided over an agency about which there are very few substantive objections.

And finally, I do note there was some complaint about the salaries. Once again, I haven't read the complaint about the salaries of the Office of the Comptroller of the Currency, or the FDIC.

There is on the part of the Republicans an understanding that the agency is popular, a failure to find specific things it did wrong, so they seized other issues on which to argue when they, in fact, ignore the possibility that those would be equally relevant criticisms of the other financial agencies.

I yield the balance.

Chairman BACHUS. I thank the gentleman.

Let me take a point of personal privilege. I have been quoted by the press as saying that the regulators were there to serve the banks. What I said, in fact, was that I viewed the regulators as public servants. And the question was asked, did that include the banks, and I said yes.

I went on to say—not later, but at the same time; quoted in the article that quote has been drawn from—that they were supposed to enforce the rules. And I am actually going to introduce into the record—

Mr. FRANK. If the gentleman would yield, yes, I had read that quote somewhat differently than you said it, but if the gentleman will produce a quote to me, I will be glad to read it—

Chairman BACHUS. And I am actually going to, hopefully before—and I would like to clear that up because I do believe that Members genuinely believe that was the quote in its entirety, which was what I—the statement was that they were public servants, and they should look on themselves as public servants not only to the people but to the banks. But I also went on and there were two other sentences there that they—and I know it has been widely quoted, and it is hard once something gets out on the Internet to clarify, but I am going to actually read the statement.

Mr. FRANK. I appreciate that, Mr. Chairman. If you would yield, I had not previously heard that explanation. I will be glad to read it, and if that is—if you didn't use those words, I will be glad to acknowledge that.

Chairman BACHUS. The two things on the Internet—and I am sure all our Members have suffered from this—which claimed that I said there were 19 socialists in Congress, that was absolutely not said. Someone at a meeting asked, "Are there any socialists in Congress?" And I said, "I am sure there are some who profess the European view of socialism." They asked, "How many?" And I said, "I don't know." They said, "100?" And I said, "No, not that many." I actually said I didn't know; I had no idea. The only one I knew of was Bernie Sanders.

But, in today's attempts really to make us all look like fools, sometimes that sort of thing is said, and it is very disappointing because there have been things that I—where I have misspoken, but those two things have been a source of—they just seem to have a life of their own. In fact, I specifically said I had no idea. And I have that in a recording, because that was a speech that was recorded. And they later retracted that, but the retraction never got out.

Mr. Hensarling?

Mr. HENSARLING. Thank you, Mr. Chairman.

Good morning, Mr. Cordray. As you know and we have discussed before, Section 1066 of Dodd-Frank requires you to be "confirmed by the Senate." You haven't been. Even if we choose to ignore the statute, which apparently the Administration chooses to do, you can't be bootstrapped as a recess appointee because your appointment came at a time when the Senate was in pro forma session.

So you came before us 6 months ago as an unlawful appointee and probably an unconstitutional one as well. Six months later, nothing has changed.

The Dodd-Frank Act, Mr. Cordray, has made you a very powerful appointee, but it has not made you a legitimate appointee, and it has not made you an accountable appointee. And it is certainly not personal to you, but as long as this big gray legal cloud hangs over you and your agency, your credibility and the efficacy of both you and your agency are compromised.

Mr. Chairman, we know that the creation of the CFPB was a major title under Dodd-Frank, and in the passage of the Act, the President predicted that Dodd-Frank "would lift our economy" and "give certainty to everybody."

Two years later, we are mired in the worst economy in the post-war era. Millions suffer from unemployment and underemployment and Dodd-Frank's rules are proving to be some of the most confusing, complex, voluminous, and harmful our capital markets have ever seen, including those of the CFPB. Regulations tend to fall in two categories: those that create uncertainty; and those that create certain economic harm.

We know that small businesses are the job-engines of America. They are capitalized quite frequently and principally by our community financial institutions. The head of one of the community banks in my native Texas remarked, "My major risks are not credit risks, risk of theft, or risk of some robber coming in with a gun in my office. My number one risk is Federal regulatory risk."

I yield back.

Chairman BACHUS. Mrs. Maloney for 3 minutes. Thank you.

Mrs. MALONEY. First, I would like to welcome Director Cordray to the 27th hearing that he has attended, and often my Republican colleagues continue to use the CFPB as a political issue, citing it as an example of unprecedented power with no oversight. And I believe this list of hearings—27 of them—speaks to the oversight that they have gone through.

In fact, you are here today to discuss the semi-annual report requested and put in Dodd-Frank—it actually happened to have been my amendment. If I had known there would be so much oversight, I never would have required it. I thought we wouldn't be seeing much of you, but when you do come, we do hear what you are doing to help people, and I would say you have tremendous credibility, particularly with the college students that you are helping, the veterans, the seniors, "Know Before You Owe" issues that help people understand their finances.

But the CFPB is already, I would say, one of the most accountable Federal agencies, and the numerous attempts to defang the CFPB with major pieces of legislation put forward by this committee are merely election-year efforts by those who never wanted to create the agency in the first place. Those who put forward those amendments and bills didn't vote for the creation of the CFPB.

And there were many of us who offered and worked on Dodd-Frank who thought the consumers needed to have an office that was on their side. Too often, consumers were not thought about. It was a secondary thought, a third thought, or even not thought about at all. And I think it is very appropriate to have an agency looking out for a proper balance for industry, for consumers, and for the overall economy.

Some of my colleagues on the other side of the aisle continue to say that there is not enough accountability, but I would say that the CFPB has extensive accountability and these were standards that were put in place under the Wall Street reform bill, and they are absolutely unprecedented in our government. I would say there is more accountability and oversight of the CFPB than any of the Federal regulators.

And I would like to place in the record this analysis of the accountability and mention that—my time is running out—the President can remove the Director for cause. The Director must appear before Congress annually and report on their budget. The GAO is required to do an audit every year.

It is the only banking regulator with a funding cap. They are capped in what they can spend. And the CFPB final rules are subject to judicial review. And it is also subject to the Regulatory Flexibility Act and the Congressional Review Act. The Inspector General monitors the CFPB, and all of their rules could be overruled by the other regulators.

So there is extensive oversight of this important agency, which in my opinion has tremendous credibility, particularly to the consumers and Americans and hard-working people that they are trying to help understand their finances, bring transparency into their contracts with credit cards and other financial institutions. And I believe it is good for industry, good for our overall economy, and good for consumers.

I look forward to your 27th report from the CFPB to this Congress. Thank you for your service.

And I yield back.

And may I place this in the record? A detailed explanation of the various oversight—

Chairman BACHUS. Without objection, it is so ordered.

Mrs. Capito for 2 minutes.

Mrs. CAPITO. Thank you. Thank you, Mr. Chairman.

And thank you, Director Cordray, for coming today. I don't want to repeat a lot of the things that I have said in opening statements in the past. I think you know that I believe, and many of us believe on this committee, particularly on our side, that a commission or a five-person panel would probably serve this agency better because you would eliminate dramatic swings in ideology, and those kinds of things can happen to the political winds.

I know you are aware of the fact that we believe the CFPB should have more accountability to Congress for the fiscal and the allocations that occur. A lot of people ask us, how can you control or weigh in on this agency, and one of the ways we weigh in on agencies all across this government is to work with their finances, and I think that this is one of the arms-length things the law provided that I think is a detriment to the CFPB and really to consumer safety.

But I am going to take a little bit different tack because what we heard in the August recess, and I know what you are hearing is, what is wrong with this economy? Why can't we get it going? And it is the uncertainty that we have across-the-board, whether it is uncertainty on taxes, health care, regulatory uncertainty. And financial regulatory uncertainty is part of this.

You have some extremely important issues before your Bureau right now, such as the Qualified Mortgage (QM), where if you don't do it right, this economy is going to stay in a bleaker uncertain state. If you don't get the ability to pay rule that we have been asking you to make a judgment on for those stay-at-home spouses to be able to get credit in their own names.

And lastly, since I just have 12 seconds left, I have heard over the last several days that many of the financial institutions have a lot of uncertainty because you have the CFPB over here and the regulator over here who are still holding on to their consumer protection. Nobody is making the decision. It is creating more uncertainty for financial institutions, and it is resulting in a lack of lending, a lack of job creation, and further stagnating this economy.

Thank you.

Chairman BACHUS. Mr. Scott for 2 minutes.

Mr. SCOTT. Thank you, Mr. Chairman.

I think this is a great time for you, Mr. Cordray, because you hear a lot of complaints about the CFPB, to take an opportunity to explain exactly what you are doing to help protect the consumer. For example, sharing what are the violations that pose the greatest threat to consumers would be good for us to know.

You are currently carrying out hundreds of investigations. It would be good for us to know what types are they, what is most prevalent? What poses the greatest threat?

There are also areas of conflicts of jurisdiction, particularly in areas like with the FTC and your agency, particularly involving credit scores. That came up in our credit score hearing a few weeks ago. Where do you begin? Where do they begin? Where do you end? Where do they end?

One very important issue to our consumers is home appraisals. We hear all of the time because of the economy where homeowners are caught in a bind where their mortgages have been allocated at a certain level, their homes have lost the value, you get your appraisals coming in. That would be good to know.

Another is to describe just how the consumer complaints process works. What happens here? If a consumer disputes the response they get from a financial company, what are the options available to that consumer?

And in your experience, are there additional changes that the Bureau could make, particularly to home appraisals to help protect the consumer more?

So I am looking forward to your comments on these things but I think it presents you with an excellent opportunity to give a great response to some of the criticism that we have gotten to show exactly the good that you are doing and how it is being done to the benefit of protecting our consumers.

Thank you, Mr. Chairman.

Chairman BACHUS. Thank you.

Mrs. Biggert for 1 minute.

Mrs. BIGGERT. Director Cordray, as we all know, Congress has been examining complex settlement procedures and confusing mortgage disclosures for several decades. Mortgage disclosure has been of interest to me since my days as a real estate attorney.

Today, alongside consumers and mortgage industry stakeholders, we are reviewing the 1,000 pages of the CFPB's proposed RESPA/TILA rule and mortgage disclosures. At first glance, I can say that I think that the proposal needs more work.

Newly proposed mortgage disclosures must be streamlined and simplified, thoroughly tested and vetted, allow stakeholders ample time to provide input, and include a thorough regulatory impact analysis with a particular focus on small businesses. As the CFPB continues to work on mortgage disclosures, I encourage you to keep in mind that new disclosures can radically change the marketplace and be costly to businesses—particularly small businesses—and these changes and costs will be absorbed by consumers. We must get it right.

I yield back.

Chairman BACHUS. Mr. Neugebauer for 1 minute.

Mr. NEUGEBAUER. Thank you, Mr. Chairman.

I was trying to put this in perspective as we look at Dodd-Frank basically creating a new government agency, giving the Director a half a billion dollar slush fund to say, I am going to go create an agency. And I was trying to put that in perspective in my background in business, and it would be like a CEO calling an employee to his office and saying, "I hear we have a problem down in this certain area. I will tell you what, here is a half a billion dollars. You can draw that. Send me an e-mail if you need a little more, and don't worry about sending us any reports or—I won't ask you any questions, but you just go and see if you can take that money and fix that problem."

I think government is the only place where that would happen. And I think one of the things that, whether you agree or not that we created the CFPB, what you should agree is that at a time when we are having to borrow 40 cents for every dollar we spend of the American taxpayers' money, transparency and accountability is very important.

Mr. Cordray has promised that he would have an open and transparent agency, yet our continued requests for additional information on operational and financial plans basically have gone unanswered. And so I am hopeful today that we can get a clearer picture of where this agency is going.

With that, I yield back.

Chairman BACHUS. Let me indicate to the Members that Mr. Cordray has to leave at 1:30.

And with that being said, without objection, Mr. Cordray, your written statement will be made a part of the record, and you are now recognized for a 5-minute summary of your testimony, but you can obviously go longer than 5 minutes.

STATEMENT OF THE HONORABLE RICHARD CORDRAY, DIRECTOR, THE CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Mr. CORDRAY. Thank you, Mr. Chairman. Let me clarify, I will stay as long as you like.

Chairman Bachus, Ranking Member Frank, and members of the committee, thank you for inviting me to testify today about the Semi-Annual Report of the Consumer Financial Protection Bureau.

A little over one year ago, the Consumer Bureau became the Nation's first Federal agency focused solely on protecting consumers in the financial marketplace. The Semi-Annual Report we are discussing today covers our activities from January 1st through June 30th of this year.

As the report shows, we have been using all of the tools at our disposal to help protect consumers across this country. We pledge to continue our work to promote a fair, transparent, and competitive consumer financial marketplace.

Through our regulatory tools, we have proposed rules that will help fix the broken mortgage market with common-sense solutions. We are writing rules that simplify mortgage disclosure forms, as referenced, and rules that make sure consumers do not receive mortgages they do not understand or cannot afford. Our rules will also bring greater transparency and accountability to mortgage servicing. And our careful process is that before we propose a rule, a team of attorneys, economists, and market experts evaluates its potential impacts, burdens, and benefits for consumers, providers, and the market.

Our push for accountability extends beyond mortgage servicing. We are holding both banks and nonbanks accountable for following the law. Prior to my appointment, nonbanks had never been federally-supervised. The financial reform law specifically authorized us to supervise nonbanks in the markets of residential mortgages, payday loans, and private student lending. We also have the authority to supervise the "larger participants" among nonbanks in other consumer finance markets as defined by rule. So far, we have added credit reporting companies to this group.

It is important for us to exercise sensible oversight of the consumer finance markets but it is also important that we empower consumers themselves to make responsible financial decisions. Our "Know Before You Owe" campaign involves us working to make mortgages, credit cards, and student loans easier to understand. We also developed "AskCFPB," an interactive online database with answers to consumers' frequently asked questions. We also launched the first-ever database of individual complaints about financial products, starting with credit cards. Consumers can use the Web site to review and analyze information and draw their own conclusions about the customer service provided with these financial products.

We also think it is important to engage directly with consumers so we know more about the struggles and frustrations they encounter in their daily lives. The Bureau has held numerous field hearing across the country—you will recall, Mr. Chairman, our first one was in Birmingham, Alabama, under my Director's tenure—so we can talk face to face with consumers on a variety of topics. Our

Web site has a feature called "Tell Your Story," which encourages consumers to share with us their personal stories to help inform our approach in addressing issues in the financial marketplace. And perhaps most significantly, we help to resolve consumer disputes with lenders by taking complaints on our Web site at consumerfinance.gov, as well as by mail, fax, phone, and by referral from other agencies. As of September 3rd, we have received 72,297 consumer complaints about credit cards, mortgages, and other financial products and services and the pace of complaints has been increasing over the past year.

All of these processes—rulemaking, supervision, enforcement, and consumer engagement—provide us with valuable information about consumer financial markets. We engage in extensive outreach to large and small institutions, including banks and nonbanks, to gather the best current information as we make policy decisions. We pride ourselves on being a 21st-Century agency whose work is evidence-based. So we also conduct our own in-depth studies on consumer financial products such as reverse mortgages and private student loans. We have issued public requests for information that seek input from consumers, industry, and other stakeholders on issues such as overdraft fees, prepaid cards, and the financial exploitation of seniors.

The new Consumer Bureau has worked on all of these projects while being fully engaged in start-up activities to build a strong foundation for the future. The Bureau has worked to create an infrastructure that promotes transparency, accountability, fairness, and service to the public. Our first year has been busy and full and this report reflects considerable hard work done by people whom I greatly admire and respect. They are of the highest caliber and they are deeply dedicated to public service. We look forward to continuing to fulfill Congress' vision of an agency that helps all Americans by improving the ways and means of their financial lives.

Thank you. I will be glad to address all of your questions.

[The prepared statement of Mr. Cordray can be found on page 54 of the appendix.]

Chairman BACHUS. Thank you, Mr. Cordray. And I appreciate you making, I think one of the—the first hearing was in Birmingham. That was your first public hearing, and Senator Shelby and I both appreciate you coming to Birmingham for that hearing. And I think it went quite well.

As you know, the Federal Reserve issued a final rule earlier this year clarifying certain provisions of the Card Act in which they determined that a credit card issuer could no longer rely on the consumer's household income to determine a consumer's ability to pay. The CFPB has now inherited this rule from the Fed.

I am deeply concerned about the impact this change will have on non-working spouses and military families. Some people call this the stay-at-home moms—or probably stay-at-home spouses might be more politically correct. But given the current economic environment, many consumers already face challenges getting access to credit, and this change would make the situation worse, especially for women and military families.

In a June hearing with the Financial Institutions Subcommittee, Gail Hillebrand of the CFPB testified that the Bureau intended to make a determination about how to proceed with the rule during the course of the summer. She went on to clarify that summer goes until mid- to late September, so we are within that definition.

With that said, has the CFPB finished reviewing the submitted comments and made a determination about how to proceed? And if so, could you share with the committee any analysis that you have conducted on the impact this change may have on consumers?

Mr. CORDRAY. Thank you, Mr. Chairman, for that question. I know it has been of concern to many Members. I have actually discussed the matter personally over the telephone with Representative Capito and Representative Maloney, and we have had communication with others.

We have, over the course of the summer, made an effort to assess two things. The first is sort of the scope of the problem, and understanding whether it is something we should move forward and act on. The second is, if we do so, what means are available to us? What avenues can we pursue?

Is it something that we could simply clarify without having to engage in rulemaking? Is it something that requires us to engage in rulemaking? Is it something where whatever we do by rulemaking really has to be fixed by the Congress in a statute, which, of course, is often most difficult?

Over the course of the summer we did have a chance to gather information and some data from industry to assess the gravity of the problem. I think we have determined that it is a significant problem. There are tens and perhaps hundreds of thousands of individuals who perhaps have been denied access to credit as a result of the way the law was interpreted.

We have also attempted to gauge whether we could simply offer some sort of clarification informally and that would do the trick, and I think we have determined that will not suffice, that we will need to engage in rulemaking. I think we have also determined that in order to address this problem, we can engage in rulemaking, and it is not necessary to come back and have Congress change the law. Of course, it is always within Congress' purview if they want to change the law to do so.

So we have made a determination to proceed. We are going to address this issue.

Our proposal will be on the street in the very near future. Certainly, I would think, before you reconvene you will have an opportunity to look at that, then you may want to determine whether you want to proceed by legislation, whether you want to work with us on a rulemaking process, and we do intend to face this issue and resolve it.

Chairman BACHUS. Thank you. I appreciate—that is a responsive answer, and we don't always get those.

Mr. CORDRAY. I do what I can.

Chairman BACHUS. And I don't mean from you personally, I mean just in the course of these hearings.

As you know, lending standards on residential mortgages are as tight as they have ever been, and even prospective borrowers with strong credit histories are in some cases finding it difficult to obtain loans. Are you concerned about the rigid criteria for defining what constitutes a Qualified Mortgage and how it could disproportionately affect populations that tend to take out smaller mortgages, such as low-income, first-time, rural, or minority borrowers? And how is that concern informing the CFPB's deliberations on the critical question of how much protection from legal liability should be afforded to lenders that make Qualified Mortgages?

Mr. CORDRAY. Mr. Chairman, we do have a concern, and I think Congress told us one of our statutory objectives is to be mindful of issues of access to credit, and I have come to understand that we can draw up the nicest-looking consumer protections you have ever seen, but if people are not willing to lend to consumers, those protections are worth very little, and if they interfere with lending to consumers, then they could actually be harmful to consumers.

I would say two things about the mortgage market. The first is, the biggest thing that has constrained credit in the mortgage market in our lifetimes was the financial crisis credit freeze and meltdown and ensuing recession that has caused so many problems for smaller institutions, community banks, and small businesses and individuals getting access to credit.

That remains the case today. Credit in the mortgage market is extremely tight. We are at very low levels of activity and it is part of what is essentially having to dig out of a financial crisis that would have been far better if we could have averted it in the first place.

Secondly, with respect to the Qualified Mortgage Rule that you asked about, we have received a tremendous amount of input from industry, consumers, stakeholders of all kinds, participants in the real estate industry. I think over the course of that—of course, we inherited this proposal, as you mentioned, from the Fed; we did not originally propose it, but our job is to finalize—we have come to understand that it is very important for us to draw this rule in a way that encourages and facilitates access to credit in the mortgage market and we plan to do so.

It would be unwise of our agency to write a rule that further constricts access to credit. The Qualified Mortgage Rule, which is due and will be finalized before January 21st of next year, is intended to create protections for consumers, and I think that in the end, people will be satisfied with what we do.

Chairman BACHUS. Okay. Thank you very much.

Mrs. Maloney?

Mrs. MALONEY. Thank you, Mr. Chairman.

And welcome again, Director Cordray.

I read a story recently in Bloomberg—I believe it was last week—where you were quoted as saying that the Bureau had received far fewer complaints on credit cards than expected, and I was pleased to hear that, as I was the author of the Credit Card Bill of Rights in the House, and that you attributed that low number of complaints to the changes that we made in the passage of the Card Act. I would like to add that I, likewise, have not been getting complaints. It used to be I couldn't walk down the street without someone stopping me with a credit card horror story.

But I would like to know, to the extent you are receiving complaints about credit cards, what are they? What types of complaints are you receiving, if you are receiving any, and what is the Bureau doing to address it?

Mr. CORDRAY. Thank you for the question. And again, thank you for what I thought were really important strides for consumers made in the Card Act that Congress enacted in the last session.

I did say and I do believe that for myself personally, coming to this, I have been surprised that we have received fewer complaints about credit cards than I certainly would have expected. My experience in that regard was at the time that the Federal Reserve was first considering broadening consumer protections in this area. I was the treasurer in the State of Ohio. I organized a Speak Out Ohio campaign to collect comments and reactions from the public on this.

We submitted something like 30,000 comments to the Fed on it, and people were very upset about their credit card accounts and how those were being handled, and manipulation, as they perceived it, of late fees, and changes that they did not understand, or were not sufficiently explained—just a whole variety of things.

In the wake of the Card Act, a number of those problems have been addressed. We held a conference on the implementation of the Card Act last year and I think we were encouraged already by what we saw, and as it has filtered through more and more it has been very positive.

The complaints we have received on credit cards range across the spectrum. I am sure they are very similar to the types of things your office hears from constituents; a lot of issues, clearly, around billing—billing disputes—sometimes they are factual disputes, sometimes they are claims of error; sometimes there is unclarity around terms, although again, I think less so than was true before. And I think we have put up a graph on our Web site of different categories of complaints that we have received so that the public can scrutinize it and understand what we are seeing.

The other thing I want to note is that we have found, through our complaint database, that the response from the financial companies—the credit card issuers—to the complaints has been at a pretty high rate. They seem to be paying increased attention to customer service. I have been to a couple of the customer service centers of credit card issuers where they have kind of overhauled the way in which they respond to their own complaints and to the ones that we work with them on, and there seems to be better attention.

The J.D. Power survey recently indicated this as well. It showed that the overall level of public satisfaction with credit card companies has been increasing over each of the last several years. Again, I would attribute some of that to the Card Act, some of that to renewed focus by the companies themselves, and I think it is a good development.

Mrs. MALONEY. I must say that one outcome of the Card Act with which I am not pleased is the interpretation of the Federal Reserve on the ability-to-pay standards in implementing the Card Act, and I join Chairwoman Capito and others on both sides of the aisle, and I know, since I wrote the bill, it was certainly not my intent for ability-to-pay to prevent stay-at-home spouses from obtaining credit in their own right.

Chairwoman Capito held a hearing in May on the issue, and at that hearing, we received substantial testimony that this was a huge effort for stay-at-home moms. I know you say you are working on it, but we certainly don't want to legislate it. If we wanted to legislate it, we would have done it by now.

We feel that we created the CFPB to handle these types of problems. We have made it a top priority of the subcommittee, the committee, and it is a priority on both sides of the aisle. And I also would say it is a women's issue.

So when are you going to have a draft? We have been waiting for almost 2 years now or a year. Can you give us a little more definite statement on when we will have something we can react to?

Mr. CORDRAY. Yes. Thank you, Congresswoman. I thought it was fairly definite before, but I will repeat it.

This issue came up where you and I, and Representative Capito and I had discussions about it, I believe in May, so that is a few months ago. We first had to determine whether we could proceed by rule or whether the statute itself had to be changed. This is clearly an unintended consequence—

Mrs. MALONEY. Exactly.

Mr. CORDRAY. —of the legislation and the regulatory process.

It is not an uncomplicated issue. There are a number of issues here that have to be sorted through. But we have determined that we will proceed with rulemaking and we will have a proposal, as I said, on the street, I am fairly certain—quite certain, before you all return.

Mrs. MALONEY. That is good. That is a definite date. I didn't hear a definite date.

My time has expired. And that is very good news that we will have something we can—

Mr. CORDRAY. You will.

Mrs. MALONEY. —start working on to help stay-at-home moms. Thank you.

My time has expired.

Mrs. CAPITO [presiding]. Thank you.

Mr. Hensarling?

Mr. HENSARLING. Thank you, Madam Chairwoman.

Mr. Cordray, when you were here before the committee 6 months ago, we had a discussion about the term "abusive," since your agency has the ability to outlaw abusive acts. It is a new legal term of art.

At the time, I believe you said, "We will have more to say about this over time." Section 1031(b) permits the Bureau to prescribe rules defining "abusive." I think you were quoted in the American Banker, though, a few months ago stating that it was not your intention to write rules dealing with the term "abusive."

Is that correct, and is that still your intention?

Mr. CORDRAY. That is currently our outlook on that issue, Representative.

Mr. HENSARLING. Okay. It is a new legal term of art. There wasn't much clarity 6 months ago.

You also testified 6 months ago before this committee that there could be a practice that could be fair yet still be abusive. You didn't give examples at the time. Can you give, 6 months later, now that your agency has had a chance to study this—can you give me examples of a practice or a product that would be both fair and abusive, or at least give me the criteria that the agency is currently using to draw the differentiation?

Mr. CORDRAY. Congressman, we are, as I think you would hope that we would do as a Federal law enforcement agency, applying the language that Congress itself enacted—that is, following the law. The definition of "abusive" that is contained within the financial reform law itself is specific as to prongs. It is different language than the Act uses in defining "unfair," which is also a defined term in the Act. And therefore, there could be different application.

I have also said that it is a bit of a puzzle to determine what kind of actions would not be unfair, not be deceptive, but would be abusive. And that is—

Mr. HENSARLING. So is it at least fair to say that 6 months later, we still don't have an answer to the question, is there a specific example of a product or service that would be both fair and abusive?

Mr. CORDRAY. I wouldn't put it that way, that we don't have an answer to the question. We have had an answer from the beginning. The answer is, Congress defined what "abusive" means. It is the law of the land. We have to follow it.

Mr. HENSARLING. If we have an answer, could you give me examples, Mr. Cordray? Can you then give me examples?

Mr. CORDRAY. I don't think that industry is eager to have us start spraying "abusive" citations around. We are trying to be careful about this and—

Mr. HENSARLING. Wouldn't they want to know what is lawful and what is unlawful? If an act is abusive, it would be unlawful. I would think they would want to follow the law, so I don't quite understand your answer.

Mr. CORDRAY. That is fine. As we go along, if we determine that there are abusive acts and practices, we will rely upon Congress' definition of the term. There is no reason for us to go make up some different definition. For us to establish—

Mr. HENSARLING. But you have the power to prescribe the rules that define it.

Mr. CORDRAY. We could. I don't get a sense that industry is dying for that either, Congressman. State attorneys general can enforce rules that we adopt under the Act, cannot enforce the statutory terms themselves against the banks. So if we were to define rules on—

Mr. HENSARLING. I guess, Mr. Cordray, what is—

Mr. CORDRAY. —enforcement channels—

Mr. HENSARLING. —of concern here is whether or not the agency refuses to write a rule or is incapable. Is it a totally subjective term that will be determined by the agency on a case-by-case basis, in which case an incredible detriment to our consumer credit markets? I haven't heard any clarity around it today, but in the limited time I have, I will move on.

In the context of discussion of mortgage rules, I think you said it wouldn't help homebuyers to promulgate rules that restricted access to mortgage credit. But then I look at what has happened with respect to remittances. Your own agency has estimated the first rule would require 7.7 million employee hours to implement and comply with the rule—the new rule. You also noted, "The cost of compliance will ultimately be shared among the consumers and businesses involved in remittance transfers."

All I can tell you, Mr. Cordray, is I am hearing from a number of banks in my home State of Texas that due to the rules promulgated by your agency, they are just getting out of the business. They are getting out of the remittance business.

I have lots of constituents, as do many other Members who represent States along our southern border. So, I am just curious, are you—I hope your agency is hearing the same thing. I don't think these are outliers. How is this serving the consumer that they have fewer choices and their access is getting restricted by the rules?

Mr. CORDRAY. Thank you, Congressman, for raising that issue. As you will recall, we didn't just come up with this rule in a vacuum. Congress passed a statute. It is the law of the land now, unless Congress were to act otherwise, that there are brand new consumer protections being afforded to remittance transfers, and therefore, when people send money internationally, they now will have the same kinds of consumer protections in many respects that they have when they send money domestically.

That is a public policy choice that Congress made. I happen to agree with it.

Our job was to carry that out by implementing rules, which we have done. There are some providers for whom the notion that in doing these transactions, they have to offer consumer protections and disclosures, et cetera, may be too onerous, that they won't do the transfers if they have to tell the consumer how much money is going to be received on the other end.

There are provisions in the law meant to soften that. So, for example, if you are a smaller depository institution or credit union and you are not in a position to know what the exchange rate is that is going to be applied on the other end, you are permitted under the law to use a reasonable estimate. You don't have to get it exactly right.

If you don't know, because of the nature of the transaction you are engaged in, what fees are going to be imposed on the other end, you are permitted to give a reasonable estimate. You don't have to get that right.

We do hear that there are some providers for whom this is going to be difficult and they may not be able to comply, and they may choose not to offer this product. We did propose and send out for comment and then finalize an exemption for any institution that does not do these transactions in the normal course of business. That exemption is now in place and will exempt many providers from having to comply with this rule if they simply want to do this as a convenience for existing customers, not very frequently.

For anybody who is in the business of doing remittance transfers and that is their business model, there are new requirements, again, imposed by Congress by law. I happen to agree with them. I think they are necessary. I think the people who engage in these transactions are entitled to the same protections that we all get on our bank account transactions, and that is what we are doing.

There is also—

Mrs. CAPITO. I am going to step in here a minute, because we are about 2 minutes over his time. Hopefully, we can get into some more on this topic, but if I don't keep things moving, we are not going to get to our other questioners, so—

Mr. CORDRAY. I know I can get a little—

Mrs. CAPITO. No, you are—it is not you, really.

Ms. Velazquez for 5 minutes.

Ms. VELAZQUEZ. Thank you, Madam Chairwoman.

Mr. Cordray, the Dodd-Frank Act created a Bureau-specific requirement to assess the possibility that new consumer protection regulations will increase the cost of capital for small businesses. What factors about access to capital did the CFPB analyze when drafting the new TILA/RESPA mortgage disclosure regulations?

Mr. CORDRAY. Congresswoman, on that particular effort we have been at it for more than 2 years now with being as transparent as we can be around these forms, because the issue is, what do consumers understand and what exactly do financial providers need to tell them and how will it be framed so that it is understandable?

We have been doing a great deal of qualitative testing around different forms, around different language to see how actual consumers react to that. We have conducted, as we are required to do by law on certain of our rulemakings, a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel, which is a panel of small providers who came and gave us face-to-face their input into how different proposals might affect small providers like themselves, and we had broad representation from a lot of the real estate industry, not just lenders.

That was very useful to us, and a number of aspects of their input went into the proposal that we now have out for notice and comment—which is now available, and we are getting much more comment now broadly, not only from small providers, but also more from them. We have tried to be very accessible to groups and stakeholders on all sides, to meet with us and tell us their concerns.

This is a change. It is something Congress has wanted for more than 20 years to take these two distinct forms under two distinct statutes that overlapped each other in very confusing and redundant ways and put them together. It is not an easy thing to do.

I think Mark Twain once said that if he had more time, he would write a shorter letter. It is the same for us as we are trying to boil things down but still make it understandable. It is actually quite a bit of work and we want to make sure that we test it with consumers to get it right.

We will be doing quantitative testing as well in the winter and spring, as we have been urged to do by many of our colleagues who know this field very well. And we hope to get it right. We are doing everything we can—

Ms. VELAZQUEZ. Great. Thank you.

Mr. Cordray, under the Dodd-Frank Act the CFPB becomes only the third Federal agency required to convene advocacy review panels to examine how small entities will be affected by the agency's new regulations. Can you talk to us about what type of feedback the small business community has provided to you as the CFPB begins implementing these type of regulations?

Mr. CORDRAY. Yes. Thank you.

As you said, the Consumer Bureau is one of only three government agencies out of all the government agencies that write regulations that is required to follow the small business review process. The others are OSHA and the EPA.

There was some concern among our staff at the outset of how onerous would this process be, how much would it encumber the rulemaking process? I think we have had a good experience with it so far. I would say that for myself, I am a fan of the SBREFA process.

On all of the rulemakings where we have gone through the SBREFA process thus far, we have found that we have received input that has changed the content and our thinking about our proposals. It has, I think, succeeded in the aspiration, which is that hearing face to face from small providers in a setting where we are focused specifically on them and not being drowned out by some of the voices of the larger providers, we come to see things a little differently and we take that into account in our proposals. And I could show you for each of the rules different specific substantive changes that that has led to. And so it has been a good process.

Ms. VELAZQUEZ. Okay. I guess by now you have heard a lot of people and critics saying that they express concern that the CFPB will stifle lending to small businesses. We know that even before the Act was passed, small businesses were having trouble accessing capital.

Based on empirical data, can you talk to us if there has been any negative impact on small businesses accessing access to credit?

Mr. CORDRAY. In terms of perspective on that, probably the Small Business Administration has a better perspective than we do, but it is something we are mindful of and trying to avoid, to the extent we can, in our regulatory process. I would echo what you said. The biggest single drying up of capital for small business in our lifetime was the financial crisis, the credit freeze, and it has been difficult for small businesses ever since. The things that we can do to prevent that from happening again are very meaningful to small businesses, and I hope that is also understood.

Ms. VELAZQUEZ. Thank you.

Mrs. CAPITO. Thank you.

Mr. Cordray, I am going to recognize myself for 5 minutes for questioning.

Quick question: How many employees do you have right now at the CFPB?

Mr. CORDRAY. My understanding is that as of September 30th, it will be 983 employees.

Mrs. CAPITO. And then, how many will you have at full—

Mr. CORDRAY. I don't know that we know that yet, Congresswoman, but somewhere probably in the 1,600 to 1,700 range. So I would say we are more than halfway there but still have a ways to go.

Mrs. CAPITO. That is quite a large agency.

You remember the FSOC, correct?

Mr. CORDRAY. I am a member of the FSOC.

Mrs. CAPITO. Yes. How many meetings have you been to and how many have there been?

Mr. CORDRAY. I don't have an exact count for you. I have been attending meetings since I became Director of the Bureau on January 4th. I could go back and get you an exact number. My guess is there have been approximately half a dozen meetings.

Mrs. CAPITO. So once—

Mr. CORDRAY. We are meeting regularly.

Mrs. CAPITO. Less than once a month, if it is 6.

Mr. CORDRAY. Certainly more than once every 2 months. It may be less than once a month, but it is probably—

Mrs. CAPITO. What is the substance of those meetings at your level?

Mr. CORDRAY. The substance of the meetings is implementing the provisions of the Dodd-Frank Act that the Financial Stability Oversight Council (FSOC) was given authority to oversee, which has to do with Systematically Important Financial Institutions (SIFIs) and other matters that are of grave import to the stability of the financial system.

Mrs. CAPITO. Are you satisfied that is moving fast enough?

Mr. CORDRAY. I don't really have a context for making that judgment. We are moving forward. There are activities that are occurring and I think that they have become known publicly. There is other activity occurring that is in process and therefore isn't necessarily public yet.

I think everybody is looking to move these processes along, and I, as a member of the Council, am looking to do so as well.

Mrs. CAPITO. Okay. Thank you.

I mentioned in my—I want to get into two things, but I want to get into this uncertainty issue that I talked about in my opening statement. And we have heard this as recently as yesterday from institutions who fall, say, within the purview maybe of the CFPB and the FDIC, or the CFPB and the Federal Reserve. There is a distinct impression that—and I haven't just heard it once, so it is not just a one-shot deal, and I believe this was brought to your attention—I believe you are aware of this, the feeling that the CFPB is there to make decisions on consumer protection yet the prudential regulator is still holding on or is still exerting that influence in that area and that there is some—when two people think they have authority in one area, instead of both people making decisions, sometimes nobody makes a decision or takes the lead.

Where is the lead supposed to be? What are you going to do about this? Because this was one of the fears we had in creating the—when the Bureau was being created. We didn't create the Bureau; we all know that.

But when it was created, we said, "You are just going to pile on and pile on and it is going to create more uncertainty." And this really concerns me, particularly at this juncture of our economy. So I would like for you to be as candid as you possibly can be in this area.

Mr. CORDRAY. Okay. It is a fair concern because the statutory authority does overlap to some degree. If you have a consumer protection issue you, arguably, almost inevitably have a consumer compliance issue that could involve matters such as litigation risk, reputational risk, and the like, for the institution, which can, depending on the magnitude, go to safety and soundness.

So this is and is going to be a collaboration, and I have come to see that more and better as the Director of this agency. It is very important for us to have strong relationships with the FDIC, the OCC, the Fed, and frankly, with the National Credit Union Administration, as well.

I have been really pleased at the progress we have all made at building those relationships and working together. It may be noted that the credit card add-on product enforcement action that was completed recently was a collaboration between our Bureau and the OCC. We worked together on that.

It is important that we be on the same page so that the institutions don't have to, as you say, deal with the possibility of different regulators taking different positions from one another. That is very confusing and unfortunate if that were to happen.

It is our job to see that we get together. We have a number of matters that we are working on cooperatively with the OCC, and a number of matters we are working on cooperatively with the FDIC and with the Fed.

We all collaborated earlier this summer on supervisory guidance involving military servicemembers and their families' permanent change of station orders. That was a good collaboration.

But, as you say, when you are starting to do these things for the first or second or third time, there are issues you work through that are new and different, and then over time it becomes easier. But I would say that the fact that the new Comptroller of the Currency has a strong background at the State and Federal level in both consumer protection issues and safety and soundness regulation has been a tremendous step forward for our relationship, and I would say that the fact that I serve on the FDIC Board and have had a chance, therefore, to get to know their leadership has helped tremendously with that cooperation.

Mrs. CAPITO. Thank you. And my final statement, because I have run out of my time, would be, I think the institutions can follow a roadmap if they can see the roadmap, and they can follow the directions if they have the directions. They can follow the rules if they have the rules.

But if nobody is going to make a decision or if there is going to be a political struggle between regulators, they are put into a twilight zone of decision-making, and what do they do? They don't make a decision.

Mr. Cleaver?

Mr. CLEAVER. Thank you, Madam Chairwoman.

Mr. Cordray, you have been on the job now for half a year, maybe slightly over, and I know there probably was this assumption that you were going to be a Wall Street attacker, which obviously didn't materialize. But I am wondering how many—if you have a number thus far—people across the country have contacted the agency so far? Do you have an estimate or maybe even an accurate number?

Mr. CORDRAY. I am sorry, Congressman. How many people have contacted the agency so far?

Mr. CLEAVER. Yes. How many people have come to the agency filing complaints?

Mr. CORDRAY. Okay. I see.

The complaints have been steadily increasing. That is a function of probably several things. Number one, given that we didn't know at the outset what the volume would be, we did stage in complaints in different categories at a time starting with credit cards, then adding mortgages before proceeding to other products.

By the way, that was only possible, notably, because other agencies cooperated with us to make that possible. The number of complaints as of September 3rd total 72,297. That is increasing. We are at an annualized rate this month of what would be 10,000 a month, or 120,000 a year.

That is continuing to increase. We have no idea where it will level off. So it is a considerable piece of work for us.

There are other people who have come to our "Tell Your Story" portal and told their stories. There have been thousands of those. I don't have an exact number of those.

There are many other people who communicate with us in various ways, ranging from meetings, to mail, to all the same sort of things they probably come to you by those different avenues, as well.

Mr. CLEAVER. I don't have as much personal pain involved in this as I did a couple of years ago before my youngest son graduated from school, but—

Mr. CORDRAY. From college?

Mr. CLEAVER. Yes, from college. And I would never have given him a credit card if I owned a credit card company. It doesn't have anything to do with love; it is logic.

But I am wondering what you have found so far, or whether you have found anything with regard to student debt, credit card use?

Mr. CORDRAY. Yes. One of the things that the Card Act addressed which has been positive, among the many things it addressed, was the credit card marketing to minors, often to new college students on their own for the first time, about which there were various concerns. I remember in State government there being concerns about those abuses in different hearings in front of our legislature and then the Card Act was passed and it addresses that to a considerable degree.

So that has been, I think, certainly helpful. In terms of student loan debt, we hear quite a bit. It is a big issue for people right now.

We calculated and we had better sources of data than maybe had been available before earlier this year that the total amount of student loan debt in the United States had passed the $1 trillion mark—the biggest single source of debt—besides mortgages—bigger than credit cards, bigger than auto loans. There are many people over the years who accumulated debt and didn't understand maybe the differences between private student loans and Federal loans, the different protections that are available in terms of if you have trouble making payments, the different avenues that you have.

We have done a lot of work—it is part of our "Know Before You Owe" project—around clarifying and making much more accessible to people the choices they have on student loans when they are thinking about going on for further schooling. And we will be bringing out the results of all that as a college cost indicator that people can really get a sense of, when they get that offer—it is a little like buying a house. Sometimes, people fall in love with the house and they forget to think much about the mortgage. Similarly, you can fall in love with the school and forget to think much about the bill.

This will be much easier for them to compare what kind of offers they are getting from different places, what the cost will be, and we believe it will help people make more informed, better choices.

We also are working a lot of complaints from people who, it is too late to inform them because they already went through—people not like your son necessarily, but people of the age and older who do have problems now repaying their loans about what their rights are, what their responsibilities are, what their options are. We are working very closely with the Department of Education on that. It has been a great partnership for us with Secretary Duncan and his staff.

Mr. CLEAVER. Thank you. My time has expired. I would be interested if your staff could provide any information on that. I was one of the authors, the pushers for that inclusion in Dodd-Frank, and not just because of my son but because of the sons and daughters of other people I knew who were also—

Mr. CORDRAY. I would be glad to come talk with you, sure.

Mr. CLEAVER. Thank you.

Thank you, Madam Chairwoman.

Mrs. CAPITO. Thank you.

Mr. Neugebauer?

Mr. NEUGEBAUER. Thank you, Madam Chairwoman.

Mr. Cordray, you testified before our subcommittee on February 15th, and during your testimony you stated that the CFPB is committed to being accountable and using your resources wisely and carefully. You also repeatedly stated in correspondence that you are committed to promoting a culture of transparency and accountability.

But quite honestly, to date the responses that we have been receiving from the CFPB haven't really proved that out. And, one of the things that Dodd-Frank requires is that you provide a financial operating plan and forecast to OMB. I understand that you did not do that, that you gave them a budget justification form, which is different than a financial operating plan.

Additionally, we have asked you to furnish us performance measures and an overall strategic plan for the agency. As of this date, we have not received that.

We also asked you to give us a—you mentioned the word "detailed process" in determining the Bureau's employment needs, and as the gentlewoman asked you today what was the size of the organization you felt like it would be at some point in time, you have still not furnished us with any kind of information on what the process is to determine what the employment needs of the agency are.

I could go on. There are a number of things that we have asked you that should be an integral part of any agency or any business that is operating, especially one with a half a billion dollar budget.

So here is the question: Is it just you don't want to furnish that information, or it is just not a part of the process, you don't have these documents? I am trying to get a handle on if it is just a lack of transparency or you just don't have these documents. Can you elaborate on that?

Mr. CORDRAY. Sure. And thank you for the chance to address the issue, Congressman Neugebauer. I did read your piece in the Wall Street Journal.

A number of things. Again, it is important to recognize that we did not exist as an agency until last year, so at the outset, we obviously weren't going to have the same kind of full documentation as other agencies do that have existed in some cases for decades, in some cases for over a century. But we are on our way there and we are getting there.

In terms of responsiveness to your requests, it is my understanding that we have at least 5 times responded to requests with more information that you have asked for, and especially as it has been clarified to us what information you want.

As to specific issues you raise, our budgeting documents are growing larger and more fulsome each time in the process, and this is the first time through for me as Director; I only became Director, as you recall, in January. And I believe that we are well on our way to doing the kinds of things you want us to be doing around the budget process.

As for performance plans, I know that we have been working and I have seen drafts and worked on drafts of our performance plan under the GPRA that will be coming out shortly. I think you are going to find that as we go, you will receive more information. Initially, you got very little information because we had 30 people at the Bureau at the time and we hadn't built up the expertise yet. The next time, it was more. This next time, it will be more yet.

But we are happy to work with you and are committed to working with you to try to make sure that you are satisfied that you are getting the kind of information you want. I understand as of today, you perhaps are not satisfied, but I think that you will be over time, and we are getting there.

We did get a clean audit, I want to note for the record, from GAO our first time through. They are back to see us again and we have our Inspector General from the Federal Reserve, who is working over matters with us. And Congress has required us to obtain yet another outside audit, which also was clean.

So we are trying to be careful about these processes. I take them seriously and I take them personally. But in terms of getting you the information that you need to be satisfied, we are working hard at it and we will have more as we go and we will be happy to continue to be in touch with your office about making sure that—

Mr. NEUGEBAUER. I look forward to that.

I have one last question. I want to follow up on my friend, Mr. Hensarling, on this term "abusive."

Here is the question: If your agency determines that a bank or a nonbank financial entity is engaging in what you deem as an abusive product or an abusive practice, what is the recourse for that bank or for that financial institution if they don't like your decision?

Mr. CORDRAY. Sure. This could come up, I guess, in two different contexts. One would be an examination of the institution. If we were to find something that we deemed to comply with Congress' definition, which again, is the law of the land, on what abusive means, we would have a working back-and-forth with the institution. There might be disagreement about that. We would discuss it, try to clarify it.

It is not our intention to try to ding institutions on things where it is not very clear what the law is or what the law says, in gray areas. That is not really worth our time or theirs. But, as I say, often things that you might consider to be abusive are also unfair or deceptive, which is much clearer under the law, and that may be where the discussion would center.

It also could come up in the context of an enforcement action or an investigation, and if that is so the company would have every opportunity, or the individual, to raise their concerns. We have a—what we call a NORA process, that if we are considering taking an action they have an opportunity to come to us and explain why we should not or why we don't necessarily understand the facts or law correctly. And then, we take account of that before deciding whether to proceed.

And then, of course, if we were overreaching or if we were getting it wrong, courts might well tell us that and cut us back. We have not had any of those occasions thus far. We would hope that we would not, but we will see as we go. We are trying to be reasonable and yet firm in our understanding that we are there to enforce the law.

Mrs. CAPITO. Thank you. Thank you, Mr. Neugebauer.

Mrs. McCarthy?

Mrs. MCCARTHY OF NEW YORK. Thank you.

And thank you for your testimony. It has been very interesting, especially being that it is such a young agency and the amount of work that you have done in a short period of time.

One of the things that we were interested in is that your agency so far has issued two notices for comments of proposed rules aiming at protecting mortgage borrowers. With regard to the servicing proposed rules you have included a provision that requires servicers to make good-faith efforts and contact the delinquent borrowers and inform them of their options to avoid foreclosure.

And I was just wondering, how do you define "good-faith effort," because I have to tell you that we—and I am sure many Members of Congress are going through this, where so many of our constituents are calling us because they get the foreclosure notice and they don't know what to do. And they then call us back to basically say, "We have been trying to work with the bank. We don't understand what they are trying to tell us, or because there are different programs out there. Can you help us?"

And we are very lucky. We have a good relationship with a number of our community bankers. One of the things that we found—probably the best solution is for the customer to really sit down with the loan person so there can be a face-to-face. And I was wondering if you ever considered—if the agency has ever considered a face-to-face as a means of contacting, once you make the contact with the borrower, to come in, let's talk about this. Because over the phone sometimes it is very difficult, or even, to be very honest with you, with some of the papers that I have seen my constituents bring in and read—I am sorry. I sit on this committee. We have been working on this issue for a long time. You need to be a lawyer, and so you can understand where the confusion is coming from, so—

And most of these people want to keep their homes. They want to do whatever they can, but obviously they are caught in the economical problems that this country has been facing. And I still believe very strongly that until we settle the housing issue across this Nation, that is one of the things that is dragging our economy down. And I was just wondering what your response would be to that?

Mr. CORDRAY. My response, Congresswoman, to that would be, I agree with you. I think housing has been one of the single biggest obstacles to a faster economic recovery. I think that is well-documented now. I think that is undeniable and everyone is working toward more improvement, and no one more than the private sector, frankly.

In terms of the questions you raised about mortgage servicing, I believe that the community bank and credit union model on this is exactly as you describe. It is very often a face-to-face process. Typically, a lot of those institutions do keep their loans in their own portfolios, so no one else is involved. There isn't some subcontracted mortgage servicer who may not have an actual relationship with that customer and it is much easier to work through the problems in that setting.

That is the traditional model and it is a good model and it works well. The lender and the borrower both have a stake. They talk it through. They find a way to go forward.

What has happened in this industry is that there are a lot of high-volume providers, and in many cases servicing rights may have been bought and sold and go on to someone who never has had a relationship with that individual customer and it may be several years before they start having a problem making payments. That kind of communication has not occurred very well or very effectively.

Frankly, there has been—just to be blunt about it—poor customer service by a lot of the mortgage servicers. There is just no other way to describe it.

Our rules will help to improve this situation. They provide for continuity of contact, early intervention, and new record-keeping and document management procedures, all of which should improve this. None of this is a surprise or a mystery to people in the industry; it is just a question of whether they are willing to put in the time and effort to do it.

And whether we should mandate face-to-face meetings in all instances, that feels a little like we would be micromanaging processes maybe too much. I would be happy to have our staff discuss with your staff thoughts along those lines, but we have tried to draw a balance in these rules. They are out for public notice and comment right now and we will be finalizing them by January.

Mrs. MCCARTHY OF NEW YORK. My time is up. Thank you.

Mr. NEUGEBAUER [presiding]. I thank the gentlewoman.

And now the gentleman from North Carolina, Mr. McHenry, is recognized for 5 minutes.

Mr. MCHENRY. Thank you, Mr. Chairman.

Mr. Cordray, thank you for returning to the Hill to testify. Structural issues remain regarding the CFPB, but I certainly appreciate your willingness to submit to congressional oversight.

And I want to follow up on my colleague from Texas, Mr. Neugebauer's, line of questioning, as well as Mr. Hensarling's line of questioning about the term "abusive." Now, the concern—and you answered this in Mr. Neugebauer's question, but you outlined it that this term will largely be determined by enforcement action.

That is the concern I hear from industry is that you are going to wait until you take an enforcement action in order to understand what the definition of "abusive" is. It would be proper for you to outline what those terms are before you take an enforcement action.

That sort of concern by the industry adds to their level of uncertainty about your agency and about the Bureau as it currently stands. So I ask you to consider that.

The question I have in hand is about simplified mortgage disclosures. My colleague, Mr. Green of Texas, and I wrote legislation trying to put in place a one-page mortgage disclosure form.

I appreciate the fact you took this up first on your watch. Again, the concern I have, though, is the construct of it, as Chairman Bachus outlined—look, when you say you have a three-page loan estimate at the beginning and a five-page long disclosure form at the end it becomes overly cumbersome and simply adds to the stack that folks have at closing or at refinancing.

We had Mr. Date—Raj Date—testify and he even conceded, like I have conceded, that I didn't read the full stack. And so people are left with a lot of major questions even when they make this huge closing with all these enormous mandates.

Can you get to a one-page mortgage disclosure and can you simplify the regs that you have put out?

Mr. CORDRAY. Thank you, Congressman McHenry, and—for the discussions we have had around these issues. And I recalled that you had worked on legislation on this actually several years before it became in vogue.

We are working, as I said, to simplify the two forms. Congress has asked us to do this. They had asked agencies to do this before. It was not easy. There were different statutes and they overlapped and we are well on our way to simplifying those forms.

It is a hard piece of work and you maybe can appreciate it the most if you have tried to create the short form that speaks to the things that need to be spoken to without making it overly long.

Our proposals to date are shorter than what existed before. It is not accurate to try to make something so simple when it isn't so simple, but it is an ongoing project for us.

In terms of the fact that there is still a huge stack of materials, we dug into that and looked carefully at what there is. Much of it is required by State law. Unless we are going to sort of preempt State law that says you have to have a deed and you have to have different titles—

Mr. MCHENRY. We have had that since—some of these issues are as old as the Magna Carta.

Mr. CORDRAY. Right. So—

Mr. MCHENRY. But the important thing is that people have the essential information.

Mr. CORDRAY. That is correct.

Mr. MCHENRY. What their payment is, what their interest rate is—

Mr. CORDRAY. That is right. And that is what we are trying to do with our form. And frankly, we have had this all out for lots of public input, and are happy to get input from your office, and if you want to have us look again at what you had thought about—

Mr. MCHENRY. So what specific elements of TILA and RESPA need to be reformed so that we can reduce that stack and make sure consumers have the proper information?

Mr. CORDRAY. Yes. Although, my point is, as for the stack, a lot of it is State law.

Mr. MCHENRY. I heard you.

Mr. CORDRAY. It is not correctable by this Congress unless you are simply going to preempt all of State property law. A lot of it is imposed, we have found, by the lenders themselves out of a sort of defensive medicine-type approach to—

Mr. MCHENRY. Right. My time is short, and that is why I am trying to ask about TILA and RESPA—

Mr. CORDRAY. Yes.

Mr. MCHENRY. —that are both Federal laws. I conceded with you that much is State law and much is as old as the Magna Carta. I am talking about the things that we can control.

Mr. CORDRAY. Yes. What we are doing is trying to simplify that as much as possible, and that proposal is out for comment now. We will be finalizing it next year. And again, we are happy to hear from everybody on that project.

Mr. MCHENRY. I will just follow up with you in written form because—

Mr. CORDRAY. That would be fine.

Mr. MCHENRY. —that is not much of an answer. I am trying to ask for specifics of what can be reformed.

I yield back.

Mr. CORDRAY. Okay. That is fine.

Mr. NEUGEBAUER. I thank the gentleman.

And now the gentleman from New York, Mr. Meeks, is recognized for 5 minutes.

Mr. MEEKS. Thank you, Mr. Chairman.

It is good to see you, Director Cordray, and we thank you for the work that you are doing. I have just a few questions on issues that have come before my office from a number of constituents, and I would just like to get some of your viewpoint.

One of the first is, of course, dealing with many of our servicemembers. We have had a number who have come by the office and are in very difficult financial challenges and seem to be prime victims for predatory lenders. One had told me about individuals being outside of the military base itself and giving him what he thought was an offer that was too good to be true, and generally, when it is too good to be true, that is because it is.

I know that Holly Petraeus is part of the new Office of Servicemember Affairs. So I was wondering what you can tell us in regards to how this office has been helping and what they can do and how maybe I can direct some of my constituents to the services, or those individuals in the military.

Mr. CORDRAY. Sure. Thank you, Congressman, for asking about that part of our office. It has been really a great success, our Office of Servicemember Affairs, and a lot of it is due to the fact that Assistant Director Petraeus is in charge of it.

She has tremendous credibility throughout the military, across the country from both the rank and file and leadership. She goes out and brings back issues that she learns about from servicemembers and their families, and increasingly from veterans as well, and she gets a response from the Department of Defense, and the Department of Veterans Affairs, as wanting to solve those problems.

The Permanent Change of Station Order guidance that we gave—and a number of you served in the military and can think back to when you were actively on duty and understand the challenges it can create economically for servicemembers and their families. People get a Permanent Change of Station Order and they have to move. They don't have any choice. That is part of their Army duty, or Navy, or whichever branch of the service.

But they may not be able to sell their home. They may have to decide between leaving their family there because they are not able to sell it, it is underwater, or taking a huge loss which they can't afford, some hard choices that maybe civilians don't typically face.

And the guidance that we have provided now makes that a qualifying hardship for the HAMP program and some of the other government programs that help people get mortgages modified. That is an advance. Any number of those types of stories that I can tell.

People can get in touch with our Office of Servicemember Affairs either through our Web site—consumerfinance.gov—or by calling our line and working through that. And we welcome that input. We have been very actively working on behalf of servicemembers and trying to address their special concerns.

Mr. MEEKS. Thank you very much. And we will be in touch on that.

In the time I have left, let me ask another question, because when we went through the financial crisis, and what caused it, a lot of the larger companies and the big companies were the major ones and we have our smaller institutions that still are very actively involved in the local communities, et cetera. And I know that when we put in—when Congress granted the CFPB the power to exempt various or certain financial institutions.

So my question is, down the line do you foresee the CFPB creating, maybe, a rule that would exempt some of the smaller financial institutions—some of the community banks, or credit unions, or things of that nature? What is your vision there? What is your viewpoint there?

Mr. CORDRAY. Congressman, that is something that I have promised we will think about with every single rule. In the first rule, we finalized on the remittance transfers, discussed earlier, we ended up putting in a threshold below which you do not have to comply with the rule and that will exempt a large number of community banks and credit unions. We have that in our proposal on mortgage servicing and we are considering it in some of the other rules, as well.

I firmly believe—as I have said before and I will say it again—that community banks and credit unions and the traditional customer service model that they bring to their work did not cause the financial crisis. We would have been far better off if their market share hadn't been robbed before the crisis by some of their irresponsible competitors, and we will be better off eventually to the extent that they are restoring their place in the market. We want to encourage and promote that and we will look to do that as we write rules.

Mr. MEEKS. Thank you, Mr. Director.

I yield back.

Mr. NEUGEBAUER. I thank the gentleman.

Now, the distinguished gentlewoman from Illinois, the chairwoman of the Insurance and Housing Subcommittee, Mrs. Biggert, is recognized for 5 minutes.

Mrs. BIGGERT. Thank you, Mr. Chairman.

Director Cordray, I think that I want to continue a little bit on what was said before about RESPA and TILA. It seems that Dodd-Frank failed to provide the CFPB with the authority to merge the RESPA and TILA statutes, and I know that we worked to try and get them together as they were working on that so that it didn't—they didn't come up with a disparity in those statutes, but that happened. And there seems to be the conflict between the statutes and their application or policy goals.

Can you or your staff suggest legislative language that would resolve the differences and the conflicts between the two statutes, and should they be merged?

Mr. CORDRAY. Yes. And Congresswoman, maybe this helped me understand what I didn't—what was not clear in Congressman McHenry's question before.

What Congress did in the financial reform law was they said that the disclosures that apply to mortgage transactions at application and again at closing needed to be merged and consolidated and if possible streamlined because it was just too confusing for people to get two different things with somewhat different purposes but overlapping. And that is the project we are working on and we are resolving.

Congress did not, though, push together the Truth in Lending Act and the Real Estate Settlement Procedures Act. They are very different statutes and have different objectives: the Truth in Lending Act has to do with the accuracy of disclosures and forthcoming nature of disclosures around different types of consumer financial lending and credit; and the Real Estate Settlement Procedures Act has to do with what were viewed as problematic issues and practices around real estate closings, and therefore, they are actually quite distinct.

They do overlap in this area of mortgage disclosures and that is where Congress has asked us and really directed us to try to clean that up, and that is what we are trying to do. But beyond that, I don't at this point have suggestions on ways in which you should change RESPA or change TILA, although I would be happy to work with you and your staffs on those. I don't regard the statutes themselves as a problem—

Mrs. BIGGERT. Or that have to be—then you don't think that they have to be merged to—

Mr. CORDRAY. The two statutes, no. I don't think that would be productive, although I am always open-minded on legislative matters. That is your purview, and if there is something you want to look at, we are happy to look at it as well.

Mrs. BIGGERT. I would like to, and we can do that in the future. And thank you.

Another question is that the RESPA/TILA rule I think creates uncertainty regarding who prepares and delivers the final disclosure to the consumer. The proposed rule, by permitting the lender to deliver the final disclosure, I think removes the independent third-party closing agent from the settlement process. And even in Illinois, there is a State law that requires that at any closing, there be a real estate attorney also.

What was the intent of removing this independent check at the closing table?

Mr. CORDRAY. Congresswoman, one of the issues kind of left unresolved, to the extent that the financial reform law directed us to merge the TILA and RESPA disclosures for mortgages, was who would provide certain pieces of that at the closing table, whether it be the settlement agent or the lender. And the lender had more responsibility for some of the things under the Truth in Lending Act, and the settlement agent under RESPA.

We have not at this point decided that issue. We are not trying to—we are kind of wary about trying to impose a model on the market. We certainly feel the right answer is—clearly the right answer is that the two would work together because they tend to bring different sources of information to ultimately what needs to be done to get you your mortgage, and so that is all out for notice and comment now. We are hearing from people—hearing some of the same questions you are raising today. We are hearing what they think, thinking through that, and we will do that before we finalize.

And any thoughts that you or your staff have about it that you want us to know, we are happy to hear them.

Mrs. BIGGERT. Okay. When you are talking about this, is this from the testing that you are doing on the mortgage disclosure form for consumers and how they react to changes?

Mr. CORDRAY. Yes. Although that testing is more around the effectiveness of the disclosures, whether consumers understand them or whether they are confused by them. The issue you are raising is more of a practical problem of who, on the industry side, the provider side, is responsible for which pieces of the closing. That has always been an issue that the settlement agents and lenders have tended to work out between the two of them and it is something they should continue to work out between the two of them. But we are hearing from people who have different points of view on this and we are going to try to—

Mrs. BIGGERT. And that is why I would like to meet and discuss that further, because I am really concerned that the mortgage participants, especially small businesses, may be shut out of the mortgage origination process altogether. So I thank you for your answers.

And I yield back the balance of my time.

Mr. NEUGEBAUER. I thank the gentlewoman.

And now the gentleman from Georgia, Mr. Scott, is recognized for 5 minutes.

Mr. SCOTT. Thank you very much, Mr. Chairman.

Mr. Cordray, I would like to continue the line of questioning on the mortgage servicing end. Two significant events have happened lately to help struggling homeowners. I happen to think that there are just too many homeowners who are losing their homes unnecessarily. There is help out there, but they are not getting it. And I wanted to know what connection you had with these and how you are working with them.

One has been the settlement of the multi-State with the banks, the large banks. There was a settlement—Bank of America, Wells Fargo, JPMorgan Chase, Citi, and Allied—these five banks, and individuals who held their mortgages with that would be entitled to very significant help.

Have you all looked into this? What relationship would you have with it? How are you making sure those consumers are getting help?

There has been some debate as to whether or not this money can be used to write down principal, for example, which is very much needed. What is the assessment of that situation right now?

Mr. CORDRAY. Our involvement, Congressman, in this issue is, in particular, we now have authority over mortgage servicers. We have authority to write rules on mortgage servicing that apply across the industry to banks and nonbanks. We are in the process of doing that; those will be final by January.

We have the ability to examine mortgage servicers, send in our examination teams. We have been doing that with different servicers. We are in the process of doing that across the industry. That has been insightful for us and it will lead to corrective action in a number of instances where they have not been up to snuff, likely.

We have enforcement authority, which in appropriate cases will be utilized as needed to make sure people are following the law. In terms of the—

Mr. SCOTT. Have there been any problem areas there? Any complaints? Is it moving smoothly? Are all five major banks cooperating?

Mr. CORDRAY. I think our processes are moving relatively smoothly. Again, we are a new agency, so I am sure things will be smoother several years from now than they are at the outset, but relatively smoothly.

In the mortgage servicing industry, things have not moved smoothly over the past 5 or 6 years. Consumers—I am sure your office hears from them as much as we do—have been very dissatisfied with the level of customer service, accessibility, even the ability to get somebody on the phone, when you get them the paperwork, whether there is continuity and they actually keep and don't lose the paperwork, all the frustrations people have had.

So it is a troubled area, but it is not necessarily the case that every mortgage servicer is having deep problems with their process. Some of them have cleaner portfolios; some of them have been more attentive to—

Mr. SCOTT. Let me ask you—my time is slipping away: One other program we put together here at this very committee was to get help where it really was needed for those people who are barely holding on to their homes, but have lost their jobs. And so, we put forward what we call the Hardest Hit Program.

Mr. CORDRAY. Yes.

Mr. SCOTT. And there have been a lot of problems with that, largely because some States have the 45 percent approval rate, and some have a 10 percent approval rate. And I am wondering, this is a program—and many people do not even know it exists—where an individual lost his job and this money is there to help them to pay up to 18 months of their mortgage, and they have not gotten that information.

What are you doing to help some of these States move along to more aggressively market the program, target the severely unemployed and make sure that works? That is something that could directly keep people in their homes, particularly in the view of the fact that that money will run out in 4 years?

Mr. CORDRAY. Yes. I recall, when I was Attorney General of Ohio and these funds were first made available, finding myself frustrated as time was passing and they were not being drawn down. I actually think in the State of Ohio, that is going better, but it is a challenge.

We don't actually administer the Hardest Hit funds so I am not an expert on that. But I do know it has been an issue and a problem around the country. Some States have drawn virtually none of their funds; others somewhat more. There has been resistance from various quarters. I don't understand it well enough to opine helpfully to you on it.

Mr. SCOTT. That might be somewhere where we need some extra help. You are absolutely right. Many of the States have been—

But let me get to one other point on the regulatory front and the regulatory burden. We hear some complaints from your agency about the regulatory—the overworked paperwork, the outdated, unnecessary, unduly burdensome regulations. What are you doing to address this issue?

Mr. CORDRAY. We have heard that too, and I have invited that kind of comment. We launched a streamlining initiative earlier this year to ask people broadly, including industry and other stakeholders who typically have this complaint, to identify for us some of the types of provisions that they think could be eliminated or modified or the burden of them reduced without hurting consumers or that they think are not really delivering their value.

And we got a number of suggestions, some of which we are definitely following up on, but one of which was the credit card "ability to repay" effect on spouses who do not work outside the home, which is one, as I said earlier, we are going to be taking up imminently. There are others we will pursue.

So I think that was fruitful for us. We did find that a lot of the burden people complain about has nothing to do with the Consumer Bureau and the financial industry. It is the money laundering requirements and the Bank Secrecy Act, neither of which we administer.

But there are things that did come within our purview that we will proceed on and I think that has been helpful and we will be able to show the people who complain about that, that we are willing to take up and work on some of the issues they raise, which I want to do.

Mr. SCOTT. Thank you very much.

Mr. NEUGEBAUER. The gentleman from Missouri, Mr. Luetkemeyer, is recognized for 5 minutes.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

Mr. Cordray, on—I sent you a letter along with, I think, 30-some of my colleagues with regards to the wire remittance rule that you promulgated, and we received back this week your letter and we thank you for that. One of the questions that I have that, in the letter here it says that you understand that achieving full compliance by the effective date may present challenges for some institutions subject to the rule and have met with some providers to hear the concerns they may have.

Are you considering any changes as a result of those meetings that you had with those providers? And if so, what changes to the rule are you anticipating?

Mr. CORDRAY. There have sort of been three stages of this. The first is, as I said earlier, Congress passed the law. It is the law of the land. There are now new protections and new procedures for remittance transfers. If the Consumer Bureau didn't exist, that would still be the law of the land.

The Consumer Bureau was the agency designated to implement that law by adopting rules. Those were out for public notice and comment. We had many discussions with many parties about them before finalizing them. We finalized those in February.

At the same time, we proposed a supplement to consider whether to exempt institutions below a certain threshold from having to comply with the rule because it was more burdensome than makes sense for them. We did adopt that threshold in August and there are many—I believe it is thousands of institutions exempt from the rule. But it still covers most of the consumer market—

Mr. LUETKEMEYER. Through your discussions, though, have you found that in serving the entities that are going to be affected by this, have you found a large group of them that are just going to quit providing the service?

Mr. CORDRAY. We hear different things about that and we are trying to understand it more. The third stage that I didn't get to—Congress passed the law. That is settled. We did issue a rule that is now settled. There is some opportunity for us to perhaps clarify and provide guidance around some of the points that are being raised, but unless we are going to reopen notice and comment rulemaking and redo the process, we are a little more constrained now.

We are having discussions with various providers who were expressing concerns to us about what we can do to try to address those concerns. We will do as much as we can.

We also recognize we need to provide clearer and simpler guidance to a lot of the smaller institutions and we are going to be coming out with a small business compliance guide to the rule, which will be much more accessible and in plain English than what is written in the Federal Register. That is coming out soon. And we are going to continue to work with institutions to try to give them guidance and ease the implementation process as much as possible.

Mr. LUETKEMEYER. If you see that there is a constriction of services due to the number of folks who are going to be doing this, would you look at raising this number from 100 to 500 or 1,000?

Mr. CORDRAY. We just went through a process on that. We can do and redo and redo processes forever and then people complain about regulatory uncertainty. We went through a process; we heard—

Mr. LUETKEMEYER. Director Cordray, let me interrupt for just a second. The rule is there or the law is there to solve a problem?

Mr. CORDRAY. Correct.

Mr. LUETKEMEYER. And if the problem—if there is no problem at the lower end of institutions that have very few transactions then that is not—then that problem—then we need to eliminate that because we are creating a problem instead of solving a problem.

Mr. CORDRAY. Correct. And that is what we did. That is what the supplement was—transactions that are exempt from this rule. You do not have to worry about it; you can throw it in the trash.

Mr. LUETKEMEYER. If we find, though, that as a result of constricting services, people getting out of it, and there still is—and the folks who were—who are getting out of it are not our problem folks, would you not think that we need to reconsider that at least?

Mr. CORDRAY. What the law requires is that for the first time now, consumers are entitled to certain protections in this area: if errors are made that there would be an error resolution process, they are entitled to know what money is going to be received on the other end and not just toss their money into a black hole and not know what is—

Mr. LUETKEMEYER. Okay. I understand where you are going. I understand that.

You mentioned the word "error." Right now, the way the rule is written the error can be assigned to the individual providing—the provider who correctly delivers the funds but the sender gives them a wrong account number. Is that not correct?

Mr. CORDRAY. I think that is one of the issues we are working through with different institutions that are raising the issue with us. I think it is somewhat overstated.

Mr. LUETKEMEYER. How can you overstate that?

Mr. CORDRAY. Because I think that—

Mr. LUETKEMEYER. Either you count it as an error or you don't.

Mr. CORDRAY. Shall I explain?

Mr. LUETKEMEYER. Sure.

Mr. CORDRAY. Okay. So counting as an error then has to do with whose responsibility it is to sort out whether it is an error or not. That is the first issue. And, Congress provided, and it probably makes better sense that the institutions sort out how the error occurred than that the individual be given the burden of doing that.

Once that is done, the fact that an error was made by the consumer is something that can be worked on back and forth between the institution and the consumer. There is some concern I have heard expressed that there might be fraud here, the consumer makes an error deliberately and the institution is somehow on the hook for sorting through that error. Nothing in our rule prevents the institution from suing consumers who attempt to defraud them and to get relief.

But look, these are more complicated issues, perhaps, in some ways, than can be discussed productively in 30- and 60-second bites. We would be happy to come and talk with your staff more about them. We are having the same kinds of discussions with some of the providers themselves and we are looking to see if there is any kind of clarification and guidance we can give around this to keep your—

Mr. LUETKEMEYER. I see my time is up, but I think it is—it opens a huge liability situation for the providers of the service. And whenever you deem something an error, which is not anything that they have control over, I think we have a huge problem that needs to be at least looked at and worked with industry in some degree.

Mr. CORDRAY. With respect, the notion that consumers who come in for a $400 transfer and then there is an error are going to sue you and find an attorney to bring a case based on that I think is vastly overstated, but we are worried—we do not want to foment litigation and we are having discussions to see what we can do to resolve and address some of these concerns, and we will continue to do that and we are happy to have them with you and your staff as we go.

Mr. LUETKEMEYER. Thank you.

Thank you, Mr. Chairman.

Mr. NEUGEBAUER. I thank the gentleman.

And now the gentleman from California, Mr. Sherman, is recognized for 5 minutes.

Mr. SHERMAN. I thank the Chair.

The Federal Government does an awful lot to try to support the home market, especially in these difficult economic times. We do so at considerable cost and considerable controversy.

We have a home mortgage deduction and property tax deduction. We have taken over Fannie Mae and Freddie Mac. There is considerable controversy there, and some risk to the Federal Government.

And now the Federal Reserve has its QE3 program, which is designed to support home prices and allow people who might otherwise not be able to buy a home to qualify for a home with a lower payment or lower interest rate. So everybody in the Federal Government is sacrificing their other goals in order to try to make sure that we can turn around the home prices and provide for homeownership.

Your agency is now crafting rules defining Qualified Mortgages, which will govern how housing finance works in the future, and initial reports indicate that the rules you are considering are very conservative and could restrict the number of creditworthy borrowers that are able to obtain mortgage financing.

How do you reconcile your agency taking an action which would depress home prices, reduce the number of people who could qualify for a loan and become homeowners while everybody else in the

Federal Government is paying the price, enduring the controversy, shouldering the cost to accomplish the exact opposite goal?

Mr. CORDRAY. The short answer, sir, is that is not what we are doing. The—

Mr. SHERMAN. That is a good answer.

Mr. CORDRAY. —longer answer is that this is not a proposal—the only proposal publicly on the table is one that did not originate with us, it originated with the Fed and it is a difficult area and the proposal raised a number of questions that it did not yet seek to resolve but sought to get broad input and comment from people, which I think was sensible at that time.

We have now received those comments. We have received further comments. We have received incessant comments on this because it is very important to people.

And the question you raise is one that has been raised to us numerous times and I think it is fair to say we are getting the message that if we draw the QM circle too narrowly we could ourselves be responsible for causing further troubles in the mortgage market. We do not intend to do that.

We recently reopened this proposal for more notice and comment because we got some new data that gives us a better handle on what is actually happening in the mortgage market in this period where it is, in this somewhat unnatural phase, and it is difficult to predict where it is going.

I think that people will be satisfied in the end that we have taken account of that concern and we need to do so. Hearing you say it again today reminds me once again how important this is for people.

Mr. SHERMAN. I thank you for your attention to that.

One part of these rules goes back and forth between rebuttable presumption and safe harbor, and of course, the economy works best when the rules are clear and when the regulators are in touch with the markets enough to know when some new abuse occurs and then they can quickly change the rules. If you can't draw clear rules, and you can't modify those rules as necessary, then we are stuck with the litigation system. Vague rules and rules you can't rely on, and then you have litigation liability and loss to consumers and the economy.

Is your agency leaning toward the rebuttable presumption and do you think you can write a rule that provides a safe harbor so that businesses can be certain that if they comply, they will avoid the liability, and won't need to pay for the liability insurance?

Mr. CORDRAY. I found myself saying in my head, "Amen," to your comments about this. As a former attorney general, now as the head of a Federal agency that has, among other responsibilities, law enforcement functions, gray areas of the law are not appreciated. They are difficult. They are difficult for people trying to comply. They are difficult for us.

I think we understand here that if we write rules that are murky, that is going to essentially be an abdication of our responsibility because they will end up getting resolved in courts through litigation so it will take years and it will be very expensive, and the uncertainty will linger all during that process. So we understand and I think we are making real efforts here to draw very bright lines about what qualifies you or doesn't qualify you.

The safe harbor versus rebuttable presumption comparison is a little bit of a mirage because even the safe harbor isn't safe. You can always be sued for whether you meet the criteria or not to get into the safe harbor, so there was a bit of a marketing concept there.

But I think the more important point is, are we drawing bright lines that will discourage and minimize the prospect of litigation. That—

Mr. SHERMAN. Let me just tell you that all the sea captains I have talked to really want a safe harbor.

Mr. CORDRAY. Yes. Look, if somebody said to me, safe harbor or anything else, I would go for a safe harbor. But I don't think the safe harbor is truly safe and I think that oversimplifies the issue. The issue here is minimizing litigation cost and the risk of it which would lead people out of this market. We are definitely going to try to do that.

Mr. SHERMAN. Thank you. I yield back.

Mr. SCHWEIKERT [presiding]. And the groaning wasn't at the joke. Yes, it actually was at the joke.

Mr. Grimm?

Mr. GRIMM. Thank you.

Let me just pick up from there. And I very much appreciate your time today, Mr. Cordray. One of the frustrations I think some of the Members are having is that we hear there are 27 oversight meetings. It is great to have that much oversight, but a lot of the questions just don't get answered. We are talking about the questions and talking about everything but the answers.

I was told—and please correct the record if I am wrong—that you yourself had mentioned that the CFPB would absolutely not be adopting a safe harbor for QM. Is that accurate?

Mr. CORDRAY. First of all, that rule is pending and not finalized, so—

Mr. GRIMM. Hold on, sir. That is my point, though. It is a yes-or-no question. Did you or did you not say that the CFPB would absolutely not be adopting safe harbor? Yes or no?

Mr. CORDRAY. So it is a little like bringing a Justice to the Supreme Court in here last spring and saying, "Are you or are you not going to find the Affordable Health Care Act unconstitutional?" It is in process. It is not yet resolved. So for me to tell you what we are going to do or not—

Mr. GRIMM. Sir, that is actually not true. I asked if you said that. My question was, did you say that in the past? That is something that happened or didn't happen. See how simple that question is? It is yes or no. It is not what is it going to do in the future; it is did you say that in the past or not?

Mr. CORDRAY. Okay. I have not taken a position because the Bureau has not taken a position on that.

Mr. GRIMM. Thank you.

Mr. CORDRAY. What I have said is I have discussed the issue in ways as I just discussed it with Congressman Sherman, which is explaining that some of the difference between safe harbor and rebuttable presumption is, in my view, quite overstated, and that we are going to try to minimize litigation risk and draw bright and clear lines. That is what we are going to try to do, but we have not done it yet, so for me to tell you what we are going to do when it is not finalized would be, as I understand it, improper.

Mr. GRIMM. Okay. And that is why when there is a lot of talk about the lack of oversight and the uncertainty out there, there have been 27 meetings, yes, but all of them ended with, "We are working on it; we will let you know when we are done."

Mr. CORDRAY. Sometimes, that is the accurate answer.

Mr. GRIMM. And that is extremely frustrating.

Mr. CORDRAY. Sometimes, that is the accurate answer. If we are working on it and it is not yet done, I could give you an answer, but it would not be accurate. That is the answer sometimes. Where I can answer the questions more definitively, I certainly try to do so.

Mr. GRIMM. In your opinion, do you think that litigation risk associated with ability to repay standards will be—would be increased? If the CFPB goes that way, do you think that would increase litigation risk?

Mr. CORDRAY. Goes which way?

Mr. GRIMM. With an ability to repay standard as opposed to a safe harbor.

Mr. CORDRAY. The rule is an ability to repay rule. The proposal that the Fed put out posits a choice between a so-called safe harbor and a so-called rebuttable presumption.

Mr. GRIMM. I am sorry, rebuttable presumption.

Mr. CORDRAY. I think that a rule that creates uncertainty and murky criteria will foster litigation and that would, in fact, restrict access to credit. I would agree with that, yes.

Mr. GRIMM. Okay.

Today, do you think there are a substantial number of borrowers who are qualifying for mortgage credit who should not be getting loans?

Mr. CORDRAY. Today?

Mr. GRIMM. Today.

Mr. CORDRAY. I don't think so. I think in 2005, 2006, and 2007, there were a lot of mortgages made for people who honestly should never have qualified—they didn't check their income; they falsified income. There are legions of stories around this.

But today, it is much more constrained—because we had a financial crunch. We had a credit freeze. We have had a fall and a deep recession. Right now, credit is tight, and it is because of what happened to the economy in 2007 and 2008.

Mr. GRIMM. So let me ask, alternatively, do you think that there are qualified borrowers who are not receiving credit under today's underwriting standards?

Mr. CORDRAY. My sense is that there are in—the weasel word in that question is "qualified," but my sense is that credit is very tight, yes. Maybe too tight.

Mr. GRIMM. I will end with this: How do you anticipate whichever way the CFPB goes with the Qualified Mortgage rule, do you think it will expand or contract that availability?

Mr. CORDRAY. I think we are trying to write a rule that confers the protections that are intended under the ability to repay provisions and we are trying not to have the unfortunate side effect of drying up credit in the mortgage market. This is not an easy issue. It is a hard issue and it is hard to gauge the future of the mortgage market right now.

We ask everybody who comes in to meet with us, what is the future? What is going on? What kind of financing is coming back into this market? Nobody has very clear answers.

But we are going to try to avoid doing that ourselves. And by the way, let me say that if we write a rule and then we find that it has unduly restricted access to credit, we will go back and look at redoing it, although again, regulatory uncertainty is what people are complaining about now. We will have these rules in place by January. Then things will be certain. We will remove that cloud.

People then may complain about, now it is certain but I don't like it. That is what we are trying to listen to them on now so that we can do our best to take account of their concerns.

Mr. GRIMM. Thank you.

My time has expired.

Mr. SCHWEIKERT. Thank you, Mr. Grimm.

Mrs. Maloney had a question to a point you made.

Mrs. MALONEY. Mr. Grimm and I are from the same State and City and we are experiencing the same situation even though the economy is improving in New York and in the country overall. Credit is incredibly tight. Even if you have an A-plus, A-plus-plus-plus rating for your finances, you can't get a loan. Why is that and what do we need to do about it?

Is it the backload in Fannie and Freddie? Some of the big banks say that they are pushing back properties—if they find anything wrong, Fannie and Freddie push it back on the bank's books and they take a huge loss on it, and they feel they are getting so much of this that they can't put any other capital out. That is one explanation I have gotten.

But we have now had 30 months of job growth and financial indicators going up in many places—

Mr. HUIZENGA. Mr. Chairman, point of order. I am curious. We are all in line for questions and I am just curious where this time is coming from.

Mr. SCHWEIKERT. Sorry. This was supposed to be just a quick reference question.

Mrs. MALONEY. Okay. Why do you think that credit is so tight?

Mr. CORDRAY. I think there are a lot of reasons. I think people are digging into this and trying to analyze and understand it.

The most obvious reason is because we went through a credit crunch and a credit freeze and a financial crisis and a recession. That hurt a lot of institutions and therefore it is taking time for them to be able to lend more aggressively. There are a lot of problems that occurred in the financial crisis, including put-backs of mortgages that were poorly drawn up to begin with, so that has created risk and concern for people active in this market.

There are any number of different explanations, many of which have some validity. I don't know how to quite rate the importance of them vis-a-vis one or the other.

Mr. SCHWEIKERT. Okay. And forgive me, because it was meant to be just a question off of a point of personal privilege.

Mr. Green?

Mr. GREEN. Mr. Chairman, I am amenable to yielding to the gentlelady such time as she may consume.

Mrs. MALONEY. Thank you. Thank you, Mr. Green.

I would just like to say that I think this credit crunch is really the biggest problem that we have in having a robust recovery. And I just would appreciate your getting back to us as soon as you can with what you think we could do to try to address that.

One of the reasons housing is not beginning to move forward is people literally can't get mortgages. They can't. They come to my office and they are making $400,000 a year, they have an A-plus credit rating, but they can't get a mortgage anywhere. There is something wrong with a system like that.

I yield back to Mr. Green and I just wanted to jump in on it because I think it is one of the biggest problems we have. We have the head of the CFPB. I would like to pick his brain and see how he sees it, and I think that is something that all of us are concerned about and I am sure all of my colleagues are hearing it from their constituents.

I yield back to Mr. Green. And thank you so much, and congratulations on your important bill that passed the Floor last night.

Mr. GREEN. Thank you, Mrs Maloney.

And I thank the Chair for this opportunity.

Mr. Cordray, thank you very much for appearing today and for your many, many other appearances. I am sure you have lost track of the actual number—

Mr. CORDRAY. I enjoy coming here.

Mr. GREEN. —but we do see you quite regularly and we appreciate your testimony.

I would like to visit with you for just a moment on the "Know Before You Owe" program, but from a different perspective. I would like to talk for just a moment about the notion that we are polyglot—a good many persons in our society are bilingual and speak multiple languages. In my district, we have the ballot printed in four languages: English; Spanish; Vietnamese; and Chinese.

How does this tie into "Know Before You Owe?" In this sense: We are talking about understanding and making sure that people understand the documents that they negotiate. If we are doing this—and I know that you are making a concerted effort to get the job done—to what extent are we translating documents and providing documents in other languages such that other persons can know before they owe by virtue of reading a language that they understand? That is the first question, and then I will have a quick follow up, if you can answer that one rather briefly.

Mr. CORDRAY. Okay, sure. The issue of accessing consumers in other languages is one where I am not satisfied with our progress yet to date. We need to do more and we will.

Our complaint call line is accessible to people in well over 100 languages, so we are good on that front. In terms of our Web site, we don't have enough translation there yet, in my view, but we are working on it.

In terms of how we write rules and do things like "Know Before You Owe" and testing and the like, that is something that we are taking into account. In the remittance rule that we finalized there is a requirement in the rule that if you advertise to offer money transfers and you advertise in a foreign language, so therefore you are trying to get customers by using that language, the disclosures need to be provided in that language. It wouldn't be fair to people to bring them in speaking Spanish to them and then give them disclosures in English that you are not sure they can understand.

And there will be other rules as we go where this will be a legitimate concern—always will be a legitimate concern and we will work with that.

Mr. GREEN. I thank the Chair.

I just want to comment on that last statement, if I may, quickly. That is an important aspect of this inquiry because we do have persons who will bring—attract business in a certain language, but when they do business, they do it in a different language, meaning English when they do the business but when they are attracting the business they may use Spanish or some other language on various radio stations. So I appreciate your looking into it.

Thank you.

Mr. SCHWEIKERT. Thank you, Mr. Green.

Mr. Huizenga?

Mr. HUIZENGA. Thank you, Mr. Chairman. I appreciate that.

And I agree with my colleague from New York about the credit issue. I will make a note, though, it is not an interest rate problem as to why people are not able to get loans right now, and as we are having this discussion about Quantitative Easing 3 happening I think that is important.

I, too, am glad you are here, but I am concerned about the real lack of oversight, which means, in my mind, budget direction from this body. We can ask whatever questions we want, but precious little can actually be done unless we have that actual, direct budget direction or input. And my definition, which I think is the constitutional definition as well, that is what real true oversight is.

And I know, Mr. Cordray, you are in a particularly tough spot to a degree and you have said a number of times—I have lost count of how many "Congress has directed" or "this bill has said," and all those other things. Not all of us were here when that was passed. I am living with the echo effects as one of those freshmen, 12 on this side of the aisle, and I believe there are one or two over on the other side of the aisle.

So I want to not talk or dwell about, necessarily, the specifics about your rule, but I want to know this: Why do you believe that so many entities that will be falling under the purview of the CFPB are nervous or, frankly, even afraid about what your agency and its rules are going to do to them?

Mr. CORDRAY. Thank you, Congressman. I think that the reason that is so, as I understand—I have asked this question because I want to understand it because if we can alleviate some of that anxiety and concern we want to do so.

A lot of it I think clearly stems from the fact that we are just new. People haven't dealt with us before. They aren't sure what to make of us; they are not sure what we are going to do.

Obviously as a new agency, it takes some time to figure out what we are going to do, what our priorities are, how we are going to approach things. And we are trying to think that through carefully.

It gets easier for us to sort of signal what we intend to do as we go, and as we do our work people begin to see how we do our work. But—

Mr. HUIZENGA. Could it be—

Mr. CORDRAY. —at the outset, they don't know what to expect, and I am sure that is the anxiety.

Mr. HUIZENGA. I think that is part of it, but could you—could it be also because that they believe what is being imposed or discussed about, it certainly is not efficient or workable in their opinions?

Mr. CORDRAY. Certainly. That could be the case. And I am sure in some instances that is part of the reaction.

Mr. HUIZENGA. Do you believe that the big banks that you are dealing with now are acting in good faith?

Mr. CORDRAY. I actually have found over the years that most citizens, most businessmen in particular, want to follow the law, they want to get it right. They are sometimes unsure what the right answer is. They would like to have clarity and guidance.

However, there are some who are interested in taking advantage of every gray area they can. When I was Ohio Attorney General, I had to enforce the law against a number of those people—fraudsters and scammers.

But in the banking industry, and I would say my guess is, as in the legal profession that I am more familiar with historically, people will tend to follow the rules if the rules are made clear to them.

Mr. HUIZENGA. How about credit unions or community banks. You believe they are acting in good faith?

Mr. CORDRAY. Community banks and credit unions, I have worked with them for years now, going back to my time in State and local government in Ohio. They have a sound business model. They are under a lot of economic challenges because of the changing nature of the marketplace. This has been true for 30 years with consolidations going on for a lot of reasons.

Mr. HUIZENGA. But do you have confidence that they are actually doing that? Or insurance companies? Or financial advisors that you are dealing with?

Mr. CORDRAY. My view is that the vast majority of people do deal in good faith. They sometimes can get into trouble for a variety of reasons but the ones who get into trouble typically are the ones who are looking for trouble or not caring about the consequences because they downplay the notion they will get caught and the law will be enforced against them.

Mr. HUIZENGA. But do you believe it takes a massive government agency like this one to guarantee that somehow?

Mr. CORDRAY. I don't think that is our role. Our role is to focus on consumer protection and make sure that there are clear rules of the road to address some of the obvious problems that we saw, particularly in the mortgage market and other places in the run up to the financial crisis.

Mr. HUIZENGA. But you don't believe that market forces can dictate that; it has to be an agency like yours coming in and doing that? If these people are acting in good faith—and you believe that they are acting in good faith, which I seem to have heard that is what you have said from financial advisors, community bankers, credit unions, insurance agents, all the way up to big banks—why do we need to be going through some of these things and why do we need to be causing that same anxiety?

Mr. CORDRAY. I would say two things. First of all, we just saw how well that worked. In 2007, 2008, the economy of the United States melted down dramatically. Trillions of dollars in household wealth were lost because the markets didn't work properly. So—

Mr. HUIZENGA. So you don't believe that is the answer.

Mr. CORDRAY. Second, I served as Ohio Attorney General. Why do we need an attorney general? I had 1,500 people in my office. Because somebody has to enforce the law and—

Mr. HUIZENGA. Trust me, I am a Calvinist. Man is depraved, sinful, fallen, and evil by its nature. But—

Mr. CORDRAY. So we have—

Mr. HUIZENGA. And, Mr. Chairman, I would respectfully ask—the other side had 5 additional minutes, and so I would like to kind of follow through on this.

But, I understand that it is not the nature of an agency to leave things alone, whether they are good or whether they are bad, frankly. That is part of my concern and I think that is the anxiety that as I talk to those people who are involved in this that is the anxiety that is being created, because they feel like—whether they are acting in good faith or not, they feel like there is an anvil hanging over their head and that there is one person who decides whether that anvil falls on their head or not.

And, I just reject the notion, I guess, that this is the only way to deal with these problems is to have this massive agency.

So with that, Mr. Chairman, I appreciate your indulgence and I yield back.

Mr. SCHWEIKERT. Thank you. Though, when you were explaining you are a Calvinist, I hope you weren't pointing at me.

Mr. Carney?

Mr. CARNEY. Thank you, Mr. Chairman, finally.

Mr. Cordray, it is good to see you again. When you get to me, you know it is almost over.

You say in your opening statement that your push for accountability extends beyond mortgage servicing. We are holding both banks and nonbanks accountable for the following; law—and you add at the end of that paragraph, so far we have added credit reporting companies to this group.

We had a hearing last week on credit bureaus, and in particular, two pieces of legislation. I don't know if you are aware of those or not. Fact, one would address medical bills and the other was to add utility payments to the consideration of credit scores.

The medical bills, tell me, what are you doing, if anything, this—the credit bureau question first, and then I want to ask specifically about these two bills on medical bills in particular.

Mr. CORDRAY. Okay. So on the credit bureau in general, what we are doing with credit reporting companies?

Mr. CARNEY. Yes.

Mr. CORDRAY. Is that the question? Okay.

Mr. CARNEY. I assume you are referring to consumer credit bureaus.

Mr. CORDRAY. We are. Transunion, Experian, Equifax, and then a number of others that are more specialty providers.

First of all, we are very appreciative that Congress is taking an interest in this area. It is an issue that affects Americans dramatically and across-the-board; most of them are unaware of it because it isn't something where they sign up for anything, it is that credit files are being kept on them, information is in those files, and that information often is used to dictate whether they can get a loan—

Mr. CARNEY. And that information is often incorrect, and what we learned in the hearing last week that one-in-three of the information, the debts sent to collectors for medical debts is just wrong. And is there anything that you can do to address that question? Are you aware of the bill that is before this committee and this—

Mr. CORDRAY. Yes. There is a lot that we are going to be able to do to address that question. First of all, we will now have the authority to examine these institutions, which means send in teams who are used to examining financial companies and understanding exactly how they operate. We will get a real—

Mr. CARNEY. To the credit bureaus themselves?

Mr. CORDRAY. Yes. We will get a real, neutral view of what the error rate is and what is being done about those errors. There have been wildly different estimates, and we will be able to really get a picture of what is actually going on, and what the problems are, and what may need to be done to clean those up. So—

Mr. CARNEY. The medical bills in particular are a problem because of—I don't know if you know much about the medical billing system, but it is incomprehensible. I will just speak from my own personal experience, to figure out what gets credit, how much you are due, or whatever, and it is not necessarily whether you get sick or have one of these occurrences. It could happen to any of us. And it is not so much a function of—it is really a function of your insurance coverage, your employment status, and all of that than it is a function of your ability to pay, and then to have a credit bureau using inaccurate information to affect your credit rating, it is just, I think, completely unacceptable. It is an area, I think, that you ought to really look hard at. We have this piece of legislation.

Mr. CORDRAY. Fair enough. And a lot of those medical debts are small amounts and yet they can have a huge impact on your credit score or block bigger transactions like mortgages. It is an issue. We are interested in what you are going to be finding as you are looking at it. We are also looking at it closely and we are looking to take action as needed.

Mr. CARNEY. Yes. I think the error rate problem is the biggest problem there because you are getting bad information into a system that has a dramatic impact on a person's ability to get credit.

Tell me briefly—you and I have had this conversation before about nonbank lending, payday lending, that kind of stuff. You have mentioned it briefly in your remarks. Are you moving the ball at all on that question, particularly the payday lending and the—

Mr. CORDRAY. Yes.

Mr. CARNEY. It is a tough issue, too, in terms of people who don't have access to the banking system who are using these services. I know you have testified before you have learned that in your hearing that you had in Alabama.

Mr. CORDRAY. Yes. We had our first, under my direction, field hearing on this issue. We put out a request for information to gather broad input on the problem. We now have begun actual examinations of payday lenders, and similarly, of the similar products at times offered by banks, so we are getting a much deeper understanding of this and we will consider what steps need to be taken.

We do not have—and I want to emphasize this—under our statutory authority the ability to impose an interest rate cap, which has been the approach taken at the State level at times to address this issue by raising or lowering it, but—

Mr. CARNEY. Is it within your purview or your expectation that you will be doing some kind of report on what you find? That would be helpful to us, as legislators, and maybe even to State legislators, as well.

Mr. CORDRAY. We haven't determined that. We might be proceeding in any number of ways. As I said, we are already engaged in supervision of the payday lending industry. We, of course, have the enforcement authority. We have rule-writing authority. If we—

Mr. CARNEY. I see my time has expired. I want to thank you again for coming today. You have been here many times, and I thank you for your good work.

Mr. CORDRAY. I appreciate it. Thank you.

Mr. SCHWEIKERT. Thank you, Mr. Carney.

Mr. Stivers?

Mr. STIVERS. Thanks, Mr. Chairman.

I would like to welcome Director Cordray to the committee. He is one of my constituents. I have known him a long time.

I appreciate your commitment to consumer protection and I thank you for what you are trying to do at the Consumer Financial Protection Bureau.

I do have a few questions about the structure and budget of the committee, and then some issue questions if we could. The first is regarding the structure of the CFPB. I am personally bothered that there is no reference in the creation of the CFPB about safety and soundness of the financial institutions, because if your only charge is to protect consumers but you have no responsibility to the safety and soundness of the institutions, the easy thing to do is make people give products away at a loss. And that hurts the safety and soundness of our financial system.

And I guess I am just curious what your thoughts are, briefly, on that issue, and if you have had a chance to reconcile that.

Mr. CORDRAY. It is a new approach to have an agency that focuses specifically on consumer protection and decouple that from the chartering and safety and soundness. I would say this—we do not have authority to make companies offer products at a loss. If they are going to be losing money on products they will stop offering them and we have no authority to require them to do that.

But second, the notion that we would pay no attention to safety and soundness or not cooperate closely with our fellow regulators who do have that concern would be quite misguided, because if institutions are not going to be safe and sound, they are not going to be good for consumers, and then we have a much bigger problem on our hands.

Mr. STIVERS. And I believe you would do that. I guess my question is, do you believe we need to make it clear in the law that the CFPB should look at safety and soundness as one piece of the things you look at?

Mr. CORDRAY. At this point I would say, I think the law does that implicitly by making our regulations subject to being overruled by the Financial Stability Oversight Council, which includes the safety and soundless regulators.

Mr. STIVERS. With only a supermajority vote, though, not a simple majority. It takes either two-thirds or three-quarters; I can't remember the exact number for there to be a supermajority.

Mr. CORDRAY. That is right. Look, if it weren't a close call, I have no doubt that that could be the outcome.

I don't think there is a change in law needed. Of course, that is for Congress to determine. I think that if we show that we are not willing to cooperate with the other regulators and to work closely with them then maybe that should be reconsidered down the road. That is not the case now. We have—

Mr. STIVERS. And I don't have a concern with you at the helm, but the other concern I have about the agency is you are also one of the few agencies in Washington that does financial regulation that is not a board: the SEC is a board; the Federal Reserve is a board; the CFTC is a board; and the Federal Deposit Insurance Corporation is a board. You are one person and you run the agency the way you see fit, and I have total confidence in you knowing you, but who knows who will be in charge after you? That is why I think it is really important to look at the agency, so I appreciate that.

The other quick question I have on structure is about your budget, and your budget comes—you could have up to 12 percent of the Federal Reserve's budget, up to $598 million without an additional request, and an extra $200 million, the way I understand it, as a discretionary increase from Congress. I think you requested $440-some million for this year, in round numbers. I looked at your numbers earlier—

Mr. CORDRAY. That is the estimate. We are going through the budget now, actually. We will have new numbers—

Mr. STIVERS. I guess my question is, do you believe the CFPB should have less accountability than the FBI and the military, whose budgets are appropriated?

Mr. CORDRAY. My understanding, and again, I wasn't here when the Dodd-Frank Act was enacted, was that it was determined that we should have the same accountability as the other banking agencies and we should operate pretty much on equivalent terms with them. That is true of the manner in which we are funded and it is true to some extent of the structure. The OCC has a single Comptroller; the FHFA used to be appropriated and now is not and has an individual at its head.

So I think it makes sense for us to be on a par with the other banking agencies since they are the peers that we need to work closely with in our work. That would be my sense of it. Of course, that is a policy choice for—

Mr. STIVERS. And that is a choice we have to make, and I have some concerns there.

I do quickly want to talk, as I know Blaine Luetkemeyer did, about remittances. As you know, we have a big Somali community in Columbus, Ohio, second biggest to Minneapolis, and these remittances are truly lifelines for those folks and other folks who are immigrants and trying to help family back home. And I am curious, when I read your rules and I read the comments from those around it, it sounds like the closed networks like Western Union and MoneyGram will be able to comply with your February deadline but a lot of the wire services and ACH transfers might have real trouble with that.

Have you been told that, and does that give you cause for concern? Because what it tells me is there is going to be less competition, more expensive cost to these remittances, and less access. So is this something you are aware of and are you willing to do something to give folks time to make sure that they can comply with your regulations?

Mr. CORDRAY. We are aware of it. I was actually on the phone with the clearing house just the other day and we have offered to make ourselves available to try to work through the issues that they may be finding. This has been long telegraphed. The law was passed more than 2 years ago, and we allowed a 12-month implementation period on this, but it is a concern.

I also think this is an area—and you can appreciate this; you have a background in the financial services industry yourself—where the technology and innovation are changing very fast: PayPal is now in this space; prepaid cards are now being used at times to send money overseas; phone transfers may now be starting to increase. So we don't have a good sense of how this marketplace is changing.

At the same time, I have no desire to have our rule or the law drive out depository institutions from this space, and they are treated a little more generously under the law. They can make reasonable estimates of exchange rates and fees in a lot of instances. But we are going to try to work through the other issues with them.

Mr. STIVERS. I appreciate that.

Can I ask one last follow up? I know you are—I appreciate your indulgence and—by the time when you get to me—Mr. Carney said when you get to him, you are almost done, but when you get to me, you really are done. Lunch is almost over by the time I get to ask questions, so—one other question I have is, when financial institutions deal with many regulators, especially the FDIC and the Comptroller, they get some confidentiality—they have privilege on the information that they provide but they do not receive that same benefit to the information they provide to the CFPB. Would you be amenable to Congress amending the Federal Deposit Insurance Act to add the Bureau as an agency for which privilege is preserved?

Mr. CORDRAY. We are. We have really done our best to try to address this issue. We think the law is already clear. We issued a bulletin to that effect, and when it wasn't clear that was satisfactory to the banking institutions raising the concern, we went through the rulemaking process to adopt a rule which has the force of law and would deserve deference from the courts.

We have also said there is legislation pending that we are supportive of making that even clearer than maybe people think it is now, and we think it is. So that is our position.

Mr. STIVERS. Great.

Can I do one more or do you need me to—

Mr. SCHWEIKERT. Is it a really good one?

Mr. STIVERS. I don't know. You can tell me that later.

Mr. SCHWEIKERT. All right. Go ahead.

Mr. STIVERS. Thank you, Mr. Chairman. I appreciate again your indulgence.

I also wanted to ask you quickly about the ability to repay and the Qualified Mortgage. I understand that you have worked on your rulemaking and your rulemaking on mortgage underwriting, ability to pay, and Qualified Mortgage requirements, and high-cost loan requirements.

While larger lenders can really absorb some of these regulatory changes, it does affect some of the smaller institutions like community banks. I have a lot of community banks in my district and I am curious if you have sort of a game plan about how you will deal with these regulatory changes and make them manageable for small institutions like community banks, because they serve a lot of customers especially in the rural parts of my district in Union and Madison Counties and in a lot of the southern Ohio counties that I am familiar with as well?

Mr. CORDRAY. So what do you think, Mr. Chairman? Is it a really good one? Should I answer it?

[laughter].

Mr. SCHWEIKERT. If the answer is really short, it is a great one.

Mr. CORDRAY. All right.

We are mindful of that, Congressman, and one of the things we have begun to realize that we will need to put out when all these mortgage rules are finalized is what I am calling a slim mortgage booklet that will boil down the changes in the rules in plain English so that it can be followed—something like the guide we are doing on remittance rules for smaller providers. I think that is important for us to do. It is important for us to make it easy for people to understand what is going to be required of them and we will work to do that.

There will also be an implementation period on those rules to give us a chance to work some of this through with people. So we will be happy to hear more from you as we go on about how we are doing.

Mr. STIVERS. I appreciate your time.

And I appreciate the Chair and the acting ranking member's indulgence.

Mrs. MALONEY. They were good questions.

Mr. STIVERS. You think that one did okay?

Mr. SCHWEIKERT. Yes. We agree that you were worth the extra time, Mr. Stivers.

Mr. Cordray, this is the moment when you know you are near the end. Can I throw just a couple of questions at you?

Mr. CORDRAY. Yes, sir.

Mr. SCHWEIKERT. One of my great concerns is the differences different States operate under. I come from a deed of trust State. The

Member next to me comes from a mortgage State and uses a judicial foreclosure system.

In the rule-writing, the one-size-fits-all is sort of the colloquialism, but I actually have a great concern. As you do that are you finding mechanics looking at those differences in different State laws? I come from a 91-day State foreclosure system. Where I come from, there are no lawyers at the closing, because many, many years ago, back in I think the 1950s they did a constitutional amendment in Arizona to try to do the things to make buying a piece of property as inexpensive at the closing mechanics as possible.

Mr. CORDRAY. Yes.

Mr. SCHWEIKERT. And so my great fear is any rules that come from the Federal Government that change a first-time homebuyer's cost of doing that transaction.

Mr. CORDRAY. It is a great question. My background again is in State government, and as a State attorney general I am very mindful and sensitive to differences in State law, which usually reflect different circumstances. Obviously, things are very different in Arizona than they would be in New York, and particularly the New York City area.

So for the most part, our approach is we are going to be leery about preempting State law. Most of what we do will ride on top of State law and coexist with State law, and that actually was most of the premise of the Dodd-Frank Act, as I understand it. I was Attorney General at the time, and we were very concerned about those issues.

It is the nature of things that we are going to be adopting rules that apply throughout the country so the difficulty of how that fits with local conditions is something that we are going to try to understand through the notice and comment process and hearing from people—

Mr. SCHWEIKERT. And you have a number of those you have to deal with, both the types of instruments we use—deed of trust, mortgage state—the different closing procedures we use—

Mr. CORDRAY. Yes.

Mr. SCHWEIKERT. —the reporting, the regulations of, even down to the way title insurance is issued. You do have some dramatic regional differences.

Mr. CORDRAY. Yes. That is right. And we have an Office of Intergovernmental Affairs that is going to help us try to be sensitive to those things. Of course, people can comment in on our rules as we go and we will take account of those things.

If we are getting this balance wrong somehow, and unduly crimp State law and State processes people, I hope, will bring that to our attention and we can rethink it. But we are trying to be mindful of that.

Mr. SCHWEIKERT. One scenario example: Let's say Mrs. Maloney lived in Arizona and had a handful of properties that she owned that she wanted to sell, and she chose to carry the loans on them. So she was going to act as the bank on it—not a purchase money mortgage, but do the carry-back. And she does half a dozen of these in 1 year. Do you think that is someone who is going to fall into your purview?

Mr. CORDRAY. No. I am not entirely clear on whether we have anything to do with that sort of person-to-person lending for business or investing purposes. I don't think that necessarily falls under the broader provision in consumer financial products and services but I would have to go back and look at that. I would certainly say, it wouldn't be any kind of priority for us as we are trying to allocate limited agency resources. The things that are broader patterns and of potential consumer harm are obviously the kinds of things we should prioritize but I would have to go back and look at that—

Mr. SCHWEIKERT. If you could and could let me know, because I have seen in Arizona where certain subdivisions have been subdivided where the old farmer or rancher who owned the land dices it up and sells it and carries back the loans for 10 years, those sorts of things. Would they start to be pulled into another regulatory scheme?

One last thing I would like to go over with you: In a previous life I was the treasurer of Maricopa County. We spent—actually, one of our side projects was trying to reach out to we will say the "unbankable" population—the population who would show up at our countertop twice a year with bundles of cash to pay their property tax—and try to find ways to get them so they could pay through ACH or pay—they had a checking account.

And I do have this great fear, as we reach out to try to protect everyone, do we end up changing the cost structure that more of our population gets moved into the unbankable population because they are not going to fit in the box. And just, in many ways this be more of a statement, but I hope you are at least keeping that in mind of these—I don't want to call them more marginal populations, but with their—they often don't have a relationship with banking financial institutions, either through distrust or some other reasons—being very careful that we don't build additional barriers for them to come join us.

Mr. CORDRAY. I would say that, kind of ironically, you and I may be the only two people in this room who can speak the same language of having served as county treasurers. I used to be responsible for collecting the real estate taxes, current and delinquent—

Mr. SCHWEIKERT. Did you have the same experience?

Mr. CORDRAY. I had a lot of the same experiences. It was good for me.

But what I would say is, we are very concerned about the unbanked and the underbanked, and I would say the underbanked in particular. I was at the FDIC; Chairman Gruenberg invited me over as they unveiled their latest report—they are doing now a 2-year study every other year with the Census Bureau on the unbanked, the underbanked, trying to understand that population, document how much and who that is.

And the underbanked, in particular, are very interesting. They have a bank account. They are not unbanked. But they use a lot of alternative financial products and services. For whatever reasons, the banking system isn't really meeting their needs the way it maybe meets a lot of people's needs. We need to understand that better.

Mr. SCHWEIKERT. And we have—we did some studying in our Maricopa County Treasurer's Office and we found it was more complicated. We had some folks who had the income, they had the resources; they came from either an ethnic background where they just didn't trust institutions—

Mr. CORDRAY. Yes.

Mr. SCHWEIKERT. —and the fact of the matter is they should have every right to not trust institutions and have another alternative channel if that is their particular background. So this is sort of a tricky line—

Mr. CORDRAY. It is.

Mr. SCHWEIKERT. —because my fear is as we raise the cost structure so institutions end up having to limit sort of certain services, we start to drop parts of the population that is underbanked.

Mr. CORDRAY. Yes. It is a tricky line. And actually, one of the things that we will now do, which has not been true before of the banking agencies is, we have the ability to protect consumers even if they are getting their services from nonbank firms, so whether it is a payday lender, a check-casher, whoever it may be. We are going to try to be thoughtful about how we use that authority, but we care deeply about these people and just because they are not in the banking system, or they choose not to be, or maybe they are out of it because of prior problems with the banking system, we care very much about how they are getting their ways and means of their lives managed and thinking about whether they are getting the same kind of protections they should be entitled to. And it is an interesting and difficult but very important set of problems.

Mr. SCHWEIKERT. Director, it is one of those things my office has an interest in—

Mr. CORDRAY. Okay.

Mr. SCHWEIKERT. —so as you head there, on occasion think of us and send us things.

And I think that is the end of this hearing.

Mrs. MALONEY. I would just like to add—

Mr. SCHWEIKERT. Mrs. Maloney?

Mrs. MALONEY. —my appreciation. You have been incredibly generous with your time today, Director Cordray, and I am so proud of you and the work that your Bureau is doing. I think you are doing a sensational job.

But I also have a goal, and that is the Federal Reserve interpretation of the ability to pay standard, so I am looking forward to that report sooner rather than later. Let's get something done.

Mr. CORDRAY. I hear you loud and clear.

Mrs. MALONEY. It was certainly not the intent of the legislation, and I want to show the world that you can solve this problem.

So anyway, thank you for all the problems you have solved and that you are working on to solve to help consumers.

Thank you. I yield back.

Mr. SCHWEIKERT. And the ones we worry about that we hope we are not creating. So, there are always both sides of the coin.

Mrs. MALONEY. Preventing.

Mr. SCHWEIKERT. The Chair notes that some Members may have additional questions for the Director, which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for Members to submit written questions to Director Cordray and to place his responses in the record.

And with that, thank you for your time, thank you for your generosity, and this hearing is adjourned.

[Whereupon, at 12:44 p.m., the hearing was adjourned.]

A P P E N D I X

September 20, 2012

Testimony of Richard Cordray
Director
Consumer Financial Protection Bureau
United States House of Representatives
Committee on Financial Services
September 20, 2012

Chairman Bachus, Ranking Member Frank, and Members of the Committee, thank you for inviting me to testify today about the Semi-Annual Report of the Consumer Financial Protection Bureau.

A little over one year ago, the Consumer Bureau became the nation's first federal agency focused solely on protecting consumers in the financial marketplace. The Semi-Annual Report we are discussing today covers our activities from January 1 through June 30 of this year.

As the report shows, we have been using all of the tools at our disposal to help protect consumers across this country. We pledge to continue our work to promote a fair, transparent, and competitive consumer financial marketplace.

Through our regulatory tools, we have proposed smarter rules that will help fix the broken mortgage market with common-sense solutions. We are writing rules that simplify mortgage disclosure forms and rules that make sure consumers do not receive mortgages that they do not understand or cannot afford. Our rules will also bring greater transparency and accountability to mortgage servicing. And our careful process is that before we propose a rule, a team of attorneys, economists, and market experts evaluates its potential impacts, burdens, and benefits for consumers, providers, and the market.

Our push for accountability extends beyond mortgage servicing. We are holding both banks and nonbanks accountable for following the law. Prior to my appointment, nonbanks had never been federally supervised. The financial reform law specifically authorized us to supervise nonbanks in the markets of residential mortgages, payday loans, and private student loans. We also have the authority to supervise the "larger participants" among nonbanks in other consumer finance markets as defined by rule. So far, we have added credit reporting companies to this group.

It is important for us to exercise sensible oversight of the consumer finance markets, but it is also important that we empower consumers themselves to make responsible financial decisions. Our "Know Before You Owe" campaign involves us working to make mortgages, credit cards, and student loans easier to understand. We also developed "AskCFPB," an interactive online database with answers to consumers' frequently asked questions. We also launched the first-ever database of individual complaints about financial products, starting with credit cards. Consumers can use the website to review and analyze information and draw their own conclusions about the customer service provided with these financial products.

We also think it is important to engage directly with consumers so we know more about the struggles and frustrations they encounter in their daily lives. The Bureau has held numerous field hearings across the country so we can talk face to face with consumers on a variety of topics. Our website has a feature called "Tell Your Story," which encourages consumers to share with us their personal stories to help inform our approach in addressing issues in the financial marketplace. And, perhaps most significantly, we help to resolve consumer disputes with lenders by taking complaints on our website at consumerfinance.gov, as well as by mail, fax, phone, and by referral from other agencies. As of September 3, we have received 72,297 consumer complaints about credit cards, mortgages, and other financial products and services, and the pace of complaints has been increasing over the past year.

All of these processes – rulemaking, supervision, enforcement, and consumer engagement – provide us with valuable information about consumer financial markets. We engage in extensive outreach to large and small institutions, including banks and nonbanks, to gather the best current information as we make policy decisions. We pride ourselves on being a 21st-century agency whose work is evidence-based. So we also conduct our own in-depth studies on consumer financial products, such as reverse mortgages and private student loans. We have issued public requests for information that seek input from consumers, industry, and other stakeholders on issues such as overdraft fees, prepaid cards, and the financial exploitation of seniors.

The new Consumer Bureau has worked on all of these projects while being fully engaged in start-up activities to build a strong foundation for the future. The Bureau has worked to create an infrastructure that promotes transparency, accountability, fairness, and service to the public. Our first year has been busy and full, and this report reflects considerable hard work done by people whom I greatly admire and respect. They are of the highest caliber and they are deeply dedicated to public service. We look forward to continuing to fulfill Congress's vision of an agency that helps all Americans by improving the ways and means of their financial lives.

Thank you.

CFPB Officials Have Testified 27 Times before Congress as of Sept. 20, 2012

1. **February 9, 2011:** Holly Petraeus before the House Committee on Veterans Affairs
2. **March 16, 2011**: Elizabeth Warren before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit
3. **April 12, 2011**: Holly Petraeus before the Senate Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia
4. **May 24, 2011**: Elizabeth Warren before the House Oversight and Government Reform Subcommittee on TARP, Financial Services, and Bailouts of Public and Private Programs
5. **July 7, 2011**: Raj Date before the House Financial Services Subcommittees on Financial Institutions and Consumer Credit and Oversight and Investigations
6. **July 13, 2011**: Kelly Cochran before the House Financial Services Subcommittee on Insurance, Housing and Community Opportunity
7. **July 14, 2011**: Elizabeth Warren before the House Oversight and Government Reform Committee
8. **July 28, 2011**: Dan Sokolov before the House Small Business Subcommittee on Investigations, Oversight and Regulations
9. **September 6, 2011**: Richard Cordray before the Senate Banking Committee
10. **November 2, 2011:** Raj Date before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit
11. **November 3, 2011**: Holly Petraeus before the Senate Banking Committee
12. **November 15, 2011**: Skip Humphrey before the Senate Banking Subcommittee on Financial Institutions and Consumer Protection
13. **January 24, 2012:** Richard Cordray before the House Oversight and Government Reform Subcommittee on TARP, Financial Services, and Bailouts of Public and Private Programs
14. **January 31, 2012**: Richard Cordray before the Senate Banking Committee
15. **February 15, 2012**: Richard Cordray before the House Financial Services Subcommittee on Oversight and Investigations
16. **March 29, 2012**: Richard Cordray before the House Financial Services Committee
17. **April 26, 2012**: Camille Busette before the Senate Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia.
18. **June 6, 2012:** Richard Cordray before the Senate Banking Committee
19. **June 6, 2012:** Gail Hillebrand before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit
20. **June 20, 2012:** Raj Date before the House Financial Services Subcommittee on Insurance, Housing, and Community Opportunity
21. **June 26, 2012:** Holly Petraeus before the Senate Banking Committee
22. **July 19, 2012:** Raj Date before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit
23. **July 24, 2012**: Richard Cordray before the House Oversight and Government Reform Subcommittee on TARP, Financial Services, and Bailouts of Public and Private Programs
24. **July 24, 2012**: Rohit Chopra before the Senate Banking Committee
25. **August 1, 2012**: Richard Cordray before the House Small Business Committee
26. **September 13, 2012**: Richard Cordray before the Senate Banking Committee
27. **September 20, 2012**: Richard Cordray before the House Financial Services Committee

September 10, 2012

Ms. Monica Jackson
Office of the Executive Secretary
The Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Docket No. CFPB-2012-0028 or RIN 3170-AA28

Dear Ms. Jackson:

The undersigned trade associations appreciate the opportunity to write to you on the proposed rule amending Regulation Z and Regulation X to implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act. This letter is in addition to the individual comments that our associations will submit on these rulemakings.

At the outset, we thank you for your September 6th Federal Register announcement to extend the comment period for these important regulatory changes. Our associations believe that the current reform process poses a unique opportunity to modernize the mortgage lending regulations and achieve effective and lasting consumer protections. The new regulatory system requires proper balance, and must avoid confusion and uncertainty. We question, therefore, the wisdom and practicality of also injecting new requirements for the so-called "All In" annual percentage rate or APR into the rulemaking. On balance, we strongly believe that aspect of the proposal should be dropped.

As the CFPB and other agencies have documented and industry can attest, the current APR is of little value to consumers. It neither enhances a borrower's understanding of the obligation they are undertaking, nor serves as an accurate shopping tool. The Bureau's own research indicates that consumers confuse the APR with the note rate; this confusion has nothing to do with what is in or out of the APR calculation. Simply adding additional fees to an unhelpful formulation that consumers do not use or understand will add significant costs and complications to the rulemaking effort, with no measurable benefit to the borrower.

The APR is embedded in numerous other mortgage finance rules as a trigger for additional compliance requirements, many of which are associated with steep legal, compliance and reputational risks. However, it is entirely unclear how the reconfigured APR will impact or relate to these other rules, such as the yet to be finalized Ability to Repay/Qualified Mortgage rule and the HOEPA rule, to name two. The CFPB has suggested the possibility of a separate transaction coverage rate (TCR), but that approach will require yet another new calculation and additional burdens for industry and costs that are passed on to consumers.

It is critical to note that Dodd-Frank itself does not require wholesale changes to the APR. To the contrary, the statute relies on this figure by using it as a measurement for a number of new provisions. The sheer magnitude of regulatory changes coming forth has the potential to impose enormous confusion and cost to both industry and consumers. For these reasons, we urge the CFPB to simplify its approach to forthcoming RESPA and TILA rulemakings by focusing only on those elements that are truly needed to implement Dodd-Frank requirements and will have maximum impact on promoting consumer understanding.

Finally, there are several outstanding proposed rules making changes to Regulation Z. These proposals cross-reference provisions in each other, making it difficult to tell what each references and what Regulation Z would look like if all of these proposals are finalized. In addition, there are conflicts among the proposals. For example, the proposed Ability to Repay rule would remove § 1026.35 because Dodd-Frank made it obsolete, but the proposed HOEPA rule would retain it. We respectfully request that the CFPB publish a single version of Regulation Z as it would be amended by all of the pending rulemakings as soon as possible. This would improve our ability to provide input that CFPB will need before the comment periods close.

Thank you for this opportunity to comment. We stand ready to assist you as you endeavor to meet the charge provided to you by Dodd-Frank.

Sincerely,

American Bankers Association
American Escrow Association
American Land Title Association
Community Mortgage Banking Project
Consumer Mortgage Coalition
Consumer Bankers Association
Housing Policy Council
Independent Community Bankers of America
Mortgage Bankers Association of America
National Association of Federal Credit Unions
National Association of Home Builders
National Association of Mortgage Brokers
National Association of Realtors
Real Estate Services Providers Council, Inc. (RESPRO®)
Real Estate Valuation Advocacy Association
The Realty Alliance

JULY 2012

Semi-Annual Report of the Consumer Financial Protection Bureau

JANUARY 1 - JUNE 30, 2012

cfpb Consumer Financial Protection Bureau

Message from Richard Cordray

DIRECTOR OF THE CFPB

Just one year ago, the Consumer Financial Protection Bureau became the nation's first federal agency solely focused on protecting consumers in the financial marketplace. As this report shows, we have already made great strides and helped many thousands of consumers.

The markets for consumer finance are rooted in the financial and credit needs we all encounter in our daily lives. These products and services have brought broad benefits to Americans as they manage the ways and means of their lives. But, as we have seen, if these products and services are misused, they can do real damage to consumers and to the broader economy.

The Consumer Bureau is establishing evenhanded and reasonable oversight to the marketplace. We are working to root out unfair, deceptive, or abusive practices. Consumers deserve to be treated fairly, and to have someone stand on their side when they are not. Congress directed us to fix grave problems in the mortgage market, and we are well on our way to fulfilling that goal.

To achieve these objectives, we are dedicated to building an agency that is evidence-based and data-driven. Field hearings, inquiries, bulletins, rulemakings – we take an "all of the above" approach to guarantee that we have the best current information as we make policy decisions.

Our Consumer Response team is handling complaints on issues ranging from mortgages to credit cards to bank products to student loans. Our "Know Before You Owe" projects aim to make the costs and risks of financial decisions clearer and more accessible for consumers. We launched our Consumer Complaint Database to bring more transparency and efficiency to the marketplace.

We created a Financial Aid Shopping Sheet and a Financial Aid Comparison Shopper to help students and their families better understand the student loan process. We are seeking to educate older Americans about their financial options and help servicemembers make the best financial decisions for themselves and their families.

The first year of the Consumer Bureau has been busy and full; it reflects the hard work done by people of the highest caliber and dedicated to public service. We look forward to continuing to fulfill Congress's vision of an agency that helps all Americans by improving their financial lives.

Sincerely,

Richard Cordray

Table of Contents

Executive Summary

The Consumer Financial Protection Bureau (CFPB or Bureau) is the nation's first federal agency focused solely on consumer financial protection.[1] The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) created the CFPB to protect consumers of financial products and services and to encourage the fair and competitive operation of consumer financial markets. The Bureau's mission is to make consumer financial markets work for American consumers, honest businesses, and the economy as a whole.

In fulfillment of its statutory responsibility and its commitment to accountability, the CFPB is pleased to present its second Semi-Annual Report to the President and Congress. This report provides an update on the Bureau's activities and accomplishments since its inaugural report in January 2012 and additional information required by the Dodd-Frank Act.[2]

The Dodd-Frank Act requires the CFPB to:

- Ensure that consumers have timely and understandable information to make responsible decisions about financial transactions;
- Protect consumers from unfair, deceptive, or abusive acts and practices, and from discrimination;
- Identify and address outdated, unnecessary, or unduly burdensome regulations;

[1] Previously, seven different federal agencies were responsible for rulemaking, supervision, and enforcement relating to consumer financial protection. The agencies which previously administered statutes transferred to the Bureau are the Board of Governors of the Federal Reserve System (Federal Reserve, Federal Reserve Board, or Federal Reserve Board System), Department of Housing and Urban Development (HUD), Federal Deposit Insurance Corporation (FDIC), Federal Trade Commission (FTC), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), and Office of Thrift Supervision (OTS).

[2] Reports cover six-month increments beginning January 1st and July 1st. Appendix B provides a guide to the Bureau's response to the reporting requirements of Section 1016(c) of the Dodd-Frank Act.

- Promote fair competition by consistent enforcement of the consumer protection laws in the Bureau's jurisdiction; and

- Ensure markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.[3]

Since opening its doors on July 21, 2011, the CFPB has dedicated its efforts to listening and responding to consumers and industry while laying the foundation of a great institution.

CONSUMER CHALLENGES IN OBTAINING FINANCIAL PRODUCTS AND SERVICES

Consumers' input about their experiences with financial products and services is critical to understanding the challenges that consumers face in obtaining financial products and services in the current economic climate. It is also a driving force behind the CFPB's development of resources and programs to help build American consumers' financial capability and to level the playing field.

In the past year, the CFPB has heard from consumers about their positive and negative experiences with financial products and services, including through the "Tell Your Story" feature of the CFPB's website, roundtables, town halls, and field hearings. In addition, the Bureau has launched a first-rate infrastructure to receive, process, and facilitate responses to consumer complaints. The Bureau is also gathering data and evidence about consumers' behaviors and choices when they shop for financial products and the ways that market structures and sales practices may shape such conduct.

DELIVERING FOR AMERICAN CONSUMERS AND LEVELING THE PLAYING FIELD

The CFPB has taken significant steps in the past year toward making consumer financial markets work better for consumers and responsible companies. The Bureau has launched offices to provide vital resources for consumers. For example, the CFPB's Consumer Response team receives complaints and inquiries directly from consumers. The CFPB's Division of Consumer Education and Engagement develops and implements initiatives to educate and empower consumers to make better-informed financial decisions; its initiatives include programs directed toward particular populations, such as servicemembers, older Americans, students, and consumers who traditionally have been underserved by the financial markets.

The Bureau has also:

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[3] *See* Dodd-Frank Act, Pub. L. No. 111-203, Sec. 1021(b).

- Engaged in extensive outreach to consumers and industry throughout the country;

- Initiated and developed partnerships with federal agencies, state financial regulatory entities, and state attorneys general, and begun to establish advisory groups comprised of consumer organizations, community organizations, government officials, and industry representatives;

- Implemented statutory protections for consumers who use consumer financial products and services, and begun the process of streamlining regulations that the CFPB inherited from other agencies;

- Launched programs for supervising large banks and other companies that provide consumer financial products and services to ensure that they comply with federal consumer financial protection laws;

- Investigated potential violations of laws under the Bureau's jurisdiction; and

- Used extensive outreach in its efforts to ensure fair, equitable, and nondiscriminatory access to credit for individuals and communities.

BUILDING A GREAT INSTITUTION

All of this has taken place while the Bureau has been engaged in start-up activities. As of June 30, 2012, the CFPB team now consists of 889 staff working to carry out the Bureau's mission. It has worked to build a human and physical infrastructure that promotes – and will continue to promote – transparency, accountability, fairness, and service to the public. That includes:

- Demonstrating a strong commitment to openness and utilizing the Bureau's website to share information on the operations of the Bureau;

- Recruiting highly qualified personnel;

- Providing training and engagement opportunities for CFPB staff to improve skills and knowledge and maintain excellence; and

- Launching the Bureau's Office of Minority and Women Inclusion to promote diversity in the CFPB's workforce and among its contractors.

The CFPB is proud of the accomplishments that it has achieved in its first year. But this marks only the beginning of the Bureau's work on behalf of consumers and providers of financial products and services. Over the next six months, the CFPB's efforts to make consumer financial markets work better will continue to expand. We invite you to visit the CFPB's website, ConsumerFinance.gov, for updates on the CFPB's work over the coming months.

Consumer Challenges in Obtaining Financial Products and Services

The challenges that consumers face in obtaining financial products and services are a driving force behind the CFPB's efforts to make consumer financial markets work better. Listening and responding to consumers are integral to our mission, and the Bureau provides many means through which consumers can make their voices heard.

Consumer Concerns

Financial markets are rooted in the daily lives and the financial and credit needs of individual Americans. There is no doubt that consumer financial products and services, when understood and appropriately used, can bring broad benefits to consumers. Savings accounts are a first step to help people pursue their dreams and checking accounts facilitate everyday transactions. Mortgages help people buy homes and pay for them over time. Credit cards give people convenient access to money when needed. Student loans allow people who lack means but have talent and ambition to pursue their deepest aspirations.

Over the past year, consumers have shared with the CFPB their experiences – positive and negative – with financial products and services. Consumers have the opportunity to provide the CFPB with such feedback through a variety of forums, including, among others, the "Tell Your Story" feature of the CFPB's website, roundtables, town halls, and field hearings. This feedback is key to understanding the challenges consumers face in obtaining the financial products and services they need.

The stories consumers have shared with the Bureau through the "Tell Your Story" feature of the CFPB's website cover a wide range of financial products and services, providing snapshots of consumers' day-to-day experiences in the marketplace. Consumers' stories are reviewed by CFPB staff and further the Bureau's understanding of current issues in the financial marketplace.

Those consumers who have shared their experiences with the CFPB expressed some of their challenges and concerns with respect to obtaining a variety of financial products and services. They include:

- Inability to qualify for a mortgage loan modification, or if they qualify they are unable to obtain a viable modification that sufficiently lowers their payments;

- Inability to refinance their loans even though they report having high credit scores;

- Inability to refinance, consolidate, or pay their private student loans;

- Lack of clarity about credit scoring and the scores that creditors use versus the scores consumers are given by credit bureaus, making it difficult for consumers to understand this key measure of their creditworthiness; and

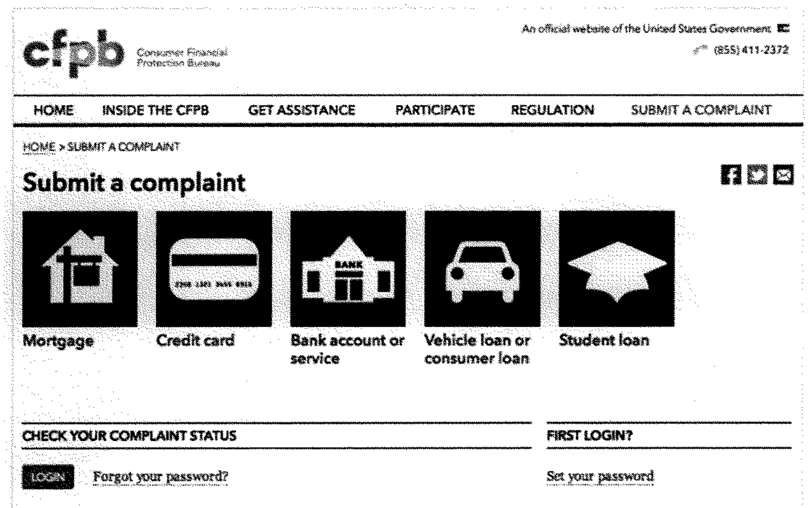
- Confusion about overdraft protection, including terms, fees, and the relationship between checking accounts and related savings accounts, lines of credit, and credit cards.

In addition to "Tell Your Story," consumers have opportunities to voice concerns and share their experiences in person. Consumers have participated in large Bureau-sponsored public events, including town halls and field hearings focused on particular consumer finance issues, in Birmingham, Alabama; New York City; and Durham, North Carolina. Combined, these events have drawn hundreds of participants, many of whom have shared their experiences – positive and negative – with mortgages, student loans, credit cards, payday loans, checking accounts, prepaid cards, and other consumer financial products and services.

In each of these cities and others, the CFPB's Office of Community Affairs has also hosted roundtable conversations with local leaders representing consumer, civil rights, community, housing, faith, student, and other organizations. The roundtables provided opportunities for stakeholders in the field to share their ground-level perspective on these issues with Director Richard Cordray and other key Bureau staff.

The CFPB also has hosted dozens of roundtables and meetings at its offices in Washington, DC. The Office of Community Affairs and subject-matter teams have included hundreds of policy experts and advocates and community leaders in Director-level, roundtable, and other discussions on mortgage issues, credit cards, payday loans, student loans, checking accounts and overdraft fees, prepaid cards, credit reporting and scoring, debt collection, remittances, the CFPB's Consumer Response system, the CFPB's definition of "larger participants" in nonbank markets, and the CFPB's approach to research, financial education, and new media.

Collecting, investigating, and responding to consumer complaints[4] are integral parts of the CFPB's work, as Congress set forth in the Dodd-Frank Act.[5] The Bureau's Consumer Response team hears directly from consumers about the challenges they face in the marketplace, brings their concerns to the attention of financial institutions, and assists in addressing their complaints.



www.consumerfinance.gov/complaint

The CFPB began Consumer Response operations on July 21, 2011, accepting consumer complaints about credit cards. Consumer Response began handling mortgage complaints on December 1, 2011, and it began accepting complaints about bank accounts and services, private student loans, and consumer loans on March 1, 2012. Over the next year, the CFPB expects to handle consumer complaints on other products and services under its authority. As Consumer Response continues to expand its capacity, consumers may contact the CFPB about additional products and services. The Bureau answers these inquiries and refers consumers to other regulators or additional resources where appropriate.

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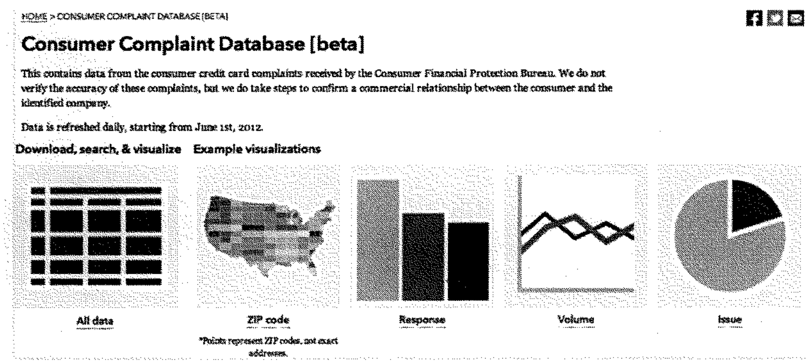
[4] Consumer complaints are submissions that express dissatisfaction with, or communicate suspicion of wrongful conduct by, an identifiable entity related to a consumer's personal experience with a financial product or service.

[5] *See* Dodd-Frank Act, Pub. L. No. 111-203, Sec. 1021(c)(2).



www.consumerfinance.gov/complaintdatabase

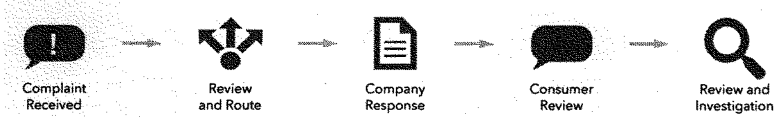
Information about consumer complaints is now available to the public, following the CFPB's launch of a public Consumer Complaint Database on June 19, 2012.[6] The database is populated by credit card complaints received by the CFPB on and after June 1, 2012 and contains certain individual complaint-level data collected by the CFPB, including the type of complaint, the date of submission, the consumer's zip code, and the company that the complaint concerns. The database also includes information about the actions taken on a complaint – whether the company's response was timely, how the company responded, and whether the consumer disputed the company's response. The database does not include confidential information about consumers' identities. Web-based and user-friendly features of the database include the ability to: filter data based on specific search criteria; aggregate data in various ways, such as by complaint type, issuer, location, date, or any combination of available variables; and download data. Over time, the CFPB may add complaints about other consumer financial products and services under its authority to the Consumer Complaint Database.

In keeping with the CFPB's statutory responsibility and its commitment to accountability, this report provides an overview of how Consumer Response handles complaints and presents an analysis of complaints received over the period from July 21, 2011 through June 30, 2012.

[6] In December 2011, the CFPB asked the public to comment on a proposed policy of making some credit card complaint data publicly available. After considering those comments, the CFPB finalized its policy for disclosing some of the data through its Consumer Complaint Database. *See* Disclosure of Certain Credit Card Complaint Data, 77 Fed. Reg. 37,558 (June 22, 2012).

HOW THE CFPB HANDLES COMPLAINTS

Consumer Response screens all complaints submitted by consumers based on several criteria. These criteria include whether the complaint falls within the CFPB's primary enforcement authority, whether the complaint is complete, and whether it is a duplicate of a prior submission by the same consumer. Screened complaints are sent via a secure web portal to the appropriate company.[7] The company reviews the information, communicates with the consumer as needed, and determines what action to take in response. The company reports back to the consumer and the CFPB via the secure "company portal." The Bureau then invites the consumer to review the response. Consumer Response prioritizes for review and investigation complaints in which the consumer disputes the response or where companies fail to provide a timely response.[8] Consumers who have filed complaints with the Bureau can log onto the secure "consumer portal" available on the CFPB's website or call a toll-free number to receive status updates, provide additional information, and review responses provided to the consumer by the company.



Throughout this process, Consumer Response is supported by CFPB colleagues who provide subject-matter expertise and help monitor complaints. For example, Consumer Response coordinates with the CFPB's Office of Servicemember Affairs on complaints filed by servicemembers or their spouses and dependents.

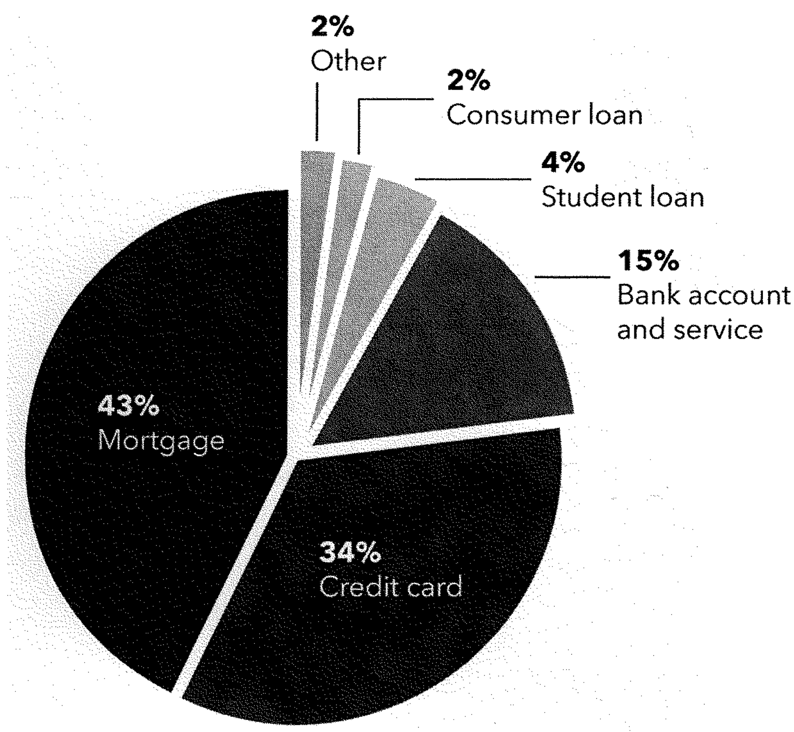
[7] If a particular complaint does not involve a product or market that is within the Bureau's jurisdiction or that is currently being handled by the Bureau, Consumer Response refers it to the appropriate regulator.

[8] The CFPB initially requested that companies respond to complaints within 10 calendar days, but increased the requested response time to 15 calendar days when Consumer Response began handling mortgage complaints on December 1, 2011. If a complaint cannot be closed within 15 calendar days, a company may indicate that its work on the complaint is "In progress" and provide a final response within 60 calendar days.

COMPLAINTS RECEIVED BY THE CFPB

Between July 21, 2011 and June 30, 2012, the CFPB received approximately 55,300 consumer complaints.[9]

FIGURE 1: CONSUMER COMPLAINTS BY PRODUCT



Approximately 44 percent of all complaints were submitted through the CFPB's website and 11 percent via telephone calls. Referrals accounted for 38 percent of all complaints received. The rest were submitted by mail, email, and fax.

The tables and figures presented below show complaints by type, actions taken, company responses, and consumers' reviews of company responses.[10]

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[9] This analysis excludes multiple complaints submitted by a given consumer on the same issue and whistleblower tips. All data are current as of July 1, 2012.

[10] Percentages may not sum to 100 percent due to rounding.

Consumers' Credit Card Complaints

Table 1 shows the most common types of credit card complaints that the CFPB has received as reported by consumers. Sixty-seven percent of the approximately 18,800 credit card complaints fell into these 10 categories.

TABLE 1: MOST COMMON CREDIT CARD COMPLAINTS REPORTED BY CONSUMERS

	%
Billing disputes	14%
Annual Percentage Rate (APR) or interest rate	10%
Identity theft/Fraud/Embezzlement	9%
Other	6%
Closing/Cancelling account	6%
Credit reporting	6%
Collection practices	5%
Late fee	4%
Credit card protection/Debt protection	4%
Collection debt dispute	3%
CREDIT CARD COMPLAINTS IN TOP 10 TYPES	67%

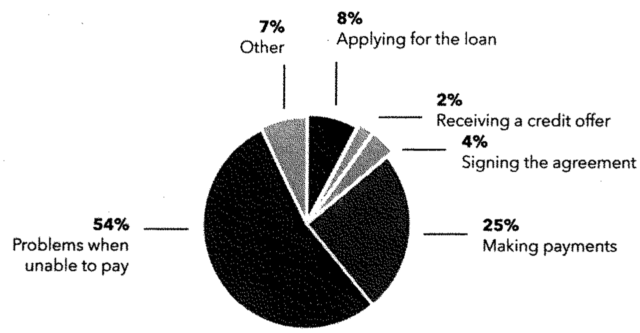
As the table illustrates, billing disputes are the most common type of credit card complaint. Some consumers are confused and frustrated by the process and limits to challenging inaccuracies on their monthly credit card billing statements. For example, some consumers only realize after their claim has been denied that they needed to notify their credit card companies within 60 days of any billing errors. In other cases, consumers are not aware that companies typically do not stop a merchant charge once the cardholder has authorized it or do not override a merchant's "no-return policy." Other common types of credit card complaints relate to annual percentage rates or interest rates and identity theft, fraud, or embezzlement.

The CFPB generally has relied on the consumer's characterization of his or her complaint to identify its nature for analytical purposes. However, the CFPB's experience to date suggests that consumers may often have differing interpretations of what these categories mean. For example, one consumer might choose to categorize a problem as a billing dispute, while another might identify the same issue as a concern with a provider's setting or changing of an interest rate. To improve our reporting on the data we receive, the Bureau is evaluating the use of these categories by consumers to date and developing a simplified categorization scheme to promote more consistent categorization of complaints.

Consumers' Mortgage Complaints

Figure 2 shows the types of mortgage complaints as reported by consumers for the approximately 23,800 mortgage complaints received by the CFPB.

FIGURE 2: TYPES OF MORTGAGE COMPLAINTS REPORTED BY CONSUMERS



	%
Applying for the loan (Application, originator, mortgage broker)	8%
Receiving a credit offer (Credit decision/Underwriting)	2%
Signing the agreement (Settlement process and costs)	4%
Making payments (Loan servicing, payments, escrow accounts)	25%
Problems when you are unable to pay (Loan modification, collection, foreclosure)	54%
Other	7%
TOTAL MORTGAGE COMPLAINTS	100%

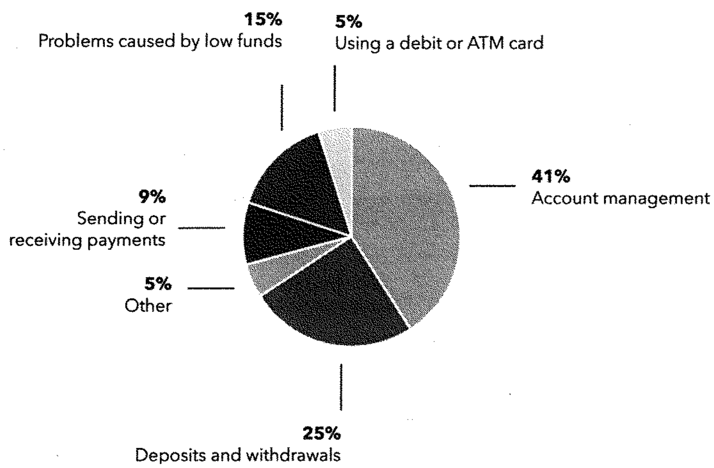
The most common type of mortgage complaint is about problems consumers have when they are unable to make payments, such as issues related to loan modifications, collection or foreclosure. Consumers who have filed these complaints generally appear to be driven by a desire to seek agreement with their companies on foreclosure alternatives. The complaints indicate that consumer confusion persists around the process and requirements for obtaining loan modifications and refinancing, especially regarding document submission timeframes, payment trial periods, allocation of payments, treatment of income in eligibility calculations, and credit bureau reporting during the evaluation period. The shelf life of documents provided as part of the loan modification process is of particular concern to consumers. Though consumers must provide documents within short time periods and income documentation generally remains valid for up to 60 days, lengthy evaluation periods can result in consumers having to resubmit documentation – sometimes more than once. This seems to contribute to consumer fatigue and frustration with these processes.

Other common types of mortgage complaints address issues related to making payments, such as issues related to loan servicing, payments, or escrow accounts. For example, consumers express confusion about whether making timely trial period payments will guarantee placement into a permanent modification. Issues related to applying for the loan, such as the application, the originator, or the mortgage broker, are also among the most common types of mortgage complaints.

Consumers' Bank Account and Service Complaints

Figure 3 shows the types of bank account and service complaints, such as complaints about checking and savings accounts, as reported by consumers for the approximately 8,100 complaints received by the CFPB.

FIGURE 3: TYPES OF BANK ACCOUNT AND SERVICE COMPLAINTS REPORTED BY CONSUMERS



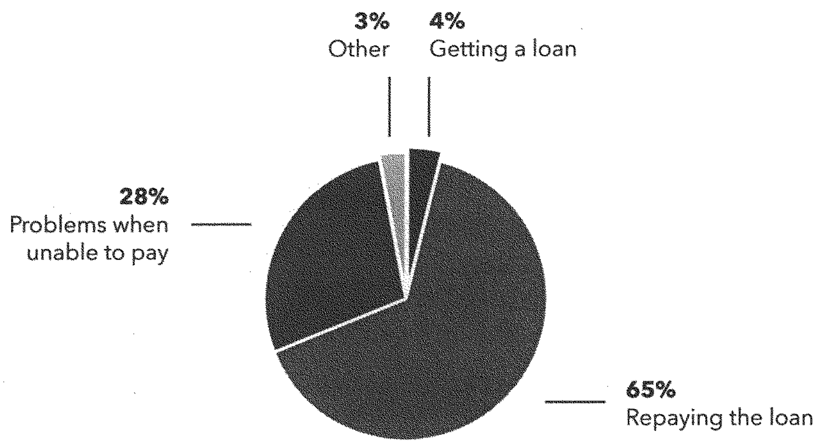
	%
Account opening, closing, or management (Confusing marketing, denial, disclosure, fees, closure, interest, statements, joint accounts)	41%
Deposits and withdrawals (Availability of deposits, withdrawal problems and penalties, unauthorized transactions, check cashing, payroll deposit problems, lost or missing funds, transaction holds)	25%
Using a debit or ATM card (Disputed transaction, unauthorized card use, ATM or debit card fees, ATM problems)	5%
Making or receiving payments, sending money to others (Problems with payments by check, card, phone or online, unauthorized or fraudulent transactions, money/wire transfers)	9%
Problems caused by my funds being low (Overdraft fees, late fees, bounced checks, credit reporting)	15%
Other	5%
TOTAL BANK ACCOUNT AND SERVICE COMPLAINTS	100%

As the table illustrates, the most common type of bank account and service complaint relates to opening, closing, or managing the account. These complaints address issues such as confusing marketing, denial, fees, statements, and joint accounts. Other common types of complaints relate to deposit and withdrawal issues, such as transaction holds and unauthorized transactions, and problems caused by the consumer's funds being low, such as bounced checks, overdraft and late fees, and credit reporting. Many consumers remain frustrated with overdraft fees and the wide discretion companies have to assess these and other fees so long as the fees are outlined in account agreements. Similarly, some consumers express frustration with the order in which companies process account withdrawals because the processing of larger transactions before smaller ones can lead to more overdraft-fee charges.

Consumers' Student Loan Complaints

Figure 4 shows the types of student loan complaints as reported by consumers for the approximately 2,000 student loan complaints received by the CFPB.

FIGURE 4: TYPES OF STUDENT LOAN COMPLAINTS REPORTED BY CONSUMERS



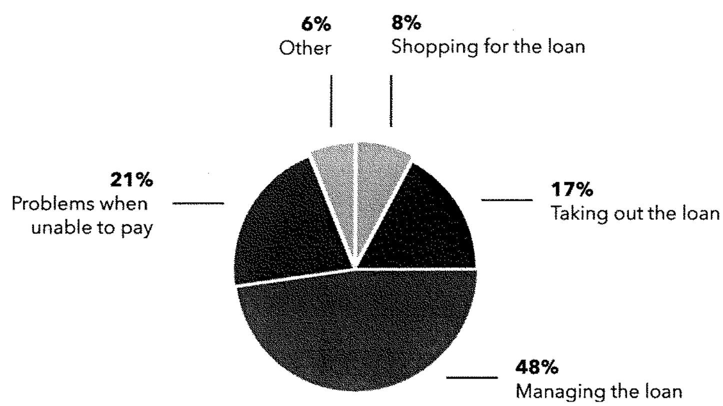
	%
Getting a loan (Confusing terms, rates, denial, confusing advertising or marketing, sales tactics or pressure, financial aid services, recruiting)	4%
Repaying your loan (Fees, billing, deferment, forbearance, fraud, credit reporting)	65%
Problems when you are unable to pay (Default, debt collection, bankruptcy)	28%
Other	3%
TOTAL STUDENT LOAN COMPLAINTS	100%

The most common type of student loan complaint relates to repaying the loan, such as fees, billing, deferment, forbearance, fraud, and credit reporting. Consumers struggle with the limited payment deferment options permitted in their loan agreements, especially when they have not found employment by the time they need to begin repaying their loans and because deferments often are limited to six months. Another common type of complaint addresses problems consumers have when they are unable to pay, such as issues related to default, debt collection, and bankruptcy.

Consumers' Consumer Loan Complaints

Figure 5 shows the types of consumer loan complaints, such as complaints about installment loans, vehicle loans and leases, and personal lines of credit, as reported by consumers for the approximately 1,400 consumer loan complaints received by the CFPB.

FIGURE 5: TYPES OF CONSUMER LOAN COMPLAINTS REPORTED BY CONSUMERS



	%
Shopping for a loan, lease, or line of credit (Sales tactics or pressure, credit denial, confusing advertising or marketing)	8%
Taking out the loan or lease / Account terms and changes (Term changes (mid-deal changes, changes after closing, rates, fees, etc.), required add-on products, trade-in payoff, fraud)	17%
Managing the loan, lease, or line of credit (Billing, late fees, damage or loss, insurance (GAP, credit, etc.), credit reporting, privacy)	48%
Problems when you are unable to pay (Debt collection, repossession, set-off from bank account, deficiency, bankruptcy, default)	21%
Other	6%
TOTAL CONSUMER LOAN COMPLAINTS	100%

The table illustrates that the most common type of consumer loan complaint is about managing the loan, lease, or line of credit. Another common type of complaint addresses problems consumers have when they are unable to pay, such as issues related to debt collection, bankruptcy, and default.

HOW COMPANIES RESPOND TO CONSUMER COMPLAINTS

Approximately 44,600 (or 81 percent) of all complaints received between July 21, 2011 and June 30, 2012 were sent by Consumer Response to companies for review and response.[11] Table 2 shows how companies responded to these complaints during this time period.

Company responses include descriptions of steps taken or that will be taken, communications received from the consumer, any follow-up actions or planned follow-up actions, and categorization of the response. Based on industry comments received about disclosure of credit card complaint data, beginning June 1, 2012, response category options included "closed with monetary relief," "closed with non-monetary relief," "closed with explanation," "closed," "in progress," and other administrative options.[12] Monetary relief is defined as objective, measurable, and verifiable monetary relief to the consumer as a direct result of the steps taken or that will be taken in response to the complaint. "Closed with non-monetary relief" indicates that the steps taken by the company in response to the complaint did not result in monetary relief to the consumer that is objective, measurable, and verifiable, but may have addressed some or all of the consumer's complaint involving non-monetary requests. Non-monetary relief is defined as other objective and verifiable relief to the consumer as a direct result of the steps taken or that will be taken in response to the complaint. "Closed with explanation" indicates that the steps taken by the company in response to the complaint included an explanation that was tailored to the individual consumer's complaint. For example, this category would be used if the explanation substantively meets the consumer's desired resolution or explains why no further action will be taken. "Closed" indicates that the company closed the complaint without relief – monetary or non-monetary – or explanation. Consumers are given the option to review and dispute all company closure responses.

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[11] The remaining complaints have been referred to other regulatory agencies (8 percent), found to be incomplete (4 percent), or are pending with the consumer or the CFPB (1 percent and 6 percent, respectively).

[12] The CFPB initially asked companies to categorize their response as "full resolution provided," "partial resolution provided," "no resolution provided," or another administrative option. From December 1, 2011 through May 31, 2012, the CFPB piloted categories of "closed with relief" and "closed without relief" in addition to other administrative options.

TABLE 2: HOW COMPANIES HAVE RESPONDED TO CONSUMER COMPLAINTS[13]

	All N≈44,600	Credit card N≈15,600	Mortgage N≈20,200	Bank account and service N≈6,400	Student loan N≈1,400	Consumer loan N≈800
Company reported closed with monetary relief	26%	47%	9%	32%	6%	19%
Company reported closed with non-monetary relief	3%	2%	5%	2%	3%	5%
Company reported closed with explanation	55%	42%	66%	48%	60%	57%
Company reported closed (without relief or explanation)	1%	0.2%	1%	1%	0.5%	1%
Company provided administrative response	3%	2%	4%	3%	1%	1%
Company reviewing	13%	7%	16%	14%	29%	16%
TOTAL COMPLAINTS	100%	100%	100%	100%	100%	100%

Companies have responded to over 40,300 of the 44,600 complaints sent to them (90 percent) and report having closed 85 percent of the complaints sent to them. Table 2 shows how companies have responded.

Beginning December 1, 2011, companies had the option to report an amount of monetary relief, where applicable. Since then companies have provided relief amounts in

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[13] While companies' responses under previous categorizations were maintained, for operational and reporting purposes, responses categorized as "full resolution provided," "partial resolution provided," and "closed with relief" are considered a subset of "closed with monetary relief," and responses categorized as "no resolution provided" and "closed without relief" are categorized as "closed with explanation." "Closed with non-monetary relief" and "closed" reflect only those responses provided by companies after June 1, 2012.

response to more than 4,800 complaints. The median amount of relief reported by companies was $144; however, company reports of relief amounts and medians vary by product. For the approximately 2,500 credit card complaints where companies provided a relief amount, the median amount of relief reported was approximately $130. For the approximately 800 mortgage complaints where companies provided a relief amount, the median amount of relief reported was approximately $411. For the more than 1,400 bank account and service complaints where companies provided a relief amount, the median amount of relief reported was approximately $105. For the approximately 70 student loan complaints where companies provided a relief amount, the median amount of relief reported was approximately $1,597. For the approximately 80 consumer loan complaints where companies provided a relief amount, the median amount of relief reported was approximately $136.

Consumers' Reviews of Companies' Responses

Once the company responds, the CFPB provides the company's response to the consumer for review. Where the company responds "closed with monetary relief," "closed with non-monetary relief," "closed with explanation," or "closed," consumers are given the option to dispute the response.[14] Complaints with disputed company responses are among those prioritized for investigation. Table 3 shows how consumers responded to the approximately 36,600 complaints where they were given the option to dispute. Consumers are asked to notify the CFPB within 30 days if they want to dispute a company's response. Approximately 44 percent of such consumers did not dispute the responses provided. Nearly 17 percent of consumers have disputed the responses provided. The rest were pending with consumers at the end of this period.

[14] Consumers were initially given the option to dispute responses from companies that indicated a resolution had been provided. With the shift to closure categories, consumers are given the option to dispute company responses regardless of closure category.

TABLE 3: CONSUMER REVIEW OF COMPANY RESPONSES

	All	Credit card	Mortgage	Bank Account and Service	Student Loan	Consumer Loan
Pending consumer review of company's response	40%	40%	39%	42%	39%	49%
Consumer did not dispute company's response	44%	46%	42%	43%	48%	35%
Consumer disputed company's response	17%	15%	19%	15%	14%	16%
TOTAL COMPLAINTS	100%	100%	100%	100%	100%	100%

Consumer Response Investigations

After requesting that companies respond to all complaints filed and giving consumers the opportunity to review and dispute company responses, Consumer Response primarily focuses its review and investigation efforts on those complaints where the consumer disputed the response or where companies failed to provide any response within 15 calendar days. Consumer Response also periodically investigates groups of complaints to survey product- and issue-specific trends. Consumer Response seeks to determine why a company failed to provide a timely response (if applicable) and whether the consumer's dispute of the company's response (if applicable) justifies additional review of the company's minimum required actions under the consumer financial protection laws within the CFPB's authority. In the course of an investigation, Consumer Response may ask companies and consumers for additional information, and once the investigation is completed, Consumer Response sends the consumer a summary. In some cases, Consumer Response has referred complaints to colleagues in the CFPB's Division of Supervision, Enforcement, and Fair Lending & Equal Opportunity for further action.

Listening and responding to consumer complaints is an integral part of the CFPB's work in understanding issues in the financial marketplace and helping the market work better for consumers.

Shopping Challenges

The challenges that consumers face in the marketplace highlight the importance of a tenet which is central to the CFPB's mission – promoting markets in which consumers can shop effectively for financial products and services. When the costs, risks, and other key features of financial products are transparent and understandable, consumers are better able to compare products and choose the best one for them. This discussion presents preliminary observations about opportunities and challenges that consumers face when shopping for checking accounts.[15]

CHECKING ACCOUNTS

Background

Over 92 percent of American households hold some type of transaction account for their core cash management needs.[16] Most of those accounts are insured checking accounts at a bank, thrift, or credit union. According to one survey, households are switching their checking account providers at a rate of once every 11 years, and switching is on the rise.[17] Consumers shopping for banks in 2011, on average, looked at no more than two institutions.[18] While historically consumers may have been most likely to shop for a new bank when moving to a new city or neighborhood, increasingly consumers may be shopping in response to an unpleasant experience, such as changes in fees or other terms and conditions.[19]

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[15] For a discussion of shopping challenges in markets for mortgages, credit cards, and student loans, please see Consumer Financial Protection Bureau, "Semi-Annual Report of the Consumer Financial Protection Bureau, July 21 - December 31, 2011," January 30, 2012.

[16] Jesse Bricker, Brian Bucks, Arthur Kennickell, Traci Mach, and Kevin Moore, "Surveying the Aftermath of the Storm: Changes in Family Finances from 2007 to 2009," March 2011, at 27, http://www.federalreserve.gov/pubs/feds/2011/201117/201117pap.pdf (last viewed July 9, 2012).

[17] J.D. Power and Associates, "Shopping and Switching Rates Increase among Retail Bank Customers as Competition in the Industry Intensifies," March 1, 2011, http://businesscenter.jdpower.com/news/pressrelease.aspx?ID=2011020 (last viewed July 9, 2012).

[18] Id.

[19] J.D. Power and Associates, "Bank Customer Switching Rates Rise Again, Fueled by Issues with Fees and Poor Service," Feb. 27, 2012, http://businesscenter.jdpower.com/news/pressrelease.aspx?ID=2012017 (last viewed July 9, 2012).

Banks may charge a wide range of fees to holders of checking accounts.[20] Some fees, including monthly maintenance, are levied on a periodic basis. Others, such as fees for using the ATMs of other institutions or fees for in-person transactions with tellers, are incurred on a per-transaction basis. Depository institutions frequently also impose "penalty" fees for overdrafts, returned deposited checks, and other transactions that may impose additional risks or costs upon the institution.

Shopping Channels

While consumers have historically shopped – and continue to shop – for checking accounts at branch offices, a large portion of the population now relies upon the Internet. Use of the two primary shopping channels may not be mutually exclusive. A recent survey estimates that "76 percent of consumers view the bank branch as the primary place to open new accounts and 65 percent look there first when they *buy* banking products."[21] However, the survey also found that "70 percent of consumers first go online when researching banking products and services, up from 42 percent five years ago."

The growth of online shopping promises increased access to information and development of tools with which consumers can make online comparisons. Consumers can obtain at least some information about checking account products at most financial institutions' websites. They can also compare checking products along a limited number of dimensions at a number of third-party sites.[22] Still, a number of issues present challenges for consumer shoppers.

Transparency

DISCLOSURE OF TERMS AT BRANCH OFFICES

Regulation DD, which implements the Truth in Savings Act, requires a depository institution to disclose to a consumer, among other things, the terms and fees (and conditions under which the fees will be imposed) associated with maintaining a checking account before it opens the account for or provides services to the consumer.[23] The

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[20] Banks' revenue from checking accounts comes through a combination of net interest margin (interest earned from lending or investing the consumers' deposits, minus any interest paid to consumers' account), interchange earned on consumers' debit card transactions, and fees charged to the consumers themselves.

[21] Sherief Meleis et al., "Reconstructing the Retail Banking Business," Novantas Review, July 2011, at 13, http://www.novantas.com/article.php?id=317 (last viewed July 9, 2012).

[22] Examples include Bankrate.com and Findabetterbank.com.

[23] *See* 12 C.F.R. § 1030.4.

purpose of the regulation is to enable consumers to make informed decisions about accounts at depository institutions.[24]

However, in 2008, the Government Accountability Office (GAO) found that consumers may not be able to obtain the required information from bank branches at all times.[25] GAO employees conducted "secret shopper" visits to a non-generalizable yet sizable sample: 185 branches of 154 banks, thrifts, and credit unions during 2007 and 2008. Visitors found they were "unable to obtain, upon request, a comprehensive list of all checking and savings account fees at 40 of the branches (22 percent)."[26] Similarly, the "secret shoppers" were "unable to obtain the account terms and conditions, including information on when deposited funds became available and how overdrafts were handled, for checking and savings accounts at 61 of the branches (33 percent)."[27] These findings appear to be consistent with those published by the Unites States Public Interest Research Group (PIRG) in 2011.[28]

DISCLOSURE OF TERMS ONLINE

Currently, the regulation implementing the Truth in Savings Act, Regulation DD, also provides that if a consumer uses electronic means to open an account, such as through a website, the same disclosures required for opening an account in a bank branch must be provided to the consumer before the account is opened or a service is provided. However, because the regulation also provides that disclosures may be mailed to customers who request written account information when the customer is not "present," account terms may not be immediately available for customers shopping online.[29] In addition, Regulation E, which implements the Electronic Fund Transfer Act, requires disclosures of fees for electronic fund transfers or the right to make such transfers at the time the consumer contracts for the electronic fund transfer service or before the first transfer is made involving the consumer's account.[30] Examples of fees for electronic fund transfer services

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[24] *See id.* § 1030.1(b).

[25] Government Accountability Office, "Bank Fees: Federal Banking Regulators Could Better Ensure That Consumers Have Required Disclosure Documents Prior to Opening Checking or Savings Accounts," January 2008, http://www.gao.gov/assets/280/271686.pdf (last viewed July 9, 2012).

[26] *Id.* at 6.

[27] Id.

[28] U.S. Public Interest Research Groups, "Big Banks, Bigger Fees 2011: A National Survey of Bank Fees and Fee Disclosure Policies," April 2011, http://www.uspirg.org/sites/pirg/files/reports/uspirgBIGBANKSREPORTONLY.pdf (last viewed July 9, 2012).

[29] *See* 12 C.F.R. § 1030.4.

[30] *See id.* § 1005.7.

include fees for ATM withdrawals or purchases made using a debit card.31 However, these disclosures also may be provided too late to assist shoppers.

In 2008, the GAO found that information on fees, terms, and conditions was not readily available on the websites of the institutions visited by its "secret shopper" employees. The GAO was "unable to obtain a comprehensive list of fees from 103 of the 202 [websites] (51 percent). In addition, [it was] unable to obtain the terms and conditions from 134 of the 202 (66 percent)."32

ACCESSIBILITY AND PROMINENCE

Facilitas, Inc., a market research firm that publishes the website FindABetterBank.com and monitors checking account pricing daily at 139 institutions across the nation (including the 65 largest) has conducted additional research on disclosure of terms and pricing by depositories. The company tracks and scores the difficulty of finding information related to 24 common fees at each of the institutions the firm monitors, noting what terms are prominently posted online, what is only contained in legal disclosures, what is not posted and requires assistance from a customer service representative, and what is ostensibly not available outside of a branch. As of February 2012, the average accessibility score earned by banks and credit unions observed by Facilitas was 2.9 on a scale of 0 to 6, where a score of 3.0 indicates "persistent navigation" is required to find fee information online and a 2.0 suggests fee information is difficult to find or is not available on the bank's website.[33]

Other studies indicate that institutions that post information online often do so within complex legal disclosures. In a 2011 study of the websites of the ten largest depository institutions, the Pew Charitable Trusts was generally able to find fee information online for the institutions' checking products. However, for many of the institutions, the study found that the fee schedules were contained within lengthy documents containing all the terms and conditions for checking and savings products, with a median length of 111 pages.[34]

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[31] *See id.* §§ 1005.7, 1005.16.

[32] Government Accountability Office, "Bank Fees: Federal Banking Regulators Could Better Ensure That Consumers Have Required Disclosure Documents Prior to Opening Checking or Savings Accounts," at 38, January 2008, http://www.gao.gov/assets/280/271686.pdf (last viewed July 9, 2012).

[33] Data from Facilitas, Inc., received February 28, 2012. Scores below 2.0 indicate that the consumer had to navigate through an automated phone system to get information, which at times was difficult.

[34] The Pew Health Group, "Hidden Risks: The Case for Safe and Transparent Checking Accounts," April 2011, at 6, http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Safe_Checking_in_the_Electronic_Age/Pew_Report_HiddenRisks.pdf (last viewed July 9, 2012). In the 2012 follow-up to this study, Pew observed that the median length decreased to 69 pages; however the change was largely attributed to a change in methodology rather than an industry trend. The

NOMENCLATURE AND COMPARABILITY

Even when consumers are able to obtain complete pricing information on competing products, comparing those products can be challenging due to a lack of standardized descriptions for certain types of fees, especially with respect to overdraft transactions. For example, different depository institutions may use different terms for the fee charged to transfer money from a savings account or a line of credit to a checking account to cover an overdraft and for the fee charged if an overdraft is not repaid within a specified period of time.

Product Complexity

Subtle and sometimes significant variations in product pricing structures across institutions can make comparisons between products or providers cumbersome. For example, some accounts may charge monthly fees if the minimum daily balance requirements are not met for just one day or even for part of one day during a statement period, while other accounts have a fee trigger based upon the *average* monthly balance of the account.

Some institution practices, frequently undisclosed, may make it particularly difficult to anticipate overdraft usage and costs. For example, some institutions may post check, automated clearing house (ACH), and debit transactions in order from the largest to the smallest amount, while others might employ a chronological or low-to-high posting order. These posting-order rules impact the size and number of items that generate overdraft or non-sufficient funds (NSF) fees. Because many payments do not settle on the day on which they were conducted or authorized, consumers are hard pressed to predict the precise order in which items will be processed on a given day. Importantly, many disclosures merely state that the institution reserves the right to determine the order in which to process items.

Furthermore, many institutions' policies set risk-based limits based on an individual customer's credit standing, history with the institution, past overdraft usage, and other factors. Those account underwriting policies vary from institution to institution but cannot be used as a basis for comparing providers if undisclosed.

Consumer Expectations

Finally, as when shopping for other consumer financial products, consumers enrolling in new checking accounts may often underestimate the likelihood of negative outcomes,

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Pew Health Group, "Still Risky: An Update on the Safety and Transparency of Checking Accounts," June 2012, at 7, http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Safe_Checking_in_the_Electronic_Age/Pew_Safe_Checking_Still_Risky.pdf (last viewed July 9, 2012).

such as overdrawing their accounts or incurring overdraft-related fees.[35] Thus, consumers may pay less attention to these terms – even when they are well-disclosed – than to "front end" charges they will incur with more certainty, such as monthly maintenance fees, regardless of the fact that "back end" transaction fees may represent the majority of costs they are likely to incur.

[35] Michael S. Barr et al., "Behaviorally Informed Financial Services Regulation," October 2008, http://www.newamerica.net/files/naf_behavioral_v5.pdf (last viewed July 9, 2012); ROGER BUEHLER ET AL., INSIDE THE PLANNING FALLACY: THE CAUSES AND CONSEQUENCES OF OPTIMISTIC TIME PREDICTIONS (2002). Bar-Gill (2004) made similar observations with respect to the credit card markets. Oren Bar-Gill, "Seduction by Plastic," 2004, http://law.bepress.com/cgi/viewcontent.cgi?article=1013&context=alea (last viewed July 9, 2012).

Delivering for American Consumers and Leveling the Playing Field

The CFPB is authorized to exercise its authorities under federal consumer financial protection laws to administer, implement, and promote compliance with those laws. To this end, the Bureau has made efforts in the past year to improve the resources available to consumers and to build the infrastructure necessary for making consumer financial markets work better.

Resources for Consumers

The CFPB has launched a variety of offices to provide assistance and information to consumers. The Bureau strives to provide individualized help to consumers based on their specific issues with financial products and services, and it works to improve financial literacy and capability – amongst the public as a whole and consumers who traditionally faced particular challenges in the financial markets.

CONSUMER RESPONSE

The Bureau's Consumer Response team receives complaints and inquiries directly from consumers. The CFPB accepts complaints through its website and by telephone, mail, email, fax, and referral. Consumers file complaints on the Bureau's website using complaint forms tailored to specific products, and can also log on to a secure consumer portal to check the status of a complaint and review a company's response. While on the website consumers can chat with a live agent to receive help completing a complaint form Consumers can also call the Bureau's toll-free number to ask questions, file a complaint, check the status of a complaint, and more. The CFPB's U.S.-based contact centers handle calls with little-to-no wait times; they provide services to consumers in more than 180 languages and to hearing- and speech-impaired consumers via a toll-free telephone number. Cutting-edge technology, including secure company and consumer portals, makes the process efficient and user-friendly for consumers and companies. For companies, the CFPB provides secure channels for communicating directly with dedicated staff about technical issues.

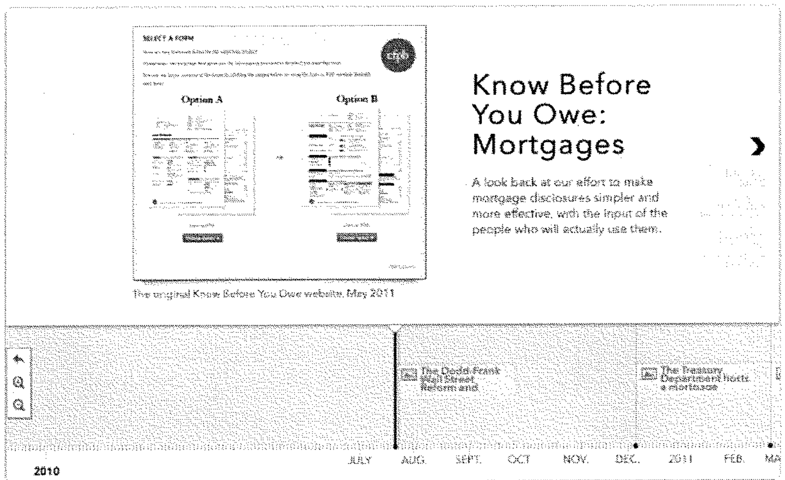
As Consumer Response processes complaints and responds to inquiries, it continues to seek new ways to improve existing processes to make them as efficient, effective, and easy-to-use as possible. Based on feedback from consumers and companies, as well as its own observations, the Consumer Response team identifies new opportunities to improve its processes and implement changes with each product launch. By applying the lessons learned through previous complaint function rollouts, the Consumer Response team has improved its intake process, enhanced communication with companies, and ensured the system's ease-of-use and effectiveness for consumers. The CFPB aims to provide services that are trusted by consumers and companies alike.

CONSUMER EDUCATION AND ENGAGEMENT

The CFPB's Division of Consumer Education and Engagement is responsible for developing and implementing initiatives to educate and empower consumers to make better-informed financial decisions. Improving financial literacy and capability encompasses many short and longer-term efforts, including education and engagement with information and tools designed to provide clear and meaningful assistance to consumers at the moment they need it.

Reaching out to consumers is essential to the work of this Division. Over the past year, the Division's Offices have engaged with different groups across the country through more than 320 listening sessions, town halls and roundtables, visits to military installations, and other stakeholder events. These and other opportunities to hear directly from consumers about their financial needs, aspirations, and experiences help inform all of the Bureau's work. Through this outreach work, the CFPB has connected to more than 4,200 stakeholder organizations that were involved in these events.

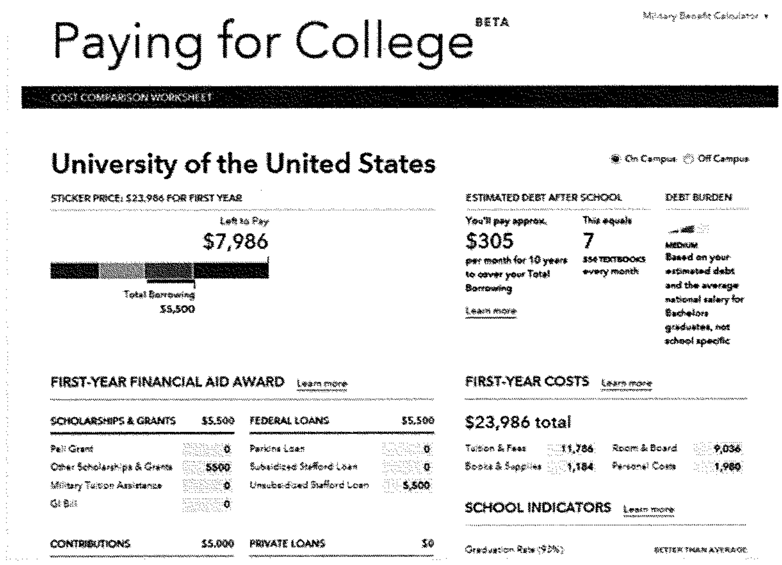
As a 21st-century agency, the Consumer Engagement office has focused on bringing financial decision-making tools and information to consumers through an accessible online format. Over the past year, a steadily increasing number of consumers took advantage of these offerings. The Bureau's website received more than 5 million unique views in the past year. The CFPB estimates that more than 3,750,000 of those were to areas of the site providing consumer tools, information, and assistance.



www.consumerfinance.gov/knowbeforeyouowe

The Division supports one of the CFPB's signature campaigns, *Know Before You Owe*, which has begun to make the costs and risks of financial products and services easier to understand. Although consumers expect to be held responsible for their purchases and debts, they also deserve to be able to make informed choices based on long-term costs and risks of those products and services. *Know Before You Owe* encourages personal responsibility and smart decision-making through fair and effective representations of the key elements of the costs and risks of financial products and services. In 2011, the Bureau published prototype forms, tools, and contracts for mortgages, student loans, and credit cards that are designed to make important information easier to find.

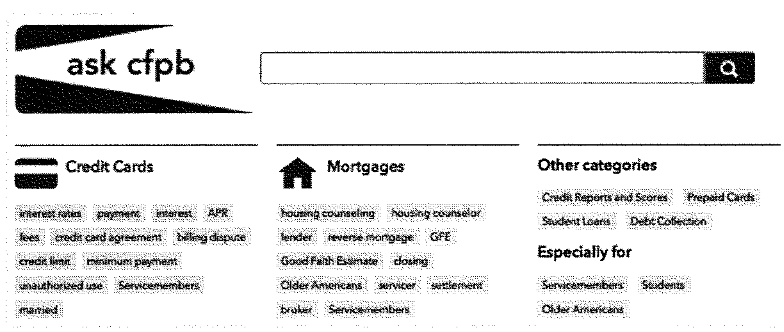
The Office of Consumer Engagement and Office for Students recently entered the second phase of its *Know Before You Owe: Student Loans* project by releasing a beta version of a financial aid comparison tool for public comment. This online tool is designed to help students and families make better-informed decisions about student loans. The beta version drew upon publicly available data provided by government statistical agencies, including information on more than 7,500 schools and institutions, including vocational schools and community, state, and private colleges.



www.consumerfinance.gov/payingforcollege

The tool also included a "Military Benefits Calculator" that can estimate education benefits for servicemembers, veterans, and their families. The calculator includes military tuition assistance and Post-9/11 GI Bill benefits. The Bureau is currently evaluating the feedback from the public to inform the development of the final version of the tool.

In addition, in February, the CFPB's Consumer Engagement and Technology & Innovation teams released a new design for ConsumerFinance.gov, which streamlined the site's information architecture. This new design has increased the ability of visitors to find information about the CFPB's regulations, requests for information, and guidance for supervised entities within one click of the homepage.



www.consumerfinance.gov/askcfpb

In March, the Bureau released *Ask CFPB*, an interactive online tool that helps consumers find clear, unbiased answers to their financial questions. *Ask CFPB* currently contains more than 420 easy-to-read, plain-language entries written by the Bureau's subject-matter experts. Consumers can view entries organized by "most helpful," "most viewed," or "recently updated." The majority of the entries are focused on credit card and mortgage questions. In the coming months, the Bureau will expand the database to answer questions about a range of financial products and services, including student loans, vehicle loans, and checking and savings accounts. With this expansion, the *Ask CFPB* content will mirror the Consumer Response system, which is already answering consumer questions and taking complaints on these products and services.

The Bureau also helped bring attention to Financial Capability Month in April with a series of events throughout the country. Through events on Capitol Hill; in Chicago, Illinois; New York City; and Amarillo, Texas, Director Cordray and Bureau leadership engaged financial educators and leaders in the field, rural and community groups, consumers, and bankers about how to improve consumers' financial literacy. In addition, the Assistant Director for the Office of Financial Education testified before Congress about financial capability.

As Vice-Chair of the Financial Literacy and Education Commission (FLEC), Director Cordray helped bring attention to the issue by emphasizing how important it is for consumers to have the ability to understand and control their finances and that this ability creates a path to economic independence and mobility.

The Bureau is committed to education that builds financial capability and that engages consumers at the right moment with information, tools, and skills to help them achieve their own financial goals. In keeping with that commitment, the Office of Financial Education helped educate people during tax time about opportunities to save a portion of their tax refund by providing useful materials to Volunteer Income Tax Assistance (VITA) sites nationwide. The results of that initiative will help focus and inform future efforts to help consumers reach their savings goals.

Servicemembers

The CFPB's Office of Servicemember Affairs continues to reach out to servicemembers where they are, by visiting 27 military installations and National Guard units and participating in 18 town halls and 14 roundtables since October 2011. At these outreach events, Servicemember Affairs leadership and staff listened to servicemembers discuss the financial challenges they face, observed financial education training, and provided educational materials. In addition to the military units/installations visited, the Office participated in fifteen outreach events sponsored by external organizations seeking additional educational information about the Office and the CFPB. The Office used Military Saves Week in February as an opportunity to distribute a video message to all military units about the importance of saving for goals. Also in February, Assistant Director Holly Petraeus met with Pentagon officials, who asked the Office to assist in the creation of financial planning materials for all servicemembers leaving the military, an often difficult time of transition when such materials are particularly useful. The Office staff has delivered consumer financial education information to over 14,000 people since October 2011.

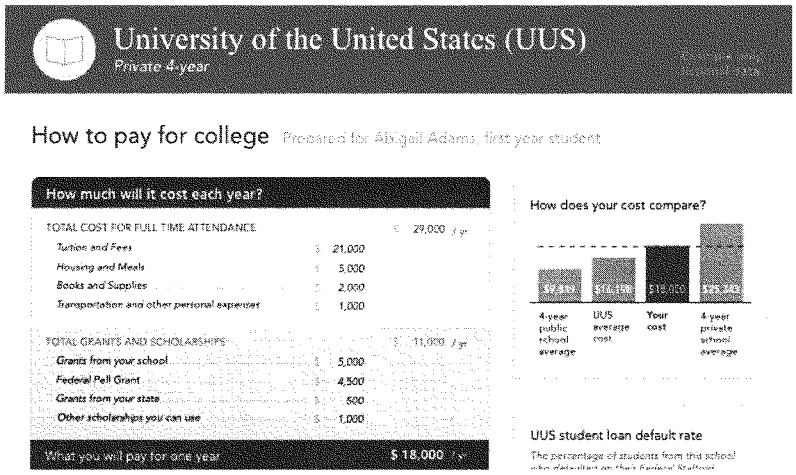
Building on its prior work with the U.S. Department of the Treasury (Treasury) and others to address the particular challenges that servicemembers often face in the mortgage markets, the Office continued its efforts to address the unique challenges presented by Permanent Change of Station (PCS) orders. In April and May, the Office worked with Treasury to secure changes to the Home Affordable Modification Program (HAMP) that will provide more opportunities for mortgage assistance to military homeowners. Under the announced changes to HAMP, as of June 1, military homeowners and other families who are permanently displaced by a move due to PCS orders may still qualify as owner-occupants for a HAMP mortgage modification. In June, the Bureau, along with the prudential regulators – the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (Federal Reserve, Federal Reserve Board, or Federal Reserve System), the Office of the Comptroller of the Currency (OCC), and the National Credit Union Administration (NCUA) – issued joint guidance to address mortgage servicer practices that may pose risks to homeowners who are serving in the military. The guidance is to ensure compliance with applicable consumer laws and regulations as they pertain to military homeowners who have received PCS orders.

Older Americans

The Division of Consumer Education and Engagement's Office for Older Americans has continued its outreach efforts around the country with its core constituency, key public officials, financial institutions, industry, advocates, and other stakeholders – including 81 events with more than 2,700 participants since October 2011. The Office's outreach work is helping to raise awareness of growing consumer financial challenges faced by older Americans and to bring various interests together to develop solutions on the local, state, and national level. To assist with this work, the Office issued a Request for Information (RFI) about elder financial exploitation and other issues impacting seniors in June 2012. The Office also worked with the CFPB's Research, Markets and Regulations Division to issue a report and consumer guide about reverse mortgages, a loan product sold to homeowners aged 62 and older.

Students

Last fall, the Bureau launched its *Know Before You Owe: Student Loans* project to help students make informed decisions about the level of debt associated with choosing a college. The Bureau also continues to offer the Student Debt Repayment Assistant tool for graduates to help them better understand the existing programs to manage their student debt repayment options.



www.consumerfinance.gov/students/knowbeforeyouowe

In cooperation with the U.S. Department of Education, the Bureau collected additional comment on a draft financial aid comparison tool. The final model format, to be prescribed by the Secretary of Education, will help students and families receive clear information on grants and loans when enrolling in an institution of higher education. In April, the President of the United States issued an Executive Order outlining principles that would require schools to provide the final version of the shopping sheet – to be prescribed by the Secretary of Education – to provide better information to recipients of military and veteran education benefits.

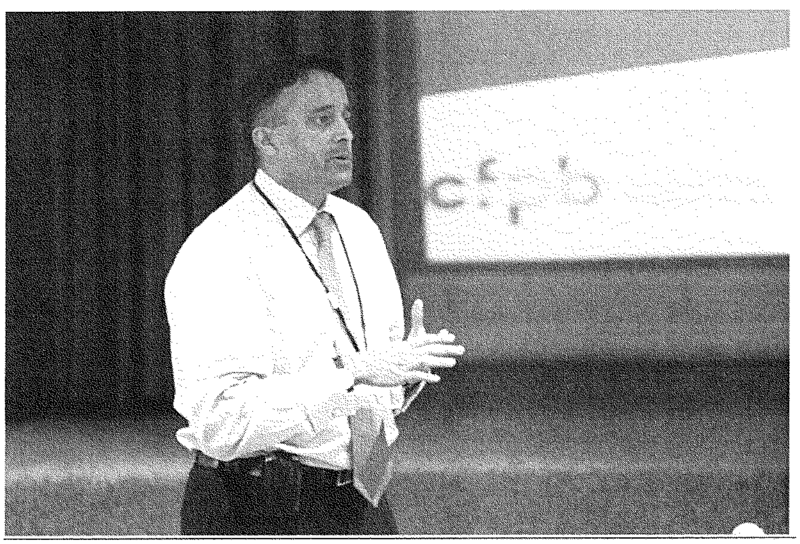
In March, the Bureau began to accept complaints from the public on student loans. The CFPB's Student Loan Ombudsman works with Consumer Response, the U.S. Department of Education, and institutions of higher education, lenders, and others to assist borrowers with complaints on private education loans and to address challenges in the student lending marketplace. The Student Loan Ombudsman will submit a report to Congress later this year. In preparation for this report, the Bureau published a Notice and Request for Information in June to collect comments on the nature of private student loan complaints received by institutions of higher education, state agencies, industry, non-profit organizations, and other interested parties.

Financial Empowerment

The Bureau launched its Office of Financial Empowerment in June 2012 to address the needs of consumers who traditionally have been underserved by the financial market. The Office began reaching out to community and asset building groups, cities and counties, and financial service providers. Since its inception, the Office has met with more than 25 stakeholder groups. These meetings helped inform the Office's goal to develop and provide innovative approaches that will help respond to lower-income and economically vulnerable consumers' immediate needs for transaction accounts and credit, as well as their longer-term needs for emergency savings and wealth building. In addition, on June 25, Director Cordray and Office leadership held a conference call to introduce the Office's work to more than 400 participants representing community organizations, banks and credit unions, academics and researchers, representatives from local and state government, coalitions, and others.

Outreach

In addition to the Bureau's work engaging and educating particular populations, the Bureau has hosted events all over the country to inform and receive input about its work on issues related to consumer financial products and services. More than 1,000 consumers have made their voices heard by participating in town halls and field hearings convened by the CFPB. The Bureau hosted two field hearings – on payday loans in Birmingham, Alabama and on prepaid cards in Durham, North Carolina – to actively solicit public input on key policy initiatives. In New York City, the CFPB convened a town hall meeting to learn from the public's experiences with consumer financial products and services. While in Sioux Falls, South Dakota the Bureau unveiled its Financial Aid Comparison Shopper at a gathering of high school seniors embarking on the college selection process.



In conjunction with field events, Director Cordray and Deputy Director Raj Date have held roundtables with community banks, credit unions, and other members of the financial services industry as part of our continuing commitment to engage with financial service providers. Since January 2012, Bureau representatives have met with hundreds of industry representatives and senior CFPB leadership has delivered several speeches at widely-attended industry conferences. The Bureau also has convened its first three small business panels in January, April, and May 2012. These panels, which are required whenever a rule that the CFPB is writing may have a significant economic impact on small businesses, provided vital insight from financial service providers as the Bureau strives to issue thoughtful, research-based rules.

The Bureau has also actively solicited the perspective of consumer and civil rights groups. In conjunction with field events, Director Cordray and Deputy Director Date have held roundtables with community-based organizations across the country. Since January 2012, the CFPB's Office of Community Affairs has engaged over 3,500 community group representatives through more than 100 meetings, roundtables, and public appearances in Washington, DC and throughout the country. Since January 2012, senior CFPB leadership delivered speeches at four national nonprofit conferences. As with industry outreach, the Bureau has ensured that consumer groups' perspectives inform its internal deliberations on policy initiatives.

Partnerships

The Bureau has furthered many existing partnerships and formalized several new ones. The CFPB received over 700 completed applications to serve on its Consumer Advisory Board. This Board, mandated by Section 1014 of the Dodd-Frank Act, will comprise a varied group of consumers, community organizations, governmental officials, and industry representatives who will provide Director Cordray with advice and consultation on consumer financial issues. The CFPB will be establishing community bank and credit union advisory groups to help ensure that the agency's rules do not unduly harm entities that we do not supervise.

To date, the Bureau has signed numerous memoranda of understanding (MOUs) with intergovernmental partners, including federal agencies, state financial regulatory entities, and state attorneys general. The CFPB has conducted meetings with over 200 intergovernmental stakeholders such as mayors, state legislators, and international officials to help ensure that consumer financial protection remains coordinated among these entities.

Regulations and Guidance

The Bureau is focusing intensively on implementing consumer protections required by the Dodd-Frank Act in anticipation of statutory deadlines in 2012 and 2013. In addition, the Bureau has issued a number of bulletins to provide guidance on regulatory matters and is analyzing public comments on potential projects to streamline regulations that it has inherited from other federal agencies.

IMPLEMENTING STATUTORY PROTECTIONS

As contemplated by the Dodd-Frank Act, the CFPB is in the process of issuing a comprehensive set of regulations to address deep flaws in the mortgage market that were revealed by the financial crisis. After months of preparation and outreach, including conducting several small business review panels, the Bureau expects over summer 2012 to issue proposed rules to address the following topics:

- Streamlining and integrating federal mortgage disclosures to ensure that consumers who have applied for a mortgage loan understand the terms of the transaction and to facilitate compliance by lenders and other financial services providers.

- Addressing widespread problems in the mortgage servicing industry by implementing Dodd-Frank Act requirements regarding periodic statements, force-placed insurance, prompt crediting of payments, responses to requests for pay-off amounts, and error resolutions. In addition, the Bureau plans to propose basic requirements to ensure that servicers maintain reasonable information management systems and reach out early to work with borrowers who are having trouble paying their loans.

- Refining existing rules regarding the compensation and qualification of mortgage loan originators, including brokers and loan officers, as well as simplifying the structure of upfront points and fees on certain loans.

- Implementing Dodd-Frank Act amendments to existing rules governing high-cost mortgage loans to apply the requirements to a broader group of mortgages and to increase consumer protections.

- Ensuring that consumers receive a copy of the appraisals conducted in connection with their mortgage loan applications.

The Bureau is also working on an interagency basis to implement certain other Dodd-Frank Act requirements regarding appraisals.

After the public comment periods end, the Bureau will work to finalize these proposals as well as two additional mortgage-related proposals that were issued by the Federal Reserve Board in 2011 to implement additional Dodd-Frank Act requirements regarding escrow accounts and lenders' obligations to assess borrowers' ability to repay mortgage loans, including certain protections from liability for "qualified mortgages." In May 2012, the Bureau reopened the comment period on the ability-to-repay rule to seek public feedback on certain information that the Bureau has received in connection with that rulemaking, as well as to request additional data.

The Bureau expects to finalize most of the mortgage rules by January 21, 2013, in accordance with certain statutory deadlines. Due to additional consumer testing and other factors, final rules regarding the integration of federal mortgage disclosures are expected to be issued later in 2013.

The Bureau is also working to implement other Dodd-Frank Act protections. In 2012, the Bureau issued new rules governing foreign money transfers (remittances), which previously have been largely excluded from federal consumer financial protection laws. Those rules, including new disclosures and error resolution procedures, will take effect in February 2013. The Bureau expects to issue a supplemental rule on remittances in summer 2012 to address certain issues on which it had sought additional public comment, in advance of the February 2013 implementation date. Additional rulemakings are contemplated concerning reporting of data regarding mortgage lending, lending to small businesses and women- and minority-owned businesses, and consumer access to their own transaction data.

In addition, the Bureau has begun to issue rules that relate to its supervisory authority.

It has proposed a rule that defines "larger participants" in the debt collection and consumer reporting markets, which will bring within the scope of the CFPB's supervisory authority debt collectors and consumer reporting agencies that meet certain annual receipt thresholds. This would be the CFPB's initial rule defining larger participants in nonbank markets and will be followed by a series of subsequent rulemakings to define larger participants in other markets.

The Bureau has also proposed a rule to establish procedures by which the CFPB may make any nonbank entity that the CFPB has reasonable cause to determine is posing a risk to consumers subject to its supervisory authority. The proposed rule would establish a process for the CFPB to give notice to the nonbank entities of such determinations and would provide them with a reasonable opportunity to respond. The proposed rule would not impose new substantive consumer protection requirements on any nonbank entity.

INTERPRETING AND STREAMLINING INHERITED REGULATIONS

The Bureau is working with consumer and industry stakeholders on interpreting and streamlining regulations to implement existing federal consumer financial protection laws. These regulations were issued previously by other federal financial services regulators and transferred to the Bureau in July 2011.

In 2012, the Bureau issued interpretive guidance on a variety of topics, including interpretation of regulations concerning mortgage loan originator compensation, licensing requirements for loan originators under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act), and analysis of disparate impact under fair lending law.

In addition, the Bureau has been exploring possible initiatives to update, modify, or eliminate inherited regulatory requirements that may be outdated, unduly burdensome, or unnecessary. At the request of various stakeholders, the CFPB extended the comment period covering potential streamlining initiatives from March to June 2012. The Bureau is currently reviewing the comments received to plan follow-up action.

Finally, the CFPB has begun issuing updated housekeeping rules that establish procedures for the public to obtain information from the Bureau under the Freedom of Information Act, the Privacy Act of 1974, and in legal proceedings, and that provide for the confidential treatment of information that the Bureau generates and obtains in connection with the exercise of its authorities. The CFPB also promulgated supplemental ethics regulations for Bureau employees establishing restrictions on outside employment and business activities; prohibitions on the ownership of certain financial interests; restrictions on seeking, obtaining or renegotiating credit and indebtedness; prohibitions on recommendations concerning debt and equity interests; disqualification requirements based on credit or indebtedness; prohibitions on purchasing certain assets; and restrictions on participating in particular matters involving outside entities.

Supervision

The CFPB's supervision program seeks to ensure that large banks and other companies that provide financial products and services to consumers comply with federal consumer financial laws. The CFPB's supervision program has two parts. The large bank supervision program focuses on compliance with consumer protection laws and regulations by insured banks, thrifts, and credit unions with assets over $10 billion, their affiliates, and service providers. The nonbank supervision program focuses on compliance with the same laws and regulations by thousands of other "nonbank" companies, including mortgage lenders and brokers, credit bureaus, payday lenders, and their service providers.

SUPERVISORY ACTIVITIES

The CFPB has launched its nonbank supervision program, the first federal program to supervise nonbank providers of consumer financial products and services. The CFPB commenced examinations of mortgage lenders, brokers and servicers as well as short-term, small dollar lenders, commonly referred to as payday lenders. These nonbank entities have cooperated in the examinations, which include information requests and on-site reviews. CFPB examiners continue to actively examine large banks in each of its four regions throughout the country.

The CFPB will soon issue a policy that gives supervised entities an opportunity to request review of a final, less than satisfactory, rating and the underlying supervisory determinations. The review would be conducted by CFPB officials from headquarters and from a CFPB region that was not involved in assigning the rating. This policy will support the goal of maintaining a supervisory program that is fair, data-driven and consistent.

The Director of the CFPB is a member of the Federal Financial Institutions Examination Council (FFIEC), a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of insured depository institutions. Additionally, employees of the CFPB actively participate in nine FFIEC task forces, committees, and working groups. The CFPB currently provides leadership for the FFIEC's Consumer Compliance Task Force.

EXAMINATION MANUAL, PROCEDURES, AND OTHER SUPERVISORY GUIDANCE

The CFPB originally issued its *Supervision and Examination Manual* on October 13, 2011. In January 2012, the CFPB issued two additions to the *Manual*. The *Mortgage Origination Examination Procedures* describe the types of information the Bureau's examiners will seek in order to review key mortgage originator activities, from initial advertisements and marketing practices to closing practices. The *Short-Term, Small-Dollar Lending Examination*

Procedures address the types of information necessary to review key payday lending activities, from initial advertisements and marketing to collection practices.

The SAFE Act mandates a nationwide licensing and registration system for residential mortgage loan originators. On March 7, 2012, the CFPB issued interagency SAFE Act examination procedures for insured depository institutions. These procedures describe the types of information that the Bureau's examiners will gather to evaluate compliance by depository institutions with the SAFE Act's registration system requirements.

The CFPB will soon issue the second version of its *Supervision and Examination Manual*. Version 2.0 will replace outdated regulatory citations with the new CFPB citations, reflecting the fact that authority for federal consumer financial laws was transferred to the CFPB by the Dodd-Frank Act.

In addition, the CFPB issued bulletins in the past six months that provide supervised entities with guidance on a variety of issues. These include:

- Confidentiality protections that are provided to entities during the examination process;

- The CFPB's expectation that supervised entities will oversee their business relationships with service providers in a manner that ensures compliance with federal consumer financial laws; and

- Clarification that under the SAFE Act a state may grant a transitional loan originator license to an individual who holds a valid loan originator license from another state, as discussed further below.

INFRASTRUCTURE AND TECHNOLOGY

The CFPB has fully implemented its Supervisory Examination System (SES) 1.0, which records, tracks, and provides current information and data about its supervision and examination activities. Because this system was originally designed for the Office of Thrift Supervision, it is not fully capable of addressing all aspects of the CFPB's consumer financial protection mandate. As a result, the CFPB is planning and moving forward with development of SES 2.0, a more technologically sophisticated program that will have enhanced capabilities that focus on the unique needs and functions of the CFPB's consumer compliance supervisory program.

THE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2008

Related to our Supervision mission is the CFPB's responsibility to administer the SAFE Act.[36] Enacted on July 30, 2008, the SAFE Act mandates a nationwide licensing and registration system for residential mortgage loan originators (MLOs).[37] The SAFE Act authorities transferred to the CFPB pursuant to the Dodd-Frank Act.[38]

To accomplish the goal of national licensing and registration, the SAFE Act prohibits individuals from engaging in the business of MLOs without first obtaining and maintaining annually a particular type of registration. Individuals who are MLOs employed by depository, and certain subsidiary, institutions regulated by the federal banking agencies[39] or the Farm Credit Administration (FCA) must federally register as a registered loan originator and obtain a unique identifier. All other individuals who are MLOs must be licensed by a state, register as a state-licensed loan originator, and obtain a unique identifier. The SAFE Act requires that federal registration and state licensing and registration be accomplished through the Nationwide Mortgage Licensing System and Registry (NMLSR), an online registration system.

The federal agencies previously charged with SAFE Act responsibilities had issued regulations to implement the Act.[40] In light of the transfer to the CFPB of the SAFE Act rulemaking authority of the federal banking agencies, the FCA, the Office of Thrift Supervision (OTS), and the U.S. Department of Housing and Urban Development

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[36] The SAFE Act requires an annual summary of the CFPB's activities under the Act. 12 U.S.C. § 5115(a). This section of the CFPB's Semi-Annual Report constitutes the annual SAFE Act Report for 2012.

[37] More specifically, the SAFE Act as enacted required the OCC, the FDIC, the OTS, and the NCUA, with the Farm Credit Administration (FCA), and through the FFIEC, to develop and maintain a federal system for registering MLOs employed by certain of their regulated institutions. In addition, the SAFE Act as enacted charged HUD with oversight of the states' compliance with systems for licensing and registering other MLOs in accordance with minimum standards established in the SAFE Act.

[38] With this transfer of authorities, the CFPB assumed: (1) responsibility for developing and maintaining the federal registration system (including rulemaking authority); (2) supervisory and enforcement authority for SAFE Act compliance for entities under the CFPB's jurisdiction; (3) oversight and related authority relating to states' compliance with SAFE Act standards for MLO licensing systems; and (4) related rulemaking authority.

[39] Defined in the SAFE Act as the Federal Reserve Board, the OCC, the NCUA, and the FDIC, collectively.

[40] In 2010, the Federal banking agencies, the OTS (subsequently eliminated by the Dodd-Frank Act) and the FCA published a combined final rule establishing similar requirements for federal registration. 75 Fed. Reg. 44,656 (July 28, 2010). In 2011, HUD published a final rule setting minimum standards for state licensing and registration. 76 Fed. Reg. 38,464 (June 30, 2011).

(HUD), the CFPB published an interim final rule establishing a new Regulation G (SAFE Mortgage Licensing Act-Federal Registration of Residential Mortgage Loan Originators) and a new Regulation H (SAFE Mortgage Licensing Act-State Compliance and Bureau Registration System).[41] This interim final rule became effective on December 30, 2011, and does not impose any new substantive obligations on persons subject to the existing SAFE Act regulations.

Since the transfer to the CFPB of the SAFE Act authorities, the Bureau has fielded questions regarding the validity of transitional licenses for MLOs subject to state-licensing requirements. The CFPB issued a bulletin on April 19, 2012, that clarified the questions of whether: (1) a transitional license would allow a MLO who is licensed in one state to act as a MLO in another state; and (2) a transitional license would allow a federally registered loan originator to act as a state-licensed MLO. As stated in that bulletin, the SAFE Act and Regulation H generally require that a state prohibit an individual subject to state MLO-licensing requirements from engaging in the business of a MLO in the state unless the individual first: (1) registers as a loan originator through and obtains a unique identifier from the NMLSR; and (2) meets certain minimum standards. The Bulletin clarifies that the SAFE Act and Regulation H allow a state, if it chooses, to provide a transitional MLO license to an individual who holds a valid MLO license from another state. This guidance, therefore, has the potential to increase employment mobility for state-licensed MLOs who move from one state to another. Because these MLOs are already licensed, issuance of such a transitional license is consistent with the protection provided to the public by the SAFE Act. However, states cannot permit a registered, but unlicensed, loan originator who is no longer employed by a federally regulated institution to act as a MLO while pursuing a state license. Recognizing that this may create impediments to job changes by MLOs, the Bureau will work with the states, industry, and the NMLSR to minimize these impediments going forward, consistent with the SAFE Act.

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[41] 76 Fed. Reg. 78,483 (Dec. 19, 2011).

Enforcement

The CFPB aims to enforce the consumer protection laws within the Bureau's jurisdiction consistently and to support consumer-protection efforts nationwide by investigating potential violations both independently and in conjunction with other state and federal law enforcement agencies.

CONDUCTING INVESTIGATIONS

Since the CFPB's launch, the Office of Enforcement has been conducting research and investigations of potential violations of federal consumer financial laws identified by CFPB staff, transferred to the Bureau by the prudential regulators and HUD, or referred to the Bureau by consumers and others. Enforcement has endeavored to focus its investigative resources on the violations of law that cause the greatest harm to consumers. The investigations currently underway span the full breadth of the Bureau's enforcement jurisdiction. Further detail about ongoing investigations will not generally be made public by the Bureau until a public enforcement action is filed.

JOINT TASK FORCE ON FORECLOSURE SCAMS

In December 2011, the CFPB, the Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP), and the U.S. Department of the Treasury announced the creation of a joint task force to combat scams targeted at homeowners seeking to apply for the Home Affordable Modification Program, a foreclosure-prevention program administered by Treasury. This joint task force aims to protect taxpayers by investigating and shutting down these scams and by providing education programs to vulnerable homeowners.

RESIDENTIAL MORTGAGE-BACKED SECURITIES WORKING GROUP

In January 2012, the CFPB joined the Residential Mortgage-Backed Securities (RMBS) Working Group, a group established by the Attorney General as a part of the Financial Fraud Enforcement Task Force (FFETF). The RMBS Working Group consists of a broad coalition of state and federal officials, including the U.S. Department of Justice, the U.S. Attorneys' Offices, the U.S. Securities and Exchange Commission, the New York State Attorney General's Office, HUD, HUD's Office of Inspector General, the Federal Bureau of Investigation, the Federal Housing Finance Agency's Office of Inspector General, and other State Attorneys General. The working group and its members are focused on investigating potential false or misleading statements, deception, or other misconduct by market participants in the creation, packaging, and sale of mortgage-backed securities. The working group also collaborates on future and current investigations, pools resources, and streamlines processes to ensure that if fraud or misconduct has occurred justice is achieved for the victims. Within the working group, the CFPB is focusing its efforts on obtaining relief for consumers and promoting healthy consumer finance markets.

WHISTLEBLOWER HOTLINE

In December 2011, the CFPB announced several ways in which individuals can alert the Bureau about potential violations of federal consumer financial laws. Current or former employees, contractors and vendors, and competitor companies may submit information or tips. People who submit tips may request confidentiality or even remain anonymous to the extent permitted by law.

Fair Lending

The CFPB's Fair Lending and Equal Opportunity Office leads the Bureau's efforts to ensure fair, equitable, and nondiscriminatory access to credit for individuals and communities. The Bureau's inaugural Semi-Annual Report described the tools Fair Lending uses to work toward this goal. This discussion will focus on one of those tools: outreach to consumers, industry, and federal and state agencies.[42]

OUTREACH AND COLLABORATION

The Fair Lending Office engaged in numerous outreach events from January to June 2012 in locations throughout the country, reaching consumers, consumer advocates, and industry representatives who are interested in promoting fair lending compliance.

April 2012 was Fair Lending and Fair Housing Month, and the Bureau hosted several activities to focus attention on these issues. On April 18, 2012, Director Cordray announced at an outreach event held at the National Community Reinvestment Coalition annual conference that the Bureau is "giving fair notice on fair lending" by issuing CFPB Bulletin 2012-04 which provides guidance on compliance with the Equal Credit

[42] Separately, and pursuant to the Dodd-Frank Act's requirement in Section 1013(c)(2)(d) that the Bureau report to Congress annually on its efforts to fulfill its fair lending mission, the Office of Fair Lending will submit a single report in fall 2012 in satisfaction of this requirement, and the Bureau's reporting requirements under 15 U.S.C. § 1691f of the Equal Credit Opportunity Act and 12 U.S.C. § 2807 of the Home Mortgage Disclosure Act.

Opportunity Act and Regulation B.[43] The Fair Lending Office also issued a pamphlet aimed at educating consumers about credit discrimination and their rights.[44]

Fair Lending also has engaged in a variety of efforts to coordinate with other federal supervisory and enforcement agencies, and has begun outreach to state agencies. Those efforts include joining the U.S. Department of Justice, HUD, and the Federal Reserve as a co-chair of the Federal Financial Fraud Enforcement Task Force's Non-Discrimination Working Group. The Task Force brings together representatives from law enforcement agencies, regulatory authorities, inspectors general, state attorneys general, and local law enforcement in order to coordinate and increase effective enforcement in the lending discrimination and mortgage fraud areas. The Fair Lending Office also participates in the Federal Interagency Task Force on Fair Lending which brings together various federal regulatory agencies[45] to discuss and coordinate fair lending activities.

[43] *See* 15 U.S.C. § 1691(a)(1); 12 C.F.R. § 1002.4. The Bulletin is posted on the Bureau's website at http://files.ConsumerFinance.gov/f/201404_cfpb_bulletin_lending_discrimination.pdf.

[44] The pamphlet is available on the Bureau's website at http://files.ConsumerFinance.gov/f/201204_cfpb_Credit_Discrimination_Brochure.pdf.

[45] The following agencies participate in the Federal Interagency Task Force on Fair Lending: HUD, the U.S. Department of Justice, the OCC, the Federal Reserve, the FDIC, the Federal Housing Finance Agency, the NCUA, and the FTC.

Building a Great Institution: Update

The CFPB strives to promote transparency, accountability, and fairness. Built on these values, the CFPB is better able to make consumer financial markets work for consumers, honest businesses, and the economy.

Open Government

A key mission of the CFPB is to make consumer financial products and services more transparent in the consumer marketplace. The CFPB believes it should demonstrate that same level of commitment to transparency in its own activities. To accomplish this, the Bureau utilizes its website as the primary vehicle to share information on the operations and decisions that the CFPB undertakes every day.

Recent examples over the last few months that illustrate the Bureau's commitment to openness include:

- Freedom of Information Act (FOIA)

  The FOIA is a fundamental transparency law that gives consumers the statutory right to request information owned by the CFPB. A FOIA and Privacy Act Request Guidebook was created to provide specific information about submitting requests, fees, appeals, and more. The CFPB has also created an Index of Major Information Systems. This list highlights specific "systems" that may contain information sought under the FOIA and Privacy Act, and thus makes it easier for requestors to understand what information CFPB maintains.

- Leadership Calendars

  The CFPB is committed to letting consumers know the daily schedules of its senior leadership. The monthly calendars of Director Richard Cordray, Deputy Director Raj Date, and the past Special Advisor to the Secretary of the Treasury

Elizabeth Warren have been posted to the Bureau's website. The Bureau provides the calendars in multiple formats on a monthly basis in order to enhance their usefulness.

- Budget Updates

  The CFPB publishes quarterly budget updates on its website at ConsumerFinance.gov/budget to keep Congress and the public informed about how the Bureau's funds are being spent. In addition, the Bureau has also published on its website a Fiscal Year (FY) 2013 budget in brief and budget justification, in addition to the Bureau's funding requests.

- Procurement

  The CFPB posted the FY2011 Service Contract Inventory to its website. Website updates include a summary report of the CFPB's ten largest service contract obligations and special interest functions, as well as a worksheet that includes the inventory of awarded service contract transactions in excess of $25,000.

- General Reports

  The CFPB posts a variety of reports to illustrate the progress in specific areas of the Bureau's operations. Recent reports include the Bureau's compliance with the Plain Writing Act, a comprehensive update on Consumer Response from July through December 2011, and a summary of activities related to the administration of the Fair Debt Collection Practices Act.

- Guidance Updates

  From time to time, the CFPB will post letters and other materials that provide guidance to industry and members of the public. The Bureau has provided additional guidance on its website about mortgage origination examination procedures; short-term, small-dollar lending examination procedures; and an interagency SAFE Act examination procedure for federally regulated depository institutions. Bulletins on transitional licensing of mortgage loan originators under the SAFE Act, lending discrimination, service providers, and payment of compensation to loan originators were also posted to the website.

Budget

The Bureau is committed to fulfilling its statutory responsibilities and delivering value to American consumers. This means being accountable and using our resources wisely and carefully.

HOW THE CFPB IS FUNDED

The CFPB is funded principally by transfers from the Federal Reserve System, up to limits set forth in the Dodd-Frank Act. The Director of the CFPB requests transfers from the Federal Reserve System in amounts that are reasonably necessary to carry out the Bureau's mission. Annual funding from the Federal Reserve System is capped at a fixed percentage of the total 2009 operating expenses of the Federal Reserve System, equal to:

- 10 percent of these Federal Reserve System expenses (or approximately $498 million) in FY2011;
- 11 percent of these expenses (or approximately $547.8 million) in FY2012; and
- 12 percent of these expenses (or approximately $597.6 million) in FY2013 and each year thereafter, subject to annual inflation adjustments.[46]

During FY2012, to date, the CFPB has requested transfers from the Federal Reserve totaling $257.7 million to fund Bureau operations and activities as described in this report.[47]

These funds are held in an account for the Bureau at the Federal Reserve Bank of New York. Bureau funds that are not funding current needs of the CFPB are invested in Treasury securities. Earnings from those investments are also deposited into the Bureau's account.[48]

If the authorized transfers from the Federal Reserve are not sufficient in FY2010-2014, the CFPB can ask Congress for up to $200 million, subject to the appropriations process.[49] The CFPB did not request an appropriation in FY2011 and does not plan on doing so in FY2012 or FY2013.

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[46] *See* Dodd-Frank Act, Pub. L. No. 111-203, Sec. 1017(a)(2).

[47] The Bureau posts all of its funding request letters on its website at ConsumerFinance.gov/budget.

[48] *See* Dodd-Frank Act, Pub. L. No. 111-203, Sec. 1017(b).

[49] *See id.* § 1017(e).

Pursuant to the Dodd-Frank Act, the CFPB is also authorized to collect and retain for specified purposes civil penalties collected against any person in any judicial or administrative action under federal consumer financial laws.[50] The CFPB generally is authorized to use these funds for payment of restitution to victims, but may also use the funds for purposes of consumer education and financial literacy programs under certain circumstances. The CFPB maintains a separate account for these funds at the Federal Reserve Bank of New York. The CFPB did not collect any civil penalties during the first three quarters in FY2012.

KEY CFPB EXPENDITURES IN FISCAL YEAR 2012

Through June 30, 2012, the CFPB has spent $247 million[51] in FY2012, and has incurred $208.3 million in obligations, including $101.1 million in salary and benefits, $91.0 million in contract and support services, and $16.1 million in travel and other expenses.[52]

Approximately half of the Bureau's spending was related to employee compensation and benefits and travel for employees on board. Over 70 percent of the amounts obligated in contracts and support services were for the acquisition of general administrative and support services from other government agencies and for the development and maintenance of the Consumer Response and additional information technology systems.

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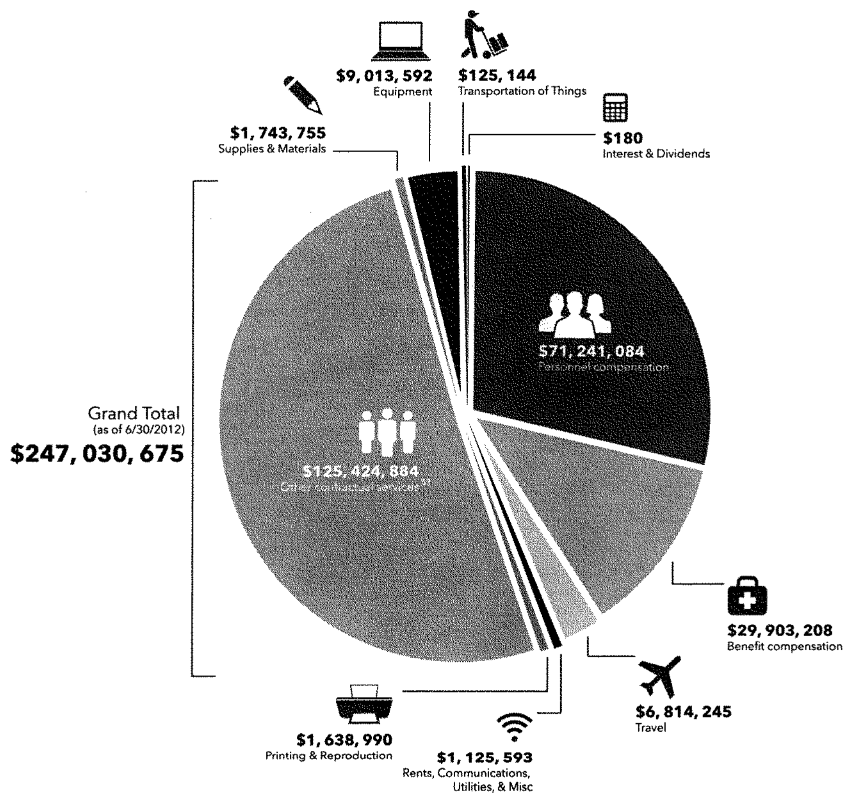
[50] *See id.* § 1017(d).

[51] This amount includes commitments for new procurements expected to be awarded and obligated in subsequent FY2012 quarters.

[52] Budget and spending information is made available at ConsumerFinance.gov/budget.

FIGURE 6: FY2012 YEAR-TO-DATE SPENDING BY EXPENSE CATEGORY



* Includes open commitments for procurements for which a vendor has not yet been determined and funds have not yet been obligated.

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[53] "Other Contractual Services" includes the cost of operating the Bureau's Consumer Response call centers in Iowa and New Mexico.

TABLE 4: 2012 YEAR-TO-DATE SPENDING BY DIVISION/PROGRAM AREA

Division/Program Area	**FY2012 Spending to Date**
Director	2,237,031
Chief Operating Officer	54,536,696
Consumer Education & Engagement	12,365,155
Research, Markets & Regulations	21,547,487
Supervision, Enforcement, Fair Lending	62,839,444
General Counsel	5,606,288
External Affairs	2,453,989
Centralized Services	85,444,585
Grand Total (as of 6/30/12)	**$ 247,030,675**

The Bureau's significant FY2012 obligations through June 2012 include:

- $19.7 million to Treasury for various administrative support services, including information technology and human resource support, temporary office space, and detailees;
- $11.8 million to Treasury's Office of the Comptroller of the Currency for office space;
- $7.6 million to Treasury's Bureau of the Public Debt for cross-servicing of various human resource and financial management services, such as core financial accounting, transaction processing and travel;
- $4.0 million to a contractor for the development and operations of the Consumer Response System;
- $3.7 million to a contractor for human resource support services;
- $3.7 million to an information technology contractor for project management support services;
- $3.1 million to a contractor for hosting, cloud infrastructure, and system administration services; and
- $2.9 million for collection and analysis of credit card data to assist the Bureau.

KEY CFPB EXPENDITURES IN FISCAL YEAR 2011

During FY2011, the majority of CFPB spending was related to essential, one-time costs related to standing up the Bureau, such as information technology and mission-specific and human capital support. The CFPB incurred $123.3 million in obligations, including $68.7 million in contract and support services, $48.4 million in salary and benefits, and $6.2 million in other expenses.

Implementation Activities

The Bureau's significant start-up expenditures in FY2011 included:

- $18.6 million to Treasury for various administrative support services, including information technology and human resource support, office space, and detailees;
- $6.7 million to Treasury's Office of the Comptroller of the Currency for office space and support services for complaint processing;
- $6 million to Treasury's Bureau of the Public Debt for cross-servicing of various human resource and financial management services, such as core financial accounting, transaction processing and travel;
- $4.4 million to a contractor for human capital policies and assistance in developing salary and benefits packages consistent with statutory requirements;
- $4.3 million to an information technology contractor for project management support services; and
- $4.3 million to a contractor for the development of Consumer Response.

THE CFPB'S BUDGET PROCESS

The Bureau's Chief Operating Officer (COO) is responsible for coordinating activities related to the development of the CFPB's annual budget. The Office of the Chief Financial Officer within the COO has responsibility for developing the budget, and works in close partnership with the Office of the Human Capital, the Office of Procurement, the Technology and Innovation team, and other program offices to develop budget and staffing estimates in consideration of statutory requirements, performance goals, and priorities of the Bureau. The CFPB Director ultimately approves the CFPB budget. A discussion of the Bureau's goals and priorities, an updated set of performance measures, spending and staffing (FTE) estimates for FY2013 and projections for FY2014 will be included in the next CFPB Budget Justification, which is expected to be published in February 2013, in conjunction with the FY2014 President's Budget.

Diversity and Excellence

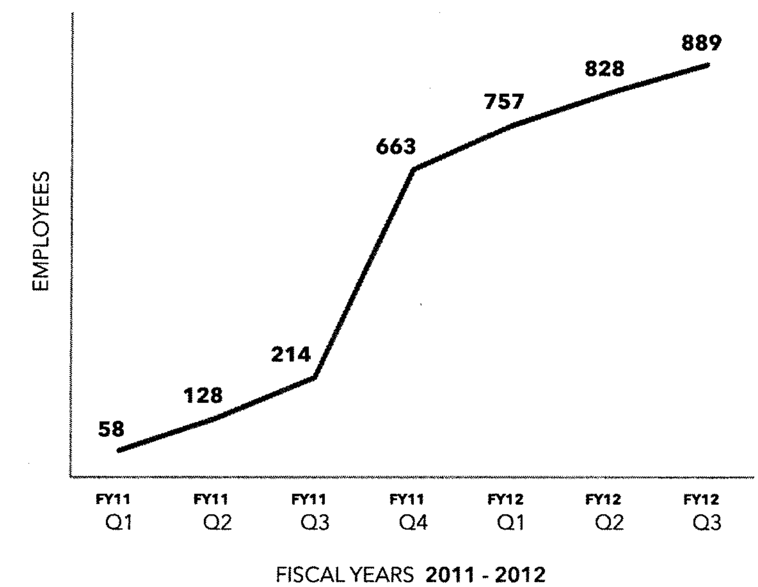
RECRUITING AND HIRING

Over the past year, the CFPB has endeavored to recruit and hire highly qualified individuals. These efforts have focused on filling vacancies at its headquarters in Washington, DC, and in its examiner workforce distributed across the country. The Bureau's examiners are organized by regions and anchored by key strategic satellite offices in three of the nation's financial hubs – Chicago, Illinois; New York City; and San Francisco, California. As of June 30, 2012, we have 889 staff on-board and working to carry out the CFPB's mission. These include approximately 230 highly qualified regulators, researchers, lawyers, and market practitioners who transferred from the consumer protection divisions of the prudential regulators and other federal agencies.

To continue this momentum, the CFPB is implementing a strategic plan to develop a sustainable pipeline of diverse candidates for occupations across the Bureau. This strategy includes:

- Leveraging existing staff to be the CFPB's most vocal and effective recruiters;
- Using social media and web 2.0 technology to connect people and get the word out about employment opportunities at the Bureau;
- Conducting outreach events that feature our senior leadership and attract people to an agency that we hope they will view as a "best place to serve;" and
- Creating development programs for incoming staff such as the Presidential Management Fellow program and our Honors Analysts.

FIGURE 7: QUARTERLY GROWTH OF CFPB POSITIONS FILLED THROUGH JUNE 30, 2012



EDUCATION, TRAINING AND ENGAGEMENT

Since its creation, the CFPB has focused on strong engagement with existing and potential Bureau staff. It has accomplished this through education, training, and engagement programs. As the Bureau matures, the CFPB continues to build and offer:

- Robust programs that aim to keep its employees current on the latest skills they need to conduct their work and be successful;
- Vehicles for full participation in a vibrant culture that adheres to the Bureau's values of Serve, Lead, and Innovate, and that fosters the successful achievement of its mission; and
- Programs and methods to ensure that the CFPB attracts the best, brightest, and most diverse group possible to carry out its mission.

The CFPB is developing a learning environment tailored to meet the specific needs of the Bureau's divisions and the individuals within them.

In addition, the Bureau's Office of Human Capital (OHC) is working to identify, cultivate, and sustain a diverse workforce and inclusive work environment to further the CFPB's success. The OHC is making efforts to develop a culture that encourages collaboration, flexibility, and fairness, and that leverages diversity throughout the organization so that all individuals are equipped to Serve, Lead, and Innovate.

DIVERSITY

Diversity has been a cornerstone of the Bureau's foundation, its strategic workforce planning programs, and its contracting since its establishment.[54] In January 2012, the Bureau formally established an Office of Minority and Women Inclusion (OMWI) to ensure that inclusion continues to inform its work, and in April 2012 hired the first Director for this office.

The OMWI focuses on developing and refining standards for:

- Equal employment opportunity, workforce diversity, and inclusion at all levels of the Bureau;

- Increased participation of minority-owned and women-owned businesses in the CFPB's programs and contracts; and

- Assessing the diversity policies and practices of companies that the CFPB supervises.

[54] This discussion presents an overview of the Bureau's effort to promote diversity across its workforce and contractor support community. A more complete analysis will be presented in the Bureau's required annual Human Capital report, which will be published later in 2012. In July 2011, the Bureau published a report on its goals for recruitment and retention, training and workforce development, and workforce flexibilities. That report is available on CFPB's website: ConsumerFinance.gov.

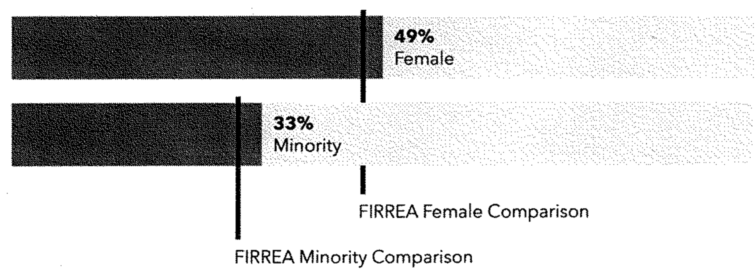
The CFPB has met with representatives from the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) agencies[55] and other stakeholders to assess how best to structure and staff the OMWI and to help identify best practices for workforce supplier diversity.

[55] These agencies include the OCC, the OTS, the FDIC, the NCUA, the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the Federal Reserve Board. *See* 12 U.S.C. § 1833b; 15 U.S.C. § 78d.

DIVERSITY IN THE CFPB'S WORKFORCE

As of June 30 2012, the CFPB's workforce is 49 percent women and 51 percent men. The CFPB workforce is comprised of 33 percent minorities.

FIGURE 8: BUREAU-WIDE GENDER AND MINORITY STATISTICS TO FIRREA COMPARISONS



Figures 8 compares CFPB's workforce to the FIRREA community with respect to diversity by gender, race, and national origin.

OMWI'S ROLE AT THE CFPB

The OMWI will help all parts of the Bureau bring diverse perspectives to bear on its work and promote inclusive hiring and contracting practices.

Recruitment

As the CFPB continues to grow, the OMWI will work with the federal OMWI community, local and national media, and varied stakeholders to broaden awareness of job opportunities at the Bureau in order to promote the opportunities for women and minorities in its workforce and to diversify its applicant pool. In addition to promoting diverse applicant pools for immediate openings, the OMWI will work with the OHC to develop long-term plans that focus on active participation at recruitment and outreach events for all levels of candidates. The aim is to continually support the capacity to attract diverse applicants and ensure that the CFPB has the benefit of a diverse and qualified pool of candidates for all job openings.

Regulatory Oversight

Under the Dodd-Frank Act, the OMWI must assess and monitor the diversity policies and practices of the entities that the CFPB supervises. The OMWI will continue to support the Bureau's efforts to define procedures for conducting this oversight, working with other regulatory agencies and consulting with appropriate stakeholders.

DIVERSIFYING PROCUREMENT PARTICIPANTS

The CFPB continues to promote diversity among the companies that compete to receive its contracts. The Bureau's Procurement Office is measuring obligations for certain small business contracts awarded to minority-owned small disadvantaged businesses and women-owned small businesses against goals based on the percentage of total dollars spent or obligated on contract actions.[56] As shown in Figure 9 for FY2012 through June 30, 2012, 10.57 percent of CFPB contract dollars went to small disadvantaged businesses. Of that amount, 80 percent or roughly $4.1 million was awarded to certified 8(a) firms. Additionally, 5.30 percent of contract dollars went to women-owned small businesses.[57]

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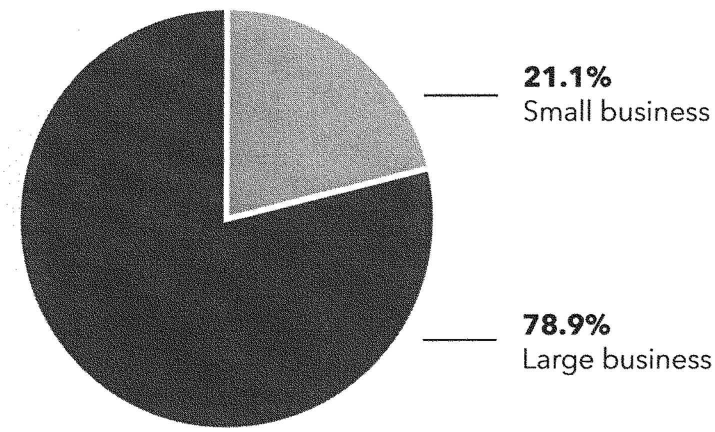
[56] Obligations are measured for contract awards valued above $3,000.

[57] Final FY2012 results will be validated in an annual data certification due to OMB in January 2013.

FIGURE 9: FY12 SOCIOECONOMIC OBLIGATIONS THROUGH JUNE 30, 2012



	Obligated Dollars
Small disadvantaged business	$5.1 M
Women owned small business	$2.6 M
Service disabled veteran owned small business	$1.2 M
HubZone small business	$0.9 M
Other small business	$0.4 M

The CFPB Procurement Office will work along with the OMWI to research and develop strategies to increase the levels at which minority and women-owned enterprises – both large and small – participate in the CFPB's contracting opportunities. The OMWI will also develop procedures to promote opportunities for fair inclusion of women and minorities within the population of contractor staff and, as applicable, subcontractor staff in accordance with the Dodd-Frank Act.

APPENDIX A:

More about the CFPB

GENERAL INFORMATION:

Email Address: info@consumerfinance.gov

Phone Number: 202-435-7000

Mailing Address:

Consumer Financial Protection Bureau
ATTN: Employee Name, Division, and/or Office Number
1700 G Street NW
Washington, DC 20552

CONSUMER RESPONSE/ COMPLAINTS:

Hours of Operation: 8 am - 8 pm EST

Toll Free #: 855-411-CFPB (2372)

Español: 855-411-CFPB (2372)

TTY/TDD: 855-729-CFPB (2372)

Fax #: 855-237-2392

Consumer Response/Complaint Mailing Address:

Consumer Financial Protection Bureau
PO Box 4503
Iowa City, Iowa 52244

WHISTLEBLOWERS:

Email: whistleblower@consumerfinance.gov

Toll Free #: 855-695-7974

PRESS & MEDIA REQUESTS:

Email: press@consumerfinance.gov

OFFICE OF LEGISLATIVE AFFAIRS:

Legislative Affairs: 202-435-7960

CFPB OMBUDSMAN'S OFFICE:

Email: CFPBOmbudsman@cfpb.gov

Webpage: www.ConsumerFinance.gov/ombudsman

Toll Free #: 855-830-7880

Fax Number: 202-435-7888

APPENDIX B:

Statutory Reporting Requirements

This Appendix provides a guide to the Bureau's response to the reporting requirements of Section 1016(c) of the Dodd-Frank Act. The sections of the report identified below respond to Section 1016(c)'s requirements.

Statutory Subsection	Reporting Requirement	Section	Page
1	A discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services	Consumer Challenges in Obtaining Financial Products and Services – Shopping Challenges	25-30
2	A justification of the Bureau's budget request for the previous year	Building a Great Institution: Update – Budget; Appendix H – Financial and Budget Reports	52-56 78-79
3	A list of significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period	Appendix C – Significant Rules, Orders, and Initiatives	68-70
4	An analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year	Consumer Challenges in Obtaining Financial Products and Services – Consumer Concerns	8-24
5	A list, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year	N/A[58]	N/A
6	The actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions	Appendix D – Actions Taken Regarding Rules, Orders, and Supervisory Actions with Respect to Covered Persons Which Are Not Credit Unions or Depository Institutions	71

[58] The Bureau has been a party to no such actions during the preceding year.

7	An assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law	N/A[59]	N/A
8	An analysis of the Bureau's efforts to fulfill its fair lending mission	Delivering for American Consumers and Leveling the Playing Field – Fair Lending	48-49
9	An analysis of the Bureau's efforts to increase workforce and contracting diversity consistent with the procedures established by OMWI	Building a Great Institution: Update – Diversity and Excellence	59-63

[59] The Bureau has not learned of any such actions that have been filed since July 21, 2011.

APPENDIX C:

Significant Rules, Orders, and Initiatives

Section 1016(c)(3) requires "a list of significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders or other initiatives to be undertaken during the upcoming period."

In the past year, the Bureau adopted the following significant rules and orders and conducted the following significant initiatives:

- Targeted review of inherited regulations and restatement of inherited regulations via interim final rules;
- Issuance of rules to implement Dodd-Frank Act protections concerning consumer remittance transfers to foreign countries;
- Interim final rules defining procedures for investigations, rules of practice for adjudication proceedings, and procedures for disclosure of records and information;
- Proposed Rule regarding defining "larger participants" in certain markets;
- Issued the Bureau's *Supervision and Examination Manual*;
- Issued the *Short-Term, Small-Dollar Lending Examination Procedures*;
- Issued the *Mortgage Origination Examination Procedures*;
- Issued the *Mortgage Servicing Examination Procedures*;
- Notice and Opportunity to Respond and Advise process;
- Notice and Request for Information on checking account overdraft programs;
- Formal solicitation for nominations for CFPB's Consumer Advisory Board;
- Release and testing of a draft periodic mortgage statement;

- With the U.S. Department of Defense, the FTC, and the National Association of Attorneys General, the development of a database to combat consumer financial fraud directed at military members, veterans, and their families;

- With the FDIC, the Federal Reserve, the OCC, and the NCUA, issued joint guidance to address mortgage servicer practices that may pose risks to homeowners who are serving in the military;

- MOU with the FTC to protect consumers and avoid duplication of federal law enforcement and regulatory efforts;

- Began to take complaints on credit cards, bank products and services, private student loans, and consumer loans, through the Consumer Response function;

- Launched *Ask CFPB*, an interactive online tool that helps consumers find clear, unbiased answers to their financial questions;

- Released a beta version of the Financial Aid Comparison Shopper as part of *Know Before You Owe: Student Loans*, an interactive, online tool designed to help families plan for the costs of post-secondary education;

- Released a bulletin on third-party service providers to supervised entities;

- Released a compliance bulletin regarding the enforcement of Equal Credit Opportunity Act, and recognizing the disparate impact doctrine;

- Launched a public inquiry into how consumers and financial services companies are affected by arbitration and arbitration clauses;

- MOU with the prudential regulators to ensure the coordination of important aspects of the supervision of insured depository institutions with more than $10 billion in assets and their affiliates;

- Released a report and consumer guide about reverse mortgages;

- Interim Final Rule providing for confidential treatment of information generated and obtained by the Bureau, and establishing procedures for obtaining information from the Bureau as permitted by law;

- Final Rule regarding confidential treatment of privileged information;

- Supplemental ethics regulations for CFPB employees; and

- Interim Final Rule ensuring nondiscrimination on the basis of disability in programs and activities undertaken by the Bureau.

In the next six months, the Bureau plans the following significant rules, orders, and other initiatives:

- Final rules to implement Dodd-Frank Act requirements defining lenders' obligations to assess borrowers' ability to repay mortgage loans, including certain protections from liability for "qualified mortgages;"

- Final rules to implement Dodd-Frank Act escrow requirements;

- Additional rules to provide further guidance to remittance transfer providers;

- Proposed integrated disclosures and accompanying rules for mortgage loans that satisfy the requirements of both the Truth in Lending Act and the Real Estate Settlement Procedures Act;

- Proposed rules to implement Dodd-Frank Act protections for the mortgage market, including provisions on loan originator compensation and qualification, restrictions on high-cost loans, servicing practices, provision of appraisal documentation to consumers, and (on an interagency basis) other appraisal practices;

- Participation in interagency processes to consider mortgage servicing standards;

- Propose rules to define the scope of the Bureau's nonbank supervision program;

- Final regulations based on certain interim final rules issued since July 21, 2011 including those that establish procedures for investigations and rules of practice for adjudication proceedings among others;

- Reports on private student loans and recommendations on best practices concerning financial advisors who work with older Americans, as contemplated in the Dodd-Frank Act;

- Continued expansion of the Bureau's capacity to handle consumer complaints with respect to all products and services within its authority;

- A pilot program to evaluate certain financial education programs in the field;

- Reports on various aspects of the Bureau's work and operations, including reports on Consumer Response, Financial Education, Fair Lending, and Human Capital among others, as contemplated in the Dodd-Frank Act; and

- First meeting of the Consumer Advisory Board.

APPENDIX D:

Actions Taken Regarding Rules, Orders, And Supervisory Actions With Respect To Covered Persons Which Are Not Credit Unions Or Depository Institutions

Section 1016(c)(6) requires a report on "the actions taken regarding rules, orders and supervisory actions with respect to covered persons which are not credit unions or depository institutions." In 2012, the Bureau has taken the following actions with respect to such companies:

- Proposed Rule regarding defining "larger participants" in certain markets; and
- Proposed Rule regarding procedures for supervising nonbanks that pose risks to consumers.

In addition to these items, other Bureau rules apply to both depository institutions and non-depository institutions.

APPENDIX E:

Reports

The CFPB has published the following reports:

- **July 21, 2011:** Developing Our Human Capital;
- **November 30, 2011:** Consumer Response interim report on CFPB's credit card complaint data;
- **December 9, 2011:** Financial Report of the CFPB – Fiscal Year 2011;
- **January 31, 2012:** Semi-Annual Report of the CFPB;
- **March 20, 2012:** Fair Debt Collection Practices Act;
- **March 31, 2012:** Consumer Response Annual Report;
- **April 13, 2012:** Plain Writing Compliance Report; and
- **June 28, 2012:** Reverse Mortgage Report.

APPENDIX F:

Congressional Testimony

Senior CFPB staff have testified before Congress on the following 21 occasions:

- **February 9, 2011:** Holly Petraeus before the House Committee on Veterans Affairs;
- **March 16, 2011:** Elizabeth Warren before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit;
- **April 12, 2011:** Holly Petraeus before the Senate Homeland Security & Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia;
- **May 24, 2011:** Elizabeth Warren before the House Oversight and Government Reform Subcommittee on TARP, Financial Services and Bailouts of Public and Private Programs;
- **July 7, 2011:** Raj Date before the House Financial Services Subcommittees on Financial Institutions and Consumer Credit and Oversight and Investigations;
- **July 13, 2011:** Kelly Cochran before the House Financial Services Subcommittee on Insurance, Housing and Community Opportunity;
- **July 14, 2011:** Elizabeth Warren before the House Oversight and Government Reform Committee;
- **July 28, 2011:** Dan Sokolov before the House Small Business Subcommittee on Investigations, Oversight and Regulations;
- **September 6, 2011:** Richard Cordray Nomination Hearing before the Senate Banking Committee;
- **November 2, 2011:** Raj Date before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit;.
- **November 3, 2011:** Holly Petraeus before the Senate Banking Committee;

- **November 15, 2011:** Skip Humphrey before the Senate Banking Subcommittee on Financial Institutions and Consumer Protection;

- **January 24, 2012:** Richard Cordray before the House Oversight and Government Reform Subcommittee on TARP, Financial Services and Bailouts of Public and Private Programs;

- **January 31, 2012:** Richard Cordray before the Senate Banking Committee;

- **February 15, 2012:** Richard Cordray before the House Financial Services Subcommittee on Oversight and Investigations;

- **March 29, 2012:** Richard Cordray before the House Financial Services Committee;

- **April 26, 2012:** Camille Busette before the Senate Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia;

- **June 6, 2012:** Richard Cordray before the Senate Banking Committee;

- **June 6, 2012:** Gail Hillebrand before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit;

- **June 20, 2012:** Raj Date before the House Financial Services Subcommittee on Insurance, Housing, and Community Opportunity; and

- **June 26, 2012:** Holly Petraeus before the Senate Committee on Banking, Housing and Urban Affairs.

Written testimony submitted in connection with these appearances can be found on ConsumerFinance.gov.

APPENDIX G:

Speeches

Director Richard Cordray and Deputy Director Raj Date spoke at the following public events:

- **September 15, 2011:** Remarks by Raj Date at National Constitution Center in Philadelphia, PA;
- **September 20, 2011:** Remarks by Raj Date at American Banker's Regulatory Symposium in Washington, DC;
- **October 10, 2011:** Remarks by Raj Date at the Mortgage Bankers Association's 98th Annual Conference in Chicago, IL;
- **October 26, 2011:** Remarks by Raj Date in Minneapolis, MN;
- **December 1, 2011:** Remarks by Raj Date at Consumer Federation of America's Financial Services Conference in Washington, DC;
- **December 7, 2011:** Remarks by Raj Date in Cleveland, OH;
- **January 5, 2012:** Remarks by Richard Cordray at The Brookings Institution in Washington, DC;
- **January 17, 2012:** Remarks by Richard Cordray at FDIC Board of Directors in Washington, DC;
- **January 18, 2012:** Remarks by Richard Cordray at U.S. Conference of Mayors in Washington, DC;
- **January 19, 2012:** Remarks by Richard Cordray at Payday Loan Field Hearing in Birmingham, AL;
- **February 15, 2012:** Remarks by Richard Cordray at League of United Latin American Citizens Conference in Washington, DC;
- **February 22, 2012:** Remarks by Richard Cordray at CFPB Roundtable on Overdraft Practices in New York, NY;

- **March 6, 2012:** Remarks by Richard Cordray at National Association of Attorneys General in Washington, DC;
- **March 14, 2012:** Remarks by Richard Cordray at Independent Community Bankers of America National Convention in Nashville, TN;
- **March 16, 2012:** Remarks by Richard Cordray at Society of American Business Editors and Writers in Indianapolis, IN;
- **March 19, 2012:** Remarks by Richard Cordray at Credit Union National Association Governmental Affairs Conference in Washington, DC;
- **March 21, 2012:** Remarks by Richard Cordray at Consumer Bankers Association in Austin, TX;
- **March 28, 2012:** Remarks by Richard Cordray at U.S. Chamber of Commerce in Washington, DC;
- **April 10, 2012:** Remarks by Richard Cordray at Operation Hope in Washington, DC;
- **April 11, 2012:** Remarks by Richard Cordray on launch of the Financial Aid Comparison Shopper in Sioux Falls, SD;
- **April 18, 2012:** Remarks by Richard Cordray at the National Community Reinvestment Coalition in Washington, DC;
- **April 18, 2012:** Remarks by Richard Cordray at Jump$tart in Washington, DC;
- **April 20, 2012:** Remarks by Raj Date at Greenlining Institute Conference in Los Angeles, CA;
- **May 3, 2012:** Remarks by Richard Cordray at 2012 Simon New York City Conference in New York, NY;
- **May 7, 2012:** Remarks by Raj Date at Mortgage Bankers Association National Secondary Market Conference in New York, NY;
- **May 10, 2012:** Remarks by Richard Cordray at White House Financial Summit in Washington, DC;
- **May 11, 2012:** Remarks by Richard Cordray at Michigan State University College of Law Commencement in East Lansing, MI;

- **May 23, 2012:** Remarks by Richard Cordray at CFPB Prepaid Cards Field Hearing in Durham, NC;
- **June 5, 2012:** Remarks by Richard Cordray at White House press briefing on student loan transparency in Washington, DC;
- **June 11, 2012:** Remarks by Raj Date at American Bankers Association Conference in Orlando, FL;
- **June 11, 2012:** Remarks by Richard Cordray at World Elder Abuse Awareness Day Event in Washington, DC;
- **June 15, 2012:** Remarks by Richard Cordray at American Constitution Society Conference in Washington, DC;
- **June 21, 2012:** Remarks by Richard Cordray at press conference on Military Permanent Change of Station (PCS) Guidance for Mortgage Servicers in Washington, DC; and
- **June 27, 2012:** Remarks by Richard Cordray on Reverse Mortgages Study in Washington, DC.

Remarks can be found on ConsumerFinance.gov.

APPENDIX H:

Financial And Budget Reports

The CFPB has published the following financial reports, which are all available at ConsumerFinance.gov/budget:

- **August 3, 2011:** CFO update for the third quarter of fiscal year 2011;
- **December 9, 2011:** Financial Report of the CFPB – Fiscal Year 2011;
- **December 30, 2011:** CFO update for the fourth quarter of fiscal year 2011;
- **January 20, 2012:** CFO update for the first quarter of fiscal year 2012; and
- **May 11, 2012:** CFO update for the second quarter of fiscal year 2012.[60]

The CFPB has published the following Budget Documents, which are all available at ConsumerFinance.gov/budget:

- **Fiscal Year 2013 Budget Justification;**
- **Fiscal Year 2013 Budget in Brief;**
- **Fiscal Year 2012 Congressional Budget Justification; and**
- **Fiscal Year 2012 Budget in Brief.**

The CFPB has published the following funding requests to the Federal Reserve Board, which are all available at ConsumerFinance.gov/budget:

- **September 28, 2011:** Funding Request to the Federal Reserve Board;
- **October 21, 2011:** Funding Acknowledgement from the Federal Reserve Board;

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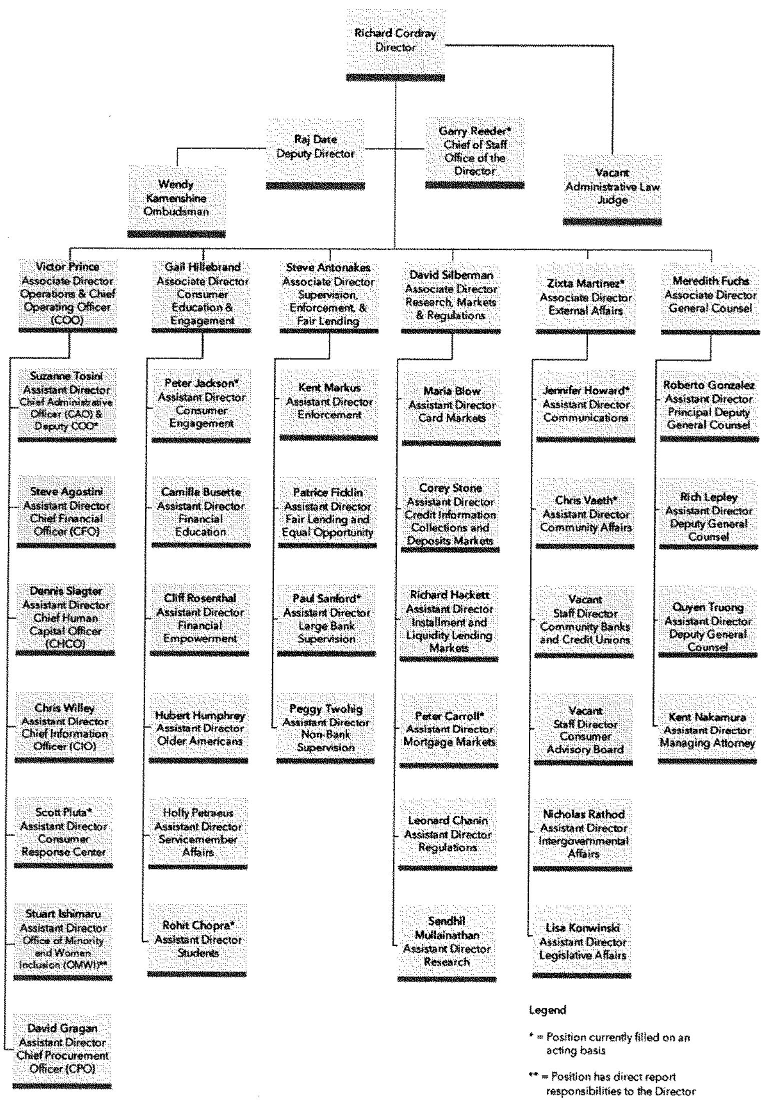
[60] In addition, the CFO update for the third quarter of fiscal year 2012 will be made available at ConsumerFinance.gov/budget.

- **December 23, 2011:** Funding Request to the Federal Reserve Board;
- **January 6, 2012:** Funding Acknowledgement from the Federal Reserve Board;
- **March 30, 2012** Funding Request to the Federal Reserve Board; and
- **April 5, 2012:** Funding Acknowledgement from the Federal Reserve Board.[61]

[61] Additional quarterly funding requests to the Federal Reserve Board and the corresponding funding acknowledgements from the Federal Reserve Board will be made available at ConsumerFinance.gov/budget.

APPENDIX I:

CFPB Organizational Chart



APPENDIX J:

Defined Terms

DEFINED TERM	
ACH	Automated clearing house
APR	Annual Percentage Rate
BUREAU	The Consumer Financial Protection Bureau
CFPB	The Consumer Financial Protection Bureau
COO	Chief Operating Officer
DODD-FRANK ACT	The Dodd-Frank Wall Street Reform and Consumer Protection Act
FCA	Farm Credit Administration
FDIC	The Federal Deposit Insurance Corporation
FEDERAL RESERVE	The Board of Governors of the Federal Reserve System
FEDERAL RESERVE BOARD	The Board of Governors of the Federal Reserve System
FEDERAL RESERVE SYSTEM	The Board of Governors of the Federal Reserve System
FFETF	Financial Fraud Enforcement Task Force
FFIEC	Federal Financial Institutions Examination Council
FIRREA	The Financial Institutions Reform, Recovery, and Enforcement Act
FLEC	Financial Literacy and Education Commission
FOIA	Freedom of Information Act
FTC	The Federal Trade Commission

FY	Fiscal year
GAO	Government Accountability Office
HAMP	Home Affordable Modification Program
HUD	The U.S. Department of Housing and Urban Development
MLO	Mortgage Loan Originators
MOU	Memorandum of understanding
NCUA	The National Credit Union Administration
NMLSR	Nationwide Mortgage Licensing System and Registry
NSF	Non-sufficient funds
OCC	The Office of the Comptroller of the Currency
OHC	Office of Human Capital
OMWI	Office of Minority and Women Inclusion
OTS	The Office of Thrift Supervision
PCS	Permanent change of station
PIRG	United States Public Interest Research Group
RFI	Request for Information
RMS	Residential mortgage-backed securities
SAFE ACT	The Secure and Fair Enforcement for Mortgage Licensing Act
SES	Supervisory Examination System
SIGTARP	Special Inspector General for the Troubled Asset Relief Program
TREASURY	The Department of the Treasury
VITA	Volunteer Income Tax Assistance

Questions for the Record for Mr. Richard Cordray, CFPB
Financial Services Committee Hearing
"The Semi-Annual Report of the Consumer Financial Protection Bureau"
September 20, 2012

Chairman Spencer Bachus

1. **On other occasions when you have testified before Congress, you have heard a great deal about the concerns small businesses have about the costs of complying with new CFPB rules. In a nod to those concerns, the remittance transfer rule recently issued by the CFPB contains an exemption for institutions that conduct 100 or fewer remittance transfers per year. In the CFPB's press release on the final rule, you commented that "[w]e recognize that in regulations, one size does not necessarily fit all." Will this recognition be reflected in future CFPB rulemaking through thresholds, exemptions or other approaches that will ease the burden on small businesses?**

The Bureau is currently exploring a variety of methods for reducing the burden on small businesses. In some cases, the Bureau is considering using regulatory thresholds and exemptions similar to those adopted in its remittances rulemaking. For example, in the proposed mortgage servicing rules, the Bureau proposed an exemption from the periodic mortgage statement requirements for small mortgage servicers that serviced 1,000 or fewer mortgage loans where the servicer services only those loans which it (or an affiliate) owns or originated. The Bureau has requested comment regarding whether that threshold should be increased and whether a small mortgage servicer exemption should apply to other aspects of the proposed mortgage servicing rules. Similarly, in the TILA-RESPA mortgage disclosure integration proposal, the Bureau solicited comment on an exemption for small creditors from the requirement to retain disclosure data in an electronic, machine-readable format.

The Bureau is also seeking to reduce the burden on all affected businesses by providing clear and thorough guidance on how to comply with its rules, which will save time, energy, and costs for industry. For example, in response to requests from industry, the Bureau's TILA-RESPA proposal includes extensive guidance, including samples of completed forms for a variety of different types of mortgage loans.

Finally, the Bureau is seeking to reduce burden by supporting compliance efforts after its rules are finalized. For example, Bureau staff recently presented a webinar on the new remittance requirements attended by over three thousand industry representatives. We have also released a small business compliance guide for the remittance rule, and our staff continues to answer guidance questions received from institutions across the country. We plan similar efforts for the Dodd-Frank Act mortgage rulemakings.

2. **At the same time that the CFPB announced the settlement of its enforcement action against Capital One, it also released a bulletin providing general guidance on marketing credit card add-on products. While focused on credit card add-on products, the bulletin is also intended to serve as guidance for the marketing of similar products offered in connection with other forms of credit or deposit services. While it is useful**

for the CFPB to make its expectations known to the industry, some see the CFPB's issuance of the bulletin as de facto rulemaking.

a. **Does this bulletin portend a trend by the CFPB to use its enforcement authority as a method for imposing industry-wide standards?**
b. **Shouldn't industry-wide standards instead be established through the rulemaking process required by Dodd-Frank and the Administrative Procedure Act?**

Any enforcement action is based on the facts and circumstances of the situation. However, complaints received by the Bureau indicate – and the Bureau's supervisory experience confirms – that consumers have been misled by the marketing and sales practices associated with add-on products offered by various institutions. Such practices violate current law. Consequently, the Bureau issued a compliance bulletin as a means of alerting the industry to existing compliance requirements under existing laws and regulations and providing insight into Bureau expectations. Notably, the bulletin does not impose any new legal requirements. Going forward, the Bureau will continue to use the rulemaking process for adopting new requirements, while providing prompt guidance through bulletins and other methods regarding compliance with existing requirements.

3. **Many of the Title XIV rules are required to be final in January 2013, but are only just now just being proposed. Given that the CFPB will have to sort through the mass of comment letters sent by industry, is the January 2013 deadline too aggressive? Do you need more time to do the job right?**

The Bureau is currently in the process of reviewing the comments on the proposed rules and performing additional analysis in order to prepare the final rules. The Bureau is committed to meeting the deadlines established by Congress and plans to issue the required rules by January 21, 2013.

4. **The CFPB's new closing rule requires that lenders give consumers their closing documents at least three business days before the consumer closes on the loan. The last time this was tried, in the 1970s, it proved to be extremely disruptive to the very borrowers it was meant to help. Given that this provision could cause delays in closing a mortgage loan, it is not far-fetched to reason that it could ultimately prompt consumers to pay higher fees or lose their deposit and rate lock.**

a. **Is the CFPB concerned that requiring three days between disclosure and settlement – and possibly an additional three days if there are changes to the deal – could have disruptive results for consumers?**
b. **Would the CFPB consider giving consumers the right to opt out of this requirement if the consumer would be financially hurt by waiting three additional business days?**

The Bureau has proposed to require that consumers receive the combined Closing Disclosure three business days before closing, subject to limited exceptions (as discussed below). As the question notes, this is not a new idea. In a 1998 report to Congress, the Federal Reserve Board and HUD recommended that "three days prior to closing, creditors be required to redisclose significant changes in the APR or other material disclosures and provide an accurate copy of the RESPA settlement statement. Consumers would receive final cost disclosures prior to closing (rather than at closing, the current practice) and would then be able to study the disclosures in an unpressured environment." In 2008, Congress amended TILA to require that consumers generally receive revised statements of cost for certain mortgages no later than three business days before closing. In 2009, settlement industry representatives advocated amending RESPA to provide consumers with three business days to review loan documents "so that circumstances don't pressure [consumers] into agreeing to a bad loan or excessive closing costs."[1] In light of this history and advances in the mortgage settlement process, we believe that it is time to reexamine the ability of lenders and settlement agents to provide consumers with important loan information in advance of closing.

The Bureau's proposed rule does, however, permit a consumer to waive the timing requirement in the event of a bona fide personal financial emergency. This exception serves an important purpose: consumers should be able to waive the protection afforded by the waiting period if the consumer faces a financial emergency. The Bureau specifically sought comment on the nature of waivers based on bona fide personal financial emergencies in the proposal. The Bureau will analyze the comments on this issue and determine whether modifications to this waiver are appropriate.

5. The proposed TILA-RESPA rule provides that the new form may contain lines for both appraisal and management fees, thereby breaking out what has traditionally been one entry into two entries.

   a. Why did the Bureau decide to separate these lines?
   b. Will this proposed change benefit consumers? How?
   c. Will these lines be subject to quantitative testing?

Section 1475 of the Dodd-Frank Act amended section 4(c) of RESPA to permit the separation of the fees paid by the consumer to the appraisal management company and the fee received by the appraiser on the disclosures required by RESPA. Consistent with this amendment, the Bureau proposed to permit, but not require, creditors to disclose the cost of the appraisal on the integrated TILA-RESPA disclosures in this manner. The Bureau qualitatively tested prototype disclosures both with and without this optional disclosure. The Bureau has not yet determined whether to focus its quantitative testing on this issue.

6. Recent news reports indicate that the CFPB has advertised to recruit investigators whose activities are intended to inform the CFPB's enforcement division about consumer experiences with different financial products and services. This has led some to speculate that the CFPB may be planning to use "mystery shoppers." Mystery

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[1] *See* American Land Title Association, *ALTA Supports Pro-Consumer Mortgage Bill*, December 8, 2009 Press Release, available at http://www.alta.org/news/news.cfm?newsID=9714. *See also* Borrowers' Right to Inspect Closing Documents Act of 2009, H.R. 4229, 111th Cong. (Dec. 8, 2009).

shoppers have commonly been used in the past to identify weaknesses in fair lending compliance, particularly with regard to pre-application discrimination.

a. **Will the CFPB similarly use mystery shoppers to target fair lending or other specific compliance weaknesses?**
b. **Will the CFPB use mystery shoppers in connection with its authority to prohibit "unfair, deceptive or abusive" acts or practices?**
c. **If the CFPB is considering the use of "mystery shoppers," will it offer an opportunity for public comment on its plans?**

In its Office of Enforcement, the CFPB intends to hire investigators to further that office's mission, which is to ensure compliance with the federal consumer financial laws and address violations of those laws. We anticipate that these employees will use a variety of investigative techniques to inform our Enforcement Office about what consumers may experience with different financial products or services. The Bureau is considering "mystery shopping" as an investigative technique, and to perform research and collect information that may inform other areas of its work.

Mystery shopping may be a useful investigative tool when looking at deceptive marketing and other practices not captured in company policies and procedures. CFPB's enforcement jurisdiction extends to entities such as online and offshore fraudsters, loan modification and debt settlement scammers, debt collectors, payday, auto and student lenders, and other entities where deceptive marketing is a critical concern. Tools like mystery shopping could be particularly important in investigations of entities over which we have enforcement jurisdiction, but no supervisory authority. Mystery shopping is often used by both government and private industry – including the banking industry – to monitor compliance with the law as well as consumer satisfaction.

7. **The CFPB has filed six amicus briefs over the past year, four that were in Truth in Lending Act cases and two that were in Fair Debt Collection Practices Act cases. A recent blog posting on the CFPB's website states that these amicus briefs "help ensure that consumer financial protection statutes and regulations are correctly and consistently interpreted by the courts." Critics have pointed out that the CFPB's approach to filing amicus briefs stands in stark contrast to the approach taken by the Fed when it implemented federal consumer financial protection statutes. When the Fed felt the courts were incorrectly interpreting the statute in question, the Fed would generally address the issue by proposing revisions to the implementing regulation or official staff commentary rather than by submitting an amicus brief.**

   a. **Why is CFPB taking a different approach to submitting amicus briefs?**
   b. **Has the Bureau received requests from industry to submit briefs advocating against the position taken by a consumer?**
   c. **How does the CFPB decide when it is appropriate to submit a brief?**

   The CFPB has a number of tools at its disposal to assist the courts, consumers, and regulated entities in the interpretation of Federal consumer financial laws and regulations. These tools include, among other things, the ability to adopt and amend Bureau regulations, issue official staff commentary, release supervisory bulletins, and file amicus briefs. The Bureau plans to use each of these tools, and others, in appropriate circumstances. The Bureau uses amicus briefs to assist the courts in their interpretation of statutes and regulations under the Bureau's jurisdiction in the same way that other governmental agencies have done in private litigation involving questions of law under their jurisdiction. For example, the Board of Governors of the Federal Reserve has in the past filed amicus briefs in private litigation, *see, e.g.*, *Shaner v. Chase Bank U.S.A.*, No. 09-1157 (1st Cir.) (available at 2009 WL 6841351); *Aronson v. Peoples Nat'l Gas Co.*, No. 99-3000 (3d Cir.) (available at 1999 WL 33631856), as have other prudential regulators (*see, e.g.*, list of amicus briefs of the Office of the Comptroller of the Currency at http://www.occ.gov/topics/laws-regulations/litigation/occ-briefs.html). Indeed, in some cases, the courts have specifically requested the Bureau (and other federal agencies) to file an amicus brief to assist the courts' review.

In determining whether to file an amicus brief in a particular case, the Bureau considers, among other factors, whether the case requires the court to interpret a provision of Federal consumer financial law or an implementing regulation under the Bureau's jurisdiction; whether the question is actively being litigated in multiple courts; whether courts have divided over the issue being litigated; whether the court's decision will have substantial precedential impact; and whether, in the circumstances, the court would welcome an amicus brief from the Bureau as the best means for communicating the Bureau's views. The Bureau also regularly consults with both parties to litigation in which it is considering filing an amicus brief.

In August 2012, the Bureau launched a web site (see www.consumerfinance.gov/amicus) to provide information and solicit public input on its amicus program. Among other outreach and transparency efforts, Bureau officials held a series of roundtables with industry associations, consumer groups, and representatives of state and local governments to discuss the program in October 2012. As a result, the Bureau has received a number of requests for amicus involvement in litigation. The Bureau does not segregate requests based on whether the request is from a regulated entity, industry association, consumer, or governmental entity, but rather looks at the legal issues presented by each request independently to see whether an amicus brief is appropriate. The Bureau welcomes requests for amicus briefs from any interested party and is committed to reviewing each request on the merits.

8. Between July and October, the CFPB brought separate enforcement actions against three major credit card issuers for illegal and deceptive practices. Collectively, the companies must pay $46.1 million in fines, which is required to be placed in the Victim's Relief Fund. Dodd-Frank stipulates that these funds are to be used for payments to victims of wrongful activity, but there is no requirement that the proceeds of a civil penalty must be paid to victims of the specific wrongful activity for which the penalty was imposed. How will the CFPB distribute these particular penalties?

In the Dodd-Frank Act, Congress authorized the Bureau to use civil penalties only for payments to victims, and, in certain circumstances, consumer education and financial literacy programs. In particular, § 1017(d)(2) provides:

> *Amounts in the Civil Penalty Fund shall be available to the Bureau, without fiscal year limitation, for payments to the victims of activities for which civil penalties have been imposed under the Federal consumer financial laws. To the extent that such victims cannot be located or such payments are otherwise not practicable, the Bureau may use such funds for the purpose of consumer education and financial literacy programs.*

The Bureau has made available on its website an overview of the Civil Penalty Fund: http://files.consumerfinance.gov/f/201207_cfpb_civil_penalty_fund_factsheet.pdf. As that document notes, the Bureau has created a Civil Penalty Fund Governance Board, which is responsible for ensuring that the Civil Penalty Fund is administered in a manner that is consistent with the Dodd-Frank Wall Street Reform and Consumer Protection Act. In addition, the Civil Penalty Fund Governance Board is responsible for developing policies and procedures, including appropriate internal controls, to ensure that money deposited in the Civil Penalty Fund is distributed in a manner that:

- Supports the Bureau's mission, responsibilities, policies, and priorities;
- Complies with the Dodd-Frank Act and all other applicable laws and regulations, as well as internal CFPB policies and procedures and legal opinions of the CFPB's Office of General Counsel;
- Protects against waste, fraud, and abuse;
- Provides appropriate transparency regarding the use of CPF monies, including the manner of distribution, any associated administrative expenses, and, where applicable, the mechanism for identifying individual victims;
- Ensures appropriate and robust oversight of contractors; and
- Enhances program efficiency through regular operational analyses and development of appropriate performance metrics.

The Bureau has also posted the criteria it will use in making available Civil Penalty Fund monies for Consumer Education and Financial Literacy programs: http://files.consumerfinance.gov/f/201207_cfpb_civil_penalty_fund_criteria.pdf. The Bureau will use the federal procurement process for these programs.

Questions for the Record from
Rep. Blaine Luetkemeyer (MO-9)
Committee on Financial Services
U.S. House of Representatives

Hearing held on September 20, 2012, entitled
"The Semi-Annual Report of the Consumer Financial Protection Bureau"

Witness: The Honorable Richard Cordray, Director, Consumer Financial Protection Bureau

1. **During your testimony before the Committee, you responded to a question I asked about a provider's liability when a sender gives an incorrect account number that if it is determined that the sender gave incorrect information, a provider can "work this out" with the consumer. However, isn't it true that the rule requires a provider to refund or resend the entire principal amount in the event funds go to the wrong account due to sender error? Is this what you mean by "working things out"? Also, setting aside the issue of whether you think this concern is overstated, do you think this approach is fair?**

Section 1005.33(c) of the rule requires a remittance transfer provider to refund or resend a transfer that was sent to the wrong account. As noted in the Bureau's recent industry compliance webinar, however, we agree with some of the concerns that have been expressed about this part of the rule when a consumer provides incorrect account or routing information. In those circumstances, though we think the provider should be responsible for trying to remedy the situation. If the money was properly transmitted in accordance with the sender's instructions and cannot be recovered, we share concerns about liability resting on the provider. We expect to take action shortly to address this issue.

2. **Dodd-Frank doesn't require that any foreign taxes be disclosed to people sending money overseas, but your remittance transfer rule makes this a requirement. You have charged that providers can estimate foreign taxes. The only estimates that are permitted are when a tax rate must be applied to a transfer amount that has been estimated. Is it correct that providers must still know all the applicable taxes in all the countries that they send transfer to as well as the exemptions and exclusions that apply to those taxes? In your discussions with the industry, has any entity said it will be able to comply with this requirement? Are you aware of any service or technology solutions available to institutions to help them make these disclosures?**

Section 919(a)(2)(A)(i) of the Electronic Fund Transfer Act requires a remittance transfer provider to disclose the amount to be received by the designated recipient. The Bureau believes that the plain language of the statute requires providers to disclose all fees and taxes specifically related to the remittance transfer, regardless of the entity that charges or collects them, as these elements have a direct impact on the amount received by the designated recipient. Taxes may be estimated when the tax is based on an estimated amount (such as a percentage of the amount of foreign currency). Generally speaking, the statute provided for limited scenarios in which the Bureau could permit providers to estimate amounts that are required to be disclosed.

While some providers have expressed confidence about their ability to comply with the rule when it takes effect, we realize compliance with this requirement may be difficult for some providers and in certain remittance corridors. To the extent that existing open networks will be able to accommodate this part of the rule, we understand that work is ongoing. Furthermore, we understand that many providers are working diligently with their business partners, or are exploring alternative business models, to come into compliance by the effective date. Separately, the Bureau is considering whether we can facilitate industry efforts to figure out the correct tax information.

3. **Section 1073 of Dodd-Frank specifically directed the Federal Reserve and Department of the Treasury "to expand the use of the automated clearinghouse system ... for remittance transfers to foreign countries" and required biennial reports to Congress on the status of such efforts. How did you ensure that this regulation reflects the directive to expand the use of the ACH Network? Can you provide us with examples where the regulation provides for the flexibility necessary for the operation of an open network like the ACH Network?**

In drafting the remittance rule, the Bureau carefully considered the ACH system and its role in the remittance transfer markets. Section 1073(a) of the Dodd-Frank Act requires specific consumer disclosures and includes only limited circumstances where estimates may be provided. Section 1073(a) applies these requirements to open network transfers, such as those sent through the ACH system as required by Section 1073(a).. Operating within those constraints, the Bureau adopted several provisions in the final rule that provide flexibility for, or are otherwise accommodating toward, ACH transfers. For example, in the final rule, the Bureau reduced the time period for cancelling a transfer from one business day, which was proposed by the Federal Reserve Board, to thirty minutes. In adopting the shorter period, the Bureau noted that ACH transfers generally cannot be cancelled once the payment order has been accepted by the sending institution; thus, a cancellation period of one business day could prevent a sender from sending a remittance transfer quickly. Relatedly, the final rule allows providers to use combined disclosures (rather than separate pre-payment disclosures and receipts) to facilitate compliance with the rule. In monitoring the implementation of the remittance rule, the Bureau will continue to consider the impact of the rule on the use of the ACH network.

4. **Does the CFPB have a view on peer-to-peer lending, crowdfunding and other new sources of capital for micro-businesses?**

The Bureau has not had occasion to evaluate these new forms of financing, but in general, the laws that the Bureau administers and enforces relate primarily to financial products and services offered to consumers and not to businesses..

5. **The FDIC recently released a new study showing more than one in four U.S. households are unbanked or underbanked. Tens of millions of consumers have ongoing, often critical, needs for credit but they have limited credit options. Please tell us what specific actions you believe can be taken by Congress and by the CFPB to help solve this critical credit access problem?**

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) directs the Bureau to use its authority to ensure both that consumers have access to markets for consumer financial products and services and that these markets are fair, transparent, and competitive. The largest financial crisis since the Great Depression cut deeply into Americans' access to credit, but that is now improving in many markets. Credit card originations are growing at a modest pace. We are seeing growth in auto lending, and private student lending has stabilized after a rapid decline. But mortgage lending standards are still quite tight, and it appears that many creditworthy borrowers cannot buy homes. We are now working to put in place common-sense rules of the road to help set the stage for the return of a stable, fair, and transparent private mortgage market.

Credit access is also a consideration in our ongoing efforts to streamline the body of regulations we inherited. We recently proposed a rule to implement the ability-to-pay rule of the CARD Act to ensure that repayment ability is properly balanced with credit access for spouses who are not currently employed outside the home. In each of these rulemakings, we explicitly consider the potential effect of a rule on access to credit. The Dodd-Frank Act specifically requires us to do that. As we consider potential alternative approaches to exercising our authority, we consider the benefits and costs of these alternatives for consumers and providers, including what kinds of effects different alternatives would have on access to consumer financial products and services.

6. **The CFPB has broad authority to enforce the various federal consumer financial protection laws and regulations. Do you believe that these laws generally provide adequate protection for most consumers?**

Congress created the CFPB as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, in response to the worst financial crisis this country has experienced since the Great Depression. The consumer financial protection statutes and regulations entrusted to the Bureau by the Dodd-Frank Act provide vital protections to consumers who use financial products and services, and the Dodd-Frank Act itself contained important reforms to those statutes and regulations, particularly with regard to the mortgage market. Since opening our doors in July 2011, the Bureau has been committed to implementing those reforms effectively, and we are working diligently to implement the Act. As you know, the many rulemakings required by the Act raise a number of important and complex issues, and our work on many of the implementing rules is not yet complete. The Bureau is carefully monitoring the markets as they continue to change, and is committed to using the authorities granted by Congress to fulfill the mission Congress gave us. We have thus far been able to work to appropriately implement the Act without legislative adjustments.

7. **As types of credit options become more limited, many underserved consumers are being driven to borrow from costly off-shore Internet lenders who do not comply with our consumer protection laws. Does the CFPB have jurisdiction over or have the authority to stop these operators?**

The Bureau has authority over payday lenders and is in the process of looking at a wide range of issues involving payday lending, including issues related to lenders originating and servicing loans off-shore.

8. **Do you believe that the CFPB has the responsibility to consider whether its enforcement actions are detrimental to underserved consumers' access to credit? If so, how does the CFPB assure that its actions intended to protect underserved consumers do not have a detrimental effect on access to credit for those same consumers?**

The CFPB has a responsibility to enforce the laws that Congress charged us with administering in order to protect consumers and honest businesses that play by the rules. We craft our enforcement actions to maximize both deterrence to wrongdoers and benefits to consumers, one of which may be consumers' access to credit. We do so using the Bureau's informed understanding of the industries we regulate when we take enforcement actions.

9. **The makeup of CFPB boards seems to lack expertise from various sections of the financial services industry. Please explain in detail the process for searching for, recruiting and selecting members of CFPB's advisory boards.**

On September 12, 2012, the Bureau announced the appointment of 25 consumer experts from outside the federal government to its newly-formed Consumer Advisory Board which will provide advice to CFPB leadership on a broad range of consumer financial issues and emerging market trends. Of the 25 advisory board members, six members were nominated by the Federal Reserve Board in accordance with Section 1014(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act; nine are representatives from the financial services industry, four are academics, and the remaining six are consumer advocates. Financial services industry representatives therefore make up a significant portion of the Consumer Advisory Board. Specifically, the current Consumer Advisory Board includes representatives from:

- Two credit unions
- Two banks
- One credit card company
- One Personal Finance Software company
- Two Asset and Credit Building Loan companies
- Real Estate Broker professional association
- Financial Services Compliance and Risk Advisors
- Credit Counseling and Debt Management

Section 1014 (b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act provides that, "in appointing the members of the Consumer Advisory Board, the Director shall seek to assemble experts in consumer protection, financial services, community development, fair lending and civil rights, and consumer financial products or services and representatives of depository institutions that primarily serve underserved communities, and representatives of communities that have been significantly impacted by higher-priced mortgage loans, and seek representation of the interests of covered persons and consumers, without regard to party affiliation." Following the guidelines provided in the statute, the CFPB published in the Federal

Register a notice outlining the functions of the Board and soliciting nominations for members to serve on the Board. In response to this call for nominations, the Bureau received over 1100 unique nominations for persons applying for membership to the advisory board. As a result, the Consumer Advisory Board is a multi-disciplinary external stakeholder board of experts on consumer protection, consumer financial products or services, community development, fair lending, civil rights, underserved communities, and communities that have been significantly impacted by higher priced mortgage loans.

As outlined in Section 1014(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB's Consumer Advisory Board (the "Board") will "advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws" and "provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information." The first meeting of the Consumer Advisory Board took place Sept. 27 and 28, 2012 in St. Louis, MO.

In addition, the Bureau created a Community Bank Advisory Council and a Credit Union Advisory Council consisting of representatives of those entities to provide information, analysis, and recommendations to the Bureau and inform the CFPB's policy development, rulemaking, and engagement functions.

10. **I'm afraid that the three day requirement to receive your closing forms in the CFPB's RESPA/TILA rule could wind up causing delays in closing a mortgage loan that would put consumers in a situation of higher costs, higher fees, losing their deposits or earnest money, and losing their rate lock. In situations where the consumer is going to be hurt financially or otherwise harmed and where the listed exceptions would not apply, is there a way that the consumer may waive this requirement and protect his or her loan provisions, or does the consumer have to live with the adverse consequences?**

There is long-standing support for providing consumers with important loan information in advance of closing. The Bureau's proposed rule does, however, permit a consumer to waive the timing requirement in the event of a bona fide personal financial emergency. This exception serves an important purpose: consumers should be able to waive the protection afforded by the waiting period if faced with a financial emergency. The Bureau specifically sought comment on the nature of waivers based on bona fide personal financial emergencies in the proposal. The Bureau will analyze the comments on this issue and determine whether modifications to this waiver are appropriate.

11. **CFPB did extensive testing on the mortgage disclosure form. Can you explain that testing process? What did the testing tell the bureau about how the forms would help consumers to shop for mortgage loans and settlement services? The testing report that accompanied the proposed rule indicates on page 23 that 92 consumers were tested on these new forms. How many of those 92 consumers demonstrated a change in behavior? Will CFPB be willing to commit to conducting more quantitative testing before finalizing the rule so that we can be sure that consumers will see these benefits before businesses spend millions of dollars on implementation?**

Before the proposal, the Bureau conducted qualitative usability testing over ten rounds in nine different sites across the country. This type of testing is widely used by both industry and government (including the Federal Reserve, the FTC, and HUD). In total, we tested with 92 consumer participants and 22 industry representatives. We recruited participants to reflect the general population in terms of demographic measures, such as age, ethnic diversity, education, income, gender, and marital status. We also accounted for varying degrees of experience with the home buying and loan refinancing process, recruiting consumers who have bought or refinanced recently and consumers who have no such experience. The 22 industry representatives included lenders, mortgage brokers, and settlement agents, many of whom worked for or owned a small business. We wanted to ensure that the forms work for the businesses that will use them every day.

The Bureau's qualitative testing indicated that the information currently provided on the separate TILA and RESPA disclosures can be combined and reorganized into forms that enable consumers to make meaningful comparisons of different loans and choose the loan that best fits their needs. In particular, qualitative testing indicated that the proposed forms helped consumer participants understand the trade offs between different loans, such as the choice between a loan with higher upfront costs and a loan with a higher monthly payment or an interest rate that can increase over time. In addition, industry participants consistently reported that our forms would be easier to use than the current forms. Before issuing a final rule, the Bureau plans to conduct limited additional qualitative and larger scale quantitative testing to validate its qualitative testing results.

Questions for the Record for Mr. Richard Cordray, CFPB
Financial Services Committee Hearing
"The Semi-Annual Report of the Consumer Financial Protection Bureau"
September ~~20, 2012~~

Randy Neugebauer

1. **The CFPB recently released a draft rule for servicing reforms, including changes to force-placed insurance. Did the CFPB research the impact of the proposed rule on underwriting practices for homeowners insurance? Are you aware that the risk profile for a home is substantially different once a homeowner goes into default or foreclosure? Did you do any cost benefit analysis of the proposed rule on the homeowners insurance market?**

Section 1463 of the Dodd-Frank Act amended Section 6 of the Real Estate Settlement Procedures Act to impose requirements before a lender can impose a charge for force-placed insurance on a borrower. Force-placed insurance is a different type of insurance than a standard homeowners insurance policy. Force-placed insurance is generally substantially more expensive than a homeowner insurance policy that a borrower could purchase. It also generally provides less protection against loss than insurance that a borrower could purchase. These differences exist because a force-placed insurance policy is not an underwritten insurance product and properties subject to force-placed insurance generally present different risks, including a higher likelihood that such properties may be in the foreclosure process or vacant.

The Bureau undertook substantial research regarding property insurance, including with respect to force-placed insurance, homeowners insurance, and flood insurance, in connection with proposing rules to implement the protections in the Dodd-Frank Act with respect to force-placed insurance. As set forth in the proposal, and as required by the Dodd-Frank Act, servicers would not be permitted to charge a borrower for force-placed insurance coverage unless the servicer has a reasonable basis to believe the borrower has failed to maintain hazard insurance and has provided required notices. One notice to the borrower would be required at least 45 days before charging for forced-place insurance coverage, and a second notice would be required no earlier than 30 days after the first notice. The proposal contains model forms that servicers could use. If a borrower provides proof of hazard insurance coverage, then the servicer would be required to cancel any force-placed insurance policy and refund any premiums paid for periods in which the borrower's policy was in place. In addition, if a servicer makes payments for hazard insurance from a borrower's escrow account, a servicer would be required to continue those payments rather than force-placing a separate policy, even if there is insufficient money in the escrow account. The rule would also provide that charges related to force-placed insurance (other than those subject to State regulation as the business of insurance or authorized by Federal law for flood insurance) must relate to a service that was actually performed. Additionally, such charges would have to bear a reasonable relationship to the servicer's cost of providing the service.

These protections are designed to notify borrowers about the risks and costs of force-placed insurance and are designed to ensure that borrowers have the opportunity to obtain a homeowners insurance policy before a charge is imposed for force-placed insurance. The

Bureau has no reason to believe that these protections with respect to force-placed insurance will impose costs on the homeowners insurance market, because force-placed insurance and homeowners insurance are different types of products. We have received public comments on the proposed rules, including with respect to the provisions relating to force-placed insurance, and are carefully considering those comments in connection with finalizing the force-placed insurance rules.