

**HEARING ON THE 2018 SEMI-ANNUAL  
REPORT OF THE BUREAU OF CONSUMER  
FINANCIAL PROTECTION**

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**HEARING**  
BEFORE THE  
**COMMITTEE ON FINANCIAL SERVICES**  
**U.S. HOUSE OF REPRESENTATIVES**  
ONE HUNDRED FIFTEENTH CONGRESS  
SECOND SESSION

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SHANNON MCGAHN, *Staff Director*

## CONTENTS

	Page
Hearing held on:	
April 11, 2018 .....	1
Appendix:	
April 11, 2018 .....	79

### WITNESSES

WEDNESDAY, APRIL 11, 2018

Mulvaney, Hon. Mick, Acting Director, Bureau of Consumer Financial Protection .....	5
---	---

### APPENDIX

Prepared statements:	
Mulvaney, Hon. Mick .....	80

### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Waters, Hon. Maxine:	
Article entitled, "Consumers Union calls for nomination of permanent CFPB director dedicated to protecting consumers from financial abuses" .....	144
Written statement for the record from U.S. PIRG .....	146
Wagner, Hon. Ann:	
Supplemental production of documents and briefing book from the Bureau of Consumer Financial Protection (CFPB) .....	153
Mulvaney, Hon. Mick:	
Written responses to questions for the record submitted by Representatives Waters, Budd, Huizenga, Hultgren, Pittenger, and Sinema .....	253



**HEARING ON THE 2018 SEMI-ANNUAL  
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**Wednesday, April 11, 2018**

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

The committee met, pursuant to notice, at 10:05 a.m. in room 2128 Rayburn House Office Building, Hon. Jeb Hensarling [chairman of the committee] presiding.

Present: Representatives Hensarling, Royce, Pearce, Posey, Luetkemeyer, Huizenga, Duffy, Stivers, Hultgren, Pittenger, Wagner, Barr, Rothfus, Tipton, Williams, Poliquin, Love, Hill, Emmer, Zeldin, Trott, Loudermilk, Mooney, MacArthur, Davidson, Budd, Kustoff, Tenney, Waters, Maloney, Velazquez, Sherman, Meeks, Capuano, Clay, Lynch, Scott, Green, Cleaver, Ellison, Foster, Kildee, Delaney, Sinema, Beatty, Heck, Vargas, Gottheimer, Gonzalez, Crist, and Kihuen.

Chairman HENSARLING. The committee will come to order. Without objection, the Chair is authorized to declare a recess of the committee at any time.

And all Members will have 5 legislation days within which to submit extraneous materials to the Chair for inclusion in the record.

This hearing is for the purpose of receiving the semi-annual report of the Bureau of Consumer Financial Protection.

Walking in through the hallway I have never seen such a crowded hallway. Rarely have I seen so much excitement. So just in case you thought Mr. Zuckerberg was appearing in this hearing room, he will be across the hallway.

Having said that, I now recognize myself for 3 minutes to give an opening statement.

This morning we welcome home Mick Mulvaney, a highly respected former Member of this very committee, the director of the OMB, and the acting director of the Bureau of Consumer Financial Protection. He is here to deliver the Bureau's latest semi-annual report to Congress.

When Richard Cordray was director of CFPB I maintained it was perhaps the single most powerful and unaccountable agency in the history of the republic. Now that Mick Mulvaney is acting director, I still maintain that the CFPB is the most powerful and unaccountable agency in the history of the republic.

Democrats chose to insulate it from Congress, the President, courts, voters, and the democratic process. The CFPB is unaccountable to the President, because the director can only be removed for cause. The CFPB is unaccountable to Congress because it determines its own funding stream. The CFPB is unaccountable to the courts because it benefits from the Chevron doctrine. The CFPB is unaccountable to, well, the CFPB, because there is really not even a “them.” In this case, there just happens to be a “him.” No commission, no board, no effective oversight.

So powerful is the CFPB director that he alone has been granted the unprecedented power to declare any mortgage, credit card, or bank account unfair or abusive, at which point Americans can’t have them if they need them, want them, and can afford them. The fact that the CFPB director has such power is itself unfair and abusive, and is an affront to the personal freedom of every American citizen.

While the Bureau retains all of these unbridled powers and remains unaccountable under Acting Director Mulvaney, there is one distinction: Director Cordray often acted unlawfully; Acting Director Mulvaney acts lawfully. What a welcome change.

For example, in the PHH case, the facts show that Mr. Cordray unilaterally reversed decades of accepted law with regards to RESPA (Real Estate Settlement Procedures Act), and did so without formal rulemaking. No comment, no due process, no notice.

Then, to make matters worse, Mr. Cordray attempted to apply these new—this new rogue standard retroactively. Fortunately, these actions were held unlawful by the D.C. Court of Appeals. And that is just one example.

We also know that, in many respects, consumers have been harmed by the CFPB. One example, according to researchers at the University of Maryland, the CFPB’s Qualified Mortgage (QM) rule harmed middle-income borrowers who not only—quote—didn’t obtain cheaper mortgages, but were cut out of the mortgage market altogether.

But I must admit it is sheer irony and great comic relief to see the wailing and gnashing of teeth of many of my Democratic colleagues who now denounce the unaccountable nature of the CFPB, but only because now a Republican is in control. I ask: Where have you been?

The good news is we have an acting director before us today who is actually asking our assistance in reforming the CFPB. And if our Democrat colleagues wish for the Bureau to be accountable and responsive, please work with us to ensure we do just that.

Chairman HENSARLING. I now yield to the Ranking Member for her opening statement.

Ms. WATERS. Thank you very much, Mr. Chairman. If I may, I would like to say at the outset that Mr. Mulvaney is not the acting director of the Consumer Financial Protection Bureau. He was illegally appointed by President Trump in a move that blatantly contradicts the Dodd-Frank statute, which is very clear that the deputy director of the agency shall serve as acting director in the case of absence or unavailability of the director.

So I want to be very clear that Democrats’ participation in this hearing is not in any way an acknowledgment of Mr. Mulvaney’s

legitimacy at the Consumer Bureau. Nevertheless, given the many impactful and, indeed, harmful decisions Mr. Mulvaney is making with regard to the Consumer Bureau, it is necessary for us to engage with him in an oversight capacity here today, while the courts decide who should actually be in charge. I am very concerned about Mr. Mulvaney's actions, and have serious questions that he must address in his testimony.

Mr. Mulvaney's very presence at the Consumer Bureau compromises the critical independence of the agency, which was specifically designed by Congress to be an independent watchdog for America's consumers. As director of the White House Office of Management and Budget, Mr. Mulvaney serves at the pleasure of and reports to the President, which means that this President holds an inappropriate level of influence over the operations and activities of the Consumer Bureau and our system of banking regulations.

It is very clear that Mr. Mulvaney is indeed carrying out this President's agenda at the Consumer Bureau. He has taken a series of actions that weaken the agency's ability to carry out its important mission and benefit the predatory actors that the agency is designed to police.

For example, he has stripped the Consumer Bureau's Office of Fair Lending of its enforcement and supervisory powers, which has the effect of undermining the Consumer Bureau's ability to enforce fair lending laws.

Mr. Mulvaney has also demonstrated a pattern of working to help out payday lenders. He has stopped the implementation of the Consumer Bureau's Sensible Payday Rule. He withdrew a lawsuit that the Consumer Bureau had initiated against a group of payday lenders who had allegedly deceived consumers about the cost of loans which had interest rates as high as 950 percent a year. And he has also ceased an investigation into a high-cost installment lender called World Acceptance Corporation, which reportedly has—was engaging in abusive practices.

His actions have signaled that the Consumer Bureau is a safe haven for payday lenders, so much so that the former CEO of World Acceptance Corporation actually sent him her resume, asking if she could be the next director of the Consumer Bureau.

Enforcement actions have also ground to a halt, with zero actions between the time when Mulvaney first walked through the doors of the Consumer Bureau and today.

Mr. Chairman, Democrats will not allow the Consumer Bureau's statutorily mandated mission to be undermined. It is a critically important agency that must be allowed to continue its work protecting American consumers from unfair, deceptive, or abusive practices.

Ms. WATERS. I thank you and I yield back the balance of my time.

Chairman HENSARLING. The Chair now recognizes the gentleman from Missouri, Mr. Luetkemeyer, the Chairman of the Financial Institutions and Consumer Credit Subcommittee for 2 minutes.

Mr. LUETKEMEYER. Thank you, Mr. Chairman. Mr. Mulvaney, welcome back to the committee. We appreciate your willingness to be with us this morning.

While the Bureau of Consumer Financial Protection has a well-intended mission, in practice it has been an unaccountable, unconstitutional, politically driven agency. For many years you have heard our concerns surrounding the Bureau. Now that you have had the opportunity to observe this agency from multiple vantage points, I have no doubt that the insights you will offer today will be both valuable and compelling.

The mountain of rules coming out of the Bureau under your predecessor crippled financial institutions seeking to serve their communities. The uncertainty surrounding these—those rules, paired with the apparent desire to regulate through enforcement, has had a chilling effect on financial services companies across the Nation.

As you know, Mr. Mulvaney, the chilling effects don't stop at banks and credit unions, because ultimately they punish the consumers who are charged—who you are charged with protecting.

Under your leadership the BCF has taken steps to not just talk the talk, but to walk the walk, and to ensure consumer protection without assaulting financial independence. In your brief tenure you have underscored the need for increased transparency and oversight of the Bureau. You have called for an end to the absolute power you possess as acting BCF Director, which, in your words, would frighten most of us. You have allowed for greater public input into rules, and you called for an end to what I believe is essentially unlawful legislating by Bureau staff.

Mr. Mulvaney, you are, thankfully, both a terrible bureaucrat, but a great leader: A most welcome change.

American consumers deserve strong protections, while also being afforded the opportunity to control their own financial decisions and futures. Under your leadership, I believe the Bureau of Consumer Financial Protection is well on its way to finally living up to its name.

We all thank you for your steps that the—all the steps that you have taken thus far, and we look forward to your testimony.

Mr. LUETKEMEYER. With that, Mr. Chairman, I yield back.

Chairman HENSARLING. The gentleman yields back. The Chair now recognizes the gentleman from Michigan, Mr. Kildee, the Vice Ranking Member, for 1 minute.

Mr. KILDEE. Thank you, Mr. Chairman, and thank you, Madam Ranking Member. And Mr. Mulvaney, welcome back. I am sure you have missed the committee desperately.

You and I had differences when we were here. We maintained a good relationship. We still have differences, and that is part of what we will explore at this committee.

A concern that I have is that the Bureau's original mission was to protect the American consumer. Previously, under Director Cordray, \$12 billion was returned to consumers; 30 million Americans recovered damages for deceptive, predatory, or abusive practices by banks, student loan providers, payday lenders. But, as was pointed out, since the director, Director Cordray, left, the Bureau has not taken any significant enforcement actions.

The Bureau has instead delayed implementation of important protections like the payday rule and, even more concerning, has

taken steps to remove the independence of the Bureau. And that is the point that I think is most important.

The Bureau's independence makes it an important entity. That independence actually means that it stands up for the American consumer. An administration that believes that a person who is—already has a full-time job—and I imagine the director of OMB is one that takes a lot of your time—can also be the principal defender of American consumers does not take that job or that role seriously enough.

With that, I echo Member Waters' concern about whether or not you actually hold this position. And while the—

Chairman HENSARLING. The time of the gentleman has expired. The Chair has been very generous on your—

Mr. KILDEE. You have been.

Chairman HENSARLING. —60-second opening statement.

Mr. KILDEE. All right. I think you get my point.

Chairman HENSARLING. Today we welcome the testimony of the Honorable Mick Mulvaney to present the semi-annual report of the Bureau of Consumer Financial Protection, as required by Title X of the Dodd-Frank Act.

Director Mulvaney is, obviously, no stranger to us, as he was our colleague before President Trump nominated him to serve as director of the Office of Management and Budget. He is also the current acting director of the Bureau of Consumer Financial Protection, a post he was appointed to on November 24th of 2017. Prior to his time in the Administration, he served the people of the 5th District of South Carolina as their Member of Congress from 2010, and was the first Republican Member to hold that seat in 128 years.

A lifelong Carolinas resident, he received his bachelor's degree from Georgetown University and his juris doctor from the University of North Carolina at Chapel Hill.

Without objection, the witness's written statement will be made part of the record.

Director Mulvaney, welcome home. You are now recognized to give an oral presentation of your testimony.

#### **STATEMENT OF HON. MICK MULVANEY**

Mr. MULVANEY. Thank you, Mr. Chairman. Thank you for having me. Ranking Member Waters, it is good to see everybody. For the new faces, it is a pleasure to be here before you to talk about our semi-annual report of the Bureau of Consumer Financial Protection. I hope y'all have it. You should have access to that.

I also have a written statement. My experience being on the committee, though, that having people sit here and read their written statements is a complete waste of time, so I am not going to do it.

I will talk a little bit about why I am here today. I want to be here today to answer questions. I am excited to be here today to answer questions. I think it is important that we bring some transparency and accountability to this Bureau, to the Bureau of Consumer Financial Protection.

The Bureau is not designed structurally to be accountable. By its very DNA, by its very nature, it is not accountable to you, it is not accountable to the public, it is not accountable to anybody, other than itself. And I hope today we get a chance to explore how to fix

those things, and why those things are not beneficial, that independence—to Mr. Kildee’s point—does not necessarily or not have to, mean unaccountable to everyone.

I will give you just one example, and I hope we get a chance to talk about more during the course of the day. I have to be here. The statute requires me to be here, and I am happy to be here. I do not have to answer a single one of your questions. I will, and I look forward to doing that. But I don’t have to.

The statute says that I shall appear before Congress, and I am doing that today and doing it tomorrow in the Senate. Again, happy to do it. Doesn’t say a word about answering your questions, doesn’t say a word about testifying, which is interesting, because elsewhere in Dodd-Frank other people do have to appear and testify, or appear and answer questions. For some reason, the director of the Bureau does not. The director of the Bureau only has to appear.

So I believe it would be my statutory right to simply sit here and twiddle my thumbs for the next 4 hours, while y’all ask questions. I think that is wrong. And again, I am not going to do it. But I use that as just one of many examples of what is broken in the way this statute is written.

And I hope that, as a result of the opportunity we have here today to answer questions—and I want to answer as many as I possibly can, recognizing that some of them maybe I don’t know, and I will have to get back to you—and that goes to folks on both sides of the aisle—but I want to answer as many as I can. But I hope that it is all aimed toward one end goal of trying to figure out a way to work together to make this more accountable.

I got a letter from Elizabeth Warren. She was not really happy. Senator Warren was not happy with some of the answers she got back from me and some inquiries she made to the Bureau. I reminded her that sounded a lot like some of the frustrations that this side of the aisle had when Mr. Cordray sat here for the last 4 or 5 years.

And I suggested to her that maybe it wasn’t the nature of the person sitting in the chair that was causing that frustration, it was the nature of the underlying statute that was causing that frustration, and that both sides might be well served by fixing the statute and bringing some transparency in here so that we do have to answer your questions, and that while you may disagree with a policy, as Mr. Kildee and I have done in the past, and will continue to do, we won’t disagree about the fact that if I am going to sit here and spend \$700 million of y’all’s money and the taxpayers’ money every single year, at least maybe I should have to answer some questions about how and why I am doing that.

So I hope that is—that is the reason I am here, I hope it is the reason that y’all are here, and I look forward to answering as many questions as I can. I am here until y’all get tired of asking me questions.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Mulvaney can be found on page 80 of the Appendix.]

Chairman HENSARLING. The Chair now yields himself 5 minutes for questions.

Before I get to the questions, Mr. Mulvaney, I do wish to compliment you because, contrary to your predecessor, you turned in your testimony on time. So you are the first CFPB director—

Mr. MULVANEY. I hired some really good staffers.

Chairman HENSARLING. —to do that.

Mr. MULVANEY. They have a good background in this. But anyway, that is—

Chairman HENSARLING. I want to explore a little bit more—as you know, since we have worked together for many years, I have a number of concerns about CFPB. I am concerned about to what extent they do indeed protect consumers, because part of consumer protections is to protect their rights to a competitive, transparent market.

But I am also concerned about, have we simply eviscerated traditional foundational principles of checks and balances and due process.

So you just told us that, under the Dodd-Frank Act, if you so chose, you could sit here, put your feet up on the desk, and, I suppose, take out your iPhone and play Candy Crush for the next 4 hours, and there would be nothing we could do about it.

I also understand, I believe—and I mentioned it in my opening statement—that depending upon what side of the bed you wake up on, you could determine—you alone, in your solitary capacity, could declare any credit card in the Nation abusive and functionally outlaw it. Is that correct?

Mr. MULVANEY. I believe that to be the case. Yes, sir.

Chairman HENSARLING. OK. I believe also, particularly—let me see if I can get the citation in front of me—under section 1022(b)(3) of Dodd-Frank, you have the power to—quote—unconditionally exempt any class of covered persons from any provision of this title, or from any rule issued under this title, as the Bureau deems necessary or appropriate.

My reading of this part of Dodd-Frank, then, tells me, if you so chose, could you exempt all community banks—scratch that. Could you exempt all banks located in, say, Dallas, Texas from the jurisdiction of CFPB enforcement?

Mr. MULVANEY. If we wrote the rules such that that was a class, a properly identified class, absolutely.

Chairman HENSARLING. Well, what is a class?

Mr. MULVANEY. That is a great question.

Chairman HENSARLING. So you, on your own recognizance, could essentially—you could, I suppose, exempt all banks that started with a C?

Mr. MULVANEY. Yes, sir.

Chairman HENSARLING. This doesn't seem to be wise. Again, it seems to be totally devoid of checks and balances.

Let's talk a little bit about the budget. So there is a ceiling, I suppose, on how much you can ask for. But you—who determines the budget of the CFPB?

Mr. MULVANEY. I do.

Chairman HENSARLING. You do? So how do you get your money, Mr. Mulvaney? How do you get your appropriation?

Mr. MULVANEY. I send a letter to the Federal Reserve Board and they send me a check.

Chairman HENSARLING. Do they review your request?

Mr. MULVANEY. No, I have—I don't think so. They have never asked the CFPB to justify any spending. We send over a letter that says, "Please send us"—I think the letter I just sent last week was \$98.5 million—

Chairman HENSARLING. So the Fed is your personal ATM.

Mr. MULVANEY. Up to the limits prescribed by the statute, which is about \$700 million.

Chairman HENSARLING. So I assume that you have to pay payroll. But after—and payroll is roughly half of your current budget?

Mr. MULVANEY. About 60 percent. Yes, sir.

Chairman HENSARLING. Sixty percent. So the other 40 percent, which is still—what is that, a few hundred million dollars?

Mr. MULVANEY. Oh, about \$280 million-ish.

Chairman HENSARLING. OK, so there is \$280 million that you alone get to decide how it is spent. Is that correct?

Mr. MULVANEY. Yes, sir.

Chairman HENSARLING. The naming rights at Texas Stadium for the Dallas Cowboys, AT&T pays roughly—I think it was close to \$20 million a year for those naming rights. If you wished to advertise the Bureau, could you take this money and outbid AT&T and have the naming rights at Texas Stadium?

Mr. MULVANEY. Oh, absolutely. In fact, I think we spent at least \$40 million on advertising up to this point, anyway. So sure, we could do that.

Chairman HENSARLING. Could you take that \$250 million and ensure that every man, woman, and child in America has a CFPB tee shirt, ball cap, and koozie?

Mr. MULVANEY. Yes. In fact, I think, under previous leadership, we paid to put advertising in every single tax return.

Chairman HENSARLING. Well, this is borderline insane is what it is, Mr. Mulvaney, borderline insane.

Let me ask you this. So you once in one quarter asked for zero dollars of funding, correct?

Mr. MULVANEY. I did. Yes, sir.

Chairman HENSARLING. And that was in the second quarter of 2018. You have now since asked for \$98.5 million in the third quarter of 2018, is that correct?

Mr. MULVANEY. Yes, sir.

Chairman HENSARLING. If you chose—if you chose, going forward, to ask for zero dollars, isn't it true that the other prudential regulators—say the Fed, the OCC (Office of Comptroller of the Currency), the FDIC (Federal Deposit Insurance Corporation)—do have secondary concurrent jurisdiction to enforce all Federal consumer protection laws?

Mr. MULVANEY. In most places, I think there is one exception on abusive, and there are some exceptions, I think—

Chairman HENSARLING. So with the exception of the extra A in UDAP, is the answer yes to the question?

Mr. MULVANEY. I think there is one other place, Mr. Chairman, when it comes to rulemaking under fair debt collection—

Chairman HENSARLING. So if the CFPB had zero funding, consumers are still protected also by State attorneys general, is that correct?

Mr. MULVANEY. Yes, sir.

Chairman HENSARLING. OK. Well, I have exceeded my own time. I will attempt to set a good example. I yield back. The Chair now recognizes the Ranking Member.

Ms. WATERS. Thank you very much, Mr. Chairman. Allow me to repeat for Mr. Mulvaney that you are not and, in my words, should not be construed to suggest the legitimate, lawful acting director of the Consumer Financial Protection Bureau. So I look forward to the D.C. Circuit Court's swift ruling in the matter. But I will not stand idly by while President Trump's OMB director destroys the Consumer Bureau when harmed consumers need help.

Before I raise some particular questions with you, you have made quite—made it quite known this morning that you don't have to be here and that you don't have to answer questions. I don't know why you think that is so extraordinary. The previous director came here 63 times and not only answered all of our questions, but was badgered by our Chairman. So we certainly expect you to be here, and we certainly expect you to answer our questions.

Mr. Mulvaney, given that the President has wanted to do a big number on Dodd-Frank for his friends on Wall Street, it seems clear that his goals are about trying to install you at the Consumer—what his goals are about trying to install you at the Consumer Bureau.

Now, do you support the mission of the Consumer Bureau? Let's review the record. And maybe you could just answer by yes or no. And I am remembering when you served on this committee and some of the things that you said.

Did—do you remember having said, "I don't like the fact that the CFPB exists. I will be perfectly honest with you." Have you changed your mind?

Mr. MULVANEY. I don't remember saying that, Representative Waters, but that certainly does sound like something I would have said.

Ms. WATERS. You also said, "It turns out being a joke, and that is what the CFPB really has been, in a sick and sad kind of way. Some of us would like to get rid of it." Do you remember saying that?

Mr. MULVANEY. Again, I don't have a specific recollection, but I have been informed that, yes, I have said that. And I believe that I did say that.

Ms. WATERS. All right. Yes or no, were you an original cosponsor of H.R. 3118, a bill introduced in the last Congress by Representative Ratchliffe to fully and completely repeal the Consumer Bureau?

Mr. MULVANEY. It wouldn't surprise me if I was, but I don't remember the bill by that number.

Ms. WATERS. So what do you think those of us who have the responsibility for implementing Dodd-Frank and being public policymakers that we are supposed to be about someone who now is sitting in a position that they really—happens to be sitting in illegally, to begin with—why should we think that you are not there to destroy the Consumer Financial Protection Bureau?

Mr. MULVANEY. Actually, with respect, Congresswoman, I would suggest that I am the one responsible for implementing Dodd-

Frank, not you. You are responsible for passing the legislation and, and then the Executive branch implements it.

I have not burned the place down, despite what you may have heard about what I was going to do when I got there. I think that we have 10 fewer people working there now than the day I took over. That is out of 1,627 people. We continue—

Ms. WATERS. Reclaiming my time—

Mr. MULVANEY. —to enforce the law.

Ms. WATERS. Let me just say to you that you couldn't implement a thing unless, first of all, there was legislation that was passed to deal with what you are doing; and, second, that we have the responsibility for oversight for your implementation. So I want you to understand the relationship.

Furthermore, let me just say that the Office of Fair Lending and Equal Opportunity is something that I am very concerned about. Mr. Mulvaney, the Consumer Bureau's Office of Fair Lending and Equal Opportunity has had many successes, including record court settlements for consumers who were illegally discriminated against in credit court mortgage and indirect lending.

You recently made changes to gut the powers and undermine the role of this critical office. Why have you stopped experts in supervision and enforcement of our lending discrimination laws from doing their jobs?

Mr. MULVANEY. We haven't. The Fair Lending Office has a supervision and enforcement function and an education function. And, prior to the changes that I made, all of it sat within our own Supervision and Enforcement. And all we did is split it into two pieces, so that supervision and enforcement was under Supervision and Enforcement, and education was actually elevated, Congresswoman, to the director's office. So we actually put them in more of a prestigious position in the office than existed beforehand.

Ms. WATERS. A recent investigative news report revealed—suggested there is pervasive modern-day redlining going on throughout the country. Is it your view that fair lending and equal opportunity laws simply aren't a priority or aren't even important?

Mr. MULVANEY. No, I absolutely think that discrimination is abhorrent, and we should fight against it. And we do intend to enforce the laws against discrimination at the Bureau.

Ms. WATERS. How will you ensure that lending discrimination is not a prevalent practice among lenders?

Mr. MULVANEY. The same way it has been done since the Bureau was created. We do supervision, we do oversight, we do enforcement, we have folks on the ground. We have, I think, 600 people today doing supervision.

Ms. WATERS. I yield back the balance of my time.

Chairman HENSARLING. The time of the gentlelady has expired. The Chair now recognizes the gentleman from Missouri, Mr. Luetkemeyer, Chairman of our Financial Institutions Subcommittee.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

Director Mulvaney, thank you again for being here. Director Cordray seemed to adopt a policy of regulation by enforcement. The director denied that when I asked him about it during one appearance before this committee, but the simple truth of the matter is

that taking enforcement actions against a firm when no rule or guidance has been issued is, in actuality, regulation by enforcement. In fact, I could give you an example of the BCF fining an entity based on they were thinking about proposing a rule.

In your January memo to the staff, you suggest that the days of regulation by enforcement were coming to an end. You wrote, "When it comes to enforcement, we will focus on quantifiable and unavoidable harm to the consumer." Can you tell us about your goals for enforcement, and how you—and what do you believe the Bureau's enforcement authorities—how they should be used?

Mr. MULVANEY. Yes, sir. Regulation by enforcement is done. We are not doing it any more. I believe very firmly that financial service providers should be allowed to know what the law is before they are accused of breaking it.

Mr. LUETKEMEYER. Very succinct.

Mr. MULVANEY. I could talk more, if you wanted me to, but—

Mr. LUETKEMEYER. How do you—you outlined in the—in your strategic plan, the goal of ensuring that all consumers have access to markets for consumer financial products and services. How do you plan to accomplish this goal?

Mr. MULVANEY. We are going to do, I think—and again, when I say a better job, I want to make it very clear that I was not there beforehand. So when you hear me say that we are going to do things differently, I don't want to automatically imply that the staff was not doing a good job before I got there. In fact, my experience has been that nothing could be further from the truth. I have been very impressed with the quality of the work that the staff has been asked to do.

The question is what have they been asked to do by their leadership. And one of the things I have asked the staff to pay closer attention to, moving forward, is the cost benefit analysis. I was, quite frankly, surprised, Mr. Luetkemeyer, by the amount of qualitative cost benefit analysis that was done. In fact, my background is in numbers, economics, commerce, finance. I didn't realize you could do qualitative cost benefit analysis. I thought cost benefit analysis was supposed to be quantitative.

I have come to accept, I think, that a certain amount of qualitative analysis is part—can be a valuable part of any analysis. But we are going to do a better job on quantitative analysis.

So, to your point, we are going to take a close look at how consumers would be affected, in terms of services that would not be available to them, the impact on the markets, the impacts on availability of credit, the impacts of availability of capital, and the flow of capital to small businesses and to individuals. We are going to do more quantitative analysis in those areas.

Mr. LUETKEMEYER. Along that same line, right now there is discussion with regards to the small-dollar lending rule. And you have stopped the implementation of it, and I assume that we are in the process of trying to go back and have some—to re-comment this and, again, look at the cost benefit of the rule that was proposed.

My understanding is that when proposed there were significantly more folks who were supportive of allowing the small-dollar lending to continue, versus those who wanted to be very prescriptive and restricted even further. Would you like to comment on that?

Mr. MULVANEY. And just to clarify, we have not stopped that rule. That is not the appropriate way you deal with things. What we have done is, by following the Administrative Procedures Act (APA), simply given notice of our intent to revisit the rule, which is exactly what the APA requires.

We have not done any pre-judgment, we have not come to any pre-determined conclusions. We have simply given notice of our intention to do so, which is exactly what the APA implies. And we will go through all of the statutory requirements to do so—notice and comment, so forth, analysis of all the data.

Is it possible that I may come to different conclusions than my predecessor did, looking at the same sets of data? Absolutely. That is the nature of the discretion of the office. But we have not stopped the rule, we have simply given proper notice and comment under the APA that we intend to revisit it.

Mr. LUETKEMEYER. When you are looking at that rule, are you going to be looking at the access to credit for small-dollar needs of consumers as something that would be a priority to see how you can continue to allow the markets to provide that opportunity for people who want to take advantage of it?

And then also, the cost benefit of allowing that to happen in a certain way, or whatever the rules—however they are, is this—these are two important points, I think.

Mr. MULVANEY. We would be looking at anything that is relevant to an ordinary rulemaking, and those things are absolutely part of those—part of that data.

Mr. LUETKEMEYER. I know that you made—I was talking with some folks and there was a situation. I know that the Chairman talked a minute ago about some of the dollars that you were using. And you have some economic researchers here that—something like 40 of them—and they are able to do some self-directed research for you. And is that very productive?

Mr. MULVANEY. I haven't found the productivity in it yet, Congressman. We could talk about that maybe a little bit further in another question. But yes, the self-directed research that is not aimed toward the mission of the Bureau is something that has caught my eye.

Mr. LUETKEMEYER. Thank you. I will yield back the balance of my time.

Chairman HENSARLING. The gentleman yields back. The Chair now recognizes the gentlelady from New York, Mrs. Maloney, Ranking Member of our Capital Markets Subcommittee.

Mrs. MALONEY. Mr. Mulvaney, welcome. Thank you for being here. First I want to be clear that, just because I am engaging with you at this hearing, that it is not an acknowledgment that you are legally entitled to be the acting director of the Bureau. I believe Dodd-Frank was clear in this matter, and that Leandra English is the lawful acting director of the Bureau.

That being said, I have some questions. First of all, how long have you been at the Bureau?

Mr. MULVANEY. November 24th. So what is that? Five months, maybe.

Mrs. MALONEY. Yes. And under your predecessor, the Bureau was bringing about four enforcement actions per month to protect

consumers. So let me ask you: How many enforcement actions has the Bureau initiated since you took over?

Mr. MULVANEY. We have initiated none since I have been there.

Mrs. MALONEY. And so it is zero. The Bureau has brought absolutely zero enforcement actions in nearly 5 months since you have been there. And in your testimony you said, "Our job is to enforce Federal consumer laws." But so far there is no evidence that you are enforcing any of the laws.

You have also said that you are taking a "new approach" at the Bureau. Does your new approach involve bringing any actual enforcement actions, or are you telling me that every single financial institution in America has suddenly snapped into full compliance with every single consumer financial law since you took over last November? Because that would be the first time in history that that has happened.

So what is your explanation? There has been no enforcement law, no law that has been violated, no abuse of consumers in the last 5 months?

Mr. MULVANEY. Actually, nothing could be further from the truth, Congresswoman. We have—actively litigating 25 cases, which includes continuing to litigate things that were filed before I was there. We have only made one dismissal of lawsuits since I have been there, and that was without prejudice. We could talk about that more, if you want to, in another question.

Mrs. MALONEY. OK, that is good. May I ask that you submit the documents to the committee? Because I would like to read them.

Mr. MULVANEY. What documents would that be?

Mrs. MALONEY. About the actions that you are continuing. If you are just continuing what was done before you, or have you initiated any actions under your leadership?

Mr. MULVANEY. A couple different things. Keep in mind we really put them in three buckets at the Bureau, and I will handle this very quickly.

There are investigations that are ongoing. There are about 100 of those.

Mrs. MALONEY. OK.

Mr. MULVANEY. And those could start and stop at any particular time, the senior staff—

Mrs. MALONEY. My question was what have you initiated, not what is ongoing.

Mr. MULVANEY. And again—

Mrs. MALONEY. What have you initiated under your leadership?

Mr. MULVANEY. In the ordinary course of business we could start new investigations every single day there, and I wouldn't be aware—

Mrs. MALONEY. But have you started any?

Mr. MULVANEY. I wouldn't be aware of it, Congresswoman.

Mrs. MALONEY. Oh, you—

Mr. MULVANEY. It is done in the field, and it is not checked on by me—

Mrs. MALONEY. Can you look into it and get back to us—

Mr. MULVANEY. Sure.

Mrs. MALONEY. —if you have initiated anything—

Mr. MULVANEY. And then there is—

Mrs. MALONEY. under your leadership to help consumers.

Mr. MULVANEY. And there is the roughly—

Mrs. MALONEY. But under your predecessor I would like to make clear that the Bureau returned over \$12 billion to American consumers who have been ripped off. And how much money has the Bureau returned to American consumers who have been ripped off by any financial institution in America since you took office?

Mr. MULVANEY. \$93 million.

Mrs. MALONEY. \$93 million?

Mr. MULVANEY. Yes.

Mrs. MALONEY. That you have returned to consumers?

Mr. MULVANEY. Yes, ma'am.

Mrs. MALONEY. Please—

Mr. MULVANEY. 92.6

Mrs. MALONEY. 92.6. Could you get that paperwork to the Chairman, so that all of us can see it?

Mr. MULVANEY. Sure, and that is a public record.

Mrs. MALONEY. Was that of any initiation that you did, or was that again done by your predecessor?

Mr. MULVANEY. It was a distribution that was approved while I was on the job.

Mrs. MALONEY. But was the project initiated by you to return this money?

Mr. MULVANEY. The flow of money out of the—

Mrs. MALONEY. Let me make clear, and I can make this question in writing. I want to know how much you returned under your leadership that you initiated, not the prior one. And we can get that answer in writing, because I do feel that basically we have a Bureau that refuses to take any new actions, refuses to punish anyone for violating any existing rules, and refuses to provide tangible help to American consumers, the very people that the Bureau was created to help.

This is not what Congress intended when we created the Consumer Financial Protection Bureau, and I am deeply disappointed, deeply disappointed that we have essentially taken the cop off the beat in terms of initiating new actions to help consumers, not just following up on your predecessor.

Now, I read in the paper on Monday that Reuters reported that the Bureau—is my time up—is going after Wells Fargo. And do I have time to ask the question?

Chairman HENSARLING. I am afraid we are already 20 seconds over, so—

Mrs. MALONEY. Well, my apologies.

Chairman HENSARLING. —the time of the gentlelady—

Mrs. MALONEY. I yield back. I was just warming up and I ran out of time. All right.

Chairman HENSARLING. The time of the gentlelady has expired.

Mrs. MALONEY. I yield back.

Chairman HENSARLING. The Chair now recognizes the gentleman from Michigan, Mr. Huizenga, Chairman of our Capital Markets Subcommittee.

Mr. HUIZENGA. I have to tell you, Director Mulvaney, it is good to have you here. The last director that was here pretty much

stalled, obfuscated, ran out the clock, and filibustered his entire time. We are actually getting answers, which is refreshing.

Mr. MULVANEY. Apparently I didn't say enough in response to Mr. Luetkemeyer; I think I caught him off guard.

Mr. HUIZENGA. So yes, you—exactly right. We weren't actually—we were expecting you to try to run out the clock like the last guy.

But the—I want—I do want to congratulate you on your staff reduction of 0.0614 percent of your staff. So yes, that would be a sarcastic note to those that believe that you are gutting it all.

I do want to give you an opportunity, though, to address a couple of things that were brought up. How many enforcement actions were taken under the former Bureau chief, Director Cordray in his first 6 months?

Mr. MULVANEY. In his first 6 months, zero.

Mr. HUIZENGA. Zero. OK. And your sense was you came in—I know, from a Michigan company that I have been in communication with, that was an ongoing action that has still continued to be dealt with. You are moving through with what had been in the pipeline. Is that right?

Mr. MULVANEY. Let me make one thing very clear to everybody. We are still going after bad actors. In fact, I have actually taken the extraordinary step of ratifying action in order to clarify whether or not the constitutional issue has been handled. I have ratified actions in other litigation that is ongoing. We are still going after bad actors.

Mr. HUIZENGA. And I think, as you had indicated, though, what practice that you are hoping to curb and eliminate is enforcement, or regulation by enforcement. And I think that is something we can talk about.

One of my colleagues just said, has everybody snapped into compliance. There is always—benefit of being a realist here, I guess, we always know that there are going to be bad actors out there. What a lot of us had a concern about was that the last director of the Bureau, frankly, just made up violations. And these CIDs (Civil Investigative Demands) that would go out requesting information on activities that were perfectly legal, but they just didn't like, then they would fine people and try to curb everyone else's actions through those fines and those threats. And I would like you to address that.

Mr. MULVANEY. Sure. We will take a specific example of an action that was brought. There was a financial service provider doing something that they had believed to be legal because it had been legal for a long time under guidance that had been issued by HUD. And, without notice, the CFPB popped them for what they considered to be violations. I just happen to think that that is wrong. That is that enforcement by—or regulation by enforcement that I talk about.

I think you should be allowed to know what the law is before you are accused of breaking it.

Mr. HUIZENGA. And then I think there was probably a few dozen press releases on that afterwards.

Mr. MULVANEY. Again, I don't—I didn't follow a lot of the press releases under the previous leadership. I wouldn't be surprised—

Mr. HUIZENGA. I know that a number—I know that they certainly were very eager after they would get these consent decrees to go out and tout those and use those to bludgeon things, to bludgeon other companies.

I do want to also take a minute here and allow you to talk about these self-directed researchers in the economics departments of what you have been dealing with over at the Bureau.

Mr. MULVANEY. There was a practice there that I was just made aware of in the last couple of weeks where our economists are allowed to take up to 50 percent of their time, paid—

Mr. HUIZENGA. I am sorry, did you just say half of their time?

Mr. MULVANEY. Up to half of their—

Mr. HUIZENGA. Half of their taxpayer-sponsored time?

Mr. MULVANEY. Yes sir, to do research, which on its face probably isn't that objectionable, I guess, until you realize that there is no requirement that the research be connected to the actual job that the Bureau does.

Mr. HUIZENGA. So they could be researching—

Mr. MULVANEY. The last time I saw—

Mr. HUIZENGA. —climate change?

Mr. MULVANEY. —was a research project on the impact of hub airports and urban growth that we paid for at the Bureau of Consumer Financial Protection.

Mr. HUIZENGA. And that has what, exactly, to do with the Bureau of Consumer Financial—

Mr. MULVANEY. I am still struggling with that one, myself.

Mr. HUIZENGA. As would I. So how—are you—do you have the ability to go in and change that requirement?

Mr. MULVANEY. I—yes and no. We are going to follow the rules. I operate under a collective bargaining agreement with the National Treasury Employees Union, so we have rules on how we would go about changing job descriptions, and so forth, and we are going to go through the proper processes. But we are going to look very closely at that practice.

Mr. HUIZENGA. So logic dictates we could have half the number of economists, and do the exact same amount of work on consumer protection. So we might be able to grow that 0.00614 percent up a little bit. If we are going to get the same amount of research out of half the number of economists, that might be a step that we might want to take.

Mr. MULVANEY. It is not very efficient.

Mr. HUIZENGA. No, it is not. So with that, Mr. Chairman, I yield back.

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the gentlelady from New York, Ms. Velazquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Mr. Mulvaney, I am very concerned about your dual roles at OMB and now at the CFPB. I do not understand how you are able to work and report directly to President Trump part of the time and then act as an independent director of the Consumer Bureau charged with protecting working Americans from the deceptive and predatory business practices.

Mr. Mulvaney, I have a series of questions that I would like to get a yes-or-no answer. And if you feel you need to expand on them, will you please submit them in writing?

Mr. MULVANEY. I will do my best.

Ms. VELAZQUEZ. Mr. Mulvaney, do you maintain offices at both the CFPB and OMB?

Mr. MULVANEY. Yes, ma'am.

Ms. VELAZQUEZ. Have you ever conducted work for the CFPB while at the offices of OMB?

Mr. MULVANEY. On the weekends I like to sit at my OMB office and do my reading—

Ms. VELAZQUEZ. Yes or no?

Mr. MULVANEY. The answer is yes, ma'am.

Ms. VELAZQUEZ. Have you ever conducted work for CFPB while in the Oval Office?

Mr. MULVANEY. No, ma'am.

Ms. VELAZQUEZ. Have you ever conducted work for the CFPB while in the Oval Office with President Trump?

Mr. MULVANEY. No, ma'am. Since I—I don't get to go in the Oval Office when the President is not there.

Ms. VELAZQUEZ. OK. So he is never there?

Mr. MULVANEY. No. You asked me the first question, have I ever done it in the Oval Office, and the answer is no. So, by definition, I couldn't do it in the Oval Office with President Trump.

Ms. VELAZQUEZ. Well, you could be with the President discussing some issues. Maybe you are asked a question about CFPB and you conduct the business right there.

Mr. MULVANEY. Right, but I am saying no to both your questions.

Ms. VELAZQUEZ. OK. Have you ever—thank you. Have you ever conducted work as director of OMB while at the offices of the CFPB?

Mr. MULVANEY. I may have taken a phone call occasionally, but most of my OMB work is done at OMB.

Ms. VELAZQUEZ. So you do. Do you receive separate paychecks from both OMB and the CFPB?

Mr. MULVANEY. No, ma'am.

Ms. VELAZQUEZ. Do you receive only one total paycheck?

Mr. MULVANEY. Yes, ma'am.

Ms. VELAZQUEZ. Do you maintain different Government-issued email accounts for your roles at OMB and CFPB?

Mr. MULVANEY. Yes, ma'am.

Ms. VELAZQUEZ. Have you ever conducted CFPB business from your OMB email account?

Mr. MULVANEY. No, ma'am.

Ms. VELAZQUEZ. Have you ever conducted OMB business from your CFPB mail account?

Mr. MULVANEY. Not—again—

Ms. VELAZQUEZ. Email.

Mr. MULVANEY. No, ma'am. I don't think I have ever done either of those things.

Ms. VELAZQUEZ. You don't think. But are you sure, or you are not?

Mr. MULVANEY. I haven't gone back to check every email, but no.

Ms. VELAZQUEZ. OK.

Mr. MULVANEY. My practice is to do my CFPB work—

Ms. VELAZQUEZ. So will you please go back, check, and then submit an answer?

Mr. MULVANEY. Every single one of my emails, Congresswoman?

Ms. VELAZQUEZ. No, it is not a—well, no. If you have two email accounts—

Mr. MULVANEY. Right.

Ms. VELAZQUEZ. —that belong to each one of your two positions, then why do you need to use one for the business while conducting business with the other?

Mr. MULVANEY. My point is my practice is to do Bureau work on the Bureau email and OMB work on the OMB email. Bureau work on the Bureau phone and OMB work—I have three phones, and I do my OMB work on my OMB phone.

Ms. VELAZQUEZ. Have you ever charged an OMB-related expense to your CFPB expense account, including travel?

Mr. MULVANEY. No, ma'am.

Ms. VELAZQUEZ. Have you ever charged a CFPB-related expense to your OMB expense account?

Mr. MULVANEY. No, ma'am.

Ms. VELAZQUEZ. Do you have an executive assistant for either of your roles at the CFPB or OMB?

Mr. MULVANEY. Yes, ma'am.

Ms. VELAZQUEZ. Have you ever instructed your executive assistant at OMB to carry out CFPB-related business?

Mr. MULVANEY. No, ma'am, which causes a great deal of frustration for both of my executive assistants.

Ms. VELAZQUEZ. That is why you shouldn't be there.

Have you ever instructed your executive assistant at the CFPB to carry out OMB-related business?

Mr. MULVANEY. No, ma'am.

Ms. VELAZQUEZ. Mr. Mulvaney, the financial crisis and the great recession that followed led to five million Americans losing their homes to foreclosure, and a million more losing trillions of dollars in wealth. The CFPB exists to prevent families from surrendering their hard-earned dollars to the deceptive or unsavory business practices.

What lessons did you learn from the financial crisis and the great recession, and how are you applying those lessons at the CFPB?

Mr. MULVANEY. You want the lessons of the financial crisis in 35 seconds? I think the answer is that the financial crisis was a system failure of major proportion. And when any major system fails there is no one cause, one single cause. The financial crisis was caused by a variety of things, things—a bunch of things that happened at the same time.

Was abusive lending in the housing market part of it? Absolutely. Can we do better on enforcing the laws? Absolutely. Do we look forward to doing that at the Bureau? Absolutely.

Ms. VELAZQUEZ. That is very encouraging. Let's wait for the numbers to show that. Thank you.

Chairman HENSARLING. The time of the gentlelady has expired. The Chair now recognizes the gentleman from Wisconsin, Mr. Duffy, Chairman of our Housing and Insurance Subcommittee.

Mr. DUFFY. Thank you, Mr. Chairman.

And welcome, Director Mulvaney. I would just note from the first part of this hearing there seems to be a bit of agitation coming from the other side of the aisle. And I understand the agitation, because Democrats don't have a lot of power or control over your directorship of the CFPB, and nor do we on the Republican side, because that was the intent of Congress, to make sure that Congress has no power or control over the CFPB.

And so, when you are a party in power with a President who can appoint the director, this in line maybe with your view point, you applaud the director because you think they are great. But if you are not in power, there becomes a great deal of frustration. And again, I would just note that it is by the very structure of the CFPB that came from Dodd-Frank that my friends voted for that is the cause of that very frustration.

I would just note to the gentlelady from New York when we talk about five million individuals losing their homes, I would argue there are a great number of those people who were getting loans that were subsidized by the Government because of Government policy that put people in homes they couldn't afford. And by the way, we really haven't modified or changed housing policy in America since the great recession.

But I want to ask you. Mr. Huizenga brought up the issue of the economists. How many economists work at the CFPB? Are there 400, roughly?

Mr. MULVANEY. No, no, no, no. Congressman, it is 20, I am told.

Mr. DUFFY. Twenty? OK.

Mr. MULVANEY. I thought it was 40, but—OK.

Mr. DUFFY. OK, 20.

Mr. MULVANEY. I was saying—

Mr. DUFFY. In essence, you could—and are these well-paid individuals?

Mr. MULVANEY. They are. I don't—I have the numbers someplace, if you really want them.

Mr. DUFFY. That is OK.

Mr. MULVANEY. But the—

Mr. DUFFY. But no, no—but so—but you are saying you could reduce the economist staff from 20 to 10 if they spent 100 percent of their time working on CFPB issues?

Mr. MULVANEY. In theory, yes, sir. And the same amount of work would get done. It is very, very difficult to reduce the size of a Federal staff.

Mr. DUFFY. And I will ask you about that in a second. But if that is—if you are, on average, making \$200,000 a year—and I imagine they might make more than that, we complain about the salaries at the CFPB, I will save that for a different time—but 10 people, 200 grand, that is \$2 million a year that you could save if you were able to reduce the staff and make them actually work on CFPB issues.

Mr. MULVANEY. Yes. If you assume they are working 50 percent for—that is exactly right, the math is right.

Mr. DUFFY. Thank you. I was never very good at it, so I appreciate your—so—but you can't fire or modify—you can't fire anyone at the CFPB, is that right?

Mr. MULVANEY. It is—it would be—it is not accurate to say we can't fire anybody in any circumstances. It is extraordinarily difficult to reduce the size of a Federal bureaucracy.

Mr. DUFFY. And how about—

Mr. MULVANEY. Harder at the Bureau than it is at an appropriated agency.

Mr. DUFFY. And hence how—you have reduced the staff by how much?

Mr. MULVANEY. Ten people since I—

Mr. DUFFY. Ten people.

Mr. MULVANEY. Out of 1,700.

Mr. DUFFY. So the great conservative Mick Mulvaney has reduced the staff by 10 out of 1,700 employees.

Mr. MULVANEY. Taking a meat cleaver to it. Yes, sir.

Mr. DUFFY. OK. And if you wanted to redirect the work of those economists, could you do it?

Mr. MULVANEY. Yes, I think we would be able to do that. We will have to jump through some hoops to do it with the union, and so forth, but I think we will be able to at least get those folks to spend their independent research time on things that pertain to the mission of the Bureau.

Mr. DUFFY. I want to go quick. You are a lawyer, right?

Mr. MULVANEY. Yes, sir.

Mr. DUFFY. And we think that the Congress, when it crafts legislation, when it uses language in one part of a bill but not in another, they do it intentionally. So if the Congress says that people are to come to Congress and testify or appear and testify or appear and answer questions, they intend them to come and answer questions. But if for the director they say that you should just appear and don't specify, like they did in other sections, that you answer questions or you testify, it was done intentionally. Right? That is the way young lawyers learn on statutory construction. Am I correct on that?

Mr. MULVANEY. Inside Dodd-Frank the director of FSOC (Financial Stability Oversight Council) is required to report and testify before Congress.

Mr. DUFFY. Testify.

Mr. MULVANEY. The director of the Office of Financial Research is directed to appear and answer questions and testify. I am not required to do that.

Mr. DUFFY. And so it would be our belief that it was the intent of Dodd-Frank that you appear but not be required to answer questions.

Mr. MULVANEY. And that is the interpretation the courts usually—

Mr. DUFFY. The holy text of Dodd-Frank and the CFPB, it is surprising that they would have that wrong.

One—my time is almost up. I was the Chair of the Oversight Committee, and I asked Director Cordray countless times for information. And oftentimes I would be responded with news clippings or press releases from the CFPB. We know that the IG has done a number of investigations. With the transition from Cordray to Mulvaney, have you seen any evidence of requests that have been

made by the IG or the Congress that were not complied with that you now have been able to comply with?

Mr. MULVANEY. Yes, sir.

Mr. DUFFY. What were they? Quickly.

Mr. MULVANEY. We have recently come across some documents that we believe to be responsive to previous IG requests that were not previously produced.

Mr. DUFFY. Documents in the basement, or were they readily available to you, as the director?

Mr. MULVANEY. In the director's file.

Mr. DUFFY. In the director's file.

Chairman HENSARLING. The time—

Mr. DUFFY. I yield back.

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the gentleman from California, Mr. Sherman.

Mr. SHERMAN. Mr. Mulvaney, welcome back to Congress. As you may have noticed, we on this side do not like your dual role. However—

Mr. MULVANEY. I will take it better than not liking me, Mr. Sherman, but that is all right.

Mr. SHERMAN. That is nothing personal.

Mr. MULVANEY. I know.

Mr. SHERMAN. Don't like the dual role. However, I will point out that right now I would assume the Trump Administration is trying to determine your successor, who will be a full-time person dedicated to being a handmaiden for the financial services industry.

I have seen the full-time appointments that Trump has made to other positions, and we may wax nostalgic for this day, in that I am not sure that Trump will appoint a full-time successor that will be more—do things that the Democrats support.

In the past, Democrats have been opposed to a commission and wanted a sole director. It is my understanding that the Chairman has changed his mind, and is now for a sole director, too, because he anticipates that your sole—that the sole-director successor of yours will be the most efficient structure to rapidly repeal all the good work done by your predecessor. I would just say that what consumers and businesses want is not a lurch to the left or a lurch to the right and then another lurch to the left, but steady and ascertainable regulations.

So there has been a concern that your agency has regulated through enforcement. What are you doing to make sure that more guidance documents are drafted and released, more regulations are published or defined, so that the people can know how to live with these rules, other than just looking at the enforcement action and trying to divine your policy through what action you have taken?

Mr. MULVANEY. Actually, I think what we have done, Congressman, is to try and focus more on the formal rulemaking. It is easy to send a letter. It is a little bit harder to send guidance. It is hard to do rules. But it is the right way to regulate, to follow the Administrative Procedures Act, to go through the appropriate steps to do that, because it allows notice and comment, whereas guidance might not. Letters certainly do not.

So we are trying to—

Mr. SHERMAN. Well—

Mr. MULVANEY. —simply go a little bit more by the book.

Mr. SHERMAN. Where the regulation is unclear, and you are simply making—providing guidance, it is one thing to say—

Mr. MULVANEY. Yes, sir.

Mr. SHERMAN. —you don't know what the right policy should be, you need notice and comment. Another time you always meant to say this, but you said it in a way people can't fully understand. More guidance documents would be—

Mr. MULVANEY. And I would agree with you, that is the appropriate use of guidance. Yes, sir.

Mr. SHERMAN. —helpful. There is the Home Mortgage Disclosure Act. Are you going to be using your authority to provide a greater small-institution exemption from parts of that Act?

Mr. MULVANEY. We have given notice of our intent to look at some changes—again, going through the proper administrative procedures. And I believe the two things we have noticed up were the scope of the data set—the statute only requires, I think, 11 data points; I think the previous leadership had asked for 25—and also look at the size of the—the scope of the financial institutions that might be covered.

Mr. SHERMAN. Section 1022 was designed to give your Bureau the power to provide exemption from certain rules as to community institutions and smaller institutions. Are you going to use your authority under section 1022 to grant exemptions to community institutions, the smaller banks, the credit unions?

Mr. MULVANEY. Again, it wouldn't be appropriate for me to say we are or are not going to do that, because we are going to go through the proper procedures. But I think our notice stated of our intent to look at the scope gives an indication that we are interested in collecting information on exactly the point that you just raised.

Mr. SHERMAN. Finally, I would like to address this silliness of you being required to appear but not testify. I was here when Dodd-Frank was written. It was in this room, not Mount Sinai. Not every word is perfect. In any other statute where we require somebody to appear, they are expected to respond to questions.

And Mr. Zuckerberg is across the hall right now, and there is no statute that requires him to appear, except he would be subpoenaed and—Mr. Mulvaney, you could have—you certainly remember sitting on this side of the dais. I am sure that if a statute required a Government official to appear, and that Government official appeared but refused to ask questions, a subpoena would be issued by the committee with bipartisan support. So I am glad you have decided to answer our questions.

Mr. MULVANEY. And I appreciate that. It would be a fascinating question, though, Mr. Chairman, since we are getting into the legal technicalities, as to whether or not your rules, which is what the subpoenas flow from, bind third parties, which I am.

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the gentleman from Kentucky, Mr. Barr, Chairman of the Monetary Policy and Trade Subcommittee.

Mr. BARR. Thank you, Mr. Chairman, and welcome back, Director Mulvaney, to the committee. I appreciate your candid and re-

freshing testimony today, which continues to expose the breathtaking lack of accountability of the agency that you are now charged to lead. And I think you continue to make a powerful argument that your predecessor perhaps unwittingly made, and that is that there is a desperate need for a fundamental overhaul of the structure of this agency to make it much more accountable.

Dodd-Frank, as you may know, authorized the Bureau to issue a rule that requires disclosure of fees and currency conversion rates for remittances. And that rule that was promulgated by your predecessor applies to institutions that execute 100 or more remittances annually.

The Bureau's role, as it turns out, created a tremendous amount of paperwork for credit unions, and slowed down the process, adding additional expenses for those credit unions and customers.

An example is in my home State of Kentucky, where the Fort Knox Federal Credit Union was forced to actually exit the line of services that they were offering to their 100,000 members, mostly service members and their families, because of the additional cost of executing these remittances. And that made it harder for active-duty military personnel—especially those who served at Fort Knox and who were deployed overseas on the front lines in South Korea, Germany, and other places in the Middle East, and that prevented those service members from executing those remittances through their Fort Knox Federal Credit Union back to their families.

I asked your predecessor about this issue, this problem. I assumed that it was an oversight, and that your predecessor would have wanted to correct this because he talked a lot about helping our veterans and helping our service members. But when I asked Director Cordray if he would consider exercising his statutory discretion to fix this rule, here is what he said.

He said that the Dodd-Frank statute constrained him, and mandated that he put a 100-remittances limit on it. And he actually—he didn't blame those of us on this side of the aisle for that. He actually was blaming Democrats on that side of the aisle for voting for Dodd-Frank, for tying his hands, and not allowing him to exercise any discretion to help our active-duty military personnel and their families.

So, Director Mulvaney, would you disagree with your predecessor? Do you believe that, under the statute, you have the discretion to provide the relief to these credit unions? And will you exercise it?

Mr. MULVANEY. We do not interpret the statute to say that we have no discretion as to the 100 number.

Mr. BARR. And so thank you for that very different answer from your predecessor. Will you consider working with our office and our constituents, particularly the Fort Knox Federal Credit Union, to perhaps move that disclosure threshold from 100 to 1,000 so that our men and women serving abroad can provide those remittances back to their families?

Mr. MULVANEY. There is actually good news on that front, Congressman. As part of the statute, we are required to do a 5-year lookback on various rules. This is one of them. We have actually already noticed that we are doing that here, and we have requested information as to exactly the points that you have raised.

So I would encourage anybody who is interested in this issue to participate in that RFI assessment, that request for information, as we gather data to try and determine whether or not that rule needs to be changed—

Mr. BARR. Well, I appreciate that we have leadership at the Bureau now that is actually working for our men and women in uniform, and not against them.

And Mr. Mulvaney, as you know, the Bureau is not subject to the congressional appropriations process. I appreciate the fact that, in your third quarter budget request, you noted that by design this funding mechanism denies the American people their rightful control over how the Bureau spends their money, which undermines the Bureau's legitimacy, which of course may explain why you have all of these accountability issues at the agency that you now lead.

I have consistently, year after year, term after term, introduced the TABS Act, Taking Account of Bureaucrats' Spending Act, a bill that would meet the recommendation in your semi-annual report to subject the Bureau to the congressional appropriations process. How do you think that legislative change would improve the efficiency and accountability of your agency?

Mr. MULVANEY. Thank you for the question. And I will say this as someone who used to sit where y'all sit. Why y'all don't want to put me on appropriations, I just don't get it. I really don't. Why not have the opportunity to at least bring me in and ask me how I am spending money, if I am spending money to sponsor Dallas Stadium or what not?

What is wrong with putting me on appropriations? It is one of the suggestions we make in our quarterly report. I may understand why it was set up that way in the first place, but why y'all would absolutely voluntarily give up the appropriations process for this Bureau I just don't understand.

Mr. BARR. Director, a final question. Under the CFPB's high-cost loan rule, Americans now cannot finance a manufactured home loan. Manufactured home loans of \$50,000 or less have dropped significantly. Will you consider revisiting the high-cost loan rule and increase the interest thresholds to help Americans realize the dream of home ownership?

Mr. MULVANEY. Honestly, that is the first time I have heard of that one, Mr. Barr. I would be happy to get back to you on that one. I apologize.

Mr. BARR. Thank you. I look forward to working with you on that, as well.

I yield back.

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the gentleman from New York, Mr. Meeks.

Mr. MEEKS. Thank you, Mr. Chairman.

Mr. Budget Director—

Mr. MULVANEY. Mr. Meeks?

Mr. MEEKS. How you doing, Mr. Budget Director?

Mr. MULVANEY. Doing well, sir.

Mr. MEEKS. Good. You are still the budget director, right?

Mr. MULVANEY. Yes, sir.

Mr. MEEKS. Is that a full-time or part-time job?

Mr. MULVANEY. It is a full-time job.

Mr. MEEKS. Full-time job. And the debt—my colleagues always put up the debt numbers and the budget, and we know—we have had these big numbers. And so are you focused on that at all?

Mr. MULVANEY. Oh, I—

Mr. MEEKS. Any more?

Mr. MULVANEY. I spend some time on the budget. Yes, sir.

Mr. MEEKS. On a full-time basis?

Mr. MULVANEY. I have two full-time jobs. Yes, sir.

Mr. MEEKS. And two full. Is that—you think the—I don't know many people that work two full-time jobs and do both of them in a exemplary manner. If it is—especially when you are talking about a budget that is as big as the United States of America's is, and the issues that we have. I would think that the American people would want someone that is focused on the budget.

And you were initially appointed by the President of the United States, from what I understand, to run the budget. Is that correct?

Mr. MULVANEY. Yes, sir.

Mr. MEEKS. OK. Now, also I find—because, just as Mr. Kildee—you represented when you were in Congress, of course, my parents' home town, Rick Hill, et cetera—found you being pretty much an honest guy, whether we disagree.

And in your statement you said earlier—and I think you have indicated to Ranking Member Waters that maybe it was—sounded like something you had said—you said if—to be perfectly honest, you don't like the—didn't like the fact that the CFPB exists.

Mr. MULVANEY. Correct.

Mr. MEEKS. Is that correct? And—

Mr. MULVANEY. I think my comment was I don't remember specifically saying that, but I am not denying it.

Mr. MEEKS. That is not something that would be—

Mr. MULVANEY. Right, exactly.

Mr. MEEKS. And you haven't changed your mind on that, have you?

Mr. MULVANEY. No, sir.

Mr. MEEKS. OK.

Mr. MULVANEY. Generally, no.

Mr. MEEKS. All right. That is right. And so you also said, certain things about it being a joke, that the CFPB really has been—and it is sad and it is sick. Those are your statements. And those have not changed, either, right?

Mr. MULVANEY. I think the Bureau screams out to be reformed. Yes, sir.

Mr. MEEKS. So if, in fact, it would seem to me, that those statements are true, then what is the best way to get rid of the Bureau? Because you never were for the Bureau, you didn't want the Bureau, you thought it was sick.

The best way to get rid of the Bureau would be to take it over to get rid of it, because that is what your point—it is not—it wasn't—you never were in support of it, you never thought that the Consumer Financial Protection Bureau needed to be. And so now you happen to be in power. The President appointed you as budget director. You make a—he makes a determination and you see the opportunity now to get rid of the Bureau.

So what do you—how do you get rid of the Bureau? You stop doing what it does, helping consumers. So you stop then doing the investigations, you stop doing the enforcements, you stop doing the kinds of things that the Bureau was put into business, to create, to do.

So then, it seems to me, what you do—illegally, if you have to, because you are doing your job as the budget director, the President can't see anyone else who is more intent on destroying the Bureau than a former Member of Congress who has specifically stated that he did not want this Bureau to exist.

And so I don't know what it is with this Administration. It seems to want to put people, one way or another, into leadership when it doesn't believe in the Bureau itself or in institutions, which is what my problem is with this Administration. It seems as though it wants to undermine every institution that we have.

Why do I say that? Well, we have a person that is now the Secretary of Education who doesn't believe in public education. You have a person now who is the head of Environmental Protection who doesn't believe in it, in environmental protection. So then it seems consistent that what the President would like to do is to put a person to be the head of the Consumer Financial Protection Bureau who does not believe, by his own admission, in the Consumer Financial Protection Bureau, unlike your predecessor, who believed and had a lifelong job of trying to protect consumers.

Isn't the fact that you have never in your career protected consumers?

Mr. MULVANEY. With respect, no, sir. That is not accurate. As I have mentioned before, we are protecting consumers in 25 ongoing pieces of litigation—

Mr. MEEKS. But not you.

Mr. MULVANEY. —against bad actors. Oh, no, no. Yes, sir.

Mr. MEEKS. I am just talking about prior to—even prior to this job.

Mr. MULVANEY. To be perfectly—

Mr. MEEKS. There has not been a thing that you have ever said as a Member of this committee, as a Member of Congress, that was pro-consumer. And now you are in charge of the Consumer Financial Protection Bureau, or so you want to be—

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the gentleman from Mexico, Mr. Pearce, the Chairman of our Terrorism Finance Subcommittee.

Mr. PEARCE. Director, nice to see you here. Thanks for taking our questions. If you would like to respond—I saw you trying to respond. If you would like to give an answer you can take 45 seconds here.

Mr. MULVANEY. Just very briefly, we are enforcing the law. To Mr. Meeke's point, I have it within my discretion—along the list of things that Mr. Hensarling went down that I could do that he didn't talk about in his opening statement, I could today, if I wanted to, dismiss every single one of those 25 pieces of litigation. I could stop all 100 investigations that are ongoing right now. We have chosen not to do that, because we are still enforcing the law. We are just doing it differently and with more restraint than the previous leadership was doing.

I will defend that. I have a different view of the world than my predecessor does, just like you have a different view of the world than the folks who sit on the other side of the aisle. But we are still enforcing the law. I am in the Executive branch of Government, and my job is to enforce the law. We are doing it. We are doing it differently than other folks might do it, because elections do have consequences.

But to say that we are not enforcing the law or we are acting illegally—and I don't think Mr. Meeks implied that I was doing anything illegally—is just not accurate.

Mr. PEARCE. One of the charges of our predecessor—or your predecessor—was protection of the consumers. And beginning almost at his first day we kept pointing out how he was damaging some of the most fragile consumers, and those are the ones who live in my district.

Fifty percent of the homes in my district are manufactured housing. And so, when they lumped—when they defined rural, they put one of the most—the least populated districts, counties in the Nation right in with New York City, and they implemented the same laws.

And so I sat yesterday with a banker from that very county, and she said still the rules from that agency are choking off their ability to lend money so that most of the banks have just gotten out of the products.

So the definition of rural has gone through many, many changes under the previous director. But if you would look at that and see if we can un-thread it a bit more, we would be happy to work with you.

We are working with the minority in this committee to try to get up the language for the whole balloon notes. That became very problematic. Again, the balloons for manufactured housing are set in place so they can look at them. They don't re-amortize, they just look at them every 5 years and continue on if the product is still in worthy condition.

And so, if we get language, I would really like for you to use the language we have come up with in bipartisan fashion here with the Ranking Member's office and ourselves. So we have that question.

So finance is another thing. Many times people live their lives, they will buy six, seven, eight of these manufactured houses. They will live in one, then they will—when they retire, they sell them, one at a time. And so the previous director put a cap on that at three. If we could extend that back out—what we have done, when they put that cap, is we limit finance to people who are very fragile, financially. They are usually at the bottom end of the economic spectrum. Usually, they don't have good credit ratings, and people will take a chance on them.

So it is one of the ways that we make a rural, low-end economy work. And the previous director had closed off so many avenues to people just trying to get by. And so those things just make common sense.

And we were in a year-long discussion with the previous director, and it is almost as if they couldn't hear, that they didn't want to hear that we were actually out there trying to get consumers pro-

tected and actually trying to do things that would help them out. So just—that is important.

Now, one of the ways that the previous director really said he was working on was data, and I think that I would like for your perspective, now that you are in the office. How data-driven were they? Because I could never see the correlation, myself. And then maybe explain which direction you are going in, in the use of data.

Mr. MULVANEY. Here is how I would answer that question, is that, first of all, I think I mentioned before the role of qualitative analysis versus quantitative, which I think is substantively very different. Not to say that neither of them have any value, but clearly qualitative analysis can be somewhat subjective, by definition.

If there is one complaint that I think I have heard from the financial services providers as a group, writ large, is that they felt like their input was always ignored. They felt like—and I am not saying this is, because I wasn't there, but they felt like the decision had been pre-cooked, and that the Bureau was just checking the box when they reached out to folks.

To the extent anybody felt that way, from consumer advocates to industry advocates, we are hoping to do that differently under my leadership.

Mr. PEARCE. Thank you. My time has expired. I yield back.

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the gentleman from Massachusetts, Mr. Capuano.

Mr. CAPUANO. Thank you, Mr. Chairman.

How are you doing, Mr. Director? I am not sure. I am hearing a lot of rumors today. My understanding is—I would like you, right from the horse's mouth. Is it true that you intend to run for the Speaker of the House next year?

Mr. MULVANEY. It is interesting, because I don't think you have to be a Member to run, right?

Mr. CAPUANO. You don't.

Mr. MULVANEY. That is—

Mr. CAPUANO. No, you can be—one more job, wouldn't hurt.

Mr. MULVANEY. I have two jobs, that is enough for me.

Mr. CAPUANO. Two is all you want? We might actually be able to throw in a few extra bucks for you.

Mr. MULVANEY. Would you vote for me?

Mr. CAPUANO. It depends. We could talk.

It depends what you do with the CFPB.

Mr. MULVANEY. No, I am happy with the two I have. Thank you, sir.

Mr. CAPUANO. All right. Thank you, Mr. Director. Mr. Director, I just want to follow up on what Mr. Meeks had to say. And I think the litany of people in this current Administration and their beliefs really proves beyond a shadow of a doubt, in case anybody wonders, that elections have consequences.

And I am not surprised that any of those appointments—or at least the philosophy shared by any of them—by the Trump Administration. He doesn't believe in Government, and he won the election. I don't like that, but it is a fact, and I think people at home need to know that.

I want to talk about a little issue, a smaller issue, a different item. I am just curious. At one point you earlier said that discrimination is abhorrent. Do you believe that women should be paid equally for the same work as a man?

Mr. MULVANEY. Actually, I do, and I think that is the law.

Mr. CAPUANO. I think it is the law, but I am just curious what—your beliefs.

Mr. MULVANEY. Yes, sir.

Mr. CAPUANO. Do you believe that African-Americans should be paid the same as white people?

Mr. MULVANEY. Yes, sir. Again, I think that is the law—

Mr. CAPUANO. And Hispanics and on and on and on.

Mr. MULVANEY. Yes, sir.

Mr. CAPUANO. People should be paid the same when they do the same work.

Mr. MULVANEY. Again, I think that is the law, yes, sir. And I agree with that.

Mr. CAPUANO. That is what I want to know. And I am glad. I thought you did, but I wanted to hear it.

Then when that happens, in order to have not just the law, but to actually fulfill it, how do we know what is happening if we refuse to take information from employers as to how they pay their people?

Mr. MULVANEY. I am sorry, I am hard pressed, Mr. Capuano, as to how this ties to what the Bureau is doing, helping—

Mr. CAPUANO. Well, what it ties to is a direction that you took last September to stop the EEOC from instituting a new form that they worked on for 7 years—7 years—to try to find out—to try to prove, one way or the other, whether employers—and I think most of them are, but some employers are not fulfilling their legal requirement. Some employers may be doing it intentionally, may be doing it unintentionally. But how could you possibly know, without the information?

Mr. MULVANEY. And Congressman, I am sorry, I don't mean to dodge the question, but I believe that is a—that you are talking about something I did in September. It must be OMB. And I recall a little bit of something about the changes that we made to the—I think it was the EEO1 form, or—

Mr. CAPUANO. Yes, that is correct.

Mr. MULVANEY. The EO1 form, or something like that. But in all fairness, I have not looked at that since September. And I am not trying to dodge, I would be happy to answer that question—

Mr. CAPUANO. That is a fair answer. But that is also troubling, that you haven't looked at it since September. If you are going to have two full-time jobs, two full-time jobs is what you have, which means if you stop something, which you actively took active action to prevent this new provision from coming in place, then I think you have an obligation to take a look at it, since between September and now, especially when it impacts millions upon millions of women and African-Americans and Hispanics—we all know the numbers. Women make \$.80 on the dollar. African-Americans, I think, it is \$.57 or \$.63. Latinos, 54 cents on the dollar.

We all say that we want to do something about it, yet the one time we take a step toward doing it, you proactively stopped it.

And I am just wondering. When are you going to get around to looking at it, so you can actually do something about it?

Mr. MULVANEY. And again, Congressman, I am not trying to be evasive, but I have not been asked that question, I don't think, since September. And I have done 15 press conferences, and I have been in front of Congress 3 or 4 times. So I apologize, I am just simply not prepared to talk about that.

I am not saying that what you said is inaccurate, but I am also not admitting that it is true. And I look forward to talking to you about it.

Mr. CAPUANO. It is fair, I am not trying to do a gotcha type of thing. And to be honest, I am a little surprised nobody has asked you.

Now, it is, to me, surprising in this day and age that we can have a whole group, several classes of people, being intentionally or even unintentionally paid less, and yet this Government refuses to do anything about it. And I—again, I appreciate it. I am not trying to get you today. But at some point in the near future, I would like to hear from you as to when you or your agency plan on taking action to correct the situation.

Mr. MULVANEY. Yes, sir. Thank you.

Mr. CAPUANO. With that, I—

Mr. MULVANEY. And if I suggest—if you want to send me a letter at the OMB office, I would be happy to respond to you in writing.

Mr. CAPUANO. We shall be doing just that.

Mr. MULVANEY. Thank you, sir.

Mr. CAPUANO. With that I yield back my 18 seconds remaining.

Chairman HENSARLING. The gentleman yields back. The Chair now recognizes the gentleman from Pennsylvania, Mr. Rothfus.

Mr. ROTHFUS. Thank you, Mr. Chairman. Welcome back, Director Mulvaney.

Mr. MULVANEY. Yes, sir, Mr. Rothfus.

Mr. ROTHFUS. Talk a little bit about this regulation by enforcement, the CFPB with the UDAP, the Unfair, Deceptive, and Abusive Acts and Practices authority it has, it—you mentioned in your op ed about how the CFPB was “pushing the envelope.”

While there is some precedent that can provide us with an interpretation of what is unfair or deceptive, it is still unclear what “abusive” means. This allowed your predecessor to regulate by enforcement on a case-dependent basis. It also created uncertainty for market participants about what the rules actually were.

I am wondering if you can comment on why it is important that market participants have a clear understanding of the rules.

Mr. MULVANEY. Yes, I am—thank you for that. And I tell you if I wanted to add to the list of things that y'all could help me with, help me with the definition of “abusive.” Give me some legislative guidance on that, because it is full of gray areas in the way the statute is written right now. It is—it can be abusive if it materially interferes with the ability of a consumer to understand a term or condition of a consumer product, financial product, or takes unreasonable advantage.

For the lawyers in the room, they will know that those are all very, very subjective terms: “materially unreasonable” and “materially reasonable.” It is throughout the statute, which gives a great

deal of discretion to my predecessor, and now a great deal of the discretion to me. What I think might be material could be very different than what Mr. Cordray intended, and I am not sure that was the intent of what Congress wanted to do.

It is the statute, but if y'all could help me with some guidance on what that means, that I think would provide clarity for everybody, because right now you are in the exact circumstance that I think Mr. Meeks may have mentioned before, about swinging wildly from one interpretation on the left to another on the right, depending upon who is in charge. That is never a formula for certainty in the marketplace—

Mr. ROTHFUS. Well, certainty and due process. Where does due process come out in the mix on that?

Mr. MULVANEY. Not on that piece of paper.

Mr. ROTHFUS. I understand the Bureau has published a request for information regarding the public reporting of consumer complaint information. This is an important issue, and I applaud the Bureau for taking it up.

Like many on this committee, I am concerned about consumer privacy and the potential for consumer complaints to be misinterpreted or misused. This information could be a helpful public resource, if presented correctly. But it could also mislead the public if not properly handled.

I urge you to carefully consider what information should be published and how it should be presented, going forward. I understand that you may need to be somewhat constrained in your remarks, since the process is still ongoing. But any insight you could provide on this issue would be helpful.

Mr. MULVANEY. I do share your concerns, and maybe we can talk, if somebody wants to, about some of the data security issues that we face, as an agency. I haven't had that question yet. I would be happy to talk about that. But I am very much concerned about the privacy of that data, about the use of that data, about the unverified nature of some of that data. So we are taking a long, hard look at it within the Bureau.

Mr. ROTHFUS. What would you expect to see if the CFPB were subject to an appropriations process?

Mr. MULVANEY. That we act a lot more accountably to you folks.

Mr. ROTHFUS. You would have to justify things like an economist who might not be spending half of their time on CFPB work?

Mr. MULVANEY. Let me put it to you this way. This Bureau has been around for what, now, 6, 7, 8 years? Something like that? Did y'all know about that before today? I didn't. It took me—I found out about a month ago. Do you think if I had been on—if the Bureau had been under appropriations that someone may have found out about that before today? Probably so.

And you may decide it is a great use of money, and that is fine. But my point is an appropriations process helps shed light on things, and y'all are voluntarily choosing not to do that, and I do hope you would remedy that situation.

Mr. ROTHFUS. Maybe we could shed some light on the construction of the workspace at the CFPB and the kind of—

Mr. MULVANEY. The construction accounts, the average salary. I got—what is it, 380, 381? I think 381 people who work for me that

make more than you do. Did y'all have any idea about that? Would you have known about—and again, you may think that is completely fine and justifiable, but it is knowledge that you have not had for the last several years, because there is simply a lack of transparency into the Bureau that would be brought to the fore by going through the appropriations process.

Mr. ROTHFUS. With that, Mr. Chairman, I would yield you time, if you would like to ask any questions.

Chairman HENSARLING. I do want to return back to this use of the term “abusive.” I am sorry, Mr. Director, is there a clarification?

Mr. MULVANEY. No, the number was 370 folks who work there who make more than you, not 381. I apologize.

Chairman HENSARLING. So with respect to the term “abusive,” your predecessor could never answer the question. You gave us the statutory definition, which shed absolutely, positively no light.

So we have the UDAP terms of unfair and deceptive. There is long case history on what those mean. We know that the Bureau has moved to find some products abusive. But can a product be abusive without either being fraudulent, deceptive, or unfair?

Mr. MULVANEY. Given the definition, I don't know the answer to that question.

Chairman HENSARLING. So do you consider it to be absolutely redundant?

Mr. MULVANEY. I consider it to be almost entirely discretionary, which frightens me probably even more.

Chairman HENSARLING. The time of the gentleman from Pennsylvania has expired. The Chair now recognizes the gentleman from Missouri, Mr. Clay, Ranking Member on the Financial Institutions Subcommittee.

Mr. CLAY. Thank you, Mr. Chairman. And welcome back, Mr. Director. Hopefully your golf game has not suffered over the last few months.

Mr. MULVANEY. It is miserable. Mr. Gowdy beats me regularly now, which I can't stand.

Mr. CLAY. Let me say that I welcome your discussion this morning. And I would like to talk about the semi-annual report of the CFPB and your role to address the fair lending mission of the Bureau.

I want to turn your attention to a February 2018 article published by the St. Louis Post Dispatch—my staff will share it with your staff—about a couple wanting to purchase a home in a predominantly African-American community, but was encouraged by the loan officer of U.S. Bank to look in other neighborhoods. So a bank loan officer is virtually steering borrowers to other neighborhoods, as the article stated. I believe that is redlining, and is breaking the law.

This being the 50th anniversary of the Fair Housing Act, how will you ensure that lending discrimination is not a prevalent practice among lenders?

Mr. MULVANEY. The same way it has been done since this Bureau was created. Like I said, we have 100—the reason I turned around to ask the question is I did not know if we have an active

investigation of U.S. Bank going right now, and we are not really sure. Again, there is—

Mr. CLAY. OK.

Mr. MULVANEY. —nearly 100 of them. But that process has not changed. I have not changed the investigative process, we have not changed the sue-or-settle process. We are continuing to enforce the law.

And if it turns out—granted, we both know that sometimes things we read in the newspaper aren't entirely accurate—

Mr. CLAY. Sure, sure.

Mr. MULVANEY. But under certain facts and circumstances, that would be perceived as being illegal activity, and something that we would pay attention to and seek to remedy.

Mr. CLAY. Thank you for that response. Well, the Bureau's Office of Fair Lending and Equal Opportunity has had many successes, including record court settlements for consumers who were illegally discriminated against in credit card, mortgage, and indirect auto lending. And you recently made changes to diminish the powers and role of their critical office.

Is it your view that these laws simply aren't a priority, or that you don't intend to enforce—

Mr. MULVANEY. Neither of those things. And I would actually—I don't agree with the representation that we are—diminishing the powers. I have mentioned before it does—it has two functions. It does a supervision enforcement, which is part of the Office of Fair Lending, and then it does an education component.

Within CFPB, those things traditionally have been separated. We have an Office of Supervision and Enforcement, and an Office of Education. And all I did was simply put the two things within fair lending under what I considered to be the appropriate branch of the organization.

Mr. CLAY. And you still believe—

Mr. MULVANEY. Did not lay off a single person, did not change anybody's job description. I think they may change who they answer to, but their duties have not changed. It is simply a re-organization within the Bureau.

Mr. CLAY. OK. Final point, then. Appraisals of real estate appear to be a contributor to discrimination in our housing market. And as you are probably aware, African-American family wealth is one-tenth of white American family wealth. Do you think the CFPB has a role to play in eliminating racial discrimination in our housing market?

Mr. MULVANEY. We absolutely have a role to play in eliminating discrimination in the housing market. Yes, sir.

Mr. CLAY. And you know, having served with you, I have always found you to be a straight shooter. And if you see—and you call balls and strikes. And if you see something wrong, you don't shy away from it. So hopefully, in this instance, we can work with your Bureau to try to root out discrimination.

Mr. MULVANEY. Thank you, sir.

Mr. CLAY. Thank you, and I will share the article with you.

I yield back, Mr. Chairman.

Chairman HENSARLING. The gentleman yields back. The Chair now recognizes the gentleman from Texas, Mr. Williams.

Mr. WILLIAMS. Thank you, Mr. Chairman, and Acting Director Mulvaney. It is good to see you here today. It is always a pleasure to welcome a former Member of this committee to testify, and we miss having you sit amongst us. And I also miss you and will miss you at the baseball practice that—our team has always been better with you on it.

Mr. MULVANEY. Still hoping to be invited to a couple of the practices.

Mr. WILLIAMS. Be nice to me, then. All right.

You are right when you say that the CFPB is far too powerful with precious little oversight of its activities. Far too long the Bureau has taken actions which unfairly target businesses, hurt customers, and impose big-government policies with far-reaching implications for the financial market. Your leadership, as acting director of the CFPB, has become a welcome change from that of your predecessor. I am glad, too, that our friends on the other side of the aisle are finally recognizing you as the rightful acting director.

First question, I applaud the important work that this Administration has done to roll back some of the unconstitutional overreaching authority of the Bureau, but I also recognize that more needs to be done. So what can be done to ensure that under any new director or Administration the CFPB cannot reverse course and again enact failed policies that harm American consumers and businesses?

Mr. MULVANEY. You have to change the statute. The way the statute is written now, in order to prevent that pendulum swinging from the right to the left, from the left to the right with alternating Administrations, you have to change the statute. That is why I say that it is the DNA, it is the structure of the Bureau that needs to be fixed.

I can fix things the way that y'all want me to fix them, OK, and would upset those folks. And then, if a Democratic Administration comes in, they will fix them the way these folks would like to see it and it would upset you folks. But it wouldn't bring very much constancy or certainty to the markets. Markets—including certainty for the consumers.

So that is why I say, in order to fix it, you have to take the discretion away from the Bureau—most specifically away from the director—and take back the authority as the legislature of the country. And that is why we have made the specific—the four specific recommendations in the semi-annual quarterly report. We would love to take you up on those things.

That is why we support a lot of the work that this committee has done on a bipartisan basis to reform the Bureau. But it needs to change in the law. Otherwise, it will go back and forth and back and forth and back and forth.

Mr. WILLIAMS. The next question I have for you concerns the Bureau use of discretion rulemakings. Congress gave the CFPB the authority under section 1022 of Dodd-Frank to exempt institutions based on size. Yet in the past it has not exercised that authority.

In fact, I have a bill, the Community Financial Institution Exemption Act, that would strengthen section 1022 by exempting credit unions and community banks under \$50 billion in assets

from the CFPB rulemakings, unless the CFPB and other Federal regulators have cause to include them.

So should the Bureau take better advantage of its authority to exercise 1022 authority in future rulemakings?

Mr. MULVANEY. And I think we have already indicated an interest in doing that. As I discussed earlier, on the—our notice of what we are going to review in the Home Mortgage Disclosure Act, the HMDA rules, are the scope and what financial institutions are covered. The size of the financial institutions that we are going to cover is exactly one of the things we want to gather information on and take a look at. And it is pursuant to the authority you have just referenced.

Mr. WILLIAMS. Good. Third, since your arrival you have brought about a starkly different mission and culture at the Bureau than your predecessor. What steps have you taken to right-size the organization, and what bureaucratic hurdles prevent you from hiring, firing, or changing the role of personnel and office structure as needed to fulfill the Administration's vision for the CFPB?

Mr. MULVANEY. Nothing limits my—well, nothing. Almost nothing limits my ability to hire. The only limitation I have on hiring people is the amount of money I am allowed, by law, to draw down from the Federal Reserve.

There are significant restrictions on my ability to reduce the size of the force, significant restrictions on my ability to re-assign people. There is a restriction on where this office can physically be located. So there are a bunch of restrictions on the actual operation of the Bureau itself.

Mr. WILLIAMS. OK. Mr. Chairman, I yield my time back to the Chair.

Chairman HENSARLING. I thank the gentleman for yielding to the Chair.

Mr. Mulvaney, I am curious, as I look at some of the rulemaking that has occurred prior to you coming to the committee—I am sorry, to the Bureau.

For example, this committee, as you probably know, since you were here, put out several staff reports indicating how CFPB's indirect auto lending guidance was essentially unlawful, how it hurt consumers, how many consumers were forced to pay over \$500 more in interest. And indeed, our investigations revealed that the CFPB's own attorneys questioned their own legal theories. Perhaps this was part of that pressing the envelope. How come this guidance hasn't been formally withdrawn?

Mr. MULVANEY. We are reviewing it.

Chairman HENSARLING. That is the answer?

Mr. MULVANEY. We are reviewing it now, yes, sir. And I usually don't go into the internal discussions between us and our lawyers and stuff, so—

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the gentleman from Massachusetts, Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman. And Director Mulvaney, welcome. Thank you for appearing before this committee to help us with our work.

I do want to touch upon a couple things. One is I know that there is some contest about the appropriateness of your appointment, and so I don't want any of my questions or my engagement with you to count against those who might challenge the appropriateness of that appointment.

Mr. MULVANEY. Understood. Thank you, sir.

Mr. LYNCH. However, I do want to touch on one thing that you mentioned at the outset, and that is that you are not required to come before this committee and testify, that you could—I think I am quoting you—sit there and twiddle your thumbs.

I do want to point out—first of all, do you—were you saying that in jest? I know that you are fairly comfortable here, having been a Member.

Mr. MULVANEY. No, sir. And I hope I have proven by my responses that I am interested in answering—

Mr. LYNCH. Oh, yes, yes. I am just—

Mr. MULVANEY. So—

Mr. LYNCH. I am just—I know you are not standing on that point.

Mr. MULVANEY. Yes.

Mr. LYNCH. I am just questioning whether you actually believe in it.

Mr. MULVANEY. No, I do. I—any lawyer will tell you that when you are faced with competing language, similar language in two sections of a statute, and one says X and one says X plus Y—

Mr. LYNCH. All right, OK.

Mr. MULVANEY. —we assume that there is—

Mr. LYNCH. I just wanted to test that. You realize it is the same language that is in the Federal Reserve Act, where we have the Chairman of the Federal Reserve come up here and testify. He is just required to appear, as well. And I would say on behalf of Congress and you as a Member, we never would allow the Chairman of the Federal Reserve Board to come up here and just sit there and twiddle his thumbs and not respond to Congress. We have an oversight responsibility.

And I hope it is not reflective of your view of our role here, that you could somehow resist or refuse to engage with us, especially where you have the responsibility over the Consumer Financial Protection Bureau. And, maybe that is something for the lawyers to fight out later on, but I certainly want to maintain Congress' ability to have you engage in a meaningful way.

On top of that, we know—I served with you. You served honorably, and you stuck to your guns, no question about it. But you were clearly, clearly one of the people who was most hostile to the creation and operation of the Consumer Financial Protection Bureau.

Mr. MULVANEY. I wasn't here for the creation. But yes, sir, it is fair to say that I was hostile to the existence of the Bureau.

Mr. LYNCH. Yes. So it shouldn't come as a surprise that many on our side of the aisle, those who have the highest hopes for consumer protection, would see you the fox in the hen house, right?

Mr. MULVANEY. Doesn't surprise me at all. No, sir.

Mr. LYNCH. Yes. There is some credence to that. And before you took over, we had about one investigation a week that was going

on, we had—we still have a million complaints to the—outstanding to the portal, the CFPB website. We got stuff like Wells Fargo, where they are actually robbing their customers, creating false accounts and—so the need for enforcement has not gone away. And I know you say you have only laid off 10 people.

Mr. MULVANEY. I have not laid off anybody, but the—we have—

Mr. LYNCH. All right, so you got 10—I am just wondering. Since you are not doing enforcement like Cordray was doing, your predecessor, what are the enforcement people doing?

Mr. MULVANEY. Again, I don't think it is fair, Congressman, to say we are not doing enforcement. You mentioned one investigation—

Mr. LYNCH. Well, you haven't initiated any enforcement actions. We had, like, one a week before you got there. And then you got there and, as I said before, you are hostile to the operation of the CFPB, you are not into protecting consumers, and all of a sudden the investigations stop.

Mr. MULVANEY. Yes, I—

Mr. LYNCH. They stop. So we got a goose egg. We got thousands before, you get in there and now we got zero. The clear implication is that the people who were enforcing before are not enforcing any more. And all I want to know is what the heck are they doing now, because they are not enforcing the law.

Mr. MULVANEY. And I will respectfully disagree with some of the representations there. But here is how it works. If you give me just a moment, I will do this very quickly.

There is a process, OK? It is a tunnel. And at the beginning of the tunnel—

Mr. LYNCH. I know. You got three buckets. I heard that already. But one bucket is—

Mr. MULVANEY. But I never actually explained it, though.

Mr. LYNCH. That is the enforcement initiation bucket—is empty. You are not doing that—

Mr. MULVANEY. No, sir.

Mr. LYNCH. —any more.

Mr. MULVANEY. And that is what I am trying to tell you, sir. It is not empty. It is simply—when you look at the—

Mr. LYNCH. It is what Cordray left you, but you are not doing any initiation of any enforcement. You testified to that earlier, sir.

Mr. MULVANEY. I answered a question, Congressman, which is have I filed any lawsuits since I have been here. The answer is no. That does not mean we are not doing supervision or enforcement. And again, I would be happy to explain that in writing to you, if I need to, about how the process works—

Mr. LYNCH. You initiate—tell me—all right. Give me one case that you have brought since you got there.

Mr. MULVANEY. As I said we have not filed any lawsuits—

Mr. LYNCH. There you go.

Mr. MULVANEY. —since I have been there.

Mr. LYNCH. All I can say. All right.

Chairman HENSARLING. The time of the gentleman has expired.

Mr. LYNCH. My time has expired. Thank you, Mr.—

Chairman HENSARLING. The Chair now recognizes the gentleman from Maine, Mr. Poliquin.

Mr. POLIQUIN. Thank you, Mr. Mulvaney.

Thank you, Mr. Chairman, very much, for the time.

Mr. Mulvaney, over here. Thank you very much. Mr. Mulvaney, just to make sure I understand this and everybody watching understands this, you do not have a directive to come here and answer our questions. Is that correct, sir?

Mr. MULVANEY. I am sorry?

Mr. POLIQUIN. You do not have the directive in statute to answer our questions today.

Mr. MULVANEY. I believe that the statute is written in such a way that allows me not to—

Mr. POLIQUIN. OK. So you could come here and just tell us to pound sand.

Mr. MULVANEY. I believe that to be the case. Yes, sir.

Mr. POLIQUIN. OK. Second of all, we don't appropriate—

Mr. MULVANEY. And so could anybody else who sits in this chair.

Mr. POLIQUIN. Yes, I understand, sir. Congress, i.e. the people's representatives, do not appropriate any money to CFPB. You get your earnings from the Fed.

Mr. MULVANEY. Correct.

Mr. POLIQUIN. OK. And I remember when Ms. Yellen was here, Chair Yellen was here about a year ago, Mr. Barr asked her specifically, "Do you oversee the budget at all of the CFPB," and she couldn't answer the question.

Mr. MULVANEY. I think the answer is no.

Mr. POLIQUIN. OK.

Mr. MULVANEY. The statute certainly does not provide for any oversight by the Federal Reserve over the budget of the—

Mr. POLIQUIN. And you don't report to any board?

Mr. MULVANEY. No, sir.

Mr. POLIQUIN. OK.

Mr. MULVANEY. No, I don't report to anybody.

Mr. POLIQUIN. So we don't appropriate any money to you, you don't report to any board. The head of the CFPB can be removed for cause from—with the—by the President, but only for cause. Correct?

Mr. MULVANEY. That is what the statute says. Yes, sir.

Mr. POLIQUIN. OK. Mr. Mulvaney, I remember—and we agree on a lot of things here—I remember my time as State treasurer in Maine, and we ran into a certain type of organization in the affordable housing space called Maine State Housing Authority. And as State treasurer, I was on that board, along with others. I will never forget this as long as I live.

We had an executive director with a 5-year term appointed by the Governor that could not be replaced, except for cause. The individual did not report to any board, including the board that I sat on, which was their board. She didn't report to us, or he didn't report to us. And there was no appropriation of State funds.

Now, what we found, lo and behold, was you had an organization very similar to yours that you now head, and the problem we had with Maine State Housing Authority was many, one of which was they were spending about \$300,000 of taxpayer moneys for 1-bedroom apartments, when the average single family home with 3 bedrooms, a bath-and-a-half on a quarter acre of land was about 160

grand, and we had 6,000 people on a waiting list to come in out of the cold.

So you are coming to us today and saying—thank goodness you are there. You run an organization that is not accountable to the American people, has no appropriation of funds, and you can tell us to pound sand whenever we ask for something. Correct?

Mr. MULVANEY. I believe that to be the case. Yes, sir.

Mr. POLIQUIN. OK. Now, Mr. Barr mentioned—

Mr. MULVANEY. If I want to spend \$300,000 like that, I probably could.

Mr. POLIQUIN. By the way, how are you doing with your downtown office building? What have you folks spent on that so far?

Mr. MULVANEY. \$242 million.

Mr. POLIQUIN. Do you own the building?

Mr. MULVANEY. No.

Mr. POLIQUIN. OK. I remember myself asking that question of the former director a couple years ago. That hasn't changed. You finished the building yet?

Mr. MULVANEY. No.

Mr. POLIQUIN. OK. Wow. Do you have multiple offices, or is this your only office, Mr. Mulvaney?

Mr. MULVANEY. We have two office buildings in this city, and then we have regional offices in New York, Chicago, and San Francisco.

Mr. POLIQUIN. Are you able, under statute, to consolidate operations to save money?

Mr. MULVANEY. Yes.

Mr. POLIQUIN. Why don't you do that?

Mr. MULVANEY. We are exploring that possibility right now.

Mr. POLIQUIN. Got it.

Mr. Barr a short time ago mentioned that—and I will give you the numbers here—in 2014 there were roughly 56,000 loans, small-dollar loans, that were extended for folks that want to buy manufactured housing. Two years later, there were about 36,000 loans that were extended for the small-dollar loans for manufactured housing. That is a drop of about a third of the number of loans extended to buy manufactured housing in an economy that was improving.

Do you think that has anything to do with the enforcement of the CFPB and scaring the daylight out of businesses, meaning that we are not going to go as much by rulemaking, which we make up as we go along, but instead, if we don't like what we see, we will just threaten enforcement?

Mr. MULVANEY. I certainly think that we run the risk, when we pass rules and regulations, of chilling the providing of credit to consumers. Yes—

Mr. POLIQUIN. What is the one thing, Mr. Mulvaney, you can come to us today and ask Congress to help you fix the mess you have inherited?

Mr. MULVANEY. Put me on appropriations.

Mr. POLIQUIN. Meaning that the taxpayers will appropriate money to you and then ask you questions about why and how you are spending the money?

Mr. MULVANEY. It is sloppy, and we know it can be nasty, and I recognize why it was done like this, but that is your job. That is what you are supposed to be doing. You are supposed to be spending taxpayer dollars—I cannot believe I can walk down the street and get \$700 million and not have to explain to anybody. That is just wrong.

Mr. POLIQUIN. In January you released the fall of 2017 rule-making agenda to the fall 2017 united—excuse me, unified agenda of Federal regulatory—de-regulatory actions issued by the Office of Information and Regulatory Affairs.

Mr. MULVANEY. Yes, sir. That is over at OMB.

Mr. POLIQUIN. Good. Among the key rulemaking initiatives is one relating to overdraft services, which set out the requirements for overdraft-related disclosures. Will this overdraft be included in the spring rulemaking agenda?

Mr. MULVANEY. I have just been informed that our spring agenda won't include that line item.

Mr. POLIQUIN. Will not include that?

Mr. MULVANEY. Correct. Yes, sir.

Mr. POLIQUIN. When you go down that path, Mr. Mulvaney, I implore you to make sure you get voices from everybody. This is incredibly important to our community banks and credit unions.

Mr. MULVANEY. Thank you, sir.

Mr. POLIQUIN. Thank you.

Chairman HENSARLING. The time of the gentleman has expired. The Chair now declares a 5-minute recess.

[Recess.]

Chairman HENSARLING. The committee will come to order. The Chair now recognizes the gentleman from Georgia, Mr. Scott.

Mr. SCOTT. Thank you very much, Mr. Chairman, Mr. Mulvaney. Good to have you back. Enjoyed working with you on the committee, when we worked together. Over here.

Mr. Mulvaney, first of all, I want to point out that what you see coming from our side of the aisle and our questions, our concerns, they are not just ours. They are not just Democratic concerns. These are concerns and worriations (sic) of the American people. The whole business of your undermining the Office of Fair Lending and Equal Opportunity, that is real, Mr. Mulvaney. And something has to be done about it immediately to correct it. That is what the American people feel.

The fact that you had two very vital important agencies—is this Nation so weak in executive management leadership that we have to have you over two critical agencies that handles—one handles the budget and finances of the Federal Government, the other protecting the financial transactions and activities of the American people? Come on. Somebody is suffering there.

You are a very talented young man, but no matter—

Mr. MULVANEY. I am just glad to be described as young, Mr. Scott.

Mr. SCOTT. These agencies are being disrespected, they are being demeaned, the fact that they do not have a person at the top of each of these agencies.

But then, on top of that, you are clearly out to destroy the CFPB. And you really make no bones about it. There is a—there—I don't

like the CFPB. It turns up being a joke. And that is what the CFPB really has been in a sick, sad way. And some of us would like to get rid of it. That is what you said. And that is wrong.

But here is the point. The point is that you are the prime example of why we, when we passed Dodd-Frank, when we passed the CFPB, we made it a commission for this very purpose. The fact that you are in there with the mission from your President to dismantle and destroy the CFPB—now, hey, I am not jumping on you for doing what your boss wants to do.

All I am simply saying is that that is why we made it a commission pointing out. And we have to come to Jesus on that moment and understand going forward why it is important, why we do not need to have the management and the protection of the financial transactions of the American people changing every 4 years at the whim of the wind of changing Administrations. And so I hope that we can get that.

But anyway, I wanted to get those points out so you understand this is real serious here.

This is a—and let me tell you I represent Democrats and Republicans. I have one of these huge crossover districts. I go one county over from the Alabama line. So what I am trying to tell you is this is a concern of the American people, and that we have to deal with it.

But I do want to—I tell you what I am disappointed in more than anything else is the fact that in your report you mention nothing about your Operation Catalyst, this catalyst group that you have that is designed to go in here and develop rules and regulations for Fintech, our very innovative and new frontier of working in the—combining our financial services with our emerging and fast, rapidly changing technology. And you have that.

Could you tell us—could you give us an update on this catalyst project that you have there? The reason I want you to do that is my staff and I, we are working on legislation—I am the Democratic Chair of the Fintech Caucus—so we can bring some harmonization. But tell us what you are doing with Fintech, and tell us about this catalyst project.

Mr. MULVANEY. Thank you, Mr. Scott. Very briefly, just because it is not in the quarterly report or semi-annual report doesn't mean it is not a priority. When we wrote the semi-annual report, what we did is we went to the statute that said the semi-annual report should contain the following things, and we followed the statute, and the Fintech catalyst is not part of the statutory requirements. So that is why it is not in the report. It doesn't mean it is not important to us. And it is.

I don't know if you remember this or not. I am actually the co-founder of the Blockchain Caucus here in my time.

Mr. SCOTT. Yes, you were there, and that is why—

Mr. MULVANEY. So I am very interested in—

Mr. SCOTT. Yes, that is why I was surprised.

Mr. MULVANEY. We are spending a good bit of time trying to figure out a way to create—it is called, for lack of a better word, a Fintech sandbox, a new technology sandbox, to try and figure out a way to allow these new industries to develop without the type of

regulation that stifles them, while still protecting consumers at the same time.

It is a balancing act, but we do—it is a priority for us, we are spending time on it—

Mr. SCOTT. Very good.

Mr. MULVANEY. —we have some really good people on it.

Mr. SCOTT. Well, I would like for you to have my staff, or—my staff, who is helping to put this legislation together to meet with yours.

But what about the no-action letters that are—do you attend—

Mr. MULVANEY. We are—we continue to look at that as a potential tool.

Mr. SCOTT. All right, thank you.

Chairman HENSARLING. The time—

Mr. SCOTT. Thank you, Mr. Chairman.

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the gentleman from Illinois, Mr. Hultgren.

Mr. HULTGREN. Thank you, Chairman.

Director Mulvaney, thank you. I am over here. Good to see you. And grateful for your service. I really enjoyed serving with you here, and grateful for the work that you are doing at CFPB and OMB. I know it has just got to be a ton of work. I can't imagine. But grateful for your willingness and the good things that are happening.

And overwhelmingly, the response I am hearing from my constituents is gratitude. A lot of my community banks, others, really recognize the good work you are doing of bringing some accountability to a Bureau that has been totally unaccountable. So thank you for that.

Two specific things. I want to thank you for revisiting the Home Mortgage Disclosure Act regulations. I agree with the principle of reporting this information to fight against discrimination in housing, but our rules should also recognize the cost. In this case, potentially unnecessary and burdensome reporting of information and also potential privacy issues if this information were made public.

I also want to thank you for revisiting portions of the pre-paid card rule, and extending the effective date. I believe some regulation is appropriate, especially consumer-friendly disclosures. But that doesn't mean we should have regulations that preclude consumer-friendly financial products. So thank you for your work, especially in those two.

I want to start off. Earlier you were being asked about your enforcement posture, and you mentioned three buckets. You didn't get—have a chance to finish. I wonder, in 30 seconds or a minute, if you could clarify what is happening.

Mr. MULVANEY. Sure, real quickly. There is a transition, there is a pipeline when it comes to enforcement actions, which—we are running, at any particular time, about 100 investigations. And we maintain that, which means that roughly two roll on, two roll off a week, on average, right? We maintain about 100.

Chairman HENSARLING. Director Mulvaney, could you pull the microphone a little closer to you?

Mr. MULVANEY. Yes, sir. When the investigation turns up wrongdoing that we believe rises to the level of having to move to an enforcement action, then it moves into the bucket that we call sue or settle, where we sit down with folks and say, “Look, you have misbehaved, we think we have you,” and we are either going to file suit or you are going to settle and you are going to pay us, just like you would in any particular litigation. And if we are unable to resolve it there, then it moves into litigation.

And the only thing that has been different or—the only thing that has happened that seems to be noteworthy in my 5 months there is we just don’t have anything move out of sue and settle into the actual litigation.

Once there is a litigation we then pursue it to the end, and those are the 25 ongoing pieces of legislation that we—excuse me, of litigation that we continue to pursue under my leadership.

Mr. HULTGREN. Thank you. That is helpful. Let me move on to some other questions.

You have spoken at length about the need for structural reforms at the Bureau. I absolutely agree with you, especially the focus on bringing CFPB under the appropriations process. And with your semi-annual report you propose a lot of great ideas, many of which we advocated together when we served together on the Financial Services Committee.

There is one specific structural change that I am hoping you might be able to speak to after having spent a few months running the CFPB, and that would be a bipartisan commission to oversee the agency. As I know you remember, Randy Neugebauer had a bill calling for this, and Dennis Ross recently introduced a bipartisan bill

Is it still your belief a commission structure for the CFPB provides greater certainty to market participants and consumers, and would it make the agency more technical and less partisan in nature?

Mr. MULVANEY. It does. I still believe that, and I think I was a cosponsor of that bill when I was here.

Mr. HULTGREN. Yes, thank you. During your time on the committee we spent a lot of time discussing issues with the CFPB’s Qualified Mortgage rule, and the Washington-centric underwriting criteria prescribed for lenders. Ironically, the rule provides special treatment for mortgages backed by Fannie and Freddie, which arguably obstruct private capital from entering the mortgage market by giving Government loans a distinct regulatory advantage.

The so-called QM patch is set to expire on January 20, 2021. I wonder, do you plan to let the QM patch expire? If so, have you thought at all about how to make sure that there is a smooth transition for private capital to step up and fill the void?

Mr. MULVANEY. Congressman, this falls into the same bucket that I have—I mentioned a couple times on a couple of other things. This is part of our statutory 5-year look-back, and we are currently reviewing that, per the statute, collecting data, and so forth. So it is not appropriate to—me to tell you where I think it is going to go, because we don’t look at that with a pre-determined outcome, but we are reviewing those issues, and the merits that you just raised will be considered.

Mr. HULTGREN. Good. That is all we can ask.

Under the past leadership of CFPB one person was both the student loan ombudsman and the head of this Office of Students. The former is appointed by the Treasury Secretary and the latter is hired by the CFPB director. In general, do you believe it is important for an ombudsman to be impartial and independent, and will you commit to separating these two positions? I believe this will contribute to a more balanced approach for regulating private lenders of student loans.

Mr. MULVANEY. I am not sure I am in a position to commit to it, but I share some of the concerns, and we are currently reviewing the role of that particular personnel.

Mr. HULTGREN. Great. Last couple of seconds. In general, do you believe the House could improve on S. 2155, the Senate regulatory bill? I think we all believe it is full of a number of important provisions, but do you believe there is an opportunity for the House to improve it before it is sent to the President's desk for—

Mr. MULVANEY. I do, and I look forward to talking about that more perhaps later in the hearing.

Mr. HULTGREN. Thank you very much. My time has expired, I yield back.

Chairman HENSARLING. The gentleman yields back. The Chair now recognizes the gentleman from Missouri, Mr. Cleaver, Ranking Member of the Housing and Insurance Subcommittee.

Mr. CLEAVER. Thank you, Mr. Chairman.

Mr. Mulvaney, thank you for being here. Can—do you have any idea how long you are going to be director of OMB and the head person over at the CFPB?

Mr. MULVANEY. Here is what I—the OMB position I will stay as long as the President will have me. That is not a term-limited type of position. So that is a separate question.

The CFPB, which I think is what most people ask me about, here is what I know about that role, Mr. Cleaver, which is that I am allowed under the Vacancies Act to stay for 6 months, which I believe ends—expires June 22nd. And if the President has not formally nominated somebody by that point, then I would have to leave.

If, however, the President has formally nominated someone prior to that date, then I am allowed to stay until such time as that person is confirmed by the Senate.

So the bottom line is I don't know the answer to your question. We tell folks, we plan—given how long it's taken the Senate to take up confirmations, probably well into the fall or the end of this year.

Mr. CLEAVER. Yes, my guess is that there won't be a nominee by June. And so I—

Mr. MULVANEY. Then I would have to leave on June 22nd.

Mr. CLEAVER. Yes. But you can stay there until there is a nominee.

Mr. MULVANEY. No, sir. If there's no nominee made, I must vacate the office June 22nd.

Mr. CLEAVER. OK. Because, a concern I had—and thank you for the clarification. Because I do believe that Confucius, about 25 centuries ago, said, “The person who chases two rabbits catches nei-

ther.” And I believe that. And somebody else said something, “No one can have two masters.” And I believe that as well.

And in my real life, I’m a United Methodist pastor. And the Catholic and Methodist churches actually have bishops who can send them places, whether they want to go or not. And I would never, ever become the head of the AAI, the American Atheist Institute, because I just—I don’t like what they do, what they stand for. So I just wouldn’t go. That just, that would be the end. Because it would be difficult for me to go into a place when I disagree with the premise of its existence.

So I’m trying to understand the complexity. You’re a smart person, and so I’m sure you’ve done the cerebral analysis of this. So help me understand how you could accept going someplace where you have a disdain for the existence of that place.

Mr. MULVANEY. Sure. That’s actually fairly easy. This is how I explain it to people. It’s my job. I’m a member of the Executive branch of Government. I don’t get to change the law. My job is to enforce the law. The President has asked me to go over and run the Bureau of Consumer Financial Protection. There is a statute that says what it shall and shall not do, and I am doing those things.

Mr. CLEAVER. I know. But is there—you don’t feel a conflict that you’re going to a place that you are completely alien to its very being? You don’t have any kind of internal conflict to do that?

Mr. MULVANEY. In fact, I’ve never thought about this, Congressman, but I guess I could make the argument that a healthy skepticism might make me a better manager.

Mr. CLEAVER. Well, I think we all—we have to have a healthy skepticism about, I think, a lot. I think that helps us, our humanity. But to get up every day and go to a place that you wish did not exist seems to me would be some kind of internal conflict that you that’s not easy to resolve.

Mr. MULVANEY. That’s a fair point. I want to make this clear, I really enjoy the job. The people there have been really, really good to work with. Yes, there’s a small minority of people who hate me and try and undermine my leadership. But for the most part, some of the best quality bureaucratic work that I have seen since I’ve been in the Administration comes out of the Bureau. So no, I actually enjoy doing it. I just do it differently than my predecessors.

Mr. CLEAVER. Yes. My time is out. It would be a great theological argument. Thank you.

Chairman HENSARLING. Time of the gentleman has expired, sir. Now, I recognize the gentleman from Colorado, Mr. Tipton.

Mr. TIPTON. Thank you, Mr. Chairman. Thank you, Director, for taking the time to be able to be here. I wanted to follow up a little bit on my colleague, Mr. Hultgren’s question in regards to the Senate regulation bill. And you’d indicated that you’d like to be able to point to some of the legislation that we passed out in the House, how we might be able to improve that to make sure that we’re getting sensible regulations in place. And would you like to address that?

Mr. MULVANEY. I’m a big fan of regular order, and the way that I think it’s supposed to work, or at least it used to work when I watched it on television as a kid, was that the Senate would pass

a version of a bill. The House would pass a version of a bill. And they'd try and work out the differences to see if they could compromise. I think that is the best formula for arriving at the best result.

I happen to like just about everything in the Senate bill. I also recognize the fact it doesn't contain several dozen if not more bills that have passed out of this chamber on a bipartisan basis and the larger House chamber on a bipartisan basis, which does make me wonder, why can't we add that to the Senate bill?

There's some really good things, that y'all—and I was here when you did some of it—worked together to try and improve Dodd-Frank. And I think it makes complete sense to continue the debate on whether or not that bipartisan support can translate into bipartisan support across on the other side of the Hill. So I applaud what the Senate has done. I know it's not easy to pass a piece of bipartisan legislature anywhere, let alone in the Senate. And I think they've done an excellent job. I don't think that necessarily needs to be the end of the analysis.

And to the extent that y'all have done really good work to find ways, on a bipartisan basis, to improve Dodd-Frank, God bless you. And let's see if we can't add that to the Senate bill. If not, the Senate bill is a great fall back. But if it can get better, why wouldn't we accept that as a really good outcome?

Mr. TIPTON. And I appreciate that. So if we had a bill that came out of this committee with unanimous support, unanimous support on the House floor, you don't see that as a poison pill?

Mr. MULVANEY. I know how hard it is to get unanimous support in this chamber and on the House floor. So that means that the bill might actually have a chance of passing in the Senate. So I welcome any efforts to fix, to reform as much of the Dodd-Frank, especially the parts that pertain to the Bureau, as you possibly can.

Mr. TIPTON. Right. Well, and when you're talking about Dodd-Frank, I think one thing we've certainly heard from home, particularly from our small community bankers, our small credit unions, is the one-size-fits-all approach out of Dodd-Frank. And you embrace, I assume, the ability to be able to tailor those regulations to be able to meet the size of the institution, the applicability of the issues they face?

Mr. MULVANEY. Yes. I spoke to a group of community bankers just this week. And accepting for sake of the discussion that the Bureau was created in order to prevent the next financial crisis—we can have a really interesting conversation about whether or not it could do that, whether or not it's the proper role, but let's assume that for sake of this discussion. I don't think anybody in this chamber would suggest that the community banks or the credit unions were the cause of the financial crisis and they should be treated the same as the large financial institutions, which in many circumstances is what we do, what Dodd-Frank does and what the Bureau does. And I'm going to try really hard to try and fix that, to tailor regulations to the size and the sophistication of the various entities that we oversee, because I just think that makes sense.

Mr. TIPTON. Well, and I want to applaud that. I think that that's a little change in direction from the previous director, just to be

able to apply the actual law. I think, could you give a little more detail when you're talking about some of the quantitative analysis that you're looking at, when you're making some of your decisions? Maybe expand on that a bit for us.

Mr. MULVANEY. No, I just want more data. I've read through a copy of the cost-benefit analyses on a couple of the previous rules that we put out, and I was just not—it would not have met my test. And that's how I look at things, is that the lawsuit we dismissed, OK, the only one by the way—the filter that I ultimately came down to, there's a lot of factors that went into it. But the ultimate filter was, would I have brought that lawsuit if I were the director at the time it came time to file. And that was the only one I said no to, and that's why we dismissed. And I bring the same analysis to the cost-benefit analysis that I see, which is, I look at the stuff and say, if I had been the director, when this came across my desk, would this have satisfied me to be sufficient to make a final decision, the answer would have been no. And I want to do better with that moving forward to where we get better and more cost-benefit analysis before we make final determinations.

Mr. TIPTON. Great. Thank you. And Mr. Chairman, I will yield to you for any further questions you may have.

Chairman HENSARLING. I thank the gentleman for yielding. With respect, among other things, to the QM rule, the University of Maryland researchers issued a paper last year that said, quote, "Dodd-Frank aimed at reducing mortgage fees and abuses against vulnerable borrowers. The lending regulations of Dodd-Frank actually triggered a substantial redistribution of credit from the middle class households to wealthy households."

Under section 1022 of the Dodd-Frank Act, with respect to the CFPB, it says, "In prescribing the rule under the Federal consumer financial laws, the Bureau shall consider the potential benefits and costs to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services resulting from such rule."

Let's see. We are well over time. But perhaps one of the other individuals on our side of the aisle could let you address that issue.

Chairman HENSARLING. The Chairman now recognizes the gentleman from Minnesota, Mr. Ellison.

Mr. ELLISON. Thank you, Mr. Chairman. Welcome to the Committee, Mr. Mulvaney.

Mr. MULVANEY. Mr. Ellison, it's good to be back.

Mr. ELLISON. You know what the Doctrine of Absurdity is in statutory construction?

Mr. MULVANEY. I'm sorry—

Mr. ELLISON. Remember law school?

Mr. MULVANEY. —it's been a long time.

Mr. ELLISON. Yes.

Mr. MULVANEY. So help me on that one.

Mr. ELLISON. So you started out by saying that under the law you could just come in here and sit there.

Mr. MULVANEY. I think that's one interpretation. Yes, sir.

Mr. ELLISON. Right. Well, under the law of statutory interpretation, which I know you know, if an interpretation would lead to an absurd result, then you don't apply it that way. And you sitting

there playing Candy Crush, as the Chairman has pointed out, or twiddling your thumbs, as you pointed out, that would be an absurd result. So anyway, we start out with that. Let me ask you.

Mr. MULVANEY. And I hope—

Mr. ELLISON. Let me ask you a question. When you got to the CFPB, was the glass clear in your office?

Mr. MULVANEY. Yes, sir.

Mr. ELLISON. Is it frosted now?

Mr. MULVANEY. Part of it is.

Mr. ELLISON. Is that your office up there on the screen?

Mr. MULVANEY. Yes, sir.

Mr. ELLISON. So when somebody walks by your office, they are obscured from seeing what you're doing? Yes, they are.

Mr. MULVANEY. Yes. I'm sorry—

Mr. ELLISON. That's the whole point, right?

Mr. MULVANEY. Yes, no, it is the point, yes.

Mr. ELLISON. That would be the point. And yet you are the champion of transparency, right? You're the one who's saying that you're the transparency champion. You said, "We're going to spend a little bit more time on things like accountability and transparency." You said that, right?

You said a lot of things to that effect. I think one of the things you said as well is to various agencies, various speeches you've given. Even today you talked about transparency. And yet you have obscured yourself physically. And I find that to be ironic, sir. And it just occurs to me that as we're talking about transparency and all that, and how we have to be more accountable, and yet you're obscuring yourself. Well, you also got your own VPN, right?

Mr. MULVANEY. My own what?

Mr. ELLISON. VPN.

Mr. MULVANEY. I don't think so. Did I?

Mr. ELLISON. OK. Now, I don't know. Maybe we'll see. I guess the reporter out there will look into it. But my point is that—

Mr. MULVANEY. I'm on the same email system, I think, but my email address is @CFPB, so I think—

Mr. ELLISON. You know what—

Mr. MULVANEY. —they're the same system.

Mr. ELLISON. —the point is though, is that as you are describing how everyone else needs to be transparent, you are literally making it more difficult for yourself to be seen.

Mr. MULVANEY. All right, Mr.—

Mr. ELLISON. I think it's legitimate to raise this issue.

Mr. MULVANEY. How many times have you seen a witness actually answer yes or no questions in this room? And I did it to Ms. Velazquez for 10 minutes.

Mr. ELLISON. No, no, no. And let me tell you this. I've seen you—I've seen you really make yourself out to be some champion of transparency as you are obscuring yourself simultaneously. I think that's ironic. How much did it cost for you—

Mr. MULVANEY. Do you believe in transparency?

Mr. ELLISON. How much did it cost for you to put the frosting up there?

Mr. MULVANEY. Thirteen offices were frosted, for a total of \$3,500. And I've just been informed, by the way, this was the original plan, under Mr. Cordray's design, for this office.

Mr. ELLISON. Yes, yes. And yet you're the one who did it, not Mr. Cordray.

Mr. MULVANEY. Do you believe in transparency?

Mr. ELLISON. And he'd been there for quite a while.

Mr. MULVANEY. How transparent is your door on your office, Mr. Ellison?

Mr. ELLISON. You know what, I'm not a witness today. You are. Now, you're the witness.

Mr. MULVANEY. I've been to your office. I can't see into it.

Mr. ELLISON. No, wait a minute. You are—

Mr. MULVANEY. You believe in transparency, don't you? I know that you do.

Mr. ELLISON. No, you're the one—it's my—I'm reclaiming my time. You're the one who's offering yourself as some champion of transparency. This is your reason for being over there at the office that you shouldn't even hold right now. And the office that you hold, the public can't see it. Even your staff cannot see it. Who knows what you're even doing in that room right there. How many days a week are you at the CFPB?

Mr. MULVANEY. Generally, we try to shoot for Tuesdays, Thursdays, Saturdays. The way it's worked out, Congressman, is that I'm there just about every day for a period of time, and across the street about every day for a period of time. It's not been nearly as cut and dry as I'd hoped that it would be.

Mr. ELLISON. Right. And let me ask you this as well. Are you, you may have meetings in your particular office with your staff?

Mr. MULVANEY. I do. I do. I also have meetings in the conference room, which is to the left of that photo, which is not frosted.

Mr. ELLISON. Yes. So given the nature—given the decoration changes that you've made, I think it's pretty clear that you're not applying the same rules to yourself as you are to the agency that you hope to represent. I think that's too bad. And I'll yield back.

Chairman HENSARLING. Thank you, sir. The gentleman yields back. The Chair now recognizes the gentlelady from Utah, Ms. Love.

Ms. LOVE. Thank you so much. It's great to see you, Director Mulvaney, and I appreciate your candid questions and answers to those questions. I really—it's refreshing to be quite frank. As you know, on this committee, we get a lot of information. We know at least a week in advance when somebody's going to be coming in and when we're going to be doing these hearings. And we get a book that talks about what's been happening in your reports. And I put the book aside and went to my district, and I spoke to some of the small banks in my district.

I had a roundtable. Went around. Because I knew I was going to have this meeting with you. Instead of asking some of the questions that may be in here, I literally gave them the ability to ask you these questions. So one of the issues that they wanted me to talk to you about is the fact that they are willing and interested in making small-dollar loans. And I wanted to know, and they wanted to know, what your initiatives are in respect to small-dollar

loans and payday lending and what the end result is that you're hoping to achieve.

Mr. MULVANEY. Congresswoman, I have to get into more detail on small dollar across the board. The first thing that comes to mind is, we're revisiting the payday rule, which is often a small dollar rule. But I'd have to get you more specifics on what we're doing across the board on small-dollar, because that's more than just payday.

Ms. LOVE. Right. So they—like I said, they were interested in making sure that they had the ability to do these small dollar loans.

Mr. MULVANEY. Exactly. And I—

Ms. LOVE. And I think the more options, obviously, the better.

Mr. MULVANEY. It's a shame that Ms. Velazquez is not here, because when I was on the Small Business Committee, when I first got here, she and I were Chair and Ranking Member of one of the subcommittees on small business and actually did a field hearing on just that, micro lending to small business. So we know it's important. We know it's got bipartisan support. And to the extent we can help you folks make that more readily available, we'd look forward to doing that.

Ms. LOVE. OK, great. The other question that they wanted to me ask you is this. How powerful are you?

Mr. MULVANEY. Too powerful.

Ms. LOVE. Too powerful. If someone had an issue—if a small bank, for instance—say the Bureau was going after a small bank for some issue.

Mr. MULVANEY. Right.

Ms. LOVE. Who do they go to for protection?

Mr. MULVANEY. Nobody.

Ms. LOVE. Who are you accountable to?

Mr. MULVANEY. Nobody. I could make the decision to bring the lawsuit. I could make the decision not to bring the lawsuit. I could make the decision to—

Ms. LOVE. If you go and send a handwritten note to ask the Federal Reserve for \$700 million, are they required to give that to you?

Mr. MULVANEY. Yes, on October 1st, they—

Ms. LOVE. Do they—can they ask you questions about what that's needed for?

Mr. MULVANEY. I don't think so. The statute doesn't say that they can.

Ms. LOVE. Do you have a statute that explains exactly how you are to spend and if you are to spend that \$700 million?

Mr. MULVANEY. Oh, it just says "in the operation of the Bureau."

Ms. LOVE. Here's the problem that we have. I think the American people and Members of Congress have false choices here. The problem that we have is, depending on who's in that seat, one side or the other is going to be frustrated, which means that the American public is going to be frustrated, which tells me that there's a problem with how this was set up. Can you imagine if we actually had a Bureau that worked well and worked well for people?

Mr. MULVANEY. Look at it this way, Congresswoman. You don't get the same sense of frustration about the SEC (U.S. Securities and Exchange Commission) or the FDIC or the FSOC. You might

have some complaints about it, but it doesn't rise to the same level as this. We are not the same as the other financial regulators. We need to have a more down-the-middle approach so that we are taken seriously as regulators and we're not perceived as being the brainchild of one particular ideologue. And that's one of my biggest frustrations with this as an institution is that we do not have the same credibility as those other regulators do, and I hope that we can work to get to that, so that we're no longer perceived as that, which is either you love us or you hate us. We just want to be good bureaucrats and implement the law. That's what I'm hoping to do with the Bureau.

Ms. LOVE. And let me tell you who else wants you to be that way too, the people who go to these small banks. The people that have lost their ability to be able to get the resources that they need for their communities. And I know this because I was the mayor of one of those small cities that are in—that these banks are in, and that serve that community. And I have to say that these policies make this position more political than policy oriented. And I think that that's the problem that we have. Both sides of the aisle will continue to be frustrated and the American public will not be given the ability to be protected, actually get protected, if these statutes and these policies remain the same. So I'm hoping that we can at least do one thing, put this Bureau on appropriations. And I think that that will solve quite a few problems. I yield back.

Chairman HENSARLING. Time of the gentlelady has expired. The Chair now recognizes the gentleman from Texas, Mr. Green, Ranking Member of our Oversight and Investigations Subcommittee.

Mr. GREEN. Thank you, Mr. Chairman. I thank the Ranking Member as well. I thank the witness for appearing. And to be quite candid with you, I have some degree of appreciation for your candor, because it makes it clear to me where you are. So let's you and I be candid with each other. I am a person who has seen the world from the bottom up. I know what invidious discrimination is like. I've had to sit in the back of the bus. I have consumed from the colored water fountain. I have had to go to back doors. So I'm very much interested in invidious discrimination and the elimination thereof. And as a result, I want to talk to you about testing. My assumption is that you're aware of the testing process. And if you're not, I'll give a brief explanation. Are you aware of the testing process?

Mr. MULVANEY. I may know it by another name.

Mr. GREEN. Well, testing is the means by which we can send persons into a facility. Three people. Two may be African Americans, or one African American, two Anglos. And see if they're treated similarly, see if they're treated the same. It's called testing. Banks in the main do not favor testing. As a matter of fact, the laws are written such that it is very difficult to accomplish testing.

Testing is the means by which we can acquire the empirical evidence to prove that discrimination exists. So my question to you is, do you support testing in banks to determine whether or not there is discrimination?

Mr. MULVANEY. Thank you, Congressman, for bringing it to my attention. I wasn't familiar with it, but I've just been informed that

we've done it in the past. We continue to do it. And I have no reason to think we would change it.

Mr. GREEN. You would support testing to make sure—

Mr. MULVANEY. We do it as part, right now, of our—

Mr. GREEN. I believe you do it now. I believe you do it now. But I'm asking you to just go on record saying you will support testing to acquire—

Mr. MULVANEY. I see no reason to change the policy, Congressman. And by the way—and I don't want to cut you off, but there was—

Mr. GREEN. I'll allow you to.

Mr. MULVANEY. Someone asked a question before about the annual report. I wanted to point out that we specifically mentioned our role in preventing and rooting out discrimination, in the semi-annual report that we just sent to you. Someone had asked me if it was in there, and I didn't get a chance to respond to that. So we do take that seriously, and seriously enough to put in our semi-annual report.

Mr. GREEN. Well, here's what I will do. Many times when I have persons who equivocate I have to resort to this. Am I correct—

Mr. MULVANEY. Did I just equivocate?

Mr. GREEN. You did.

Mr. MULVANEY. OK.

Mr. GREEN. Am I correct in assuming that your testimony is as follows, that you will continue to test banks to determine whether or not invidious discrimination exists?

Mr. MULVANEY. And I'm telling you yes, I have no reason to change the—

Mr. GREEN. That is sufficient for me. No, I appreciate your answer of yes. That means something to me. And I appreciate your being candid. Now—

Mr. MULVANEY. Let me ask you this, Congressman.

Mr. GREEN. Sure.

Mr. MULVANEY. Is it an effective tool? Because I'm not that familiar with it.

Mr. GREEN. Is it an effective tool?

Mr. MULVANEY. Yes, sir.

Mr. GREEN. Absolutely, it is. It's used in housing. It is the most efficacious methodology available to us. There is nothing that I know of that's better. And I would challenge anyone who would just dare to engage in a colloquy with me right now to, let's talk about something that's better than testing. Other than a person confessing. And that rarely happens. So yes, it's very, very much effective.

And by the way, notwithstanding its effectiveness, this committee has fought allowing it to continue and be expanded into certain areas. The committee has. No disrespect to anybody on the committee. But that is the case.

Because I remember trying to get some legislation to move forward that included testing, and there were all kinds of contingents about how it would not work and why it would not work. But I'm bringing it to your attention because the gentleman that is with you—and I appreciate you referring to persons who are with you for assistance, I would do the same thing—Mr. Carson unfortu-

nately would not—the testing is something that makes a difference for people who have been denied access to capital.

And it is access to capital that makes a difference in the lives of people. And believe it or not, and I believe you do—discrimination exists in banking. Do you agree?

Mr. MULVANEY. I believe there are bad actors. I do, sir.

Mr. GREEN. OK. Thank you, Mr. Chairman.

Chairman HENSARLING. The time on the gentleman has expired. The Chair now recognizes the gentlelady from Missouri, Mrs. Wagner, Chairman of the Oversight and Investigations Subcommittee.

Mrs. WAGNER. Thank you, Mr. Chairman. And welcome back, Acting Director Mulvaney. I have long been interested in understanding the decisionmaking surrounding the Bureau's headquarters renovation. Under your predecessor, I didn't, let's say, get meaningful answers to simple questions on the topic. And unfortunately the committee is still in the process of investigating whether its oversight on this topic was indeed obstructed. My understanding is that the Bureau's current calculation is that it will spend all \$242.8 million renovating the building to a Class A luxury office space. Now, a building that it doesn't even own, it rents, I believe, Acting Director.

Mr. MULVANEY. That's correct.

Mrs. WAGNER. I understand that some improvements to the building may have been needed, but can you explain to me, briefly, because I have several other questions, why it was necessary to spend a quarter of a billion dollars on luxury offices for the CFPB?

Mr. MULVANEY. It's a real short answer, because I don't know.

Mrs. WAGNER. Stunning. Let me unpack this just a little bit. Acting Director, as you know, Members of the committee have long sought to understand who made the initial decision to renovate the headquarters building. And the committee repeatedly requested, and I did also, requested records relating to this issue. But then Director Cordray repeatedly, and I quote indicated that he, "did not know the identity of the individual who made the initial renovation decision." Is that correct?

Mr. MULVANEY. I'm sorry, could you repeat the question? Someone was—

Mrs. WAGNER. We've sought for some time to understand who made the initial decisions to renovate. And then it was Director Cordray at the time who repeatedly said that he didn't know the identity of the individual who made the initial decision; is that right?

Mr. MULVANEY. I do believe that's—I was in this committee, and I think I asked similar questions of Mr. Cordray and got similar answers.

Mrs. WAGNER. So that's right. Now it's my understanding that we know from the Inspector General that the decision to renovate was made after January 21, 2011. And we know the decision was publicly announced on February 18, 2011. So it stands to reason that the initial decision to renovate was made during that 28-day timeframe, is that correct?

Mr. MULVANEY. Again, that's an assumption you can draw from IG's report, yes, ma'am.

Mrs. WAGNER. Now, in response to a recent letter about the building, you undertook a supplemental records search, and I thank you for that, and have sent us a supplemental records production, under a detailed cover letter, which I now ask, Mr. Chairman, be placed in the record, with appropriate redactions to protect personal information.

Chairman HENSARLING. Without objection.

Mrs. WAGNER. Now, this production contains records that I am shocked were not previously produced. It contains a January 24, 2011 Decision Memorandum and Information Memorandum that appears to have been placed in Elizabeth Warren's briefing book for a staffing meeting. Now, I remind you that she served as assistant to the President and Special Advisor to the Secretary of the Treasury on the Bureau at the time. They recommend in this briefing book that she approve entering into contracts for design work to prepare for renovations to the headquarters building. The production also contains staff communications and calendars that circumstantially indicate that Ms. Warren approved this recommendation. Do I have that right, Acting Director Mulvaney?

Mr. MULVANEY. I think that's certainly a conclusion you can draw from those materials, yes, ma'am.

Mrs. WAGNER. Were the Memorandums to Ms. Warren located in some hard to search location?

Mr. MULVANEY. It was not.

Mrs. WAGNER. Were these Memorandums ever subsequently circulated within the Bureau?

Mr. MULVANEY. That I don't know. All I know is that we found them. We thought that they were responsive to the previous request. And we've disclosed them.

Mrs. WAGNER. Where were they?

Mr. MULVANEY. They were in the director's file.

Mrs. WAGNER. The director's—

Mr. MULVANEY. The office of the director's file, I think.

Mrs. WAGNER. Office of the director's file.

Mr. MULVANEY. Yes. You want to ask me if that would have been—

Mrs. WAGNER. So this committee—

Mr. MULVANEY. —if that would have been the first place I would have looked for stuff? Yes.

Mrs. WAGNER. This committee asked repeatedly. We have oversight and investigation responsibilities. \$242 million, a quarter of a billion dollars spent on luxury renovations on a building we don't even own, the Bureau rents. We asked repeatedly for 6 solid years, and we find out that they're in the Director's office file. Mr. Chairman, I have further questions about these records that were not previously produced or referenced, and about the issue revealed by these records. I trust that the Bureau will cooperate with any future committee oversight on this topic, sir?

Mr. MULVANEY. Absolutely.

Mrs. WAGNER. I thank you. Mr. Chairman, my time has expired. I yield back.

Chairman HENSARLING. The time of the gentlelady has expired, and the Chair now recognizes the gentleman from Maryland, Mr. Delaney.

Mr. DELANEY. Thank you, Mr. Chairman. Mr. Mulvaney, it is nice to see you back here.

You have probably gotten a lot of detailed questions about what is going on at the CFPB, so I wanted to more focus on how you think about it because we are often confronted with a lot of false choices here in Congress, as you well know, having served here. We either have to completely repeal Dodd-Frank and every aspect of it, or we have to defend every single word of it.

Same thing with the Consumer Finance Protection Bureau. It either has to be repealed or eliminated, as you have advocated for in the past, or every single word of the statute that creates it is perfect.

So have you thought about approaching this in a way where you actually come out very strongly supporting the Consumer Financial Protection Bureau, saying you believe in its mission and it is an important institution, and you hope it endures across the long term; however, to over-compensate for some of the comments you have made in the past that obviously make people suspicious about your intentions with respect to this agency, but at the same time you put forth a list of very constructive improvements you would like to make? Have you thought about approaching this that way?

Because maybe I have missed it, but I have not heard you come out strongly in support of both the mission and the importance of the institution across the long term, and that you will not do anything to undermine its existence or its ability to function, both in the short term and long term; however, you do see some reforms that need to be made?

Mr. MULVANEY. Yes. I hope that is what you would take away from the recommendations, which is the recommendations are not that we repeal Dodd-Frank. y'all want to do that, that is your prerogative. Right? I am a bureaucrat. I am a member of the Executive branch. I am working at the Bureau. The Bureau shall exist. I cannot change that. So if it is going to exist, this is what could be done to improve it. And that is what I have tried to do.

As to sending the larger message about whether or not I—how I feel about it, I have always been a strong believer, especially in what we do for a living, or what I used to do for a living when I sat out there, which is look at what folks do more than what they say. I have not blown the place up.

Mr. DELANEY. But sometimes what you say matters because—

Mr. MULVANEY. It does.

Mr. DELANEY. —the tone at the top is actually really important in any organization.

Mr. MULVANEY. I absolutely agree.

Mr. DELANEY. And other than in your prior life here sitting among 435, that is one thing. But now you are in a leadership position in the White House.

Mr. MULVANEY. Right.

Mr. DELANEY. You are obviously getting an expanded portfolio. And what is so—if you were to say here, for example, and I would like to hear you say this if you agree with it, that you support the mission of the Consumer Financial Protection Bureau, and you would like to see it endure and exist across the long term.

Mr. MULVANEY. I support consumer financial protection. And let me tell you what I have told the people—

Mr. DELANEY. But that is—

Mr. MULVANEY. Let me tell you what I have told the people who work there, and you can draw your own conclusions, which is that I said, “Look. This is a brand-new agency. OK? And right now this agency is associated with one person. And you cannot be taken seriously as a regulator if you are the brainchild or baby of one particular person on one side of the aisle. And if you want to be taken seriously as a regulator, you have to be able to be more than that.”

This is the very first transition that the Bureau has ever gone through. OK? From one party to another. And they have to learn how to do that if they are going to be taken seriously. Rather than—

Mr. DELANEY. But can you—reclaiming my time.

Mr. MULVANEY. Yes, sir. Yes.

Mr. DELANEY. Rather than supporting consumer finance protections generally, which is what I heard you say just then, do you support the existence of the Consumer Financial Protection Bureau as an enduring part of our Government looking out for the best interests of consumers, being funded by the Federal Reserve, but with some reforms to make it more accountable, more transparent and maybe—

Mr. MULVANEY. I absolutely think there are better ways to protect consumers than we are doing today. I recognize the fact that there is and can be a role for the Federal Government in protecting consumers. This is especially true when you are dealing with Federal financial institutions. It would seem to fall to the Federal Government to oversee them.

Mr. DELANEY. So I am interpreting your answer, respectfully, to say that you cannot say you support the existence of this Bureau across the long term. But you support the concept of consumer financial protection.

Mr. MULVANEY. I think that is what I—

Mr. DELANEY. Very quickly, one of the concepts I have put forth is the notion of a nonprofit bank to serve distressed communities. Banks are not allowed to be nonprofit right now.

Mr. MULVANEY. Yes. I am not—

Mr. DELANEY. And it seems to me that if you could allow a nonprofit bank so that it could raise philanthropic dollars to support its mission, it could actually be a positive force in some of these communities.

While that is not specifically under your purview, do you support a concept like that?

Mr. MULVANEY. Would the not-for-profit be a Government institution or a—

Mr. DELANEY. No. It would be a nonprofit like anything else.

Mr. MULVANEY. What you do with your money is your business.

Mr. DELANEY. So you would support regulatory changes to allow nonprofit banks?

Mr. MULVANEY. I would be happy to take a look at it. But again, what I am faced with is—

Mr. DELANEY. This is an enterprise that could actually be the kind of thing we need to help consumers in some of these markets

because it would have a double bottom line, self-sustainability but also a mission.

Mr. MULVANEY. If you want to—if you want to lend money to people and take a lower-than-market rate of interest, that is your business.

Mr. DELANEY. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Arkansas, Mr. Hill.

Mr. HILL. I thank the Chairman. I appreciate the hearing. It is good to have Director Mulvaney before us today, and I appreciate his public service. It is a 7-day-a-week job just to be one of your jobs, so we appreciate the sacrifice from your family, stepping away from the house.

Mr. MULVANEY. It keeps me off the street. The triplets are teenagers now; they do not care to see me, anyway.

Mr. HILL. A fair point. I will not go there.

But I do want to visit about TILA-RESPA (Truth in Lending Act-Real Estate Settlement Procedures Act). This is something you know I have had a keen interest in since I came to Congress after 3 decades in the industry. And Mrs. Warren, when she was making the rounds before the formation of the agency you are the acting director of, she said, “Well, one of the key things we are going to do is make forms simpler for consumers and simpler for banks.” That was a goal of the agency, at that time unnamed, I guess, the Consumer Bureau.

Mr. MULVANEY. How did we do on that?

Mr. HILL. Well, the exhibit A for that was a merger of the truth-in-lending statement and the real estate settlement statement. We are going to make it one form. It is going to be simpler. Consumers are going to be benefited by faster closing, lower costs. It is going to be easier for community institutions to loan them mortgage money. And I would argue, 8 years later, that that is not the case, Director Mulvaney, and it has been made worse by the rulemakings by your Bureau.

This merger is called TRID (TILA-RESPA Integrated Disclosure). It cost the agency \$1.5 billion in trying to get computer programs to work. It still does not work. I still have complaints about it, extending mortgage closing, raising the cost of mortgages. And one thing I have heard time and time again, and Director Cordray and I have had candid conversations about this, why can't the agency issue legally binding guidance to mortgage originators that they can interpret this rule, and title companies, safely and be held safe from prosecution or from action of the Bureau's investigation? That passed the House overwhelmingly.

And I asked Director Cordray, who was generally supportive of that, “Why don't you do no-action letters, like we have at the IRS or at the sector, where a lawyer can write you and say, if we do X and Y about a closing related to the TILA-RESPA form, that they have certainty, legal certainty.”

Do you support the concept of no-action letters as guidance?

Mr. MULVANEY. I will say this. We have—I certainly believe that is within our authority to do exactly that. Toward that end, we have made what is called a request for information on TILA-

RESPA, on TRID, to try and get the type of input that you have just suggested because I do believe that is within our authority to do, and that it can bring clarity to the law and to the regulations in a way that would be beneficial to both financial services providers and consumers.

Mr. HILL. We want to lower these costs. We do want it simpler, and it is not.

Mr. MULVANEY. I used to—

Mr. HILL. And we want it less costly, and what the Bureau has done for all these years is offer webinars that are confusing, hard to find, not informative, and unhelpful to market participants. So I hope you will consider this as an official comment.

Mr. MULVANEY. Just by pure coincidence, we are also reviewing our webinar process as well.

Mr. HILL. Good luck with that if you can find it on your website.

Let me change subjects to data breaches. I noted in some of the material in this hearing that the Bureau has 233 confirmed breaches of consumers' personally identifiable information (PII) within the Bureau, and that in the consumer response, another 840 suspected PII breaches by financial institutions using your portal, and that you have investigated that.

Do you support a data security breach notification? If Mr. Luetkemeyer's bill is made law, do you support a breach notification standard?

Mr. MULVANEY. I think it is a good practice.

Mr. HILL. And what have you done specifically to protect our consumers' information?

Mr. MULVANEY. A couple different things. This has gotten a little bit of attention, and I think it was—a lot of it was inaccurate. We immediately stopped data collection once I took over, once I was assigned to the office, for the purpose of analyzing our data security.

We have made certain accommodations within the enforcement areas to allow data collection to continue. For example, we will use other agencies' systems and so forth. We will collect data onsite but not offsite. I am—the rule is this: I am not going to hold somebody to a higher standard than we are willing to hold ourselves, and I am not satisfied with our data security right now at the Bureau.

Mr. HILL. Well, I appreciate that. It is an important area. I want to be on record supportive of your four ideas for improvement in the agency: Putting it on appropriations, and having an IG. And I would also encourage you, on behalf of the people you oversee, to have an ombudsman so that someone you regulate can have someone to call besides your office and have guidance on whether they have done right or wrong.

Thank you. I yield back.

Mr. MULVANEY. Thank you, sir.

Chairman HENSARLING. At this point the gentleman has expired.

For what purpose does the Ranking Member seek recognition?

Ms. WATERS. Mr. Chairman, pursuant to Clause (d)(4) of Committee Rule 3, I request that the gentlelady from Ohio be recognized to question the witness for an additional 5 minutes upon the conclusion of the time allotted under the 5-minute rule.

Chairman HENSARLING. Pursuant to Clause (d)(4) of Committee Rule 3, the Chair recognizes the gentlelady from Ohio for a total of 10 minutes.

Mrs. BEATTY. Thank you, Mr. Chairman and Ranking Member. And to our witness today, Mr. Mulvaney, thank you for being here today.

Today is a meeting that is heavy on my heart. April should be an exciting time for me as we celebrate the 50th anniversary of the Fair Jobs Act, led by then-Martin Luther King. And people embraced, and President Johnson signed it because of much of the unrest and discriminatory practices and consumers being mistreated. So I echo the comments of my colleagues before me. But you are here, so I am going to ask you the questions.

It has clearly been established that you have two full-time jobs. In my world, to have two full-time jobs, one that you found was a joke and the other one you wished it did not exist, and to get paid for doing a full-time job that it is impossible to do two full-time jobs in the world that we live in and for the type of work that is expected, not only by our consumers but by your colleagues on both sides, I think that is the reason why we cannot work being two full-time jobs, being paid at those salaries.

But with that said, you have brought some people with you today. Are these part of your top staff team—

Mr. MULVANEY. Yes, ma'am.

Mrs. BEATTY. —that is here? Do you have any African Americans in top positions?

Mr. MULVANEY. No, ma'am.

Mrs. BEATTY. That is a problem, and that is a problem for me. Do you know what section 342 is of the Dodd-Frank Act?

Mr. MULVANEY. No, ma'am. I do not know it by heart.

Mrs. BEATTY. That is even great—you are going to sit here and tell me that you came before this committee, and you sat here on this committee, and you know that for the 6 years I have been here, the question that I have asked of every single person coming here—I have asked them about OMWI and section 342. You are the only one to say that you had no knowledge of what it is, and you were a former Member of Congress. I find that appalling, insulting, and unacceptable.

Now, tell me what you are going to do about not understanding what 342 is?

Mr. MULVANEY. I know what the OMWI is, ma'am. It is just I did not recognize it as section 342. We do have an Office of Minority and Women Inclusion.

Mrs. BEATTY. So if you know what OMWI is, explain to me—you just told us that you have 300—or your staff informed you since you wanted to bring it to our attention—that there were 370 high-paid people. How many women are in those high-paid positions? How many African Americans and Hispanics are in those high-paid positions?

Mr. MULVANEY. I have that breakdown for you, ma'am, if you want to give me a chance to get it to you. I have the breakdown by race. I have the breakdown by gender in terms of who makes what at the agency—at the Bureau.

Mrs. BEATTY. Well, I would definitely like it.

Mr. MULVANEY. By the way, and to your opening point, you know that I only get paid one paycheck. Right?

Mrs. BEATTY. I do.

Mr. MULVANEY. You seemed to imply that I was taking two, and I am not. I have only—I only get paid my OMB salary. I do not get paid an additional salary.

Mrs. BEATTY. And I fully understand that. I guess the question is, I do not know how you get paid for a full-time job when you have two full-time jobs. I find it hard to believe that for the two types of jobs that you have, that you would be able to do due diligence in full-time on either one of them.

So you get paid a full-time salary for doing 50 percent, if that, on each of the jobs. And I am just saying, consumers would love to have a job where they could only work half-time and be paid full-time.

Mr. MULVANEY. Actually, I would suggest to you that I work more than 100 percent of the time. But that is fine.

Mrs. BEATTY. Well, let me just also move on and say—

Mr. MULVANEY. In theory, I would only have to—

Mrs. BEATTY. —and say earlier, as my colleagues wanted to—we get into this comparison thing. We come here, and whether it is Rich Cordray as the former, or whether it is spending time, if it is President Obama, and as my colleague's open—and one of my colleagues in their opening remarks started talking about the former director, Director Cordray from my home town running the clock out, well, I think it is good to run the clock out when you have substantive things to say, and you have facts and answers.

So maybe when you do not run the clock out, it is because you do not have a lot to say or you do not have a lot of knowledge to say about it. So I guess I would like to ask you, what is the number one thing that you are going to do to change to help consumers? You have not filed cases. We know what we have heard in the past, being able to put billions of dollars and returning to some 12 million consumers.

So what is it, very quickly, that you are going to be able to do that I can go back home and say to my constituents who are confronted with the high loans of payday lenders, that I can go back and say to my minority communities that somebody is fighting for you? How do I tell them that when you do not have people who look like me in high positions, you do not readily know what those numbers are for women?

We know right now that women in general and women of color make lesser on the dollar than our white male counterparts. You know that we have a Ranking Member who has worked tirelessly in her entire career fighting for the underdog and the consumers. And you come here absent of that and absent of readily having answers?

Mr. MULVANEY. No, ma'am. Not at all. In fact, I think I got—I think I have tried to answer every one of your questions, and you have raised a couple different things.

The senior career staff does include African Americans and women. We will continue to do what the Bureau has done in the past, which is to enforce the 18—18 consumer financial protection acts that we are charged with by the statute. That is not changing.

The fact that we might not try to push the envelope the same as the previous Administration did—

Mrs. BEATTY. I am not comparing it to the previous. I am only asking you what you are going to do.

Mr. MULVANEY. That is what we are going to do. I have sat here all day—

Mrs. BEATTY. I asked the same question to Director Cordray.

Mr. MULVANEY. I have sat here all day and said I am going to enforce the law. I am going to follow the statute. I am not going to shirk those obligations. I am going to try to be a good bureaucrat and try to encourage the folks who work at the Bureau to do the exact same thing.

For that reason, we still have 100 investigations of potential violations of those 18 laws ongoing. We have a dozen or so that might turn into lawsuits that might get settled. We have 25 that are actively being litigated. That is still ongoing at the Bureau. So you asked me what I am going to do, is I am going to enforce the law because that is what I get paid to do.

Mrs. BEATTY. OK. Mr. Chairman, I would like to yield back the balance of my time to the Ranking Member.

Ms. WATERS. Thank you very much.

I would like to—last year, former Director Cordray of the Consumer Bureau ordered Fay Servicing to pay harmed consumers up to \$1.15 million for its illegal mortgage servicing practices. In addition to other remedial actions, the Bureau found that Fay kept borrowers in the dark about crucial information. They needed to receive foreclosure relief and stay in their homes.

Mr. Mulvaney, I have constituents who were harmed by Fay Servicing's failure to provide them with the protections against foreclosure that they were entitled to by law. Can you give us an update on the status of how many affected consumers have received remedial compensation to address this wrongdoing? Can you provide copies of both the compliance and redress plans required by the consent order and what more is being done to make sure Fay has corrected its practices?

Mr. MULVANEY. I can provide you with that all that information. I cannot do it as I sit here, Ms. Waters. I will say that that was a matter I think was concluded before I got there, so that is why it is not readily available to me.

Ms. WATERS. OK. I would like to have that information as soon as possible.

Mr. MULVANEY. I would be happy to do that.

Ms. WATERS. Let me go on further. I am concerned about payday lenders. And you have said that payday lenders have no influence over you. As you are aware, Janet Matricciani, I believe is her name—

Mr. MULVANEY. I do not know how to pronounce it, either.

Ms. WATERS. —is a former chief executive at World Acceptance Corporation. She is one of your contributors. I know you know her. She is one of the Nation's biggest payday lenders. Under Director Cordray, the Consumer Bureau started an investigation into World Acceptance Corporation for its abusive practices.

After you showed up at the Consumer Bureau, that investigation was dropped. Just 5 days after the information was dropped and

2 days before she stepped down as CEO of her payday lending company, she reached out to you at your personal email address about her interest in becoming the head of the Consumer Financial Protection Bureau.

So what is all of this?

Mr. MULVANEY. Well, actually, I do not think it is entirely accurate, is what it is.

Ms. WATERS. What is not accurate? Which part?

Mr. MULVANEY. The part about I dropped the investigation.

Ms. WATERS. Did you have anything to do with the investigation?

Mr. MULVANEY. No, ma'am.

Ms. WATERS. Did you at all weigh in on it?

Mr. MULVANEY. No, ma'am.

Ms. WATERS. Did you know about it?

Mr. MULVANEY. No, ma'am. Oh, no, that is not true, because I—they had been going on for, I think, several years.

Ms. WATERS. OK. Let's go back. So you did know about it. It was brought to your attention. Did you say anything? Did you do anything? Did you take any action at all?

Mr. MULVANEY. No, ma'am. Zero. None.

Ms. WATERS. No involvement whatsoever?

Mr. MULVANEY. No, ma'am.

Ms. WATERS. Has it been dropped?

Mr. MULVANEY. Yes.

Ms. WATERS. Who did it?

Mr. MULVANEY. Career staff recommended that it be dropped about the time that I took over—

Ms. WATERS. Recommended to whom?

Mr. MULVANEY. That actually does not get reported up to the director's office; they make that determination themselves.

Ms. WATERS. So they did it without your knowing anything about it?

Mr. MULVANEY. Yes, sir—ma'am.

Ms. WATERS. Are you sure you want to answer that way?

Mr. MULVANEY. Yes, because it is the truth.

Ms. WATERS. Well, that creates some real suspicions that you would have this corporation—

Mr. MULVANEY. Only on your—only on your part, ma'am.

Ms. WATERS. Well, it would with you because if the fact that you do not like the Consumer Financial Protection Bureau that you—

Mr. MULVANEY. I could look you in the eye, and would look you in the eye—

Ms. WATERS. On my time.

Mr. MULVANEY. I had nothing to do with that action.

Ms. WATERS. On my time. I am reclaiming it. It does raise a lot of questions because of the fact that you have stated more than once that you do not like it. You do not want it to exist. And we are going to delve further into what happened with this decision that you claim you have no knowledge of that was made by you. We will find out more about this. I yield back.

Mr. MULVANEY. And you will only find out that I told you the exact truth.

Chairman HENSARLING. The gentlewoman's time is expired. The gentlewoman's time is expired.

The gentleman from Minnesota is recognized for 5 minutes.

Mr. EMMER. Thank you, Mr. Chair, and thank you, Director Mulvaney, for being here. It is good to see you. I will get right to it since you have been here for a long time already and we hope to have this wrapped up soon.

In 1975, Congress enacted the Home Mortgage Disclosure Act. This important law exposed and helped eliminate discriminatory lending practices, particularly against minorities. In short, HMDA, as it is commonly referred to, helped more Americans realize their dream of owning a home.

Over the years, the disclosures required by Regulation C have expanded away from the original intent and have actually become an obstacle, preventing small, medium, and local lenders from helping aspiring homeowners.

In 2015, your predecessor at the CFPB demanded from lenders more than double the amount of data originally required by HMDA. The change to Regulation C was supposed to take effect last January, but before it did, in December 2017, you provided relief for financial institutions trying to comply with the proposed changes, essentially delaying compliance until 2019.

Now, could you agree with me that this actually helps smaller lenders in the marketplace?

Mr. MULVANEY. It does. We determined, Congressman, from talking to folks that they were having a great deal of difficulty implementing the rules. We provided the additional time.

Mr. EMMER. And you were opening—you announced you were going to reopen the rulemaking process?

Mr. MULVANEY. On a couple different points, including, as you mentioned, the fact that the previous director had almost doubled, in fact more than doubled, the data sets beyond what was required by the statute; and then also going to take a look at the size and the complexity of the financial institutions that are covered by the rule.

Mr. EMMER. Right. Director Mulvaney, do you agree that the focus of the disclosures in Regulation C of HMDA should focus on the original intent of the law?

Mr. MULVANEY. I do.

Mr. EMMER. To expose and help eliminate discriminatory lending practices?

Mr. MULVANEY. Absolutely.

Mr. EMMER. Do you agree also that it is important for consumers that smaller, local community banks, community lenders, credit unions, that they are important to ensure consumers have full and fair access to home mortgages and other covered loans?

Mr. MULVANEY. I do.

Mr. EMMER. And are you aware that many small banks in my State of Minnesota and other smaller lenders were reconsidering their ability to actually even offer home mortgages and other covered loans because of the additional compliance costs created by this rule?

Mr. MULVANEY. And that is what is so frustrating is it is so oftentimes what we do is I do not think we give enough consideration to what the intended or unintended consequences are, which is that people are not going to have access to the credit and the capital

they need, which is extraordinarily important, especially to folks who are on the lower end of the economic spectrum because it is the way you get up on the economic spectrum. So we have had several examples of that here today, especially where it comes to HMDA.

Mr. EMMER. The rule proposed by your predecessor would have cost lenders an additional \$326 million in compliance costs. Do you know if your predecessor received any qualitative or quantitative cost-benefit analysis on this topic?

Mr. MULVANEY. I am sure there is a cost-benefit analysis on file. I have no idea as to how efficacious or sufficient it was.

Mr. EMMER. Now, this additional cost—again, I asked you earlier if the relief you provided did not help more proportionately the smaller lenders. That is because the additional cost, larger lenders can absorb those additional compliance costs.

It is these small family owned community banks, member-driven credit unions, they are the ones on Main Street in my State, Minnesota, and I suspect all across the country, that get hit the hardest with these additional costs. And just rephrasing, I think what you just said, so I understand it in my simple Minnesota way, the additional costs, you can protect the consumer. But what are you protecting them from if they do not have any option to get a loan for a new house, a new car? Shouldn't that be part of the concern?

Mr. MULVANEY. It is. In fact, that is hard-wired into the statute that we are supposed to do that.

Mr. EMMER. Right. Representative Hill discussed the data issues that have come up. You had testified to Senator Warren back in January of the 233 confirmed breaches and the 840 suspected breaches of the CFPB portal. Doesn't this cause you a concern, with this double the data rule, going to your testimony today that you are not comfortable with the data security at the agency?

Mr. MULVANEY. The more we take in, the more we can lose. And that is why I am very much concerned about both the scope of the rule and about our cyber-security.

Mr. EMMER. So with all the additional costs, the potential loss in the marketplace of opportunity for consumers, the data problems, why not just get rid of the rule? Why reopen the process?

Mr. MULVANEY. Well, because that is the law, and you need to go back to your folks back home and encourage them to participate in that process because we will go through notice and comment. We will do it the right way. And I need to hear from those folks. I need to hear folks all across the spectrum, from consumer advocates, consumers themselves, financial institutions. They need to participate in that process because that is the way the system is supposed to work.

Mr. EMMER. Thank you.

Mr. TROTT [presiding]. The gentleman's time has expired. I now recognize myself for 5 minutes.

Director Mulvaney, thank you for being here. It is actually productive to have someone here who listens to our questions and tries to answer them. And you have been criticized for having two full-time jobs. I, for one, thank you for your work and your service. And someone as bright and with your work ethic, I wish you had two other full-time jobs in addition to that.

But with respect to your office, I have to say that for \$250 million, I am not all that impressed with your office. And I am curious: How long is the lease on that building?

Mr. MULVANEY. Oh, I forget. I have five different leases we track, Congressman. I am sorry. I cannot remember off the top of my head how long the lease is. The lease is with—is it the OCC or OTS? It is 20 years with two 5-year options, and it is with the OCC. The Office of Comptroller of the Currency owns my building.

Mr. TROTT. Thank you. Before we dive into the CFPB, I would be remiss if I did not take this opportunity just to put a plug in for the Great Lakes Restoration Initiative Fund. From Michigan, the Great Lakes are important to the Midwest and to our country. The Great Lakes have over 20 percent of the world's fresh water supply, and the funding is critical. And in the grand scheme of things, I do not think it is even as much as the CFPB's budget, so—

Mr. MULVANEY. Point well taken. I will mention that to the OMB director next time I see him.

Mr. TROTT. Thank you. I want to clarify one point. You have been beat up a little bit today by the Ranking Member and Mr. Sherman and Mr. Ellison for your initial comments where you suggested that the statute just requires that you appear and not testify.

And I think maybe your subtlety has been lost because you were not here saying that in asking for a gold star for being willing to testify, and get kudos for that. I would like to make this point and make sure you agree with this. You are here saying that you want to be accountable. You want to be on appropriations. And you do not believe the statute, the way it is written today, makes a lot of sense in terms of our job as Members of Congress. Is that a fair summary of your position?

Mr. MULVANEY. Look at it this way. Let's say that the next director comes in and takes the position, you know what? So many folks have talked about how independent this agency has been. In fact, its very founding was supposed to be independent. It was supposed to be explicitly removed from oversight by Congress. We were not supposed to be micromanaged by Congress.

There is a lot of language out there—it is from Elizabeth Warren, Senator Warren, amongst other people—who go exactly to that point. If you take that and combine that with the actual language of the statute, I think you could make a very compelling case that I do not have to answer your questions and neither does that person. I think that is wrong.

Mr. TROTT. Do you think the President should be able to fire you without cause?

Mr. MULVANEY. I do.

Mr. TROTT. OK. So I really enjoyed your January 23rd article in the journal, and I underlined three sections of it. In one, you said, "The Bureau's previous governing philosophy was to push the envelope aggressively under the assumption that we were the good guys and the financial service industries were the bad guys." And I could not have said it better myself.

Under the prior tenure of Director Cordray, his attitude was, business is bad, particularly banks. And if you are in the banking

business and you are profitable, then you must be taking advantage of consumers. And my concern is there are numerous articles out there, there was a great 1-1/2 years ago in "The Atlantic" magazine, about the culture of the CFPB and the politically motivated culture there and this mind set. And you have said great things about the bureaucrats there and how talented and dedicated they are this morning, and I appreciate those comments. But can you comment on the culture? Are you able to change that culture so that this mantra of business is bad is not the prevailing thought of the bureaucrats?

Mr. MULVANEY. I think if he were still here, Mr. Delaney and I would agree on more than he probably recognizes, which I do agree that the personality of an organization often takes on the personality of the person, the man or woman in charge. And to an extent that Mr. Cordray had that attitude about business and about banking and about the role of the CFPB, the Bureau, I think that pervaded the operation of the Bureau.

I have an entirely different attitude toward what financial services are and what they can do to help people. So we are going to look at this with a healthy balance of the folks who make loans and the folks who take loans and try and do our best to protect consumers without removing choices from consumers.

Mr. TROTT. In the editorial you also talk about the CID process, and you say where do the people charged go to get their time, their money, their good names back? If a company closes its doors under the weight of a multiyear CID at the CFPB, what about the workers that are laid off as a result?

In my prior life, I can tell you I know of a thousand people that lost their jobs because of the CID process. It really—when the Federal Government comes in, there are not many good things that happen, even for good actors. And my question is, have you changed the CID process or have you looked at it such that if it is a bad actor—if it is a bad actor, who cares what happens to him? If it is a good actor and there is no finding and the file is closed, the company shouldn't be put out of business.

Mr. MULVANEY. Mr. Chairman, I can change the way the place is run while I am there. Only you folks can change the underlying DNA of the Bureau. That means changing the statute.

Mr. TROTT. Great. Well, I appreciate your comments. I also thought giving guidance is important because, as it existed in the prior Administration, the CFPB acted more like the Mafia than a consumer protection agency.

My time has expired. I recognize the gentleman from Georgia.

Mr. LOUDERMILK. Thank you, Mr. Chairman. And thank you, Director Mulvaney, for being here today. Listening earlier, when you were talking about the statute and how—the interpretation, I think you are exactly right. The way the statute was written doesn't compel you to answer any questions here, but you are here answering the questions.

Mr. MULVANEY. Right.

Mr. LOUDERMILK. And I think that is a testimony to you wanting to do good government—governance. And the testimony that you want to operate the organization in the way it should be operated in protecting consumers. And I think that is what we are really

here to get at, is to have this flow of information. And I apologize that some have turned this into just trying to be a gotcha moment, when I think Americans are really tired of that.

There is something that you said a little while ago that resonated with me, and it—you said, the more we take in, the more we have to lose, which goes back to something, a principle that, when I worked in the military and with 20 years in the IT industry was, you don't have to protect what you don't have. In other words, if you don't need data, don't have the data, don't collect the data.

And I appreciate that you had mentioned to Mr. Hill earlier that you stopped the Bureau's collection of consumer information, as you came in. Again, data collecting that you don't have to have, you don't necessarily need to have, but becomes a risk to be compromised in the future.

And can you elaborate a little more on the specific items that you are looking into to improve CFPB's cybersecurity? Because that is a big concern to a lot of Americans today, especially with agencies that do hold a lot of data.

Mr. MULVANEY. Well, what we did was prioritize and triage, Congressman Loudermilk. And what we did is we treated the data within our enforcement area one way, because we have to have it in order to enforce the law. You have to have some information. So we have tried there to make accommodations. We have worked with some of our sister agencies whose systems are a little bit more robust than ours are to hold our data for us. We have limited some of the stuff that we take in. We have done some more onsite, where we look at the data but don't collect it. To your point, we might need it but we don't need to keep it. So we have tried to make accommodations there.

We have not had as much—it has not been as quick over in the supervision area. Another thing that we do there, which is different from enforcement. They are related but not the same. Because we have those preexisting relationships with, say, the Department of Justice when it came to enforcement, did not have those preexisting relationships when it came to supervision. So it has been a little slower there.

I will also tell you that we have undertaken to do some let's say third party—we have hired folks to see if they can hack into our system.

Mr. LOUDERMILK. Good.

Mr. MULVANEY. I don't want to go into any more detail than that. I have talked to you about it privately. But we have done, I think, that which you would have done under the same circumstances to try and make sure that our systems are protecting the data so that we don't have the same type of problems that we sometimes accuse people of having in the marketplace.

Mr. LOUDERMILK. I highly commend you because of all the agencies that I have dealt with on this issue, you are the first one who has laid out a plan that actually hits what we should be doing, and I commend you for that.

I would like to follow up on something that Chairman Hensarling asked earlier about the CFPB's Qualified Mortgage rule, but you didn't have time to fully answer that.

During your required 5-year review of the rule, will you be looking at both the costs and the benefits for consumers in this rule?

Mr. MULVANEY. That is what the statute says to do, so we will be doing it.

Mr. LOUDERMILK. Well, thank you. And while we are talking about the statute, I have looked at the statute and I don't see CFPB in the statute anywhere, Consumer Financial Protection. What is the name of the organization and why do we call it CFPB?

Mr. MULVANEY. I don't know why we call it the CFPB, but that is not the name of the organization. The organization is the Bureau of Consumer Financial Protection. That is the name of the statute, Title X. That is the subheading under the Bureau. That is the defined term under the Bureau. The Consumer Financial Protection Bureau does not exist.

Mr. LOUDERMILK. So I assume if there are any legal filings, it is all done under the name of the statute, not the CFPB?

Mr. MULVANEY. The stuff that we send to the Federal Registry—Federal Register is done in the name of the Bureau of Consumer Financial Protection. I was surprised to find out that our lawsuits are actually brought in the name of the Consumer Financial Protection Bureau, which surprised me, and it is a practice we are going to change. But the CFPB technically does not exist.

Mr. LOUDERMILK. Wow. One closing thought. Dealing with transparency, that has been brought up and a lot of accusations have been made about your transparency here. What I have seen is a lot of transparency from this organization. In the previous leadership of this organization, there was a high lack of transparency when it came to this committee asking for information that we needed. And I believe and I hope that that will be different under your directorship, that we will get information that we request and ask for.

Mr. MULVANEY. I have said this to the Chairman, I will say it to the Ranking Member. Ask us for stuff, because I think you might be surprised once you know more about what we are, you might be more inclined to work together to help reform the place.

Mr. LOUDERMILK. Thank you for your work.

Chairman HENSARLING. [presiding.] The time of the gentleman has expired.

The Chair now recognizes the gentleman from Ohio, Mr. Davidson.

Mr. DAVIDSON. Thank you, Mr. Chairman.

Director Mulvaney, I want to thank you for doing two jobs very well, and I appreciate you for taking on that extra task. And, frankly, I appreciate your family for supporting you in doing that. So thank you.

Would you say the CFPB or the Bureau of Consumer Financial Protection—so we are talking about the same place—is a non-partisan agency?

Mr. MULVANEY. In what sense?

Mr. DAVIDSON. Is it affiliated with a particular political ideology or political party?

Mr. MULVANEY. I understand. I think it is fair to say that, as of this point in time, the Bureau of Consumer Financial Protection is

probably perceived as being closely aligned with Senator Elizabeth Warren.

Mr. DAVIDSON. And so in some ways, is it acting in a way that is different than an Executive branch agency?

Mr. MULVANEY. I think since I have gotten there, things have changed. I think certainly I have run the place differently than Mr. Cordray did, if that answers your question.

Mr. DAVIDSON. Well, I think it gets at it. But culture is really important. And, frankly, the Executive branch, as you have highlighted, its job is to execute the law, the law as passed not necessarily the law as its director wishes existed. And I am particularly concerned about the culture that was created there by the former director. It seems to perhaps be hyper-partisan, to be in some ways well outside the scope of the statute and beyond the limited authority that it has, in the sense of a charter, but as you have highlighted, the authority is massive. And so you can really flesh out what is at the heart of the ideology of the person leading the organization.

And so just to highlight that, do you feel that a nonpartisan agency, why would they need to spend money on a PR firm?

Mr. MULVANEY. That is a great question. Not really sure. If you are speaking of the GMBB contract?

Mr. DAVIDSON. Well that would be in the abstract. But, yes, particularly they chose GMBB which isn't just a PR firm, they are a particular brand of PR firm. What do you know about that brand?

Mr. MULVANEY. What I know is that we have canceled that contract, we are in the process of canceling that contract.

Mr. DAVIDSON. Thank you. And I appreciate you for that. Do you feel—I don't want to draw a conclusion based on the fact that you have canceled it. Do you feel that the American people were getting a good value for the \$43 million that CFPB was spending with GMBB?

Mr. MULVANEY. If I thought I were getting good value for my \$43 million, I would not have sought to cancel the contract.

Mr. DAVIDSON. Do you feel like they were effective at conveying the mission of the Bureau?

Mr. MULVANEY. Let me put it to you this way. I don't think that our statutory mission was being served. I am not sure why we have to—the SEC does not advertise that it exists. The FDIC does not advertise that it exists.

I guess you could make the argument that in the very early days, when you are going from nothing to something, maybe you could make the argument that you should let people know you do exist. But that is an argument for a declining expenditure on advertising over the course of time, not an increasing line item on advertising.

So, like I said, we are in the process of canceling the contract and I think it was the right decision.

Mr. DAVIDSON. Thank you for your stewardship on that. And I just find it particularly odd that an agency, even with the size of budget—and thank you for reigning that in as well—that CFPB has had, 3 percent, the highest of any agency in this decade in spending on PR. Not that no agency spends money on PR, but way out of bounds. And with a hyper-partisan, Hillary Clinton-affiliated

PR firm, a firm that Barack Obama spent millions and millions of dollars with when he was a Presidential candidate.

Mr. MULVANEY. I want to make one thing perfectly clear, Mr. Davidson, just so—and this is particularly aimed at my colleagues across the aisle. That \$242 million that I spent on the building, I could take that and hire Breitbart. I could take that and hire the Drudge Report to do marketing that I like for the Bureau. I am not going to do it, because it is the wrong thing to do. But I have that kind of flexibility. I could hire the Heritage Foundation to do education. I could hire AEI to do the same type of thing. It is a tremendous amount of discretion. I am not going to abuse that. But the statute certainly permits it.

Mr. DAVIDSON. Yes, and so I think to your point there, the wide-open nature of the statute really does more to highlight the views and ideologies of the person making the decisions. In this case, Director Cordray had a very different value system than the one you have carried there, and I thank you for your stewardship and I have a couple other questions with a little bit of time remaining, but my time has indeed expired. So thank you, Director Mulvaney, and I yield.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Tennessee, Mr. Kustoff.

Mr. KUSTOFF. Thank you, Mr. Chairman. And thank you, Director Mulvaney, for coming to testify this afternoon. We appreciate it very much.

First of all, let me say that I appreciate the tone and candor that you have expressed today on both sides to all questions across both aisles. I think that we both share the common belief that the heart of real consumer protection means returning the power of the Bureau to the hands of the consumer rather than one single bureaucrat. Certainly, that is something you have talked about today. And again, I do appreciate your tone.

By increasing the transparency of the CFPB, I don't think there is any doubt that the consumer benefits by having increased economic freedom. Part of this was discussed in the Bureau's strategic plan, as one of your primary objectives to "identify and address outdated, unnecessary and unduly burdensome regulations in order to reduce the unwarranted regulatory burdens."

Director Mulvaney, could you elaborate on some of the changes that you will impose or you have imposed to ensure that all consumers have access to markets for financial products and services?

Mr. MULVANEY. Sure. And keep in mind, the reason we are doing that is that is a specific mandate of the statute. I was always surprised, I don't think that appeared in the strategic plans in the past, even though it is in the statute. I may be wrong, it may have been in there. But I think for some reason I seem to remember that in previous strategic plans, the previous management did not isolate that, did not draw attention to the fact that this is part of our job. Part of the statutory mandate is to look at overly burdensome and unduly burdensome regulations.

So what we are doing is exactly that. We go through—one of the primary tools for that, Mr. Kustoff, is the 5-year lookback that we do. And you have heard me mention that several times here today,

that stuff that has been on the books for 5 years, we will go back and take a look at and see if it is working out the way we thought it would, did it have unintended consequences, did it have good consequences, does it need to be revisited, those types of things. And that is—that is one of the primary things we have been doing.

You have also heard us talk about just going ahead and announcing that we are going to be revisiting certain rules, revisiting the payday rule, revisiting the HMDA rule under the argument that I want to see the information myself. I want to go through the Administrative Procedures Act. I want to collect the data, I want to get the notice and comments, and I want to see what the cost/benefit analyses look like to see if I would have made the same decision that my predecessor did.

So I think in a variety of different places, we are doing everything we can to try and bring some common sense back to the way the Bureau is run and how it interacts with both consumers and the providers of capital.

Mr. KUSTOFF. And by doing that, does that adequately strike a balance, if you will, between the industry concerns and consumer needs?

Mr. MULVANEY. I hope so. That is what we are shooting for is a balance. I have met with as many consumer groups as I have met with industry groups. It is about balance and it is about listening to all the sides of the equation before making a determination, not going into an analysis with a predetermined outcome and just checking the box, well, I know I'm going to do this but I know the law says I have to talk to that bank so I go talk to that bank. I don't care what they say but I have to say that I talked to them. That's not the right way to do what we do. And to the extent it happened in the past, it's not going to happen in the future.

Mr. KUSTOFF. You generally this morning and this afternoon talked about what you walked into, the employees that you have encountered at the CFPB. How would you characterize their tone and ethic, if you will?

Mr. MULVANEY. I tell you, it has been one of the most pleasant and positive surprises. The overwhelming majority, overwhelming majority of the folks I think who work there just want to be good bureaucrats. They want to be good Government workers. And they are working just as hard under my new direction as they were under Mr. Cordray's. And that has been a pleasant surprise. The quality of the work, especially the legal work that I have seen, is as good as I have seen from any place in my adult career. That has been very, very encouraging, that folks have been able to switch gears. And I think that speaks well of our ability to be a credible regulatory body going forward.

That said, is there a very small minority of people who would like to see me fail because they are ideologues and they are activists? Yes, they are there. And we will just have to deal with it. That is life in Washington, D.C. in the 21st century.

Mr. KUSTOFF. One concern that people have had under the prior director was overreach by the CFPB. Do you feel like now, now that you are the director or the acting director, that there is not the concern that people like me would have in terms of overreach by the CFPB?

Mr. MULVANEY. If it is in the statute, we are going to do it. Beyond that, we are going to be very reserved in the execution of our authority.

Mr. KUSTOFF. Thank you. I yield back the balance of my time.

Mr. MULVANEY. Thank you.

Chairman HENSARLING. The gentleman yields back. The Chair now recognizes the gentleman from New Jersey, Mr. Gottheimer.

Mr. GOTTHEIMER. Thank you, Mr. Chairman.

Thank you, Mr. Mulvaney. Per the AP, a review of the CFPB database obtained by the AP through a Freedom of Information request shows that the Bureau issued an average of two to four enforcement actions a month under former Director Cordray, the last appointee. But the database shows zero enforcement actions have been taken since November 21, 2017, 3 days before Mr. Cordray resigned. Except for enforcement actions strategically announced yesterday, there has been nothing coming out of the CFPB.

Mr. Mulvaney, reports indicate that you have scaled back the investigations—

Mr. MULVANEY. I hate to interrupt you, Congressman.

Mr. GOTTHEIMER. Yes, sir.

Mr. MULVANEY. We did not announce any enforcement actions yesterday.

Mr. GOTTHEIMER. OK, so I will just get to my question then.

Mr. Mulvaney, the reports indicate that you have scaled back the investigation of Equifax. And while Equifax's regulatory filings note the investigation still exists, the AP recently reported from three sources that the agency has not ordered subpoenas against Equifax or sought sworn testimony. These are preliminary and common steps in any investigation, as you know, and it seems you have also abandoned plans to test data protections at Equifax.

More than 143 million people were affected by this, a service that they didn't even sign up for. Their handling of the response was flawed, from providing immediate information to victims to providing services to address their failures. In my opinion, the agency has clear jurisdiction. Why is the agency failing to aggressively address this issue which affected so many Americans?

Mr. MULVANEY. A couple of different things, and I have mentioned this. I know that you haven't been here for the rest of the hearing.

Mr. GOTTHEIMER. Sorry. Sorry, yes.

Mr. MULVANEY. I have mentioned this a couple different times, but I will go back and do it again.

Most of what you just said is wrong. It is not your fault, because it was reported, but it is—

Mr. GOTTHEIMER. I am eager to get the facts, so thank you.

Mr. MULVANEY. It is inaccurately reported.

We do not comment, generally, on ongoing investigations. So I will say this about Equifax.

At the end of their last 10-Q filing, they disclosed that they were being investigated by the Bureau of Consumer Financial Protection. And the story broke, I think that Reuters broke the story that said we had done what you just described.

Mr. GOTTHEIMER. AP.

Mr. MULVANEY. I am not in a position to correct that, because I am not allowed to comment, or our practice is not to comment on the existence or nonexistence of ongoing investigations. Clearly, folks knew it was ongoing because Equifax chose to disclose it. I was not in a position to clarify anything. And I think the folks who leaked the inaccurate information knew that. So all I said was, I encourage folks to go look at the 10-Q—the 10-K filing that will come, I think, at the end of the first quarter. And, sure enough, when Equifax filed their 10-K, they once again disclosed the fact that they were being investigated by the Bureau of Consumer Financial Protection.

So most of what you said is wrong. It is not your fault, because it is the media. But I will—

Mr. GOTTHEIMER. I assume you are disturbed, like the rest of us, about obviously what's been found and the millions of people whose lives were affected.

Mr. MULVANEY. Again, I was one of those folks. But I do not comment on ongoing investigations.

Mr. GOTTHEIMER. Thank you. If we could switch gears quickly, prior to taking over the CFPB, the agency was proactively protecting first responders. Director Cordray at the time was making sure first responders awaiting payments from the 9/11 Zadroga Fund weren't being scammed. Of course, these are the police and firefighters that responded for us after the 9/11 terrorist attacks and that were being scammed, and they are the people that were moving rubble and helping those injured, and helping our country recover after a terrorist attack.

But now there is at least one company, and among others, trying to take advantage of these heroes and scam their payments. One company allegedly misled police officers, firefighters, and other first responders about the terms of advanced payments. In some cases, the transactions were equivalent to rates of more than 250 percent. The company's convoluted contracts confused consumers and charged unlawfully high interest rates for advances. USA TODAY wrote about one former officer who was disabled by respiratory illness after responding to Ground Zero. The officer received \$355,000 in advances as he waited for his settlement, thinking it would be a mere 19 percent interest. Instead, the company charged roughly—sought roughly \$860,000 in total repayments.

Do you think, A, do you know if the Bureau is still going after companies like this? And do you think the Bureau is appropriate to go after companies like this?

Mr. MULVANEY. I am not exactly sure if the facts and circumstances you mentioned relate to the one lawsuit that I know is public, so I am going to assume that it is. If it is not, I apologize, we will have to straighten it out—

Mr. GOTTHEIMER. Yes, speak just broadly about this.

Mr. MULVANEY. It is similar enough.

Mr. GOTTHEIMER. Yes.

Mr. MULVANEY. It is publicly disclosed we filed a lawsuit against a company called RD Legal. That is an ongoing piece of litigation. We did not dismiss that. We are actively pursuing the causes of action against RD Legal.

Mr. GOTTHEIMER. And so taking out that specific case because I know you can't comment on specific cases, in general, companies that are taking actions against victims of first responders of 9/11 and who were victims of companies like these, what is the opinion, what is your opinion on it?

Mr. MULVANEY. Folks that we catch breaking the law will be pursued by the Bureau.

Mr. GOTTHEIMER. OK. Thank you very much and thank you for your time.

Chairman HENSARLING. The gentleman yields back.

The Chair now recognizes the gentleman from New Jersey, Mr. MacArthur.

Mr. MACARTHUR. Thank you, Chairman. And Director Mulvaney, thank you for your presence here today and your candid answers.

I wasn't here when Dodd-Frank was passed, I wasn't here when CFPB was started. And maybe I don't feel any reflexive need to either defend or attack this institution. I just want to see the agency do its best for consumers.

I know there are bad actors out there. I spent a life in business and I encountered some of them. And so I am a strong advocate for consumer protection.

I am concerned though about second-order effects of some things that I have seen CFPB do. And I am concerned that it might hurt the very consumers that it is purportedly trying to protect.

Enforcement penalties have an effect on companies that, in my view, should be commensurate with what they have done. If they have done some egregious act, then the penalties should be commensurate with that act.

The reality though is, for public companies, their value is some multiple of their earnings. And a million-dollar reduction in earnings can be a \$15 million effect. The mere suggestion that a company has acted badly can destroy its reputation in the public markets and it can drive it into a tailspin. And that worries me, because these companies are owned by Main Street investors, 401(k) funds, pension funds.

Are you familiar with the PH&H case?

Mr. MULVANEY. I am, yes, sir.

Mr. MACARTHUR. I spent a good deal of my time 1 year or 2 years ago questioning your predecessor about that case. PH&H is domiciled in my district. They employ 3,500 people in my district. And tell me if I am getting any of these facts wrong. They were tried inside the CFPB. The result was a \$6.4 million judgment, which ignored the statute of limitations. But that aside, that was the judgment.

Your predecessor, then-Director Cordray unilaterally increased that to \$109 million. And the company subsequently lost over a billion, with a B, over a billion dollars in market valuation.

Is that case resolved? Was it finally adjudicated? Or is that still pending?

Mr. MULVANEY. I am going to be careful here. There was a decision handed down by an appellate court. I do not believe the time for filing appeals has run out yet. So it is technically still ongoing; either side can still appeal. But there was a decision handed down by the court of appeals.

Mr. MACARTHUR. But it is fair to say, and I am not trying to litigate that case here—it is complicated and I think my own view is that CFPB overreached and hammered a company that was relying on guidance from two different agencies. But that aside, the point I am trying to make is a billion dollars of value was wiped out, and that affected Main Street investors, pension fund holders, 401(k) investors, the employees of that company. And it has been bouncing around the courts now because there was overreach. And the director's unilateral judgment of \$109 million was challenged and that challenge has been sustained.

Mr. MULVANEY. Go back to the Chairman's opening comments about what the director can and cannot do. And I hope the Ranking Member pays attention to this. Because what you just described is an accurate factual representation of what happened.

I am the court of appeals from the administrative law judge.

Mr. MACARTHUR. And that is my point. So my question to you, Director, is do you look—does any part of CFPB look at the effect on companies' valuations, on second-order effects from the penalties that you impose? Is there that kind of analysis to see whether the effect is really, really commensurate with the offense?

Mr. MULVANEY. Honestly, I don't know, because I haven't been called upon to do that yet. But to the point you're making, which is should we consider what is going to happen? Absolutely.

Mr. MACARTHUR. I would urge you to do that.

In my remaining seconds, I just want to thank you for doing two jobs. There has been much fuss made today about the fact that you are filling this role temporarily until June 22. There is not a company in the world, when they lose the senior executive, which happened when Richard Cordray stepped down to run for Governor. That is his prerogative. I am not faulting him, but he created the vacancy. It takes time to fill vacancies. And the President asked you to do this temporarily. It is a lot of work and I, for one, appreciate your efforts in getting it right.

Mr. MULVANEY. Yes, sir.

Mr. MACARTHUR. Thank you. I yield back.

Chairman HENSARLING. Does the Ranking Member seek recognition?

Ms. WATERS. Unanimous consent to enter into the record, sir, two communications. One from Consumers Union in support of the Consumer Financial Protection Bureau, and U.S. PIRG, also in support of the Consumer Financial Protection Bureau.

Chairman HENSARLING. Without objection.

The Chair now recognizes the gentleman from North Carolina, Mr. Budd.

Mr. BUDD. Thank you, Mr. Chairman. Thank you, Mr. Mulvaney, as well. I appreciate all you do for service in this Nation and your vision for the CFPB is one that I support, transparency and objectivity. So thank you. Thanks also for doing two jobs for the price of one. We could sure use a lot more of that in this city.

So last year a Wall Street Journal investigation found that a large number of public comments that were submitted to Federal agencies, including the FCC and the agency that you head up, CFPB, that those are actually fraudulent submissions using stolen

identities of real people to mimic actual grassroots support. All this according to the Wall Street Journal.

Does the CFPB have text analytic measures in place to separate and identify legitimate public comments from bot and other computer-generated IDs? And if not, why?

Mr. MULVANEY. I think—I am going to do my best to answer that question and then I am going to get back to you with more details. I think we do have systems in place that would filter out what are obviously form responses. If a bunch of them are the exact same, we know about that. I don't know what we do to get to the more sophisticated stuff, to actually track down if it is a real person or not. But I do know that we have some protections in place to make sure that we know if someone wrote in their own answer or if someone was sending in a response from somebody else.

Mr. BUDD. OK. So I want to switch over to data security and discuss some of the efforts you have taken to improve the Bureau's data security program. Can you tell me how many confirmed breaches of consumer personally identifiable information have occurred within the Bureau's consumer response system and in the company portal?

Mr. MULVANEY. Yes, it is just north of 200. I don't have the exact number. We think there are another 800 that we suspect might have been lost, but we haven't been able to nail that down.

Mr. BUDD. How many complaint narratives have been published in the consumer complaint portal with unredacted consumer or third-party names?

Mr. MULVANEY. A couple hundred. Your point is this, we are supposed to redact that information and those fall through the cracks and the unredacted stuff ends up on the publicly available portal, which is wrong.

Mr. BUDD. I understand.

What specifically has the Bureau done under your leadership to improve data security? I think that was one of your stated goals when you stepped up to the role.

Mr. MULVANEY. We are taking a long look at it, doing a bunch of different things, including asking some of our sister agencies to help us manage data while we fix our systems. And the primary thing we are doing right now is actually working with the Department of Defense to test our own vulnerabilities.

Mr. BUDD. To shift gears a bit, and this may have come up earlier in the hearing. But you have discussed previously the number of well-paid economists that work there, 40 or 50 or so, and it is hard to do a reduction in force the way it is constructed, the way the statutes are for your agency. Is there a way to take well-paid key employees and perhaps do an interagency loan of these employees?

Mr. MULVANEY. Yes, it is called detailing, and we have actually reached out to some folks to see if they are interested in doing that. If there are folks that we have that we could be getting a better return on our investment in them in another agency, we are exploring that possibility.

Mr. BUDD. Thank you again for your time.

Mr. Chairman, I yield back.

Chairman HENSARLING. The gentleman yields back. The Chair now recognizes the gentlelady from New York, Ms. Tenney.

Ms. TENNEY. Thank you, Mr. Chairman. Thank you, Mr. Mulvaney, for your service and for withstanding all this exciting testimony today while we have another—

Mr. MULVANEY. It's just I don't remember the room being this cold. Is it colder down here than it is up there?

Ms. TENNEY. It is cold in here. That's why I have my coat.

But I do want to say, I enjoyed reading some of your preparatory materials, including referencing Madison in the Federalist Papers. And I always—when I think about who is in charge, I always think about Madison's Federalist 10, which says enlightened Statesmen will not always be at the helm. And I think we are prepared for that.

And that is one of the reasons I want to ask you, I know you have been asked this. But again, going back to the importance of transparency and the importance of accountability in this body. And if you could just say one more time, and I know that you have had this, and I apologize if you have said it in another way.

How can we make CFPB more accountable? I know we are doing that under your leadership. But to understand that if we are going to have unenlightened Statesmen someday at the helm again, how do we prevent that from happening using the checks and balances in our constitutional system? And I knew you alluded to the appropriations process and bringing us back to the Congress for that. Can you highlight just maybe a couple of things that you would do as Chairman to make sure that in the event that you aren't the Chairman and we have someone that is not as enlightened as you are, how we protect the people?

Mr. MULVANEY. Thank you for the opportunity. We'll skip over the appropriations, because we talked about that. And if there is one thing you could do to bring some transparency and accountability to the Bureau, it would be that. But beyond that, I made a couple suggestions and I will talk about some other ones.

I would love to have an independent IG. I have gotten tremendous service from the inspector general. I do not mean to denigrate their work at all. I think we have worked with them extraordinarily well. But they do share us with the Federal Reserve Board. It's actually a cost savings to us to have our own IG.

By the way, I am going to go down this list a little bit, and I think y'all have voted on just about all of these and I think most of them have passed on a bipartisan basis. I would love to see myself, this position, answerable to the President and removable at will, as opposed to just for cause. I think that makes it a lot more accountable.

I think what we call applying the REINS Act to our rules would help bring some consistency across various agencies. Keep in mind, one of the things that I think is important is to make sure that when we put out a rule or a reg, we are not doing the exact opposite of what one of the other regulators is doing, so that we don't say you have to do A and the FDIC saying you have to do the exact opposite of A. And right now, I don't think there's a very robust method to do that. If we had more oversight from you folks in terms of the OIRA rules, if we were brought under OI, for example,

in terms of coordinating across various agencies, that would be helpful.

So there are a lot of things that we could do. We talked about the five-person commission to smooth things out so you don't get these wild swings between me and Mr. Cordray and whoever comes next.

So there are a bunch of things that you can do, a bunch of things you have already done. And I do encourage you to continue to push those reforms as you look at your version of the banking bill, the Crapo bill, that the Senate has passed. Because I think now is the time to do it. If you don't do it now, my guess is it could be a long time.

And I didn't have a chance to say this earlier, so I want to say this. I don't think that we are in a rush. I don't think that we have to have a bill by the end of this week from the Senate. I think we need to go ahead and do it right, because I don't think you get a chance to do it again for a long time.

Ms. TENNEY. Thank you very much. I appreciate the testimony. And I think that down the road, I do think we have to do it right this time. I think we have an opportunity. We have an opportunity, of course, hopefully to get the Senate to act on many of the bills that we have that you have cited and to make sure these things go through. But I think we are on the road.

But I do appreciate your leadership and your willingness to come here and be very honest and frank with our committee today. It was really a pleasure to listen to you. It is very unusual to see someone in Government that is just so honest and transparent and we appreciate it.

Mr. MULVANEY. Thanks very much.

Ms. TENNEY. So thank you so much for your service.

Mr. MULVANEY. I appreciate it.

Ms. TENNEY. Thank you. I yield back.

Chairman HENSARLING. The gentlelady yields back.

The Chair wishes to inform all Members that votes are currently taking place on the floor. There being no other Members in the queue, I would like to thank the witness for his testimony today.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

This hearing stands adjourned.

[Whereupon, at 1:44 p.m., the Committee was adjourned.]

# **A P P E N D I X**

April 11, 2018

**Testimony of Mick Mulvaney**  
**Acting Director, Bureau of Consumer Financial Protection**  
**Before the House Committee on Financial Services**  
**April 11, 2018**

Chairman Hensarling, Ranking Member Waters, and Members of the Committee, I am pleased to present the Bureau of Consumer Financial Protection (Bureau) semi-annual report to Congress for the period beginning April 1, 2017 to September 30, 2017 as well as to provide you an update on the activities of the Bureau during my tenure.

Shortly after President Trump appointed me as Acting Director of the Bureau, I announced that the Bureau would continue to execute the law but would no longer go beyond its statutory mandate. In enacting section 1016(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Congress enumerated nine elements for inclusion in the Bureau's semi-annual reports to Congress:

1. A discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services;
2. A justification of the budget request of the previous year;
3. A list of the 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;
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;
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;
6. The actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions;
7. An assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law;
8. An analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau; and
9. An analysis of the efforts of the Bureau to increase workforce and contracting diversity consistent with the procedures established by the Office of Minority and Women Inclusion.

This semi-annual report meets this mandate.

Moreover, section 1012(c)(4) of the Dodd-Frank Act contemplates that the Director will submit independent legislative recommendations to Congress. It is appropriate to include legislative recommendations in this semi-annual report, because doing so will afford Members of Congress a timely opportunity to discuss my recommendations in the hearing.

Undoubtedly, many Members of Congress disagree with my actions as the Acting Director of the Bureau, just as many Members disagreed with the actions of my predecessor. Such continued frustration with the Bureau's lack of accountability to any representative branch of government should be a warning sign that a lapse in democratic structure and republican principles has occurred. This cycle will repeat *ad infinitum* unless Congress acts to make the Bureau accountable to the American people.

Accordingly, I request that Congress make four legislative changes to the law in order to establish meaningful accountability for the Bureau<sup>1</sup>:

1. Fund the Bureau through Congressional appropriations;
2. Require affirmative legislative approval of major Bureau rules;
3. Ensure that the Director answers to the President in the exercise of executive authority; and
4. Create an independent Inspector General for the Bureau.

You also requested that I discuss the activities of the Bureau during my tenure, and I am prepared to explain the Bureau's new strategic priorities and new approach.

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#### *Semi-annual report requirements*

The first section of the Bureau's semi-annual report to Congress is a discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services. In this section of the report, the Bureau discusses "credit invisibles," consumers who lack a credit record at one of the nationwide credit reporting companies. In June 2017, the Bureau released the Data Point: Becoming Credit Invisible,<sup>2</sup> which explores the means by which consumers transitioned out of credit invisibility. The semi-annual report also discusses the Bureau's mandate to provide consumers with financial education and the Bureau's 2017 financial literacy annual report.<sup>3</sup>

<sup>1</sup> Other than the Bureau's Acting Director, no other officer or agency of the United States approved these legislative recommendations prior to submission to Congress. The views contained herein are those of the Acting Director and do not necessarily reflect the views of the Board of Governors of the Federal Reserve System or the President of the United States.

<sup>2</sup> [https://www.consumerfinance.gov/documents/4822/BecomingCreditVisible\\_Data\\_Point\\_Final.pdf](https://www.consumerfinance.gov/documents/4822/BecomingCreditVisible_Data_Point_Final.pdf).

<sup>3</sup> [https://www.consumerfinance.gov/documents/5810/cfpb\\_financial-literacy-annual-report-2017.pdf](https://www.consumerfinance.gov/documents/5810/cfpb_financial-literacy-annual-report-2017.pdf).

The second section of the semi-annual report is a justification of the Bureau's budget request of the previous year. The Bureau's FY 2017 Strategic Plan, Budget, and Performance Plan and Report includes estimates of the resources needed for the Bureau to carry out its mission. The justification of the FY 2017 budget request is on the Bureau's website at <https://www.consumerfinance.gov/about-us/budget-strategy/budget-and-performance/>.

The third section of the semi-annual report lists the 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. The Bureau's significant final rules during the term of this report are the final rule on arbitration agreements (which will not go into effect because Congress adopted a joint resolution of disapproval, which the President signed pursuant to the Congressional Review Act) and the final rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans. The Bureau's significant initiatives include requests for information on assessments of significant rules under section 1022(d) of the Dodd-Frank Act, which include 2013 Real Estate Settlement Procedures Act Servicing Rule Assessment; Remittance Rule Assessment; and Ability-to-Repay/Qualified Mortgage Rule Assessment. On September 14, 2017, Bureau staff also issued its first no-action letter to Upstart Network. Additionally, the Bureau's plan for upcoming initiatives lays out a series of Calls for Evidence about various aspects of the Bureau's work. This section of the semi-annual report also lists out the Bureau's plans for upcoming proposed rules: Payday, Vehicle Title, and Certain High-Cost Installment Loans rule; the Expedited Funds Availability Act rule; the Debt Collection rule; and Home Mortgage Disclosure Act rule, as well as upcoming final rules: Gramm-Leach-Bliley Act Privacy Notice rule; Amendments Relating to Disclosure of Records and Information rule; and the Amendment to the Federal Mortgage Disclosure Requirements under the Truth in Lending Act rule. The semi-annual report contains additional details on these and other Bureau initiatives.

The fourth section of the semi-annual report provides 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. During the period October 1, 2016 through September 30, 2017, the Bureau handled approximately 317,200 consumer complaints. Most of those complaints were submitted through the Bureau's website. The Bureau does not verify all the facts alleged in complaints, but it takes steps to confirm a commercial relationship between the consumer and the company. Approximately 235,400 (or 74%) of all complaints handled were sent by the Bureau to companies for review and response. Companies have responded to approximately 93% of complaints sent to them for response during the period. Consumers did not receive a timely response from the company in only 3% of complaints. The top four complaints by the product category designated by the consumer when submitting the complaint are debt collection (27%), credit or consumer reporting (27%), mortgages (13%), and credit cards (9%).

As required by the Dodd-Frank Act, the fifth section of the semi-annual report discusses the public supervisory and enforcement actions to which the Bureau was a party during the preceding year. The Bureau's supervisory activities with respect to individual institutions are non-public. The Bureau has, however, issued numerous supervisory guidance documents and

bulletins during the preceding year. These documents are listed under section 3.3 of this report as “issued guidance documents undertaken within the preceding year.” With regard to enforcement actions, the Bureau was a party in 53 public enforcement actions from October 1, 2016 through September 30, 2017. The detailed list of those actions, with a brief statement of the issues, is set out in section 5.2 of the semi-annual report. Section 5.2 also identifies those actions involving Office of Administrative Adjudication Orders with respect to covered persons that are not credit unions or depository institutions.

The sixth section of the semi-annual report addresses actions taken regarding rules, orders, and supervisory actions with respect to covered persons that are not credit unions or depository institutions. The Bureau’s *Supervisory Highlights* publications provide general information about the Bureau’s supervisory activities at banks and nonbanks without identifying specific companies. The Bureau published four issues of *Supervisory Highlights* between October 1, 2016 and September 30, 2017. As noted in the previous paragraph, all public enforcement actions are list in section 5.2 of the semi-annual report. The brief statement of issues identifies those actions taken with respect to covered persons that are not credit unions or deposit institutions.

The seventh section of the semi-annual report requires an assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law. For purposes of the section 1016(c)(7) reporting requirement, the Bureau determines that any actions asserting claims pursuant to section 1042 of the Dodd-Frank Act are “significant.” The Bureau is aware of two State Attorney General actions that were initiated during the reporting period and that asserted Dodd-Frank Act claims. The actions are listed in the semi-annual report.

The eighth section of the semi-annual report provides an analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau. This update is focused on highlights from the Bureau’s fair lending enforcement<sup>4</sup> and rulemaking<sup>5</sup> activities from October 1, 2016 through September 30, 2017, and continued efforts to fulfill the fair lending mission of the Bureau, through supervision, interagency coordination, and outreach from April 1, 2017 through September 30, 2017.<sup>6</sup> The Bureau’s Fair Lending Supervision program assesses compliance with Federal fair lending consumer financial laws and regulations at banks and nonbanks over which the Bureau has supervisory authority. As a result of the Bureau’s efforts to fulfill its fair lending mission in this reporting period, the Bureau’s Fair Lending Supervision program initiated 11 supervisory events at financial services institutions under the Bureau’s jurisdiction to determine compliance with Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities, including the Equal Credit Opportunity Act (ECOA) and the Home Mortgage Disclosure Act (HMDA). Over the past year, the Bureau announced two fair lending public enforcement actions involving HMDA reporting and credit cards. First, as described in section 5 of this report, on March 15,

<sup>4</sup> Dodd-Frank Act section 1016(c)(5).

<sup>5</sup> Dodd-Frank Act section 1016(c)(3).

<sup>6</sup> Dodd-Frank Act section 1016(c)(8).

2017, the Bureau resolved an enforcement action against a national mortgage originator for violating HMDA by consistently failing to report accurate data about mortgage transactions for 2012 through 2014. Second, as described in section 5 of this report, on August 23, 2017, the Bureau took action against a credit card company, for violating ECOA by discriminating against consumers in Puerto Rico, the U.S. Virgin Islands, and other U.S. territories by providing them with credit and charge card terms that were inferior to those available in the 50 United States.

The ninth, and final, section of the semi-annual report provides an analysis of the efforts of the Bureau to increase workforce and contracting diversity consistent with the procedures established by the Office of Minority and Women Inclusion (OMWI). The Bureau has developed an agency-wide strategic plan—Diversity Strategic Plan—to guide the Bureau in its efforts to manage its diversity and inclusion goals and objectives.<sup>7</sup> The Bureau also publishes an Annual OMWI report in the spring of each year. The 2017 OMWI Annual report was published on March 29, 2018.<sup>8</sup> Additionally, during FY 2017,<sup>9</sup> the Bureau awarded 30% of contract dollars to small businesses enterprises (SBEs), some of which are also minority-owned or woman-owned businesses (MWOBs). The Bureau's contracting rate to small businesses exceeds the Small Business Administration's recommended goal for each Federal agency of 23%. Of the 30% of SBE contracts awarded at the Bureau in FY 2017, 10% went to small disadvantaged businesses (minority-owned). The total contract dollars awarded to woman-owned small businesses during this period was 11.9%. In accordance with the mandates in section 342(c)(2) of the Dodd-Frank Act, goal six of the Bureau's Diversity and Inclusion Strategic Plan describes the efforts the Bureau takes to determine that a contractor will ensure, to the maximum extent possible, the fair inclusion of women and minorities in the contractor workforce, and, as applicable, subcontractors workforce. This concludes the overview of the Bureau's Fall 2017 semi-annual report to Congress.

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#### *New strategic priorities*

As noted above, you have also requested that I discuss the activities of the Bureau during my tenure. I will begin by outlining the Bureau's new strategic priorities, and then I will provide an overview of the new approach I have taken in leading the Bureau.

The Bureau's new strategic priorities are to recognize free markets and consumer choice and to take a prudent, consistent, and humble approach to enforcing the law. This reflects my

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<sup>7</sup> [https://s3.amazonaws.com/files.consumerfinance.gov//documents/201611\\_cfpb\\_diversity-and-inclusion-strategic-plan-2016-2020.pdf](https://s3.amazonaws.com/files.consumerfinance.gov//documents/201611_cfpb_diversity-and-inclusion-strategic-plan-2016-2020.pdf).

<sup>8</sup> [https://s3.amazonaws.com/files.consumerfinance.gov//documents/201703\\_cfpb\\_OMWI-2017-annual-report.pdf](https://s3.amazonaws.com/files.consumerfinance.gov//documents/201703_cfpb_OMWI-2017-annual-report.pdf).

<sup>9</sup> Data source is from the Federal Procurement Data System (FPDS) for FY 2017 from October 1, 2016 through September 30, 2017. The data are current as of October 4, 2017. FPDS data is subject to an OMB annual validation each January for the previous fiscal year.

understanding that consumers and creditors alike gain from mutual exchange, provided that promises are kept, terms are clearly disclosed, and property rights are protected.

As an officer in the executive branch, I am sworn to execute the law, and that is what I am doing. That is all I should be doing. My job is to make sure the Bureau is acting consistently with our statutory responsibilities, to improve our daily operations and our interactions with consumers and industry, and to ensure we are accountable to the American people.

Our recently published Strategic Plan outlines how I intend to fulfill the Bureau's statutory duties. Specifically, the Bureau's mission statement is "to regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws and to educate and empower consumers to make better informed financial decisions." That is what Congress created us to do.

And that is what we will do. We will adhere to the Bureau's statutory responsibilities. Our job is to enforce Federal consumer financial laws, and our focus will be on carrying out only those activities Congress explicitly wrote into law.

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#### *New approach*

The Bureau is going about its work in several new ways. First, to execute the new mission, the Bureau will continue to seek the counsel of others and make decisions only after weighing relevant available evidence and a full range of perspectives. Second, the Bureau will protect the legal rights of all, equally. And third, we will do what is right with confidence, acting with humility and moderation.

That is why we launched the Call for Evidence—an initiative aimed at gathering public feedback on the wide range of work done by this agency. It is important to learn more about what is working and what needs to improve in the work done by the Bureau. An agency that is confident in its mission should care about getting it right. An agency should welcome constructive feedback and then learn from it.

We are actively seeking this feedback. To date, the Bureau had issued 11 requests for information—RFIs. We are seeking public comment on the Bureau's Civil Investigative Demands, administrative adjudications, enforcement processes, supervision processes, complaint reporting, external engagement strategies, our rulemaking process, rules issued by the Bureau, and rules the Bureau inherited. Most recently, we issued RFIs on guidance and implementation support and consumer education. Later this week, we will issue an RFI on consumer complaints and inquiries. We have extended all of the comment periods to 90 days to give everyone more time to provide us with feedback. I encourage any interested parties to submit comments. Your comments will help the Bureau evaluate what we do and how we do it and determine whether changes are warranted.

Another area where we are doing things differently is executing the Bureau's regulatory agenda. First, regulatory agencies like the Bureau are not legislatures. The Bureau has very broad

rulemaking authority to regulate consumer financial products and services. We must be very judicious in the use of this power.

Second, we are committed to making sure the Bureau's regulations work not only for those who use consumer financial products and services but also for those who provide them. This means clear rules that, where appropriate, can be tailored to the business models of the companies subject to these rules. For instance, the Bureau is here to help protect people who use credit, but we're also here to establish clear guidelines for those who provide that credit because it is an important service for consumers and central to our capitalist system.

Additionally, under my leadership the Bureau will implement a more robust quantitative analysis of potential costs and benefits to consumers and those we regulate.

We are also opening up the rulemaking process to reconsider elements that may create unnecessary burden or restrict consumer choice. Specifically, the Bureau recently issued statements about revisiting the regulation issued under the Home Mortgage Disclosure Act and the "Payday, Vehicle Title, and Certain High-Cost Installment Loans" rule.

Regarding HMDA, the Bureau intends to open a rulemaking to reconsider various aspects of the 2015 HMDA rule, such as reporting thresholds and transactional coverage and reconsider data points not mandated by the Dodd-Frank Act. Furthermore, we have announced, with our partners at the Office of Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation, that our supervisory examinations of 2018 HMDA data will be diagnostic. Our goal is to help companies identify any weaknesses, and we will credit good-faith efforts to comply. Financial institutions that submit HMDA data are doing so through the Bureau's new online platform, which allows an institution to upload loan application registers, review edits, certify data, and submit data for the filing year without the manual processes required previously. Over 5,800 institutions have submitted their 2017 data using the new platform.

We are not pre-judging the outcome of any rulemaking; instead, I share our recent efforts with you to demonstrate that under new leadership the Bureau is willing to revisit existing rules to find ways to ease undue burdens and protect consumer choice. This we will do efficiently, effectively, and transparently. We will structure ourselves and conduct Bureau operations in a way that reduces redundancy and makes the best use of resources.

Above all, the Bureau must be efficient. That means I will organize the agency and conduct its operations in ways that reduce redundancy and make the most of our resources. For example, the Office of Fair Lending and Equal Opportunity is being moved to the Director's Office, to become part of the Office of Equal Opportunity and Fairness. The Office of Fair Lending will continue to focus on advocacy, coordination, and education.

The Bureau will continue to enforce fair lending laws. The current fair lending supervision and enforcement functions will remain in the soon-to-be-renamed Division of Supervision, Enforcement, and Fair Lending. Accordingly, the Bureau will have one office, not two, that handles enforcement matters. It will have one office, not two, that handle supervision policy,

and one office, not two, that handle supervision examinations. This will make enforcement and supervision more efficient, effective, and accountable.

In another change, the Bureau practice of “regulation by enforcement” has ceased. The Bureau will continue to enforce the law. That is our job, and we take it seriously. However, people will know what the rules are before the Bureau accuses them of breaking those rules.

Through the changes I have discussed and others, I am making sure the Bureau is operating within its statutory mandate, is accountable for its actions, and is doing the American people’s business in ways that are efficient and effective.

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The best that any Bureau Director can do on his own is to fulfill his responsibilities with humility and prudence and to temper his decisions with the knowledge that the power he wields could all too easily be used to harm consumers, destroy businesses, or arbitrarily remake American financial markets. But all human beings are imperfect, and history shows that the temptation of power is strong. Our laws should be written to restrain that human weakness, not empower it.

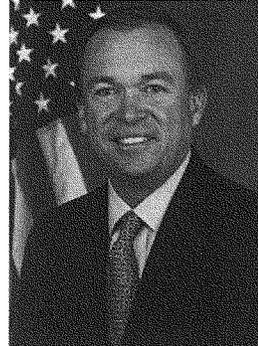
Thank you again for the opportunity to present the Bureau of Consumer Financial Protection’s semi-annual report to Congress for the period beginning April 1, 2017 to September 30, 2017, as well as to provide you an update on the activities of the Bureau during my tenure. I would be happy to answer any of your questions about the Bureau’s work.

April 2018

# Semi-annual report of the Bureau of Consumer Financial Protection



## Message from Mick Mulvaney



### Acting Director

I am pleased to present the Bureau of Consumer Financial Protection's (Bureau's) Semi-Annual Report to Congress for the period beginning April 1, 2017 and ending September 30, 2017. Shortly after President Trump appointed me as Acting Director, I made it clear that the Bureau will continue to execute the law, but will no longer go beyond its statutory mandate. In enacting Section 1016(c) of the Dodd-Frank Act, Congress enumerated nine elements for inclusion in the Bureau's semi-annual reports to Congress. This semi-annual report precisely meets this mandate.

Moreover, Section 1012(c)(4) of the Dodd-Frank Act contemplates that the Director will submit independent legislative recommendations to Congress. It is appropriate to include legislative recommendations in this semi-annual report, since doing so will afford Members of Congress a timely opportunity to ask me questions about my recommendations in the hearings at which I will testify.

As has been evident since the enactment of the Dodd-Frank Act, the Bureau is far too powerful, and with precious little oversight of its activities. Per the statute, in the normal course the Bureau's Director simultaneously serves in three roles: as a one-man legislature empowered to write rules to bind parties in new ways; as an executive officer subject to limited control by the President; and as an appellate judge presiding over the Bureau's in-house court-like adjudications. In Federalist No. 47, James Madison famously wrote that "[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands ... may justly be pronounced the very definition of tyranny." Constitutional separation of powers and related checks and balances protect us from government overreach. And while Congress may not have transgressed any constraints established by the Supreme Court, the structure and powers of this agency are not something the Founders and Framers would recognize. By structuring the Bureau the way it

has, Congress established an agency primed to ignore due process and abandon the rule of law in favor of bureaucratic fiat and administrative absolutism.

The best that any Bureau Director can do on his own is to fulfill his responsibilities with humility and prudence, and to temper his decisions with the knowledge that the power he wields could all too easily be used to harm consumers, destroy businesses, or arbitrarily remake American financial markets. But all human beings are imperfect, and history shows that the temptation of power is strong. Our laws should be written to restrain that human weakness, not empower it.

I have no doubt that many Members of Congress disagree with my actions as the Acting Director of the Bureau, just as many Members disagreed with the actions of my predecessor. Such continued frustration with the Bureau's lack of accountability to any representative branch of government should be a warning sign that a lapse in democratic structure and republican principles has occurred. This cycle will repeat *ad infinitum* unless Congress acts to make it accountable to the American people.

Accordingly, I request that Congress make four changes to the law to establish meaningful accountability for the Bureau<sup>1</sup>:

1. Fund the Bureau through Congressional appropriations;
2. Require legislative approval of major Bureau rules;
3. Ensure that the Director answers to the President in the exercise of executive authority; and
4. Create an independent Inspector General for the Bureau.

I look forward to discussing these recommendations with all interested Members, and to testifying regarding this semi-annual Report to Congress.

Sincerely,

Handwritten signature of Mick Mulvaney in black ink, with the initials 'M.M.' and '12/2017' visible.

Mick Mulvaney

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<sup>1</sup> Other than the Bureau's Acting Director, no other officer or agency of the United States approved these legislative recommendations prior to submission. The views contained herein are those of the Acting Director and do not necessarily reflect the views of the Board of Governors of the Federal Reserve System or the President.

# Table of Contents

Message from Mick Mulvaney .....	1
Table of Contents .....	3
<b>1. Significant problems faced by consumers in shopping for or obtaining consumer financial products or services .....</b>	<b>5</b>
1.1 Credit invisibles.....	5
1.2 Financial education .....	6
<b>2. Justification of the budget request of the previous year .....</b>	<b>7</b>
<b>3. List of the 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.....</b>	<b>10</b>
3.1 Significant rules .....	11
3.2 Less significant rules .....	11
3.3 Significant initiatives .....	12
3.4 Plan for upcoming initiatives.....	17
3.5 Plan for upcoming rules .....	19
<b>4. 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.....</b>	<b>20</b>

**5. 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 ..... 23**

5.1 Supervisory activities..... 23

5.2 Enforcement activities ..... 23

**6. Actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions ..... 44**

**7. Assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law..... 45**

**8. Analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau ..... 47**

8.1 Fair lending supervision..... 48

8.2 Fair lending enforcement..... 49

8.3 Fair lending outreach..... 50

8.4 Interagency coordination..... 50

**9. Analysis of the efforts of the Bureau to increase workforce and contracting diversity consistent with the procedures established by the Office of Minority and Women Inclusion. .... 52**

9.1 Increasing workforce diversity .....53

9.2 Increasing contracting diversity .....54

9.3 Diversity within the Bureau contractors' workforces.....55

# 1. Significant problems faced by consumers in shopping for or obtaining consumer financial products or services

## 1.1 Credit invisibles

“Credit invisibles” refers to consumers who lack a credit record at one of the nationwide credit reporting companies. As a result, these consumers can face substantially reduced access to credit. The Bureau released the [Data Point: Credit Invisibles](#) in 2015 that estimated the demographic characteristics and number of credit invisible consumers. In June 2017, the Bureau released the [Data Point: Becoming Credit Visible](#) that explored the means by which consumers transitioned out of credit invisibility. The Data Point found that most people who made this transition did so by age 25. However, consumers in low- and moderate-income neighborhoods made this transition at older ages than those in middle- or upper-income neighborhoods. Across all age groups and income levels, credit cards triggered the creation of consumer credit records more frequently than any other product. About 1-in-4 consumers first acquired their credit histories from an account for which others were also responsible (i.e., jointly held accounts or authorized user accounts), but the use of this method was notably less common in lower-income neighborhoods.

Of the consumers who transition out of credit invisibility, about 65 percent appear to have transitioned by opening an account by themselves despite their lack of a credit history. Understanding what characteristics lenders are using to make loans to some credit invisible

consumers but not others may have important implications for efforts to promote credit visibility. Additional research on the processes being used to underwrite loans for credit invisible consumers may help illuminate potential approaches to reducing credit invisibility. Following transition to credit visibility, a consumer's access to credit may also depend on whether the consumer is categorized as a "good" or "bad" credit risk. There is room for future research to delve deeper into the characteristics of credit records as they make the transition out of credit invisibility and thereafter.

## 1.2 Financial education

The Consumer Financial Protection Act of 2010 directs the Bureau to ensure that "consumers are provided with timely and understandable information to make responsible decisions about financial transactions"<sup>2</sup> by "conducting financial education programs."<sup>3</sup> The Bureau works to educate consumers in order to prepare and empower them with the knowledge and skills to make choices about money to achieve their own life goals. The Consumer Financial Protection Act directs the Bureau to report annually on our financial education activities and strategy to improve financial literacy.<sup>4</sup> The 2017 Financial Literacy Annual Report is available at [www.consumerfinance.gov/data-research/research-reports/2017-financial-literacy-annual-report](http://www.consumerfinance.gov/data-research/research-reports/2017-financial-literacy-annual-report).

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<sup>2</sup> 12 U.S.C. 5511(b)(1).

<sup>3</sup> 12 U.S.C. 5511(e)(1).

<sup>4</sup> 12 U.S.C. 5493(d)(4).

## 2. Justification of the budget request of the previous year

The FY 2017 Strategic Plan, Budget, and Performance Plan and Report includes estimates of the resources needed for the Bureau to carry out its mission and describes the Bureau's performance goals and accomplishments, which align with the larger long-term Strategic Plan for FY 2013 to FY 2017. The justification of the FY 2017 budget request is available online at <https://www.consumerfinance.gov/about-us/budget-strategy/budget-and-performance/>.

Fiscal year 2017 spending through the end of the fourth quarter of FY 2017

### BUREAU FUND

As of September 30, 2017, the end of the fourth quarter of FY 2017, the Bureau incurred approximately \$593.5 million in obligations<sup>5</sup> during the fiscal year to carry out the authorities of the Bureau under Federal financial consumer law. Approximately \$316.9 million was spent on employee compensation and benefits for the 1,645 Bureau employees who were on-board by the end of the fourth quarter.

**TABLE 1:** FY 2017 SPENDING BY EXPENSE CATEGORY

Expense category	FY 2017
Personnel compensation	228,442,000
Benefit compensation	88,425,000

<sup>5</sup>An obligation is a transaction or agreement that creates a legal liability and obligates the government to pay for goods and services ordered or received.

Expense category	FY 2017
Travel	17,260,000
Transportation of things	143,000
Rents, communications, utilities & misc.	19,090,000
Printing and reproduction	4,530,000
Other contractual services	177,510,000
Supplies & materials	5,726,000
Equipment	37,946,000
Land and structures	14,453,000
Interest & dividends	1,000
Total (as of September 30, 2017)	\$ 593,526,000

#### FY 2017 funds transfers received from the Federal Reserve

The Bureau is funded principally by transfers from the Federal Reserve System, up to the limits set forth in the Dodd-Frank Act. Funding from the Federal Reserve System for FY 2017 was capped at \$646.2 million. As of September 30, 2017, the Bureau had received the following transfers for FY 2017. The amounts and dates of the transfers are shown below.

**TABLE 2: FUNDS TRANSFERRED FROM THE FEDERAL RESERVE**

Amount	Date
\$246.1M	October 24, 2016
\$145.7M	January 23, 2017
\$125.6M	April 19, 2017
\$84.6M	August 1, 2017
<b>\$602.0M</b>	<b>Total</b>

Additional information about the Bureau's finances, including information about the Bureau's Civil Penalty Fund and Bureau-Administered Redress programs, is available in the annual financial reports and the CFO quarterly updates published online at

<https://www.consumerfinance.gov/about-us/budget-strategy/financial-reports/>. Copies of the Bureau's quarterly funds transfer requests are available online at <https://www.consumerfinance.gov/about-us/budget-strategy/funds-transfer-requests/>.

3. List of the 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<sup>6</sup>

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<sup>6</sup> Separate from the Bureau's obligation to include in this report "a list of the significant rules and orders adopted by the Bureau . . . during the preceding year," 12 U.S.C. 5496(b)(3), the Bureau is required to "conduct an assessment of each significant rule or order adopted by the Bureau" under Federal consumer financial law "not later than 5 years after the effective date of the subject rule or order," 12 U.S.C. 5512(d). The Bureau will issue separate notices as appropriate identifying rules and orders that qualify as significant for assessment purposes.

### 3.1 Significant rules

- Final Rule: Arbitration Agreements (note, however, that this rule will not go into effect because Congress subsequently adopted a joint resolution of disapproval which the President signed pursuant to the Congressional Review Act)<sup>7</sup>
- Final Rule: Payday, Vehicle Title, and Certain High-Cost Installment Loans<sup>8</sup>

### 3.2 Less significant rules<sup>9</sup>

- Final Rule: Prepaid Accounts under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z)<sup>10</sup>
- Final Rule: Equal Credit Opportunity Act (Regulation B) Ethnicity and Race Information Collection<sup>11</sup>
- Final Rule: Home Mortgage Disclosure Act (Regulation C)<sup>12</sup>
- Final Rule: Amendments to Federal Mortgage Disclosure Requirements Under the Truth in Lending Act (Regulation Z)<sup>13</sup>

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<sup>7</sup> <https://www.federalregister.gov/documents/2017/07/19/2017-14225/arbitration-agreements>.

<sup>8</sup> <https://www.federalregister.gov/documents/2017/11/17/2017-21808/payday-vehicle-title-and-certain-high-cost-installment-loans>.

<sup>9</sup> This list excludes proposed rules, procedural rules, and other miscellaneous routine rules. More information about the Bureau's rulemaking activities is available in the Unified Agenda, at [www.reginfo.gov](http://www.reginfo.gov), and on the Bureau's public website, at <https://www.consumerfinance.gov/policy-compliance/rulemaking>.

<sup>10</sup> <https://www.federalregister.gov/documents/2016/11/22/2016-24503/prepaid-accounts-under-the-electronic-fund-transfer-act-regulation-e-and-the-truth-in-lending-act>.

<sup>11</sup> <https://www.federalregister.gov/documents/2017/10/02/2017-20417/equal-credit-opportunity-act-regulation-b-ethnicity-and-race-information-collection>.

<sup>12</sup> <https://www.federalregister.gov/documents/2017/09/13/2017-18284/home-mortgage-disclosure-regulation-c>.

- Final Rule: Amendments to the 2013 Mortgage Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)<sup>14</sup>
- Interim Final Rule: Mortgage Servicing Rules under the Real Estate Settlement Procedures Act (Regulation X)<sup>15</sup>
- Final Rule: Mortgage Servicing Rules under the Truth in Lending Act (Regulation Z)<sup>16</sup>

### 3.3 Significant initiatives

- Requests for Information on Assessment of Significant Rules under section 1022(d)
  - Request for Information Regarding 2013 Real Estate Settlement Procedures Act Servicing Rule Assessment<sup>17</sup>
  - Request for Information Regarding Remittance Rule Assessment<sup>18</sup>
  - Request for Information Regarding Ability-to-Repay/Qualified Mortgage Rule Assessment<sup>19</sup>

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<sup>13</sup> <https://www.federalregister.gov/documents/2017/08/11/2017-15764/amendments-to-federal-mortgage-disclosure-requirements-under-the-truth-in-lending-act-regulation-z>.

<sup>14</sup> <https://www.federalregister.gov/documents/2016/10/19/2016-18901/amendments-to-the-2013-mortgage-rules-under-the-real-estate-settlement-procedures-act-regulation-x>.

<sup>15</sup> <https://www.federalregister.gov/documents/2017/10/16/2017-21912/mortgage-servicing-rules-under-the-real-estate-settlement-procedures-act-regulation-x>.

<sup>16</sup> <https://www.federalregister.gov/documents/2018/03/12/2018-04823/mortgage-servicing-rules-under-the-truth-in-lending-act-regulation-z>.

<sup>17</sup> <https://www.federalregister.gov/documents/2017/05/11/2017-09361/request-for-information-regarding-2013-real-estate-settlement-procedures-act-servicing-rule>.

<sup>18</sup> <https://www.federalregister.gov/documents/2017/03/24/2017-05681/request-for-information-regarding-remittance-rule-assessment>.

<sup>19</sup> <https://www.federalregister.gov/documents/2017/06/01/2017-11218/request-for-information-regarding-ability-to-repayqualified-mortgage-rule-assessment>.

- Other Requests for Information:
  - Request for Information Regarding the Small Business Lending Market<sup>20</sup>
  - Request for Information Regarding Consumer Access to Financial Records<sup>21</sup>
  - Request for Information Regarding Use of Alternative Data and Modeling Techniques in the Credit Process<sup>22</sup>
  - Request for Information Regarding Consumer Credit Card Market<sup>23</sup>
- **No Action Letter:** On September 14, 2017, Bureau staff issued its first no-action letter to Upstart Network, Inc., a company that uses alternative data in making credit and pricing decisions.<sup>24</sup> The Bureau's no-action letter signified that Bureau staff had no present intention to recommend initiation of an enforcement or supervisory action against Upstart with regard to application of the ECOA and its implementing regulation, Regulation B. The letter applies to Upstart's automated model for underwriting applicants for unsecured non revolving credit, as that model is described in the company's application materials. The letter is specific to the facts and circumstances of Upstart and does not serve as an endorsement of the use of any particular variables or modeling techniques in credit underwriting.
- **Explored Regulatory Burden:** The Bureau established a Task Force to coordinate and deepen the agency's focus on concerns about regulatory burdens and projects to

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<sup>20</sup> <https://www.federalregister.gov/documents/2017/05/15/2017-09732/request-for-information-regarding-the-small-business-lending-market>.

<sup>21</sup> <https://www.federalregister.gov/documents/2016/11/22/2016-24503/prepaid-accounts-under-the-electronic-fund-transfer-act-regulation-e-and-the-truth-in-lending-act>.

<sup>22</sup> <https://www.federalregister.gov/documents/2017/02/21/2017-03361/request-for-information-regarding-use-of-alternative-data-and-modeling-techniques-in-the-credit>.

<sup>23</sup> <https://www.federalregister.gov/documents/2017/03/10/2017-04797/request-for-information-regarding-consumer-credit-card-market>.

<sup>24</sup> *CFPB Announces First No-Action Letter to Upstart Network*, Consumer Financial Protection Bureau (Sept. 14, 2017), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-first-no-action-letter-upstart-network>.

identify and reduce unwarranted regulatory burdens consistent with the Bureau purposes and objectives under section 1021 of the Dodd-Frank Act.

- **Issued Guidance Documents:** The Bureau issued the following bulletins and guidance documents over the past year:<sup>25</sup>
  - Statement on Supervisory Practices regarding Financial Institutions and Consumers Affected by Hurricane Maria;<sup>26</sup>
  - Summer 2017 Supervisory Highlights;<sup>27</sup>
  - Statement on Supervisory Practices regarding Financial Institutions and Consumers Affected by Hurricanes Harvey and Irma;<sup>28</sup>
  - Memorandum on Financial Institution and Law Enforcement Efforts to Combat Elder Financial Exploitation;<sup>29</sup>
  - Fair Lending Report;<sup>30</sup>
  - FFIEC HMDA Examiner Transaction Testing Guidelines;<sup>31</sup>
  - Compliance Management Systems Examination Procedures;<sup>32</sup>

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<sup>25</sup> The Bureau posts many documents relating to compliance and guidance on its website, at <http://www.consumerfinance.gov/guidance>.

<sup>26</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709\\_cfpb\\_statement-on-supervisory-practice\\_hurricane-maria.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_statement-on-supervisory-practice_hurricane-maria.pdf).

<sup>27</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709\\_cfpb\\_Supervisory-Highlights\\_Issue-16.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_Supervisory-Highlights_Issue-16.pdf).

<sup>28</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709\\_cfpb\\_statement-on-supervisory-practice\\_hurricanes-harvey-and-irma.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_statement-on-supervisory-practice_hurricanes-harvey-and-irma.pdf).

<sup>29</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb-treasury-fincen\\_memo\\_elder-financial-exploitation.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb-treasury-fincen_memo_elder-financial-exploitation.pdf).

<sup>30</sup> <https://www.federalregister.gov/documents/2017/06/01/2017-11318/fair-lending-report-of-the-consumer-financial-protection-bureau-april-2017>.

<sup>31</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb\\_ffiec-hmda-examiner-transaction-testing-guidelines.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_ffiec-hmda-examiner-transaction-testing-guidelines.pdf).

- Examination Report Template;<sup>33</sup>
- Supervisory Letter Template;<sup>34</sup>
- Semiannual Regulatory Agenda;<sup>35</sup>
- Compliance Bulletin No. 2017-01: Phone Pay Fee;<sup>36</sup>
- Policy Guidance on Supervisory and Enforcement Priorities Regarding Early Compliance With the 2016 Amendments to the 2013 Mortgage Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z);<sup>37</sup>
- Policy on Ex Parte Presentations in Rulemaking Proceedings;<sup>38</sup>
- Education Loan Examination Procedures;<sup>39</sup>
- Spring 2017 Supervisory Highlights;<sup>40</sup>

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<sup>33</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb\\_compliance-management-review\\_supervision-and-examination-manual.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_compliance-management-review_supervision-and-examination-manual.pdf).

<sup>34</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb\\_Examination-Report-Template.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_Examination-Report-Template.pdf).

<sup>34</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb\\_Supervisory-Letter-Template.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_Supervisory-Letter-Template.pdf).

<sup>35</sup> <https://www.federalregister.gov/documents/2017/08/24/2017-16984/semiannual-regulatory-agenda>.

<sup>36</sup> <https://www.federalregister.gov/documents/2017/08/02/2017-16188/compliance-bulletin-2017-01-phone-pay-fees>.

<sup>37</sup> <https://www.federalregister.gov/documents/2017/06/30/2017-13799/policy-guidance-on-supervisory-and-enforcement-priorities-regarding-early-compliance-with-the-2016>.

<sup>38</sup> <https://www.federalregister.gov/documents/2017/04/21/2017-08096/policy-on-ex-parte-presentations-in-rulemaking-proceedings>.

<sup>39</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201706\\_cfpb\\_Education-Loan-Servicing-Exam-Manual.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201706_cfpb_Education-Loan-Servicing-Exam-Manual.pdf).

<sup>40</sup> <https://www.federalregister.gov/documents/2017/05/12/2017-09658/supervisory-highlights-spring-2017>.

- Supervisory Highlights Consumer Reporting Special Edition;<sup>41</sup>
- Supervision and Examination Process Overview;<sup>42</sup>
- Supervision and Examination Process;<sup>43</sup>
- Semi-annual Regulatory Agenda;<sup>44</sup>
- Fair Credit Reporting Act Disclosures;<sup>45</sup>
- Safe Harbors From Liability Under the Fair Debt Collection Practices Act for Certain Actions Taken in Compliance With Mortgage Servicing Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z);<sup>46</sup>
- Compliance Bulletin 2016-03: Detecting and Preventing Consumer Harm from Production Incentives;<sup>47</sup>
- Fall 2016 Supervisory Highlights;<sup>48</sup>
- Education Loan Examination Procedures;<sup>49</sup>

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<sup>41</sup> <https://www.federalregister.gov/documents/2017/04/06/2017-06904/supervisory-highlights-consumer-reporting-special-edition>.

<sup>42</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/032017\\_cfpb\\_examination-process-overview\\_supervision-and-examination-manual.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/032017_cfpb_examination-process-overview_supervision-and-examination-manual.pdf).

<sup>43</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/032017\\_cfpb\\_examination-process\\_supervision-and-examination-manual.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/032017_cfpb_examination-process_supervision-and-examination-manual.pdf).

<sup>44</sup> <https://www.federalregister.gov/documents/2016/12/23/2016-29921/semiannual-regulatory-agenda>.

<sup>45</sup> <https://www.federalregister.gov/documents/2016/11/18/2016-27735/fair-credit-reporting-act-disclosures>.

<sup>46</sup> <https://www.federalregister.gov/documents/2016/10/19/2016-18902/safe-harbors-from-liability-under-the-fair-debt-collection-practices-act-for-certain-actions-taken>.

<sup>47</sup> [http://www.consumerfinance.gov/documents/1537/201611\\_cfpb\\_Production\\_Incentives\\_Bulletin.pdf](http://www.consumerfinance.gov/documents/1537/201611_cfpb_Production_Incentives_Bulletin.pdf).

<sup>48</sup> <https://www.federalregister.gov/documents/2016/11/22/2016-28094/supervisory-highlights-fall-2016>.

- Compliance Bulletin and Policy Guidance No. 2016-02, Service Providers;<sup>50</sup>
- Reverse Mortgage Servicing Examination Procedures;<sup>51</sup> and
- Gramm-Leach-Bliley Act (GLBA) Examination Procedures.<sup>52</sup>

### 3.4 Plan for upcoming initiatives

- Call for Evidence<sup>53</sup>
  - Request for Information Regarding Bureau Civil Investigative Demands and Associated Processes<sup>54</sup>
  - Request for Information Regarding Bureau Rules of Practice for Adjudication Proceedings<sup>55</sup>
  - Request for Information Regarding Bureau Enforcement Processes<sup>56</sup>
  - Request for Information Regarding the Bureau's Supervision Program<sup>57</sup>

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<sup>49</sup>[http://www.consumerfinance.gov/documents/1383/102016\\_cfbp\\_EducationLoanServicingExamManualUpdate.pdf](http://www.consumerfinance.gov/documents/1383/102016_cfbp_EducationLoanServicingExamManualUpdate.pdf).

<sup>50</sup> <https://www.federalregister.gov/documents/2016/10/26/2016-25856/compliance-bulletin-and-policy-guidance-2016-02-service-providers>.

<sup>51</sup>[http://www.consumerfinance.gov/documents/1387/102016\\_cfbp\\_ReverseMortgageServicingExaminationProcedures.pdf](http://www.consumerfinance.gov/documents/1387/102016_cfbp_ReverseMortgageServicingExaminationProcedures.pdf).

<sup>52</sup> [http://www.consumerfinance.gov/documents/1381/102016\\_cfbp\\_GLBAExamManualUpdate.pdf](http://www.consumerfinance.gov/documents/1381/102016_cfbp_GLBAExamManualUpdate.pdf).

<sup>53</sup> <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/open-notices/call-for-evidence>.

<sup>54</sup> <https://www.federalregister.gov/documents/2018/01/26/2018-01435/request-for-information-regarding-bureau-civil-investigative-demands-and-associated-processes>.

<sup>55</sup> <https://www.federalregister.gov/documents/2018/02/05/2018-02208/request-for-information-regarding-bureau-rules-of-practice-for-adjudication-proceedings>.

<sup>56</sup> <https://www.federalregister.gov/documents/2018/02/12/2018-02710/request-for-information-regarding-bureau-enforcement-processes>.

- Request for Information Regarding Bureau External Engagements<sup>58</sup>
- Request for Information Regarding Bureau Public Reporting Practices of Consumer Complaint Information<sup>59</sup>
- Request for Information Regarding Bureau Rulemaking Processes<sup>60</sup>
- Request for Information Regarding the Bureau's Adopted Regulations and New Rulemaking Authorities<sup>61</sup>
- Request for Information Regarding the Bureau's Inherited Regulations and Inherited Rulemaking Authorities<sup>62</sup>
- Request for Information Regarding Bureau Guidance and Implementation Support<sup>63</sup>
- Request for Information Regarding Bureau Financial Education Programs<sup>64</sup>
- Request for Information Regarding Bureau Responses to Consumer Inquiries<sup>65</sup>

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<sup>57</sup> <https://www.federalregister.gov/documents/2018/02/20/2018-03358/request-for-information-regarding-the-bureaus-supervision-program>.

<sup>58</sup> <https://www.federalregister.gov/documents/2018/02/26/2018-03788/request-for-information-regarding-bureau-external-engagements>.

<sup>59</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb\\_rfi\\_complaint-reporting\\_032018.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_rfi_complaint-reporting_032018.pdf).

<sup>60</sup> <https://www.regulations.gov/document?D=CFPB-2018-0009-0001>

<sup>61</sup> <https://www.regulations.gov/document?D=CFPB-2018-0011-0001>

<sup>62</sup> <https://www.regulations.gov/document?D=CFPB-2018-0012-0001>

<sup>63</sup> <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-request-information-guidance-implementation-support/>.

<sup>64</sup> Forthcoming

<sup>65</sup> Forthcoming

### 3.5 Plan for upcoming rules

- Upcoming proposed rules:
  - Payday, Vehicle title, and Certain High-Cost Installment Loans: the Bureau announced in January 2018 that it intends to open a rulemaking to reconsider its 2017 rule titled Payday, Vehicle Title, and Certain High-Cost Installment Loans. Lenders would not need to comply with most provisions of the 2017 rule until August 2019.
  - The Expedited Funds Availability Act (Regulation CC): the Bureau will work with the Board of Governors of the Federal Reserve System to issue jointly a rule that includes provisions within the Bureau's authority.
  - Debt Collection Rule: the Bureau will work towards releasing a proposed rule concerning FDCPA collectors' communications practices and consumer disclosures.
  - Home Mortgage Disclosure (Regulation C): the Bureau announced in December 2017 that it intends to open a rulemaking to reconsider various aspects of the Bureau's 2015 rule titled Home Mortgage Disclosure Act (Regulation C), which could involve issues such as the institutional and transactional coverage tests and the rule's discretionary data points.
- Upcoming final rules
  - Gramm-Leach-Bliley Act (GLBA) (Regulation P): the Bureau is working towards finalizing an amendment to Regulation P concerning annual notice requirements.
  - Amendments Relating to Disclosure of Records and Information: This rule will include procedures used by the public to obtain information from the Bureau under the Freedom of Information Act, the Privacy Act of 1974, and in legal proceedings. It will also address the protection and disclosure of confidential information that the Bureau obtains in connection with the exercise of its authorities under Federal consumer financial law.
  - Amendment to the Federal Mortgage Disclosure Requirements under the Truth in Lending Act (Regulation Z): the Bureau intends to finalize a proposed amendment related to the use of Closing Disclosures to determine good faith disclosure of estimated closing cost.

## 4. 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

During the period October 1, 2016, through September 30, 2017, the Bureau handled approximately 317,200 consumer complaints.<sup>66</sup> Approximately 80% of all consumer complaints were submitted through the Bureau's website, 8% via referrals, and 5% via telephone calls with the remainder submitted by mail, email, and fax. The Bureau does not verify all the facts alleged in complaints, but takes steps to confirm a commercial relationship between the consumer and the company. Approximately 235,400 (or 74%) of all complaints handled were sent by the Bureau to companies for review and response.<sup>67</sup> Companies have responded to approximately

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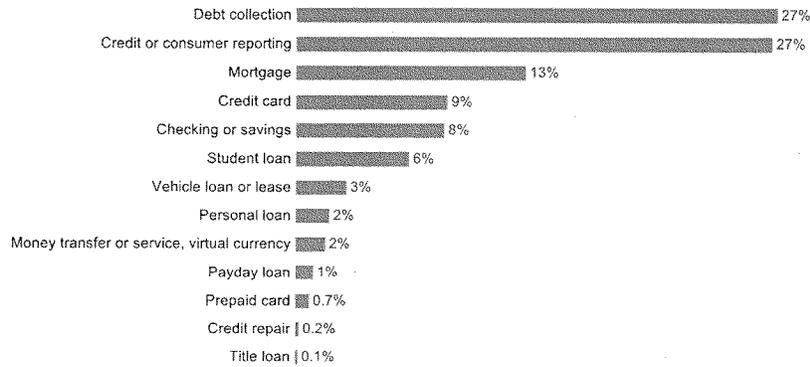
<sup>66</sup> All data are current through September 30, 2017. This analysis excludes multiple complaints submitted by a given consumer on the same issue and whistleblower tips. The Bureau does not verify all the facts alleged in complaints, but takes steps to confirm a commercial relationship between the consumer and the company. For more information on our complaint process refer to our website, <https://www.consumerfinance.gov/complaint/process>.

<sup>67</sup> The remaining complaints were referred to other regulatory agencies (15%), found to be incomplete (4%), or are pending with the consumer or the Bureau (3% and 4%, respectively). After the Bureau forwards complaints to

93% of complaints sent to them for response during the period. Company responses must 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 a categorization of the response. Companies' responses describe a range of relief such as refunding a fee, providing mortgage foreclosure alternatives that help consumers keep their home, stopping unwanted calls from debt collectors, cleaning up consumers' credit reports by correcting submissions sent to or reported by consumer reporting agencies, restoring or removing a credit line, correcting account information, and addressing formerly unmet customer service issues. Consumers did not receive a timely response from the company in 3% of complaints.

The chart below shows the distribution complaints by the product category designated by the consumer when submitting the complaint. There is a certain degree of unavoidable overlap between these categories. For example, a consumer whose grievance arises from the collection of a credit card debt may designate the complaint as a "debt collection" complaint or a "credit card" complaint.

**FIGURE 1: CONSUMER COMPLAINTS BY PRODUCT<sup>68</sup>**



companies, the company has 15 days to respond to the consumer and the Bureau. In some cases, the company provides a partial response within 15 days and a final response in 60 days. Company responses provided outside of the 15-day or 60-day response windows are deemed untimely.

<sup>68</sup> Percentages may not sum to 100% due to rounding.

Consumer Response analyzes consumer complaints, including completeness, and timeliness of a company's responses as well as consumers' feedback about that company's responses. Consumer feedback about company responses – both positive and negative – provides helpful insight into which issues are being addressed and how companies are addressing the concerns consumers raise in their complaints.

Consumer Response shares complaint data and analyses, and offers insights to other offices to help the Bureau understand problems consumers are experiencing in the marketplace and the impact of those experiences on their lives, develop tools to educate and empower people to know their rights and protect themselves, scope and prioritize examinations and ask targeted questions when examining companies' records and practices, and inform enforcement investigations to help stop unfair practices as the Bureau identifies them. Consumer Response also publishes complaint data and reports to ensure other regulators, consumers, and the marketplace have the complaint information needed to improve the functioning of the consumer financial markets for such products and services.<sup>69</sup>

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<sup>69</sup> During the reporting period, the Bureau published seven complaint reports on the following financial products (each covering a different geographic location): about prepaid card, other financial service, debt collection, mortgage, credit reporting, credit cards, and student loans complaints, and four special topic complaint reports on these special topics: about older consumers, consumer feedback, servicemembers, and the 50-state report. The Bureau also publishes the Consumer Response Annual Report, which provides a more detailed analysis of complaints. These reports can be viewed at <https://www.consumerfinance.gov/data-research/research-reports>.

## 5. 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

### 5.1 Supervisory activities

The Bureau's supervisory activities with respect to individual institutions are non-public. The Bureau has, however, issued numerous supervisory guidance documents and bulletins during the preceding year. These documents are listed under Section 3.3 as issued guidance documents undertaken within the preceding year.

### 5.2 Enforcement activities

The Bureau was a party in the following public enforcement actions from October 1, 2016, through September 30, 2017, detailed as follows. This section also identifies those actions involving Office of Administrative Adjudication Orders with respect to covered persons which are not credit unions or depository institutions.

***In the Matter of PHH Corp. et al.*** (File No. 2014-CFPB-0002). On January 29, 2014, the Bureau filed a notice of charges alleging PHH and its affiliates violated the Real Estate

Settlement Procedures Act's ("RESPA") prohibition on giving or receiving anything of value pursuant to an agreement to refer real estate settlement services. The Bureau alleges that when PHH originated mortgages, it referred real estate transactions for which mortgage insurance was required to certain mortgage insurance companies. In exchange for these referrals, the Bureau alleges these insurers purchased "reinsurance" from PHH's subsidiary, Atrium. The Bureau alleges that the reinsurance premiums were kickbacks paid for referrals in violation of RESPA. PHH denied the charges. A hearing before an administrative law judge was conducted starting on March 24, 2014. The administrative law judge issued a recommended decision on November 25, 2014. Both parties cross-appealed to the Director. The Director issued a final order on June 4, 2015, and PHH petitioned for review before the D.C. Circuit. On October 11, 2016, a three-judge panel of the D.C. Circuit vacated the Director's order on constitutional and statutory grounds. On January 31, 2018, having in the interim vacated the panel decision, the en banc D.C. Circuit reversed the panel's constitutional holding against the Bureau, reinstated the panel's statutory holdings against the Bureau, and remanded the matter to the Bureau for further proceedings.

***Consumer Financial Protection Bureau v. Golden Valley Lending, Inc., Silver Cloud Financial, Inc., Mountain Summit Financial, Inc., and Majestic Lake Financial, Inc.*** (D. Kan. No. 17-cv-2521). On April 27, 2017, the Bureau filed a complaint against four online lenders—Golden Valley Lending, Inc., Silver Cloud Financial, Inc., Mountain Summit Financial, Inc., and Majestic Lake Financial, Inc.—alleging they deceived consumers by collecting debt the consumers did not legally owe. Specifically, the Bureau alleged that the four lenders could not legally collect on these debts because the loans were void under state laws governing interest rate caps or the licensing of lenders. The Bureau further alleged that the lenders made deceptive demands and illegally took money from consumer bank accounts for debts that consumers did not legally owe. On October 10, 2017, the defendants filed a motion to dismiss. On January 18, 2018, the Bureau voluntarily dismissed the action without prejudice.

***Consumer Financial Protection Bureau v. Nationwide Biweekly Administration, Inc., et al.*** (N.D. Cal. No. 3:15-cv-2106). On May 11, 2015, the Bureau filed a complaint against Nationwide Biweekly Administration, Inc., Loan Payment Administration LLC, and Daniel S. Lipsky alleging that they engaged in abusive and deceptive acts and practices in violation of the CFPA and the Telemarketing Sales Rules (TSR) regarding a mortgage payment product known as the "Interest Minimizer Program," or IM Program. The Bureau alleged that the defendants misrepresented their affiliation with consumers' mortgage lenders, the amount of interest savings consumers would realize and when consumers would achieve savings on the IM Program, consumers' ability to attain the touted savings on their own or through a low- or no-

cost option offered by the consumers' servicer, and fees for the program. The Bureau sought a permanent injunction, consumer redress, and civil penalties. A trial was held beginning on April 24, 2017, and on September 8, 2017, the Court issued an opinion and order finding that the defendants had engaged in deceptive and abusive conduct in violation of the CFPA and TSR. The Court imposed a \$7.93 million civil money penalty, but denied the Bureau's request for restitution and disgorgement. On November 9, 2017, the court reduced the previous order to a judgment that included a permanent injunction prohibiting defendants from engaging in specified acts or practices, and on March 12, 2018, the court denied defendants' motions to alter or amend that judgment. Defendants have appealed to the Ninth Circuit and the case remains pending.

***Consumer Financial Protection Bureau v. Navient Corporation, Navient Solutions, Inc. and Pioneer Credit Recovery, Inc.*** (M.D. Pa. No. 3:17-cv-101). On January 18, 2017, the Bureau filed a complaint against Navient Corporation and its subsidiaries, Navient Solutions, Inc. and Pioneer Credit Recovery, Inc. The Bureau alleges that Navient Solutions and Navient Corporation steered borrowers toward repayment plans that resulted in borrowers paying more than other options; improperly reported to credit reporting agencies the payment status of disabled borrowers; deceived private student loan borrowers about requirements to release their co-signer from the loan; and repeatedly incorrectly applied or misallocated borrower payments to their accounts. The Bureau also alleges that Pioneer and Navient Corporation misled borrowers about the effect of rehabilitation on their credit reports and the amount of collection fees that would be forgiven in the federal loan rehabilitation program. Through its action, the Bureau seeks consumer redress and injunctive relief. On March 24, 2017, Navient moved to dismiss the complaint. On August 4, 2017, the court denied Navient's motion. The case remains pending.

***Consumer Financial Protection Bureau v. Ocwen Financial Corporation, Ocwen Mortgage Servicing, Inc., and Ocwen Loan Servicing, LLC*** (S.D. Fla. No. 17-cv-90495). On April 20, 2017, the Bureau filed a complaint against mortgage loan servicer Ocwen Financial Corporation and its subsidiaries alleging they used inaccurate and incomplete information to service loans, misrepresented to borrowers that their loans had certain amounts due, illegally foreclosed on homeowners that were performing on agreements on loss mitigation options, enrolled and charged consumers for add-on products without their consent, failed to adequately investigate and respond to borrower complaints, and engaged in other conduct in violation of the CFPA, TILA, FDCPA, RESPA, and HPA. On June 23, 2017, Ocwen moved to dismiss. That motion remains pending.

**Consumer Financial Protection Bureau v. TCF National Bank** (D. Minn. No. 0:17-cv-166). On January 19, 2017, the Bureau filed a complaint against TCF National Bank alleging TCF misled consumers into costly overdraft services in violation of Regulation E and the CFPB. Specifically, the Bureau alleges that TCF designed its application process to obscure the overdraft fees on one-time debt purchases and ATM withdrawals and make overdraft services seem mandatory for new customers to open an account. The Bureau's lawsuit seeks redress for consumers, an injunction to prevent future violations, and a civil money penalty. On September 8, 2017, the court granted TCF's motion to dismiss the Bureau's EFTA claims but denied the motion to dismiss the Bureau's UDAAP claims. The case remains pending.

**In the Matter of Meridian Title Corporation** (File No. 2017-CFPB-0019) (not a credit union or depository institution). On September 27, 2017, the Bureau issued a consent order against real estate settlement services provider Meridian Title Corporation finding that it steered consumers to a title insurer owned in part by several of its executives without making disclosures about the businesses' affiliation. The Bureau found that Meridian failed to disclose its relationship with the title insurer and that Meridian illegally benefitted from the referrals for title insurance. The Bureau's consent order requires Meridian to ensure that it ceases the illegal practice, provides disclosures whenever it makes a covered referral, and pay up to \$1.25 million in redress.

**Consumer Financial Protection Bureau v. Top Notch Funding II, LLC, Rory Donadio, and John "Gene" Cavalli** (S.D.N.Y. No. 1:17-cv-7114). On September 19, 2017, the Bureau filed a complaint alleging that Top Notch Funding and two individuals associated with the company made misrepresentations in loan offerings to consumers who were awaiting payment from settlements in legal cases or from victim-compensation funds. On January 30, 2018, the court entered a stipulated final judgment and order. The order prohibits the defendants from offering or providing such products in the future and requires them to pay \$75,000 in civil money penalties.

**Consumer Financial Protection Bureau v. The National Collegiate Master Student Loan Trust, et al.** (D. Del. No. 1:17-cv-01323); **In the Matter of Transworld Systems, Inc.** (File No. 2017-CFPB-0018) (not a credit union or depository institution). On September 18, 2017, the Bureau filed a complaint and proposed consent judgment against several National Collegiate Student Loan Trusts (collectively, "NCSLT") alleging they brought debt collection lawsuits for private student loan debt that the companies couldn't prove was owed or was too old to sue over; that they filed false and misleading affidavits or provided false and misleading testimony; and that they falsely claimed that affidavits were sworn before a notary. The

proposed consent judgment against the NCSLT would require an independent audit of all 800,000 student loans in the NCSLT portfolio. It would also prohibit the NCSLT, and any company it hires, from attempting to collect, reporting negative credit information, or filing lawsuits on any loan the audit shows is unverified or invalid. In addition, it would require the NCSLT to pay at least \$19.1 million, which would include initial redress to harmed consumers, disgorgement, and a civil money penalty. Several entities have moved to intervene to object to the proposed consent judgment. The court has not yet ruled on these motions, and the case remains pending. On September 18, 2017, the Bureau issued a separate consent order against the NCSLT's debt collector, Transworld Systems (TSI), for filing false or misleading affidavits, providing false or misleading testimony, and filing debt collection lawsuits when the companies could not prove the debt was owed. The Bureau's order requires injunctive relief and for TSI to pay a \$2.5 million civil penalty.

***In the Matter of Zero Parallel, LLC*** (File No. 2017-CFPB-0017) (not a credit union or depository institution). On September 6, 2017, the Bureau issued a consent order against online lead aggregator Zero Parallel, LLC. The Bureau found that Zero Parallel steered consumers toward lenders who offered illegal or unlicensed loans that were void in the consumers' states. The Bureau also found Zero Parallel sold consumers' payday and installment loan applications to lenders it knew were likely to make void loans that the lenders had no legal right to collect. The Bureau's order requires that Zero Parallel end its illegal conduct and pay a \$100,000 civil penalty.

***In the Matter of American Express Centurion Bank and American Express Bank, FSB*** (File No. 2017-CFPB-0016). The Bureau issued a consent order against American Express Centurion Bank and American Express Bank, FSB (collectively, American Express) finding they violated the Equal Credit Opportunity Act (ECOA) by discriminating against consumers in Puerto Rico, the U.S. Virgin Islands, and other U.S. territories. The Bureau found that over the course of at least ten years, American Express provided these consumers credit and charge card terms that were inferior in many respects to those available in the 50 U.S. states. The Bureau also found that American Express discriminated against certain consumers with Spanish-language preferences. American Express paid approximately \$95 million in redress before the order was issued. The Bureau's order requires American Express to pay at least another \$1 million in compensation, and to develop and implement a comprehensive compliance plan to ensure that it provides credit and charge cards to affected consumers in a non-discriminatory manner. The violations of ECOA are further discussed in the Section 8.2 of this report.

***Consumer Financial Protection Bureau v. Aequitas Capital Management, Inc., Aequitas Management LLC, Aequitas Holdings, LLC, Aequitas Commercial Finance LLC, Campus Student Funding, LLC, CSF Leverage I LLC, Aequitas Income Opportunity Fund, and Aequitas Income Protection Fund*** (D. Or. No. 3:17-cv-01278). On August 17, 2017, the Bureau filed a complaint against Aequitas Capital Management, Inc. and related entities alleging they aided the Corinthian Colleges in misrepresenting compliance with federal student lending laws. The Bureau alleged that Aequitas enabled Corinthian to make high-cost private loans to Corinthian students so that it would seem as if the school was making enough outside revenue to meet the requirements for receiving federal student aid dollars. The Bureau also alleged that both Aequitas and Corinthian knew students could not afford these high-interest loans. On September 1, 2017, the court entered a final judgment and order that included approximately \$183.3 million in loan forgiveness and reduction.

***In the Matter of JPMorgan Chase Bank, N.A.*** (File No. 2017-CFPB-0015). On August 2, 2017, the Bureau issued a consent order against JPMorgan Chase Bank, N.A., for failures related to information it provided for checking account screening reports. Banks screen potential customers based on reports about prior checking account behavior created by consumer reporting companies. The Bureau found that JPMorgan Chase did not have proper processes in place for reporting accurate information for these reports and did not inform consumers about the results of their reporting disputes and key aspects of their checking account application denials. The Bureau's order requires the bank to pay a \$4.6 million penalty and implement necessary changes to its policies to ensure accurate information is reported, inform consumers of investigation outcomes, and provide consumers with the contact information of the consumer reporting company that supplied information that JPMorgan Chase used to deny an application for a deposit account.

***Consumer Financial Protection Bureau v. Park View Law (f.k.a. Prime Law Experts, Inc.) and Arthur Barens*** (C.D. Cal. 2:17-cv-04721); ***Consumer Financial Protection Bureau v. Commercial Credit Consultants (d.b.a. Accurise); IMC Capital L.L.C. (a.k.a. Imperial Meridian Capital L.L.C., Imperial Capital, and IMCA Capital L.L.C.); Prime Credit, L.L.C. (a.k.a. Prime Marketing, L.L.C.; d.b.a. Prime Credit Consultants); Blake Johnson; and Eric Schlegel***, (C.D. Cal. No. 2:17-cv-04720). On June 27, 2017, the Bureau filed complaints against four California-based credit repair companies and three individuals alleging they misled consumers and charged illegal fees. The Bureau alleged that the companies charged illegal advance fees for credit repair services and misrepresented their ability to repair consumers' credit scores. On June 30, 2017, the court

entered a stipulated final judgment and order against Prime Credit, L.L.C., IMC Capital, L.L.C., Commercial Credit Consultants, Blake Johnson, and Eric Schlegel, ordering them to pay a civil money penalty of more than \$1.5 million. On July 10, 2017, the court entered a second stipulated final judgment against Park View Law and its owner Arthur Barens ordering them to pay \$500,000 in disgorgement. The orders also prohibit all defendants from doing business within the credit repair industry for five years.

***In the Matter of Fay Servicing, LLC*** (File No. 2017-CFPB-0014) (not a credit union or depository institution). On June 7, 2017, the Bureau issued a consent order against mortgage servicer Fay Servicing finding that it failed to provide mortgage borrowers with the protections against foreclosure that are required by law. The Bureau found that Fay violated the Bureau's servicing rules by failing to send or timely send consumers critical information regarding the process to apply for foreclosure relief. The Bureau also found that in some instances Fay launched or moved forward with the foreclosure process while borrowers were actively seeking help to save their homes. The Bureau's order requires Fay to comply with mortgage servicing rules and pay up to \$1.15 million to harmed borrowers.

***In the Matter of Security National Automotive Acceptance Company, LLC*** (File No. 2017-CFPB-0013) (not a credit union or depository institution). On April 26, 2017, the Bureau issued a consent order against Security National Automotive Acceptance Company (SNAAC), an auto lender specializing in loans to servicemembers, finding that it violated a Bureau consent order. In 2015, the Bureau issued a consent order requiring SNAAC to pay both redress and a civil penalty for illegal debt collection tactics, including making threats to contact servicemembers' commanding officers about debts and misrepresenting the consequences of not paying. In the 2017 order, the Bureau found that SNAAC violated the 2015 order by failing to provide more than \$1 million in refunds and credits. The Bureau's 2017 consent order requires SNAAC to pay the redress it owes to affected consumers under the 2015 order and pay an additional \$1.25 million civil penalty.

***Consumer Financial Protection Bureau v. Weltman, Weinberg & Reis Co., L.P.A.*** (N.D. Ohio No. 1:17-cv-00817). On April 17, 2017, the Bureau filed a complaint against the debt collection law firm Weltman, Weinberg & Reis Co., L.P.A., alleging it misrepresented in collection letters to consumers that attorneys were involved in collecting the debt. Specifically, the Bureau alleges the law firm made statements on collection calls and sent collection letters that created the false impression that attorneys had meaningfully reviewed the consumers' files, when no such review had occurred. The complaint seeks injunctive relief, restitution, and the

imposition of a civil money penalty. On September 29, 2017, the court denied the law firm's motion for judgment on the pleadings. The case remains pending.

***In the Matter of Experian Holdings, Inc., Experian Information Solutions, Inc., and ConsumerInfo.com, Inc., d/b/a Experian Consumer Services*** (File No. 2017-CFPB-0012) (not a credit union or depository institution). On March 23, 2017, the Bureau issued a consent order action against Experian and its subsidiaries, finding they misrepresented the usefulness of credit scores they provided to consumers. The Bureau also found that Experian violated Regulation V, the implementing regulation of the Fair Credit Reporting Act (FCRA), through improper advertising practices. The Bureau's order requires Experian to accurately represent the value of the credit scores it provides and pay a \$3 million civil money penalty.

***In the Matter of Nationstar Mortgage LLC*** (File No. 2017-CFPB-0011) (not a credit union or depository institution). On March 15 2017, the Bureau issued a consent order against Nationstar Mortgage LLC finding it violated the Home Mortgage Disclosure Act (HMDA) by submitting mortgage loan data for 2012 through 2014 containing substantial errors. The Bureau found that Nationstar's HMDA compliance systems were deficient and not reasonably adapted to avoid such errors. The consent order requires Nationstar to pay a \$1.75 million civil penalty, develop and implement an effective compliance management system, and correct its HMDA reporting inaccuracies from 2012 to 2014. The violations of HMDA are further discussed in Section 8.2 of this report.

***Consumer Financial Protection Bureau v. RD Legal Funding, LLC, RD Legal Finance, LLC, and RD Legal Funding Partners, LP, and Roni Dersovitz*** (S.D.N.Y. No. 1:17-cv-890). On February 7, 2017, the Bureau and the New York Attorney General filed a complaint against RD Legal Funding, LLC, two related entities, and the companies' founder and owner, Roni Dersovitz, alleging that they made misrepresentations to 9/11 first responders and NFL concussion victims and engaged in abusive practices in connection with cash advances on settlement payouts from victim-compensation funds and lawsuit settlements. The lawsuit seeks monetary relief, disgorgement, and civil money penalties. On May 15, 2017, the defendants moved to dismiss the Bureau's complaint. The court has not yet ruled, and the case remains pending.

***Consumer Financial Protection Bureau v. Woodbridge Coins and Jewelry Exchange, Inc. d/b/a Woodbridge Gold & Pawn*** (E.D. Va. No. 1:17-cv-141). On February 2, 2017, the Bureau and the Attorney General of Virginia filed a complaint against Woodbridge Coins and Jewelry Exchange, Inc., alleging that it misstated the charges associated with pawn loans. Specifically, the complaint alleged that since at least May 2014, Woodbridge disclosed

deceptively low annual percentage rates (APR) that did not reflect the fees and charges associated with the loans. The Bureau further alleged that these inaccurate disclosures in many cases understated the true APR by as much as half the actual cost. On February 7, 2017, the court entered a stipulated final judgment and order against Woodbridge, which required it to pay over \$56,000 in restitution, \$17,000 in disgorgement, and a \$5,000 civil penalty, and to make accurate disclosures.

***In the Matter of UniRush LLC and Mastercard International Incorporated*** (File No. 2017-CFPB-0010) (not a credit union or depository institution). On February 1, 2017, the Bureau entered a consent order against Mastercard and UniRush finding that disruptions of UniRush's prepaid debit card system left tens of thousands of consumers unable to access their money. The Bureau found that preventable failures by Mastercard and UniRush before, during, and after UniRush's changeover to Mastercard as a new payment processor in 2015 meant that many customers could not use their RushCard to get their paycheck funds and other direct deposits, take out cash, make purchases, pay bills, or get accurate balance information. The Bureau further found that UniRush then failed to provide customer service to many consumers who reached out for help during the service disruption. The Bureau's order requires Mastercard and UniRush to pay an estimated \$10 million in restitution and a civil money penalty of \$3 million.

***In the Matter of Prospect Mortgage, LLC*** (File No. 2017-CFPB-006); ***Planet Home Lending, LLC*** (File No. 2017-CFPB-0007); ***Willamette Legacy, LLC dba Keller Williams Mid-Willamette***, (File No. 2017-CFPB-0008); and ***RGC Services, Inc. dba Re/Max Gold Coast Realtors*** (File No. 2017-CFPB-0009) (not a credit union or depository institution). On January 31, 2017, the Bureau issued a consent order against Prospect Mortgage, LLC, a major mortgage lender, finding that it paid illegal kickbacks for mortgage business referrals. On the same day, the Bureau also issued consent orders against two real estate brokers – RGC Services, Inc., and Willamette Legacy, LLC – and a mortgage servicer, Planet Home Lending, LLC, finding they took illegal kickbacks from Prospect. The Bureau also found Planet violated the FCRA by improperly using credit reports to market Prospect to its customers. The Bureau's orders imposed injunctive relief, and required Prospect to pay a \$3.5 million civil penalty; ReMax Gold Coast to pay a \$50,000 civil penalty; Keller Williams Mid-Willamette to pay \$145,000 in disgorgement and a \$35,000 civil penalty; and Planet to pay \$265,000 in consumer redress.

***Consumer Financial Protection Bureau v. Vincent Howard, Lawrence W. Williamson, Howard Law, P.C., The Williamson Law Firm, LLC, and Williamson***

**& Howard, LLP** (C.D. Cal. No. 8:17-cv-161). On January 30, 2017, the Bureau filed a complaint against a number of law firms and attorneys alleging that they violated the Telemarketing Sales Rule by: (1) charging illegal fees to consumers seeking debt relief and providing substantial assistance to Morgan Drexen and Walter Ledda with knowledge that Morgan Drexen and Ledda were charging illegal debt relief fees; and (2) misrepresenting that consumers would not be charged advance fees for debt relief services when, in fact, they were. The Bureau alleges that Howard Law, P.C., the Williamson Law Firm, LLC, and Williamson & Howard, LLP, as well as attorneys Vincent Howard and Lawrence Williamson, ran this debt relief operation along with Morgan Drexen, Inc., which shut down in 2015 following the Bureau's lawsuit against that company. The complaint seeks injunctive relief, restitution, and the imposition of civil money penalties. The Bureau sought but was denied an ex parte application for asset freeze on February 13, 2017. The defendants filed a motion to dismiss, which the court denied on March 30, 2017. The defendants then asserted two counterclaims. The court dismissed those claims with prejudice on December 19, 2017. The case remains pending.

***In the Matter of CitiFinancial Servicing, LLC, CitiFinancial Company, CitiFinancial Services, Inc., and CitiFinancial, Inc.*** (File No. 2017-CFPB-0004). On January 23, 2017, the Bureau issued a consent order against four entities that made up the CitiFinancial Servicing business relating to their mortgage servicing practices. The Bureau found that CitiFinancial engaged in a number of acts or practices that violated RESPA, FCRA, and the CFPB's prohibition on deceptive acts or practices. Specifically, the Bureau found that these practices included failing to consider deferment requests as requests for foreclosure relief, misleading consumers about the impact of deferring a payment due date, improperly charging for credit insurance that should have been cancelled or prematurely cancelling credit insurance, inaccurately reporting consumer information to credit reporting companies, and failing to timely investigate credit reporting disputes. The Bureau's order requires CitiFinancial Services to refund approximately \$4.4 million in improper charges and pay a civil penalty of \$4.4 million.

***In the Matter of CitiMortgage, Inc.*** (File No. 2017-CFPB-0005). On January 23, 2017, the Bureau issued a consent order against CitiMortgage finding that it violated RESPA and the CFPB's prohibition against deceptive acts or practices. Under federal mortgage rules, if a borrower does not submit all the required documentation with the initial application for loss mitigation, servicers must let the borrowers know what additional documents are required. The Bureau found CitiMortgage sent some borrowers seeking assistance a letter demanding dozens of documents and forms that had no bearing on the application or that the consumer had

already provided, and that many of these documents had nothing to do with a borrower's financial circumstances and was not needed to complete the application. The Bureau's order requires CitiMortgage to pay an estimated \$17 million in restitution and pay a civil penalty of \$3 million.

***In the Matter of Works & Lentz, Inc.; Works & Lentz of Tulsa, Inc.; and Harry A. Lentz, Jr.*** (File No. 2017-CFPB-0003) (not a credit union or depository institution). On January 9, 2017, the Bureau issued a consent order against two medical debt collection law firms and their president finding that they misrepresented that their letters and calls were from attorneys attempting to collect on a debt when no attorney had yet reviewed the account. The Bureau also found that the law firms failed to ensure the accuracy of the consumer information they furnished to credit reporting companies and used improperly notarized affidavits in lawsuits filed against consumers. The Bureau's order requires defendants to provide \$577,135 in restitution, correct their business practices, and pay a \$78,800 penalty.

***In the Matter of TransUnion Interactive, Inc., TransUnion, LLC, and TransUnion*** (File No. 2017-CFPB-0002) (not a credit union or depository institution). On January 3, 2017, the Bureau issued a consent order against TransUnion and its subsidiaries finding that it deceived consumers about the usefulness and value of the credit scores it sold to consumers. The Bureau also found that the company deceived consumers into enrolling in costly subscription programs for credit-related products. The Bureau's order requires TransUnion to represent accurately the value of the credit scores it provides and the cost of obtaining those credit scores and other services, and to pay \$13.9 million in restitution and a \$3 million civil penalty.

***In the Matter of Equifax, Inc. and Equifax Consumer Services LLC*** (File No. 2017-CFPB-0001) (not a credit union or depository institution). On January 3, 2017, the Bureau issued a consent order against Equifax, Inc., and its subsidiaries finding that it deceived consumers about the value of the credit scores it sold to consumers. The Bureau also found that the company deceived consumers into enrolling in costly subscription programs for credit-related products and violated Regulation V by advertising on AnnualCreditReport.com before consumers had obtained their report. The Bureau's order requires Equifax to represent accurately the value of the credit scores it provides and the cost of obtaining those credit scores and other services, and to pay \$3.8 million in restitution and a \$2.5 million civil money penalty.

***In the Matter of Military Credit Services, LLC*** (File No. 2016-CFPB-0029) (not a credit union or depository institution). On December 20, 2016, the Bureau issued a consent order against Military Credit Services, LLC (MCS) finding that MCS entered into revolving-credit agreements with ACH pre-authorization provisions that were not clear and readily

understandable to consumers, in violation of EFTA and Regulation E, and made improper APR disclosures, in violation of TILA and Regulation Z. The Bureau's order requires the company to ensure that its contracts comply with the law. It also required the company to pay a \$200,000 civil penalty and hire an independent consultant to review its practices.

***Consumer Financial Protection Bureau v. Spotsylvania Gold & Pawn, Inc.*** (E.D. Va. No. 3:16-cv-988); ***Consumer Financial Protection Bureau v. Fredericksburg Gold & Pawn, Inc.*** (E.D. Va. No. 3:16-cv-987); ***Consumer Financial Protection Bureau v. Pawn U.S.A, Inc.*** (E.D. Va. No. 1:16-cv-01566); ***Consumer Financial Protection Bureau v. A to Z Pawn, Inc.*** (E.D. Va. No. 1:16-cv-1567). On December 19, 2016, the Bureau filed complaints against four Virginia pawnbrokers alleging that they deceived consumers about the actual annual costs of their loans. Specifically, the Bureau alleged that the four companies broke the law by misstating the APR associated with pawn loans. The court entered stipulated final judgments in all four proceedings between February 22, 2017 and July 18, 2017. Those orders permanently restrain Spotsylvania Gold & Pawn, Fredericksburg Gold & Pawn, Pawn U.S.A., and A to Z Pawn from disclosing an inaccurate APR or failing to provide required disclosures. Additionally, the orders required Spotsylvania Gold & Pawn to pay \$20,209 as disgorgement and a \$7,500 civil penalty; Fredericksburg Gold & Pawn to pay \$24,570 as disgorgement and a \$5,000 civil penalty; Pawn U.S.A. to pay \$36,367 as disgorgement and a \$10,000 civil penalty; and A to Z Pawn to pay a \$3,500 civil penalty.

***In the Matter of Moneytree, Inc.*** (File No. 2016-CFPB-0028) (not a credit union or depository institution). On December 16, 2016, the Bureau issued a consent order against Moneytree, Inc., a financial services company that offers payday loans and check-cashing services, finding that it misled consumers with deceptive online advertisements and collection letters. The Bureau also found that the company made unauthorized electronic transfers from consumers' bank accounts. The Bureau's order requires the company to cease its illegal conduct, provide \$255,000 in restitution, and pay a civil penalty of \$250,000.

***In the Matter of Reverse Mortgage Solutions, Inc. d/b/a Security 1 Lending*** (File No. 2016-CFPB-0027); ***In the Matter of American Advisors Group*** (File No. 2016-CFPB-0026); ***In the Matter of Aegean Financial d/b/a Aegean Financial, Inc., Reverse Mortgage Professionals, Jubilados Financial, Newport Lending Reverse Mortgage, Promise Land Lending, Reverse Financial Group, and Reverse Mortgage Information Center*** (File No. 2016-CFPB-0025) (not a credit union or depository institution). On December 7, 2016, the Bureau issued consent orders against three reverse mortgage companies finding that they made deceptive advertisements. The Bureau's

order requires American Advisors Group, Reverse Mortgage Solutions, and Aegean Financial to cease their deceptive advertising practices, make clear and prominent disclosures in their reverse mortgage advertisements and implement a system to ensure they are following all laws. The consent orders also require American Advisors Group to pay a civil penalty of \$400,000, Reverse Mortgage Solutions to pay a penalty of \$325,000, and Aegean Financial to pay a penalty of \$65,000.

***Consumer Financial Protection Bureau v. Access Funding, LLC, Access Holding, LLC, Reliance Funding, LLC, Lee Jundanian, Raffi Boghosian, Michael Borkowski, and Charles Smith*** (D. Md. No. 1:16-cv-03759). On November 21, 2016, the Bureau filed a complaint against Access Funding, LLC, Access Holding, LLC, Reliance Funding, LLC, three of the companies' principals—Lee Jundanian, Raffi Boghosian, and Michael Borkowski—and a Maryland attorney, Charles Smith, alleging that they deceptively induced individuals to enter into settlement funding agreements, in which the individuals agreed to receive an immediate lump sum payment in exchange for significantly higher future settlement payments. The Bureau also alleges that the companies and their principals steered victims to receive “independent advice” from Smith, who was paid directly by Access Funding and indicated to consumers that the transactions required very little scrutiny. The Bureau further alleges that Access Funding advanced money to some consumers and represented to those consumers that the advances obligated them to go forward with transactions even if they realized that the transactions were not in their best interests. On September 13, 2017, the court granted defendants' motions to dismiss counts I-IV, arising out of Smith's conduct, on the grounds that he had attorney-client relationships with the consumers in question. The court denied the defendants' motions to dismiss the Bureau's claim relating to the advances Access Funding offered consumers. The court granted the Bureau's motion to file an amended complaint alleging Smith did not have attorney-client relationships with the consumers in question. Defendants again moved to dismiss. The motion remains pending.

***Consumer Financial Protection Bureau v. B&B Pawnbrokers*** (E.D. Va. No. 3:16-cv-887). On November 3, 2016, the Bureau filed a complaint against B&B Pawnbrokers, Inc. alleging that it deceived consumers about the actual annual cost of its loans. Specifically, the Bureau alleged that B&B Pawnbrokers misstated the charges associated with pawn loans. On March 1, 2017, the court entered a stipulated final judgment and order. The order required the company to disgorge \$29,000, pay a \$5,000 civil penalty, and halt its illegal practices.

***Consumer Financial Protection Bureau v. Northern Resolution Group*** (W.D.N.Y. No. 1:16-cv-00880). On November 2, 2016, the Bureau, in partnership with the New York

Attorney General, filed a complaint alleging that Douglas MacKinnon and Mark Gray operate a network of companies that harass, threaten, and deceive consumers across the nation into paying inflated debts or amounts they may not owe. The complaint seeks injunctive relief, restitution, and the imposition of penalties against the companies and partners. The defendants asserted counterclaims against the Bureau and New York, which the court dismissed on January 8, 2018. The case remains pending.

***In the Matter of Navy Federal Credit Union*** (File No. 2016-CFPB-0024). On October 11, 2016, the Bureau issued a consent order against Navy Federal Credit Union (NFCU) finding that it made deceptive representations to its members in connection with its debt collection activities. Specifically, the Bureau found that the credit union, whose members include active duty military, retired servicemembers, and their families, made deceptive representations about its intention to take legal action against members with delinquent accounts, its intention to contact members' military chains of command about consumer debts, and the effect of delinquency or repayment on members' credit ratings. The Bureau also found that the credit union unfairly restricted account access when members had an overdrawn deposit account or delinquent credit account. The Bureau's order requires NFCU to stop: any misleading, false, or unsubstantiated threats to contact members' commanding officers; initiation of any improper legal action; misrepresentations about the credit consequences of falling behind on a credit union loan; and unfairly restricting members' access to all of their accounts if they are delinquent on one. The order also requires the credit union to pay roughly \$23 million in restitution and a civil penalty of \$5.5 million.

***Consumer Financial Protection Bureau v. Prime Marketing Holdings, LLC, d/b/a/ Park View Credit, National Credit Advisors, and Credit Experts*** (C.D. Cal. No. 2:16-cv-7111). On September 22, 2016, the Bureau filed a complaint against the credit repair company Prime Marketing Holdings, LLC (PMH), alleging it charged consumers illegal advance fees and misrepresented the cost and effectiveness of its services and the nature of its money-back guarantee. On August 31, 2017, the court entered a stipulated final judgment and order. The final judgment permanently bans PMH from doing business in the credit repair industry and orders it to pay a \$150,000 civil penalty.

***In the Matter of Auto Cash Leasing, LLC*** (File No. 2016-CFPB-0017); ***Interstate Lending, LLC*** (File No. 2016-CFPB-0018); ***Oasis Title Loans, LLC*** (File No. 2016-CFPB-0019); ***Phoenix Title Loans, LLC*** (File No. 2016-CFPB-0020); ***Presto Auto Loans, Inc.*** (File No. 2016-CFPB-0021) (not a credit union or depository institution). On September 20, 2016, the Bureau filed notices of charges against five title lenders operating in Arizona—Auto

Cash Leasing, LLC; Interstate Lending, LLC; Oasis Title Loans, LLC; Phoenix Title Loans, LLC; and Presto Auto Loans, Inc.—alleging they failed to disclose the APR in online advertisements about title loans. Specifically, the Bureau alleged that the companies advertised a periodic interest rate for their loans without listing the corresponding annual percentage rate. The Bureau issued consent orders against all five companies between November 1, 2016 and March 13, 2017. The orders prohibit Auto Cash Leasing, Interstate Lending, Oasis Title Loans, Presto Auto Loans, and Phoenix Title Loans from advertising a periodic rate of interest unless the advertisement also discloses the corresponding APR. The orders also require Auto Cash Leasing to pay a civil money penalty of \$10,000, Interstate Lending to pay a civil money penalty of \$4,000, Oasis Title Loans to pay a civil money penalty of \$20,000, Presto Auto Loans to pay a civil money penalty of \$125,000, and Phoenix Title Loans to pay a civil money penalty of \$40,000.

***Consumer Financial Protection Bureau v. Intercept Corporation, Bryan Smith, and Craig Dresser*** (D.N.D. No. 3:16-cv-144). On June 6, 2016, the Bureau filed a complaint against payment processor Intercept Corporation and two of its executives, Bryan Smith and Craig Dresser. The Bureau alleged that the defendants engaged in unfair acts or practices by continuing to electronically debit consumers' accounts despite warnings that the payment requests were illegal or fraudulent. On August 8, 2016, the defendants moved to dismiss. The court dismissed the Bureau's lawsuit without prejudice on March 17, 2017, holding the Bureau failed to plead sufficient detail in the complaint.

***Consumer Financial Protection Bureau v. All American Check Cashing, Inc., Mid-State Finance, Inc., and Michael E. Gray*** (S.D. Miss. No. 3:16-cv-356). On May 11, 2016, the Bureau filed a complaint against two companies, All American Check Cashing, Inc. and Mid-State Finance, Inc. that offer check-cashing services and payday loans, and their president and sole owner, Michael Gray. The Bureau alleges that All American tried to keep consumers from learning how much they would be charged to cash a check and used deceptive tactics to stop consumers from backing out of transactions. The Bureau also alleges that All American made deceptive statements about the benefits of its high-cost payday loans and failed to provide refunds after consumers made overpayments on their loans. The Bureau's lawsuit seeks injunctive relief, restitution, and the imposition of a civil money penalty. On July 15, 2016, the court denied defendants' motion for a more definite statement. The defendants moved for judgment on the pleadings on May 24, 2017, and the court denied that motion on March 21, 2018. The Bureau moved for summary judgment on August 4, 2017, and the court has not yet ruled on that motion. The case remains pending.

***Consumer Financial Protection Bureau v. D and D Marketing, Inc., d/b/a T3Leads, Grigor Demirchyan, and Marina Demirchyan*** (C.D. Cal. No. 2:15-cv-9692); ***Consumer Financial Protection Bureau v. Dmitry Fomichev*** (C.D. Cal. No. 2:16-cv-2724); and ***Consumer Financial Protection Bureau v. Davit Gasparyan aka David Gasparyan*** (C.D. Cal. No. 2:16-cv-2725). On December 17, 2015, the Bureau filed a complaint against T3Leads and its current executives, Grigor Demirchyan and Marina Demirchyan, alleging that T3 engaged in unfair and abusive acts and practices in the sale of consumer-loan applications to small-dollar lenders and others acting unlawfully, and in operating a loan-application network that prevented consumers from understanding the material risks, costs, or conditions of their loans, and further alleging that the Demirchyans substantially assisted those acts and practices. On April 21, 2016, the Bureau filed two separate but related complaints against the company's past executives—Dmitry Fomichev and Davit Gasparyan—alleging that they substantially assisted T3's violations. The complaints seek monetary relief, injunctive relief, and penalties. On November 17, 2016, the court denied the defendants' motions to dismiss but found the Bureau unconstitutionally structured. The Ninth Circuit granted interlocutory appeal on that issue. That issue has not been decided. On September 8, 2017, the district court entered a stipulated final judgment and order against one of the defendants, Davit Gasparyan. The order imposed injunctive relief and required Gasparyan to pay a \$250,000 penalty. The case remains pending in the district court against the remaining defendants.

***Consumer Financial Protection Bureau and Anthony J. Albanese, Acting Superintendent of Financial Services of the State of New York v. Pension Funding, LLC; Pension Income, LLC; Steven Covey; Edwin Lichtig; and Rex Hofelter*** (C.D. Cal. No. 8:15-cv-1329). On August 20, 2015, the Bureau and the New York Department of Financial Services (NYDFS) filed a complaint against two companies, Pension Funding, LLC and Pension Income, LLC, and three of the companies' individual managers, alleging that they deceived consumers about the costs and risks of their pension-advance loans. The Bureau and NYDFS alleged that from 2011 until about December 2014, Pension Funding and Pension Income offered consumers lump-sum loan payments in exchange for the consumers agreeing to redirect all or part of their pension payments to the companies for eight years. The Bureau and NYDFS also alleged that the individual defendants, Steven Covey, Edwin Lichtig, and Rex Hofelter, designed and marketed these loans and were responsible for the companies' operations. The Bureau and NYDFS alleged that all of the defendants violated the CFPA's prohibitions against unfair, deceptive, and abusive acts or practices. On January 8, 2016, the court appointed a receiver over defendants Pension Funding and Pension Income. The receiver's responsibilities include taking control of all funds and assets of the companies and completing an accounting of all pension-advance transactions that are the subject of the action.

On February 10, 2016, the court entered a stipulated final judgment and order as to two of the individual defendants, Lichtig and Hofelter. The order imposes bans on these individuals' participation in pension-advance transactions and requires them to pay money to the receivership estate. On July 11, 2016, the court granted a default judgment against the final individual defendant, Covey, who did not appear in the case. The court's order imposes a ban and requires Covey to pay disgorgement of approximately \$580,000. The court-appointed receiver's work with respect to the companies is ongoing.

***In the Matter of Integrity Advance, LLC and James R. Carnes*** (File No. 2015-CFPB-0029). On November 18, 2015, the Bureau filed a notice of charges against an online lender, Integrity Advance, LLC, and its CEO, James R. Carnes, alleging they deceived consumers about the cost of short-term loans. The Bureau alleges that the company's contracts did not disclose the costs consumers would pay under the default terms of the contracts. The Bureau also alleges that the company unfairly used remotely created checks to debit consumers' bank accounts even after the consumers' revoked authorization for automatic withdrawals. The Bureau is seeking injunctive relief, restitution, and the imposition of a civil money penalty. On September 27, 2016, the Administrative Law Judge issued a Recommended Decision finding liability and recommending injunctive and monetary relief. The Recommended Decision was appealed to the Director, but further activity on that appeal was held in abeyance pending a decision in *PHH Corp. v. CFPB*, No. 15-1177 (D.C. Cir.). The case remains pending.

***Consumer Financial Protection Bureau v. Global Financial Support, Inc., d/b/a Student Financial Resource Center, d/b/a College Financial Advisory; and Armond Aria a/k/a Armond Amir Aria, individually, and as owner and CEO of Global Financial Support, Inc.*** (S.D. Cal. No. 3:15-cv-2440). On October 29, 2015, the Bureau filed a complaint alleging that Global Financial Support, Inc., which operates under the names Student Financial Resource Center and College Financial Advisory, issued marketing letters instructing students to fill out a form and pay a fee in exchange for the company conducting extensive searches to target or match them with individualized financial aid opportunities. The Bureau alleges that consumers who paid the fee received nothing or a generic booklet that failed to provide individualized advice. The Bureau also alleges that the defendants misrepresented their affiliation with government and university financial aid offices and pressured consumers to enroll through deceptive statements. The complaint seeks injunctive relief, restitution, and the imposition of a civil money penalty. This matter has been stayed since May 17, 2016 based on an ongoing criminal prosecution of one of the defendants. The case remains pending.

***Consumer Financial Protection Bureau v. Orion Processing, LLC d/b/a World Law Processing, Wld Credit Repair, and World Law Debt; Family Capital Investment & Management, LLC a/k/a FCIAM Property Management, et al.*** (S.D. Fla. No. 1:15-cv-23070). On August 17, 2015, the Bureau filed a complaint against the World Law Group alleging it violated the Telemarketing Sales Rule (TSR), and the CFPA by running a debt relief operation that charged consumers illegal upfront fees, falsely promised a team of attorneys to help negotiate debt settlements with creditors, failed to provide legal representation, and rarely settled consumers' debts. The Bureau alleged that World Law collected fees from consumers before providing any debt-relief services. On August 1, 2016, the court entered a default judgment against the World Law corporate defendants and FCIAM, and a stipulated final judgment against two of the individuals, who admitted violations of the Telemarketing Sales Rule. The court entered a default judgment against Bradley Haskins on November 29, 2016, and a stipulated final judgment and order against Orion Processing, LLC on March 22, 2017. The orders permanently ban the defendants from participating in telemarketing of any consumer financial product or service, or from selling, advertising, or offering debt relief products. The court also ordered the defendants to pay nearly \$107 million in consumer redress, ordered Haskins, FCIAM, and the World Law corporate defendants to pay a civil money penalty of \$40 million, and ordered Orion to pay a \$20 million civil money penalty.

***Consumer Financial Protection Bureau v. Gordon, et al.*** (C.D. Cal. No. 12-cv-6147). On July 18, 2012, the Bureau filed a complaint against a nationwide mortgage relief operation alleging the defendants took advantage of financially distressed homeowners by falsely promising to help them obtain loan modifications and illegally charging them advance fees ranging from \$2,500 to \$4,500. On February 1, 2013, the court entered a stipulated final judgment and order for permanent injunction as to defendants Abraham Michael Pessar, Division One Investment and Loan, Inc., and Processing Division, LLC. On June 26, 2013, the court granted summary judgment in favor of the Bureau against defendants Chance Edward Gordon and the Gordon Law Firm, P.C., finding that those defendants violated the Dodd-Frank Act by falsely representing: (1) that consumers would obtain mortgage loan modifications that substantially reduced their mortgage payments or interest rates and (2) that defendants were affiliated with, endorsed by, or approved by the U.S. government, among other things. The court also found that Gordon violated Regulation O by charging up-front payments, failing to make required disclosures, wrongly directing consumers not to contact lenders, and misrepresenting material aspects of defendants' services. After the order entering summary judgment against Gordon was largely affirmed on appeal, the court awarded an \$8,606,280.86 judgment for equitable monetary relief against Gordon on December 19, 2016. Gordon's petition for certiorari in the U.S. Supreme Court was denied on June 26, 2017.

***Consumer Financial Protection Bureau v. Borders & Borders, PLC, et al.*** (W.D. Ky. No. 3:13-cv-1047). On October 24, 2013, the Bureau filed a complaint alleging that Borders & Borders, a law firm specializing in real estate closings, violated RESPA by paying kickbacks to local real estate and mortgage brokers in exchange for referrals of settlement service business to the defendants. The Bureau seeks injunctive and other equitable relief. On February 12, 2015, the court denied the defendants' motion for judgment on the pleading, but on July 13, 2017, granted defendants' motion for summary judgment, finding the arrangement qualified as an affiliated business relationship under section 8(c)(4) of RESPA, and that the arrangement was independently allowed under section 8(c)(2) of RESPA. On August 10, 2017, the Bureau moved for reconsideration, and the court has not yet ruled. The case remains pending.

***Consumer Financial Protection Bureau v. NDG Financial Corp., et al.*** (S.D.N.Y. No. 15-cv-5211). On July 6, 2015, the Bureau filed a complaint against the NDG Financial Corporation and nine of its affiliates alleging it engaged in unfair, deceptive, and abusive practices relating to its payday lending enterprise. The Bureau alleges that the enterprise, which has companies located in Canada and Malta, originated, serviced, and collected payday loans that were void under state law, represented that U.S. federal and state laws did not apply to the Defendants or the payday loans, and used unfair and deceptive tactics to secure repayment, all in violation of the CFPB. On December 2, 2016, the court denied the defendants' motions to dismiss. On December 6, 2017, the clerk entered default against the Maltese defendants. On February 5, 2018, the court voluntarily dismissed the former owners and their holding corporations as defendants and/or relief defendants. The Bureau has moved for terminating sanctions against the remaining defendants, and the case remains pending.

***Consumer Financial Protection Bureau v. Universal Debt & Payment Solutions, LLC, et al.*** (N.D. Ga. No. 1:15-cv-859). On March 26, 2015, the Bureau filed a complaint against a group of seven debt collection agencies, six individual debt collectors, four payment processors, and a telephone marketing service provider alleging unlawful conduct related to a phantom debt collection operation. Phantom debt is debt consumers do not actually owe or debt that is not payable to those attempting to collect it. The Bureau alleges that the individuals, acting through a network of corporate entities, used threats and harassment to collect "phantom" debt from consumers. The Bureau alleges the defendants violated the FDCPA and the CFPB's prohibition on unfair and deceptive acts and practices, and provided substantial assistance to unfair or deceptive conduct. The Bureau is seeking permanent injunctive relief, restitution, and the imposition of a civil money penalty. On April 7, 2015, the Bureau obtained a preliminary injunction against the debt collectors that froze their assets and enjoined their unlawful conduct. In September 1, 2015, the court denied the defendants' motion to dismiss. On

August 25, 2017, the court dismissed the Bureau's claims against the payment processors as a discovery sanction against the Bureau. On November 15, 2017, the Bureau, and remaining defendants both moved for summary judgment. The court has not yet ruled, and the case remains pending.

***Consumer Financial Protection Bureau v. Richard F. Moseley, Sr., et al.*** (W.D. Mo. No. 4:14-cv-789). On September 8, 2014, the Bureau filed a complaint against a confederation of online payday lenders known as the Hydra Group, its principals, and affiliates, alleging that they used a maze of interrelated entities to make unauthorized and otherwise illegal loans to consumers. The Bureau alleged that the defendants' practices violate the CFPA, TILA, and EFTA. On September 9, 2014, the court issued an ex parte temporary restraining order against the defendants, ordering them to halt lending operations. The court also placed the companies in temporary receivership, appointed a receiver, granted the Bureau immediate access to the defendants' business premises, and froze their assets. On October 3, 2014, the court entered a stipulated preliminary injunction against the defendants pending final judgment in the case. On March 4, 2016, the court stayed the Bureau's case until criminal proceedings against Moseley, Sr. are resolved. The case remains pending.

***Consumer Financial Protection Bureau v. The Mortgage Law Group, LLP, d/b/a The Law Firm of Macey, Aleman & Searns; Consumer First Legal Group, LLC; Thomas G. Macey; Jeffrey J. Aleman; Jason E. Searns; and Harold E. Stafford*** (W.D. Wis. No. 3:14-cv-513). On July 22, 2014, the Bureau filed a lawsuit in federal district court against The Mortgage Law Group, LLP (TMLG), the Consumer First Legal Group, LLC, and attorneys Thomas Macey, Jeffrey Aleman, Jason Searns, and Harold Stafford. The Bureau alleges that the defendants violated Regulation O, formerly known as the Mortgage Assistance Relief Services (MARS) Rule, by taking payments from consumers for mortgage modifications before the consumers signed a mortgage modification agreement from their lender, by failing to make required disclosures, by wrongly directing consumers not to contact lenders, and by making deceptive statements to consumers when providing mortgage assistance relief services. On June 21, 2017, the district court entered a stipulated judgment against the bankruptcy estate of TMLG, which sought Chapter 7 bankruptcy. The court enjoined TMLG from operating, and ordered TMLG to pay \$18,331,737 in redress and \$20,815,000 in civil money penalties. A trial was held with the remaining defendants on April 24, 2017 through April 28, 2017, and the court has not yet issued findings of fact or conclusions of law. The case against the remaining defendants is ongoing.

***Consumer Financial Protection Bureau v. ITT Educational Services, Inc.*** (S.D. Ind. No. 1:14-cv-292). On January 6, 2014, the Bureau filed a lawsuit in federal district court against for-profit college chain ITT Educational Services, Inc. The Bureau alleges that ITT encouraged new students to enroll by providing them funding for the tuition gap that was not covered by federal student loan programs with a zero-interest loan called “Temporary Credit.” This loan typically had to be paid in full at the end of the student’s first academic year. The Bureau alleges that ITT knew from the outset that many students would not be able to repay their Temporary Credit balances or fund their second-year tuition gap and that ITT illegally pushed its students into repaying their Temporary Credit and funding their second-year tuition gaps through high-cost private student loan programs, on which ITT knew students were likely to default. In September of 2016, ITT closed all of its schools and filed for bankruptcy. On September 8, 2017, the court entered an order administratively closing the case without prejudice to the right of either party to move to reopen it within sixty days of the approval of a settlement by the Bankruptcy Court overseeing ITT’s Chapter 7 case.

***Consumer Financial Protection Bureau v. CashCall, Inc., et al.*** (C.D. Cal. No. 15-cv-7522). On December 16, 2013, the Bureau filed a complaint against online loan servicer CashCall Inc., its owner, a subsidiary, and an affiliate, alleging that they violated the CFPB’s prohibition against unfair, deceptive, and abusive acts and practices by collecting and attempting to collect consumer-installment loans that were void or partially nullified because they violated either state caps on interest rates or state licensing requirements for lenders. The Bureau alleged that CashCall serviced loans it made in the name of an entity, Western Sky, which was located on the Cheyenne River Sioux Tribe’s land and which purported to make loans exempt from state and federal law. On August 31, 2016, the court granted the Bureau’s motion for partial summary judgment, concluding that CashCall was the true lender on the Western Sky loans, that the laws of consumers’ home states applied, and that the defendants engaged in deceptive acts or practices by demanding payment of amounts that consumers did not actually owe. A trial was held from October 17 to 18, 2017 on the issue of appropriate relief. On January 19, 2018, the court issued findings of fact and conclusions of law imposing a \$10.28 million civil penalty but denying the Bureau’s request for restitution and an injunction. On January 26, 2018, the court entered judgment ordering the defendants to pay the civil penalty.

## 6. Actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions

The Bureau's *Supervisory Highlights* publications provide general information about the Bureau's supervisory activities at banks and nonbanks without identifying specific companies. The Bureau published four issues of *Supervisory Highlights* between October 1, 2016 and September 30, 2017.<sup>70</sup>

All public enforcement actions are listed in Section 5. Those actions taken with respect to covered persons which are not credit unions or depository institutions are noted within the summary of the action.

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<sup>70</sup> Fall 2017, [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709\\_cfpb\\_Supervisory-Highlights\\_Issue-16.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_Supervisory-Highlights_Issue-16.pdf);  
Spring 2017, [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201704\\_cfpb\\_Supervisory-Highlights\\_Issue-15.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201704_cfpb_Supervisory-Highlights_Issue-15.pdf);  
Fall 2016, [http://files.consumerfinance.gov/f/documents/Supervisory\\_Highlights\\_Issue\\_13\\_Final\\_10.31.16.pdf](http://files.consumerfinance.gov/f/documents/Supervisory_Highlights_Issue_13_Final_10.31.16.pdf);  
Consumer Reporting Special Edition, [https://www.consumerfinance.gov/documents/2774/201703\\_cfpb\\_Supervisory-Highlights-Consumer-Reporting-Special-Edition.pdf](https://www.consumerfinance.gov/documents/2774/201703_cfpb_Supervisory-Highlights-Consumer-Reporting-Special-Edition.pdf).

## 7. Assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law

For purposes of the section 1016(c)(7) reporting requirement, the Bureau determined that any actions asserting claims pursuant to section 1042 of the Dodd-Frank Act are “significant.” The Bureau is aware of the following State Attorney General actions that were initiated during the reporting period and that asserted Dodd-Frank Act claims. The reporting period for this information is April 1, 2017, through September 30, 2017.

***Commonwealth of Massachusetts v. Pennsylvania Higher Education Assistance Agency, d/b/a/ FedLoan Servicing***, No. 1784-cv-2682 (Mass. Super. Ct. Aug. 23, 2017).

On August 23, 2017, the Commonwealth of Massachusetts filed suit in the Massachusetts’ Superior Court against Pennsylvania Higher Education Assistance Agency (PHEAA), which also does business as FedLoan Servicing. Massachusetts alleged that PHEAA violated the Massachusetts Consumer Protection Law, M.G.L.A. c. 93A, § 2(a), by engaging in unfair and deceptive acts and practices and violating Massachusetts’ Debt Collection Regulations, 940 C.M.R. 7.07(16). In addition, Massachusetts alleged that PHEAA violated the Consumer Financial Protection Act, 12 U.S.C. 5531, by engaging in unfair acts and practices.

***Office of the Attorney General, the State of Florida, Department of Legal Affairs, and Office of Financial Regulation, the State of Florida, Division of Consumer Finance, v. Ocwen Financial Corporation, a Florida corporation, Ocwen Mortgage Servicing, Inc., a U.S. Virgin Islands corporation, and Ocwen Loan Servicing, LLC, a Delaware limited liability company***, No. 9:17-cv-80496 (S.D. Fla.

Apr. 20, 2017). On April 20, 2017, the Office of the Attorney General and the Office of Financial Regulation for Florida filed suit in the United States District Court for the Southern District of Florida against Ocwen Financial Corporation, Ocwen Mortgage Servicing, Inc., and Ocwen Loan Servicing, LLC (collectively referred to as “Ocwen”). Florida alleged that Ocwen violated the Consumer Financial Protection Act, 12 U.S.C. 5531, by violating section 6(g) of the Real Estate Settlement Procedures Act (“RESPA”), 12 U.S.C. 2605(g), and sections 1024.17, 1024.34, and 1024.41 of RESPA’s implementing regulation, Regulation X, 12 C.F.R. pt. 1024. In addition, the Florida Attorney General alleged that Ocwen violated the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. 501.204(1), by engaging in unfair and deceptive acts or practices. The Florida Office of Financial Regulation alleged that Ocwen Loan Servicing, LLC, violated sections 494.00255 and 494.0063 of the Florida Statutes.

## 8. Analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau

On April 14, 2017, the Bureau published its fifth report to Congress<sup>71</sup> on the fair lending work of the Bureau. The April report provided an overview of the Bureau's risk-based fair lending prioritization process; supervision tools; recent public enforcement actions; rulemaking and related guidance; interagency coordination efforts and reporting; and outreach activities during calendar year 2016.<sup>72</sup> This Semi-Annual Report update is focused on highlights from the Bureau's fair lending enforcement<sup>73</sup> and rulemaking<sup>74</sup> activities from October 1, 2016, through September 30, 2017, and continued efforts to fulfill the fair lending mission of the Bureau, through, for example, supervision, interagency coordination, and outreach from April 1, 2017, through September 30, 2017.<sup>75</sup>

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<sup>71</sup> Dodd-Frank Act section 1013(c)(2)(D).

<sup>72</sup> See Consumer Financial Protection Bureau, *Fair Lending Report of the Consumer Financial Protection Bureau* (Apr. 14, 2017), <https://www.consumerfinance.gov/data-research/research-reports/fair-lending-report-2016>.

<sup>73</sup> Dodd-Frank Act section 1016(c)(5).

<sup>74</sup> Dodd-Frank Act section 1016(c)(3).

<sup>75</sup> Dodd-Frank Act section 1016(c)(8).

## 8.1 Fair lending supervision

The Bureau's Fair Lending Supervision program assesses compliance with Federal fair lending consumer financial laws and regulations at banks and nonbanks over which the Bureau has supervisory authority. As a result of the Bureau's efforts to fulfill its fair lending mission in this reporting period, the Bureau's Fair Lending Supervision program initiated 11 supervisory events at financial services institutions under the Bureau's jurisdiction to determine compliance with Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities, including ECOA and HMDA.

For exam reports issued by Fair Lending Supervision during the reporting period, the most frequently cited violations of Regulation B were:

- Section 1002.9(a)(1); (a)(2); (b); and (g): Failure to timely notify an applicant when an application is denied; failure to provide sufficient information in an adverse action notification, including the specific reasons the application was denied; and failure to provide an adverse action notification when an application is made on behalf of an applicant through a third party to more than one creditor;
- Section 1002.12(b)(1): Failure to retain in original form or copy for 25 months (12 months for business credit) any application, monitoring information or other information used in evaluating an application; and
- Section 1002.14(a): Failure to routinely provide a copy of an appraisal report to an applicant for credit secured by a lien on a dwelling.

In the current reporting period, the Bureau issued a number of matters requiring attention (MRAs) or memoranda of understanding (MOU) items that was similar to the number issued in the prior reporting period. Those items were issued across a number of fair lending supervisory events that was similar to the number of fair lending supervisory events from the prior period. MRAs and MOUs direct entities to take corrective actions and are monitored by the Bureau through follow-up supervisory events. In the current period, however, the Bureau cleared a higher number of MRAs or MOU items from past supervisory events.

## 8.2 Fair lending enforcement<sup>76</sup>

The Bureau has the statutory authority to bring enforcement actions pursuant to HMDA and ECOA. In this regard, the Bureau has the authority to engage in research, conduct investigations, file administrative complaints, hold hearings, and adjudicate claims through the Bureau's administrative enforcement process. The Bureau also has independent litigating authority and can file cases in federal court alleging violations of fair lending laws under the Bureau's jurisdiction. Like other federal bank regulators, the Bureau is required to refer matters to DOJ when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.

Over the past year, the Bureau announced two fair lending public enforcement actions involving HMDA reporting and credit cards. First, as described in Section 5 of this Report, on March 15, 2017, the Bureau resolved an enforcement action against Nationstar Mortgage LLC for violating HMDA by consistently failing to report accurate data about mortgage transactions for 2012 through 2014. This matter was discussed in more detail in the Bureau's Spring 2017 Semi-Annual Report.<sup>77</sup>

Second, as described in Section 5 of this Report, on August 23, 2017, the Bureau took action against American Express Centurion Bank and American Express Bank, FSB (collectively referred to as American Express), for violating ECOA by discriminating against consumers in Puerto Rico, the U.S. Virgin Islands, and other U.S. territories by providing them with credit and charge card terms that were inferior to those available in the 50 U.S. states.

The Bureau also continues to administer prior fair lending enforcement actions. On December 19, 2013, working in close coordination with the DOJ, the Bureau ordered Ally Financial Inc. and Ally Bank (Ally) to pay \$80 million in damages to harmed African-American, Hispanic, and Asian and/or Pacific Islander borrowers. In addition, Ally paid approximately \$38.9 million in September 2015, \$51.5 million in May 2016, and an additional \$48.8 million in April 2017, the

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<sup>76</sup> Section 1016(c)(5) of the Dodd-Frank Act requires the Bureau to include in the semi-annual report public enforcement actions the Bureau was a party to during the preceding year, which is October 1, 2016, through September 30, 2017, for this report.

<sup>77</sup> Consumer Financial Protection Bureau, *Semi-Annual Report Spring 2017*, at 103–05 (June 2017), <https://www.consumerfinance.gov/data-research/research-reports/semi-annual-report-spring-2017>.

final year of the order, to consumers who Ally determined were both eligible and overcharged on auto loans issued during 2014, 2015, and 2016, respectively.

Finally, during this reporting period<sup>78</sup> and pursuant to section 706(g) of ECOA, the Bureau also referred five matters to the DOJ with regard to discrimination in mortgage lending on the basis of receipt of public assistance income; and discrimination in auto finance on the bases of national origin, race, and receipt of public assistance income. As a result of the Bureau's public enforcement actions enforcing Federal fair lending laws, including ECOA and HMDA, approximately \$97 million in monetary payments were made, consisting of remediation to harmed consumers and payments to the Bureau's Civil Penalty Fund.<sup>79</sup>

### 8.3 Fair lending outreach

The Bureau is committed to hearing from and communicating directly with stakeholders on compliance and education relating to fair lending.<sup>80</sup> Outreach is accomplished through issuance of Reports to Congress, Interagency Statements, *Supervisory Highlights*, Compliance Bulletins, letters and blog posts, as well as through the delivery of speeches, meetings, and presentations addressing fair lending and access to credit matters. During the reporting period, Fair Lending staff participated in more than 30 events where they worked directly with stakeholders to educate them about fair lending compliance and access to credit issues, heard stakeholder views on Fair Lending's work to inform the Bureau, or provided speeches on fair lending topics.

### 8.4 Interagency coordination

The Bureau's fair lending activity involves regular coordination with other federal and state

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<sup>78</sup> October 1, 2016, through September 30, 2017.

<sup>79</sup> Figure represent estimates of monetary relief for consumers ordered or required by the Bureau or a court as a result of enforcement actions on fair lending matters between October 1, 2016 and September 30, 2017, as well as other monetary payments such as civil money penalties.

<sup>80</sup> Dodd-Frank Act section 1013(c)(2)(C).

regulatory and enforcement partners.<sup>81</sup> During the reporting period, Fair Lending continued to lead the Bureau's fair lending interagency coordination and collaboration efforts by working with partners on the Interagency Task Force on Fair Lending, the Interagency Working Group on Fair Lending Enforcement, and the FFIEC HMDA Data Collection Subcommittee.

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<sup>81</sup> Dodd-Frank Act section 1013(c)(2)(B).

## 9. Analysis of the efforts of the Bureau to increase workforce and contracting diversity consistent with the procedures established by the Office of Minority and Women Inclusion.

The Bureau has developed an agency-wide strategic plan (Diversity Strategic Plan) to guide the Bureau in its efforts to manage its diversity and inclusion goals, and objectives.<sup>82</sup> The Bureau also publishes an Annual OMWI report in the spring of each year. The 2016 OMWI Annual report was published on March 31, 2017.<sup>83</sup>

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<sup>82</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201611\\_cfpb\\_diversity-and-inclusion-strategic-plan-2016-2020.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201611_cfpb_diversity-and-inclusion-strategic-plan-2016-2020.pdf).

<sup>83</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201703\\_cfpb\\_OMWI-2016-annual-report.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201703_cfpb_OMWI-2016-annual-report.pdf).

## 9.1 Increasing workforce diversity

As of September 30, 2017, an analysis of the Bureau's current workforce reveals the following key points:

- Women represent 49% of the Bureau's workforce in 2017 with no change from 2016.
- Minorities represent 39% of the Bureau workforce with a slight increase of the percentage of ethnic minority employees (Hispanic, Black, Asian, Native Hawaiian/Other Pacific Islander (NH/OPI), American Indian/Alaska Native (AI/AN) and employees of Two or More races) from 2016.

The Bureau engages in the following activities to increase workforce diversity:

### 9.1.1 Recruiting

The Bureau enhances diversity by recruiting and hiring highly qualified individuals from diverse backgrounds to fill positions at the Bureau. During the reporting period, the Bureau:

Participated in at least at six professional conferences and university events, with a focus on building relationships with diverse affinity organizations; and

Utilized intern and professional development programs to build a robust pipeline of talent to meet current and emerging workforce needs.

### 9.1.2 Workforce engagement

To promote an inclusive work environment, the Bureau focuses on strong engagement with employees and utilizes an integrated approach to education, training, and engagement programs that ensures diversity and inclusion and non-discrimination concepts are part of the learning curriculum and work environment.

## 9.2 Increasing contracting diversity

During FY 2017,<sup>84</sup> the Bureau awarded 30% of contract dollars to small businesses enterprises (SBEs), some of which are also minority-owned or woman-owned businesses (MWOBs). The Bureau's contracting rate to small businesses exceeds the Small Business Administration's recommended goal for each Federal agencies of 23%. Of the 30% of SBE contracts awarded at the Bureau in FY 2017, 10% went to small disadvantaged businesses (minority-owned). The total contract dollars awarded to woman-owned small businesses during this period was 11.9%.

In accord with the mandates in section 342(b)(2)(B), goal four in the Bureau's Diversity Strategic Plan describe the efforts the Bureau takes to increase contracting opportunities for MWOBs. The OMWI office and the Office of Procurement collectively work to increase opportunities for participation by MWOBs. Those activities include:

### 9.2.1 Outreach to contractors

The Bureau increases opportunities for participation of MWOBs and SBEs by:

- Creating and publishing a procurement forecast to assist contractors better understand upcoming business opportunities;
- Updating and distributing technical assistance guides for businesses including *A Guide to Doing Business with the Bureau*, in order to assist businesses understand the procurement process. These resources are also made available digitally on the Bureau website.<sup>85</sup>
- Publishing the Bureau's supplier diversity policy on the Bureau website;<sup>86</sup> and

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<sup>84</sup> Data source is from the Federal Procurement Data System (FPDS) for FY 2017 from October 1, 2016 through September 30, 2017. The data are current as of October 4, 2017. FPDS data is subject to an OMB annual validation each January for the previous fiscal year.

<sup>85</sup> <http://www.consumerfinance.gov/doing-business-with-us>.

<sup>86</sup> [http://files.consumerfinance.gov/f/201409\\_cfpb\\_supplier-diversity-statement.pdf](http://files.consumerfinance.gov/f/201409_cfpb_supplier-diversity-statement.pdf).

- Participating in four national supplier diversity conferences aimed at MWOBs, and SBEs and providing technical assistance meetings to businesses new to government contracting.

### 9.3 Diversity within the Bureau contractors' workforces

In accord with the mandates in section 342(c)(2) of the Dodd-Frank Act, goal six of the Bureau's Diversity and Inclusion Strategic Plan describes the efforts the Bureau takes to determine that a contractor will ensure, to the maximum extent possible, the fair inclusion of women and minorities in the contractor workforce, and as applicable, subcontractors workforce. To provide notice to contractors of this responsibility the Bureau developed a contract clause for any solicitation and contract exceeding the simple acquisition threshold, currently, \$150,000. The clause and implementing procedure fulfills the requirement of section 342(c)(3)(A) for the OMWI Director to make a determination about a contractor's (and, as applicable, a subcontractor's) good-faith efforts to include minorities and women in their workplaces.

## Consumers Union calls for nomination of permanent CFPB director dedicated to protecting consumers from financial abuses

**Acting CFPB Director Mick Mulvaney to testify before Congress after taking steps that weaken the Bureau's ability to ensure consumers are treated fairly**

WASHINGTON, D.C. – Mick Mulvaney, the Acting Director of the Consumer Financial Protection Bureau (CFPB), is scheduled to testify today and tomorrow before congressional committees after taking a number of steps in recent months to dramatically reshape the agency's mission and operations. In advance of the hearing, Consumers Union, the advocacy division of Consumer Reports, called on President Trump to nominate a permanent director of the CFPB dedicated to ensuring consumers are treated fairly by banks and other financial firms.

"Mulvaney has undertaken a complete overhaul of the CFPB that has weakened its ability to stand up for consumers," said Pamela Banks, senior policy counsel for Consumers Union. "Instead of focusing squarely on protecting consumers, he has dropped investigations and enforcement actions and directed the CFPB to prioritize easing the rules that banks and other lenders must follow. Consumers need a CFPB director committed to carrying out its mission not someone intent on muzzling this critical watchdog. It's time for President Trump to nominate a permanent director of the CFPB so the Senate can properly vet the nominee, ask the tough questions and consider whether the candidate should be confirmed."

When Mulvaney was a member of Congress, he co-sponsored legislation to abolish the CFPB and called it a "sick, sad joke." In his role as a part-time Acting Director, he has taken a number of troubling steps that undermine the CFPB's unique and vital consumer protection role.

Under Mulvaney, the CFPB has pulled back on investigations and enforcement actions, including efforts to go after payday lenders charging interest rates as high as 950 percent. He plans to delay and reconsider the CFPB's new rules that protect consumers who take payday and auto title loans and turned the agency's mission on its head by emphasizing deregulation of the financial industry as a top priority. Earlier this year, Mulvaney moved the Office of Fair Lending out of the Enforcement Division, raising concerns that the CFPB will not take aggressive action against lenders who discriminate against borrowers. The Trump administration has also proposed shrinking the CFPB's

budget and putting its guaranteed funding at risk by subjecting it to the annual congressional appropriations process.

The Consumer Financial Protection Bureau was created by Congress following the devastating 2008 financial crisis that cost millions of Americans their homes, jobs, and retirement savings. It works to make sure banks, lenders, and other financial companies treat consumers fairly. And it's gotten results. Since it was founded, the CFPB has returned \$12 billion to nearly 30 million consumers who've been cheated by financial companies and stopped abusive banking, credit card, mortgage, and student loan practices.

Michael McCauley, [mmccauley@consumer.org](mailto:mmccauley@consumer.org), 415-902-9537 (cell) or 415-431-6747, ext. 7606 or David Butler, [dbutler@consumer.org](mailto:dbutler@consumer.org), 202-462-6262

**U.S. PIRG STATEMENT FOR THE HEARING RECORD  
SEMI-ANNUAL REPORT OF THE BUREAU OF CONSUMER FINANCIAL PROTECTION**

**11 April 2018**

The Honorable Jeb Hensarling  
Chairman  
Committee on Financial Services  
U.S. House of Representatives  
2129 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Maxine Waters  
Ranking Member  
Committee on Financial Services  
U.S. House of Representatives  
4340 Thomas P. O'Neill, Jr. FOB  
Washington, D.C. 20151

Dear Chairman Hensarling and Ranking Member Waters:

Thank you for the opportunity to submit the following statement for the hearing record regarding the Bureau of Consumer Financial Protection's Semi-Annual Report to Congress for April 1, 2017 through September 30, 2017. U.S. PIRG is an independent non-profit, non-partisan consumer advocacy organization.

These comments include a recap of the CFPB's significant accomplishments for consumers during the reporting period, an alert to consumer harms posed by certain recent agency actions, and our recommendations to the CFPB and Congress to ensure the Bureau fulfills its mission of protecting consumers.

**The CFPB's Accomplishments for Consumers**

First, we want to commend the Consumer Financial Protection Bureau for its accomplishments, including its enforcement actions, supervisory actions, and processing of consumer complaints that have helped keep the financial marketplace fair and competitive.

**Enforcement Actions**

By tallying up the over 50 enforcement actions from October 1, 2016, through September 30, 2017 listed in the Semi-Annual report, we calculated **approximately \$538 million from pending orders or final judgements, including over \$396 million for consumer redress, restitution, or disgorgement, and over \$141 million in civil penalties.**<sup>1</sup> In total, since inception in 2011, the CFPB has taken over

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<sup>1</sup> CFPB, *Semi-annual report of the Bureau of Consumer Financial Protection*, April 2018 accessed at [https://files.consumerfinance.gov/f/documents/cfpb\\_semi-annual-report\\_spring-2018.pdf](https://files.consumerfinance.gov/f/documents/cfpb_semi-annual-report_spring-2018.pdf)

180 enforcement actions and provided \$12 billion in relief to over 29 million consumers.<sup>2</sup> Consistent and robust enforcement of rules not only provides justice for consumers when they are wronged but also prevents many unfair practices in the first place.

We commend the bureau's career employees for following through on these recent actions. We are concerned, however, that many of these enforcement actions began before the acting director took over. All signs suggest enforcement activity is declining. According to the Associated Press: "In the 135 days since the Trump administration took control of the nation's consumer watchdog agency, it has not recorded a single enforcement action against banks, credit card companies, debt collectors or any finance companies whatsoever."<sup>3</sup>

### Supervisory Activities

According to the CFPB's Summer 2017 *Supervisory Highlights* report, the agency's supervisory actions generally completed between January 2017 and June 2017 resulted in total restitution payments of approximately \$14 million to more than 104,000 consumers. In addition, these activities from this time period led to or supported two enforcement actions, resulting in about \$1.15 million in consumer remediation and an additional \$1.75 million in civil money penalties.<sup>4</sup>

According to the semi-annual report, the Consumer Bureau's Fair Lending Supervision program took 11 supervisory events to ensure compliance with fair housing laws between April 1, 2017, through September 30, 2017<sup>5</sup>. Supervisory activity is an important tool that has allowed the CFPB to nip bad practices in the bud before they spread across the market. Along with strong enforcement activity, supervisory activity across the entire spectrum of the CFPB's supervisory authority should be continued. Further, public *Supervisory Highlights* reports are an important and highly-praised CFPB regulatory innovation that helps make the financial marketplace more transparent and makes it work better. These helpful quarterly reports must also continue.

<sup>2</sup> CFPB, *Consumer Financial Protection Bureau: By the numbers*, accessed at [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201707\\_cfpb\\_by-the-numbers.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201707_cfpb_by-the-numbers.pdf), 10 April 2018.

<sup>3</sup> Ken Sweet, Associated Press, "Enforcement Actions Halt at Watchdog Agency Under Trump," 10 April 2018, accessed at <https://www.apnews.com/c80a20db4a5942e7af9632b0cbf75700/Enforcement-actions-at-watchdog-agency-halt-under-Trump>, 10 April 2018

<sup>4</sup> CFPB, *Supervisory Highlights Issue 16, Summer 2017*, September 2017 accessed at [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709\\_cfpb\\_Supervisory-Highlights\\_Issue-16.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_Supervisory-Highlights_Issue-16.pdf) 10 April 2018.

<sup>5</sup> CFPB, *Semi-annual report of the Bureau of Consumer Financial Protection*, April 2018 accessed at [https://files.consumerfinance.gov/f/documents/cfpb\\_semi-annual-report\\_spring-2018.pdf](https://files.consumerfinance.gov/f/documents/cfpb_semi-annual-report_spring-2018.pdf).

### Consumer Complaints and A Harmful Enforcement Shift Proposed By the Acting Director

As noted in the semi-annual report, the Consumer Bureau has **processed approximately 317,200 consumer complaints** during the period Oct. 1, 2016 to Sept. 30, 2017.<sup>6</sup> The report notes that the leading complaint category is debt collection. Tracking these data, the acting director has indicated an intention to shift enforcement toward debt collection and away from, for example, payday lending. The acting director has stated that this is simply using data. But the approach fails to recognize that debt collection problems occur only at the end of a financial product life cycle. The situations that lead to eventual debt collection complaints may have been triggered by much earlier unfair practices, including in marketing or lending. As the Bureau stated in its press release accompanying the now-stalled Navient enforcement action:<sup>7</sup>

“Today the Consumer Financial Protection Bureau (CFPB) is suing the nation’s largest servicer of both federal and private student loans for systematically and illegally failing borrowers at every stage of repayment. For years, Navient, formerly part of Sallie Mae, created obstacles to repayment by providing bad information, processing payments incorrectly, and failing to act when borrowers complained. Through shortcuts and deception, the company also illegally cheated many struggling borrowers out of their rights to lower repayments, which caused them to pay much more than they had to for their loans. The Bureau seeks to recover significant relief for the borrowers harmed by these illegal servicing failures.”

Navient failed “at every stage of repayment” starting with marketing and leading, eventually, to debt collection. Failing to properly surveil the entire marketplace for problems, based on the fallacy that debt collection has the most database complaints so it must be the worst problem, will only cause more problems to be missed and more consumers to be harmed.

By searching the public database for complaints during this time period, we can see that 12,221 of those complaints resulted in monetary relief by the complained-about company and an additional 24,329 resulted in non-monetary relief, such as corrections of mistakes on credit reports or resolution to debt collection harassment.<sup>8</sup> In total, since 2011, the Bureau has processed over 1.2 million complaints. Prior to the CFPB’s database, consumers with unresolved problems were at the mercy of the very customer service practices that might have been part of the problem in the first place. The public nature of the database helps keep companies accountable to their customers.

<sup>6</sup> The semi-annual report lists the total number of complaints *received* by the CFPB. However, the online public database only publishes the complaints with enough information to be sent to companies for responses. There are 232,878 complaints published in the database for this reporting period.

See CFPB, *Consumer Complaint Database*,

accessed at <https://www.consumerfinance.gov/data-research/consumer-complaints/> 10 April 2018.

<sup>7</sup> News release, CFPB Sues Nation’s Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment, 18 January 2017, accessed at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/>.

<sup>8</sup> *Ibid.*

### **Harms Posed to Consumers By Conflicts, Proposals and Actions of the Acting Director**

There are several harms posed to consumers by Acting Director Mick Mulvaney's conflicts of interest, certain agency actions during his tenure so far, and his requests to Congress in the semi-annual report. These harms are detailed below.

#### **Conflicts of Interest**

The appointment of Mick Mulvaney as acting director after former director Richard Cordray resigned put the agency's independence and mission at risk. The CFPB was set up to be independent from political influence, but Mr. Mulvaney is a current Presidential cabinet member and a former member of Congress who previously co-sponsored a bill to get rid of the CFPB.<sup>9</sup>

Knowing that vacancies were bound to occur, Congress included in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010—the law that created the CFPB—a specific provision clearly stating that the deputy director “shall serve . . . as acting Director in the absence or unavailability of the Director.”<sup>10</sup>

Using a more general provision of the Federal Vacancies Reform Act of 1998, President Trump named Mick Mulvaney—the current director of the White House's Office of Management and Budget—also as the acting director of the CFPB. The problem, however, is that the specific provision of Dodd-Frank governs over the general provision of the FVRA.<sup>11</sup> In addition, having a current member of the President's cabinet serve as the acting director violates the intent of Dodd-Frank, which envisioned the CFPB as an independent financial regulator free from political influence.

#### **Agency Actions that Put Consumers at Risk**

From the outset, the potential for Mr. Mulvaney using his platform as acting director to promote his and the administration's own agenda over the mission of the agency was great. We've quickly seen evidence of those conflicts of interest. During his tenure, the Consumer Bureau has taken actions that put consumers at risk of unfair practices, including:

- Announcing its intention to open a rulemaking to reconsider and delay the CFPB's payday lending rule that requires payday lenders to make sure borrowers can repay their loans.<sup>12</sup> This rule was crafted over several years of research, public input, and compromise.

<sup>9</sup> Rep. John Ratcliffe, *H.R.3118 - To eliminate the Bureau of Consumer Financial Protection by repealing title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, commonly known as the Consumer Financial Protection Act of 2010*, accessed at <https://www.congress.gov/bills/114th-congress/house-bill/3118/cosponsors> 10 April 2018.

<sup>10</sup> Michael Landis, "Why the Legal Dispute over the Leadership of the CFPB Matters," *U.S. PIRG*, 6 February 2018 accessed at <https://uspirg.org/blogs/blog/usp/why-legal-dispute-over-leadership-cfpb-matters>

<sup>11</sup> *Ibid.*

<sup>12</sup> Julia Horowitz, "CFPB Says It Will Reconsider Its Rule on Payday Lending," *CNN Money*, 16 January 2018.

- Dropping its lawsuit against four online lenders that it had accused of deceiving consumers by collecting debts not legally owed, for loans with interest rates as high as 950 percent.<sup>13</sup>
- Pulling back from a full-scale investigation into the massive Equifax data breach, according to news reports.<sup>14</sup> Since these reports came out, Acting Director Mulvaney indicated that the Consumer Bureau is continuing its investigation by claiming the agency's "position" on Equifax hasn't changed.<sup>15</sup> But it's unclear whether or not it is backing up its position by using all of its available tools to complete a robust investigation into the breach.
- Planning a Call for Evidence, entailing 12 Requests for Information (RFI), seeking public comments about CFPB practices without planning any RFIs about marketplace practices. In contrast, during the preceding year, the CFPB issued 3 RFIs for assessments of significant rules and 4 RFIs about marketplace practices.<sup>16</sup>

#### Recommendations to Congress in Semi-Annual Report

Mr. Mulvaney's four recommendations to Congress in the semi-annual report for statutory changes to the CFPB would take away the agency's independence and make it harder for it to do its job. The problems with each recommendation are explained below:

1. **Fund the Bureau through Congressional appropriations:** This move would make the CFPB the only banking regulator in the U.S. without independent funding. Since the 1860s, all banking regulators have had independent funding to minimize undue political influence. Due to constant political gridlock over the budget, funding through Congressional appropriations likely would mean the Bureau would receive far less than what would be needed to do its job. Also, its activities would certainly be unduly influenced by attempts to secure more funding from Congress. You need only look to the problems that the two appropriated non-bank financial regulators, the Securities and Exchange Commission and Commodity Futures Trading Commission, face, both in levels of funding and restrictions placed on their ability to use those funds.
2. **Require legislative approval of major Bureau rules:** This change would make it the only agency of any sort that has to get its major rules approved by Congress. Congress already has the enormous ability through use of the Congressional Review Act to repeal new rules with a simple majority vote of both houses. Further, the Bureau is already the only regulator (financial, environmental, consumer, etc.) whose rules can be overturned by other regulators. This recommendation should not be accepted; it would make it virtually impossible for new protections to ever see the light of day.

<sup>13</sup> Zeke Faux, "CFPB Signals Shift by Dropping Payday Lender Lawsuit," *Bloomberg*, 18 January 2018.

<sup>14</sup> Patrick Rucker, "Exclusive: U.S. consumer protection official puts Equifax probe on ice - sources," *Reuters*, 5 February 2018.

<sup>15</sup> Yuka Hayashi, "No letup to CFPB investigation into Equifax, Mulvaney says," *MarketWatch/The Wall Street Journal*, 13 February 2018.

<sup>16</sup> CFPB, *Semi-annual report of the Bureau of Consumer Financial Protection*, April 2018 accessed at [https://files.consumerfinance.gov/f/documents/cfpb\\_semi-annual-report\\_spring-2018.pdf](https://files.consumerfinance.gov/f/documents/cfpb_semi-annual-report_spring-2018.pdf)

3. **Ensure that the Director answers to the President in the exercise of executive authority:**  
The President already has the ability to fire the director “for cause,” such as for corruption or incompetence. This recommendation appears to give the President the ability to fire the director arbitrarily, or at will. This completely runs counter to ensuring an independent agency free from political influence. Several other agencies are also run by single directors who can only be fired “for cause.”
4. **Create an independent Inspector General for the Bureau:** There is already an inspector general for the CFPB at the Federal Reserve Board. Likely, the point of this recommendation is to replace the current inspector general for the CFPB with one that is appointed by the President, which would undermine the independence of the agency.

It’s one thing to have an acting director against the agency’s mission who requests zero dollars for the next quarter, drops lawsuits against payday lenders, and delays a protection against debt traps, as Mr. Mulvaney has done.<sup>17</sup> But these recommendations, if implemented, would make it hard for the agency to get funding or issue and enforce any protections at all, long after Mr. Mulvaney’s tenure at the agency is over.

#### U.S. PIRG’s Recommendations to the CFPB and to Congress

To fulfill its mission of protecting consumers, the CFPB should:

- Reinstated all delayed or terminated rulemakings, investigations and enforcement actions. Continue robust surveillance of the entire financial marketplace for threats to consumers and respond as appropriate in the circumstance, with supervisory, enforcement, rulemaking or other actions.
- Complete a strong debt collection rule improving protections for consumers. Continue other rulemakings on its Regulatory Agenda.
- Maintain public access to a vibrant, transparent and complete consumer complaint database that encourages consumers, competitors, academics, other researchers and the complained-about companies themselves to study ways to make the marketplace work better.
- Reinstated regular outreach to the public. The CFPB’s monthly field hearings around the nation provided opportunities to hear from consumers about financial issues. Of course, banks and other regulated entities also can take advantage of these events, even though they already have significant ability to communicate with the Bureau directly.
- Release updated statistics about its accomplishments, such as the dollar amount of relief provided to consumers, the number of consumers who have been provided relief, and the number of consumer complaints processed in the database. Typically, these numbers are updated quarterly, but they haven’t been updated since July 20, 2017.<sup>18</sup>

<sup>17</sup> Jim Puzzanghera, “Mulvaney requests zero funding for the Consumer Financial Protection Bureau”, *LA Times*, 18 January 2018 accessed at <http://www.latimes.com/business/la-fi-cfpb-mulvaney-funding-20180118-story.html>

<sup>18</sup> CFPB, *We’re the CFPB*, accessed at <https://www.consumerfinance.gov/>, 10 April 2018.

- Release the Monthly Complaint Report every month and with detailed company and state data again. Beginning in 2015, the CFPB published a Monthly Complaint Report to provide a “high-level snapshot of trends in consumer complaints.”<sup>19</sup> Through April 2017, these reports included data on companies that received the most complaints, and states where consumers filed the most complaints. From April 2017 through October 2017, reports were no longer published on a consistent monthly basis, and no longer included company or state data.<sup>20</sup> After October 2017, publication of monthly reports was halted altogether.

To ensure American consumers are protected in the financial marketplace, Congress should:

- Oppose Acting Director Mick Mulvaney’s recommendations in the Semi-Annual Report. Oppose any legislation to defund and defang the CFPB.
- Urge President Trump to swiftly nominate a consumer champion to the director position of the CFPB for the Senate to confirm. As we have argued in a friend-of-the-court brief in the continuing legal dispute over the CFPB’s temporary leadership, the law and public interest are best served by having the CFPB’s deputy director serve as acting director until the Senate confirms a new director nominated by the President.<sup>21</sup> Any nominee for permanent director should only be confirmed if he or she supports the mission of the CFPB: protecting consumers.

Sincerely yours,

Edmund Mierzwinski  
Senior Director, Consumer Programs  
[edm@pirg.org](mailto:edm@pirg.org)

Mike Litt  
Consumer Campaign Director  
[mlitt@pirg.org](mailto:mlitt@pirg.org)

<sup>19</sup> Consumer Financial Protection Bureau, *Monthly Complaint Report, Vol. 19*, available at <https://www.consumerfinance.gov/data-research/research-reports/monthly-complaint-report-vol-19/> , 8 February 2017.

<sup>20</sup> Consumer Financial Protection Bureau, *Research & Reports*, accessed at <https://www.consumerfinance.gov/data-research/research-reports/> on 4 April 2018.

<sup>21</sup> Michael Landis, “Why the Legal Dispute over the Leadership of the CFPB Matters,” *U.S. PIRG*, 6 February 2018 accessed at <https://uspirg.org/blogs/blog/usp/why-legal-dispute-over-leadership-cfpb-matters> .



1700 G Street, N.W., Washington, D.C. 20552

April 10, 2018

The Honorable Jeb Hensarling  
 Chairman  
 Committee on Financial Services  
 United States House of Representatives  
 2129 Rayburn House Office Building  
 Washington, DC 20515

Dear Chairman Hensarling:

Please find enclosed a supplemental production of documents related to a request you originally made to the Bureau of Consumer Financial Protection ("Bureau") on July 18, 2014.

Based on the Committee's continued interest in the circumstances surrounding the decision to renovate the 1700 G Street building, as reflected in its February 22, 2018, request for a briefing and tour and as discussed with Committee staff during the March 8, 2018, briefing, the Bureau agreed to undertake a renewed search for documents related to the Bureau's decision to renovate.<sup>1</sup> The enclosed production supplements answers supplied by the Bureau on October 2, 2014, March 2, 2015, and March 16, 2015, and Director Cordray's answers to questions by Committee members in hearings, and contains documents identified as potentially relating to the Bureau's decision to renovate the 1700 G Street building.

In response to the Committee's prior inquiries, Director Cordray indicated that the initial building renovation decision was made prior to his recess appointment as Bureau Director, which was during the period of time when the U.S. Department of the Treasury ("Treasury Department") controlled the Bureau's operations (*i.e.*, prior to January 4, 2012).<sup>2</sup> Director

<sup>1</sup> The Bureau undertook a good-faith search of available records. It is possible that additional records not yet located by the Bureau provide additional context regarding the initial decision to renovate. Also, additional records may be located at other agencies, such as the U.S. Department of the Treasury.

<sup>2</sup> Letter from Richard Cordray, Dir., CFPB to Hon. Jeb Hensarling, Chairman, H. Comm. on Fin. Serv. (Mar. 2, 2015) ("I have answered this question on several occasions: while the decision to locate to 1700 G Street and undertake a renovation was made prior to my appointment as Director, I have since reaffirmed it."); Letter from Richard Cordray, Dir., CFPB to Hon. Jeb Hensarling, Chairman, H. Comm. on Fin. Serv. (Mar. 16, 2015) ("At the time the initial decision to renovate the 1700 G Street building was made, the Bureau was housed within the Department of Treasury . . . The decision to renovate the 1700 G Street building occurred before I was appointed as Director of the Bureau, and, as I have explained before multiple committees, I have re-affirmed that decision."); *Semi-Annual Report of the Bureau of Consumer Financial Protection: Hearing Before the H. Comm. on Fin. Serv.*, 114th Cong. 71 (Mar. 3, 2015) (Director Cordray stating, in response to question from Representative Ann Wagner, "This decision occurred before I became the Director of the Bureau and it is a decision I have since reaffirmed . . ."). *Semi-Annual Report of the Bureau of Consumer Financial Protection: Hearing Before the H. Comm. on Fin. Serv.*, 114th Cong. 72, 74 (Mar. 3, 2015) (Director Cordray stating, in response to question from Representative Ann Wagner, "It was Treasury who was in charge of all Bureau operations." Also stating, in response to questions from

Cordray also indicated that he did not know the identity of the individual who made the initial renovation decision.<sup>3</sup>

The Treasury Department has also previously provided information related to the timing of the initial decision to renovate the building. For instance, a June 30, 2014, report issued by the Office of the Inspector General for the Federal Reserve and Bureau (“OIG”) noted that according to a Treasury Department official, the decision to renovate was made after January 21, 2011 (the date that Dan Tangherlini, the Treasury Department’s Assistant Secretary for Management, signed a letter of intent on behalf of the Bureau to occupy the building), but the official did not know when or by whom.<sup>4</sup> Additionally, on February 18, 2011, the Treasury Department issued a press release announcing that the Bureau’s future permanent headquarters would be located at 1700 G Street NW in Washington, DC.<sup>5</sup> The press release acknowledged that “[b]efore the CFPB moves in, major renovations are needed to make more efficient use of space and to update the building to current energy and environmental standards.”<sup>6</sup>

As part of the Bureau’s search for documents related to the decision to renovate, Bureau staff conducted an electronic search of the “Front Office” subfolder within the “Office of the Director” folder on the Bureau’s intra-agency share drive. The search returned two documents dated January 24, 2011 (hereinafter, the January 24 Memoranda) and addressed to Elizabeth Warren, who was then serving as the Assistant to the President and Special Advisor to the Secretary of the Treasury on the Consumer Financial Protection Bureau.<sup>7</sup>

The first document, an information memorandum authored by Diane Cantrell, then the Treasury Department’s Team Lead for Facilities and Security, and entitled “OTS Building

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Representative Mick Mulvaney, “[The Bureau] was part of Treasury. Treasury was running our operations. . . . That is quite possible [that somebody at Treasury could have authorized renovations]. That is why I say I can’t be sure.”)

<sup>3</sup> *Semi-Annual Report of the Bureau of Consumer Financial Protection: Hearing Before the H. Comm. on Fin. Serv.*, 114th Cong. 68 (Mar. 16, 2016) (Director Cordray stating, in response to Representative Ann Wagner’s question of whether “[it was] Elizabeth Warren who absolutely ordered and authorized the renovation,” “I don’t know.”); *Semi-Annual Report of the Bureau of Consumer Financial Protection: Hearing Before the H. Comm. on Fin. Serv.*, 115th Cong. (Apr. 5, 2017) (Director Cordray stating, in response to questions from Representative Lee Zeldin on whether Elizabeth Warren authorized the renovations, “I don’t know who made that decision . . . . As I said, I don’t know. I don’t have any way of knowing that. I wasn’t in the leadership of the Bureau at the time. I wasn’t privy to those decisions. . . . [I]n terms of who made that decision, I don’t know. I have never seen any records on that . . . .”).

<sup>4</sup> See OIG, RESPONSE TO THE JANUARY 29, 2014, CONGRESSIONAL REQUEST REGARDING THE CFPB’S HEADQUARTERS RENOVATION PROJECT 6 (June 30, 2014). This report also states that “[a]s of June 23, 2014, the CFPB was unable to locate any documentation of the decision to fully renovate the building” but was “attempting to locate legacy documents” for the OIG. *Id.* & n. 16.

<sup>5</sup> Press Release, U.S. Dept. Treasury, Treasury Department Announces Permanent Headquarters of Consumer Financial Protection Bureau (Feb. 18, 2011), available at <https://www.treasury.gov/press-center/press-releases/Pages/tg1072.aspx>; see also Press Release, CFPB, Treasury Department Announces Permanent Headquarters of Consumer Financial Protection Bureau, (Feb. 18, 2011), available at <https://www.consumerfinance.gov/about-us/newsroom/treasury-department-announces-permanent-headquarters-of-consumer-financial-protection-bureau/>.

<sup>6</sup> *Id.*

<sup>7</sup> The copies of these documents that were located in the “Front Office” subfolder can be found in the enclosed production at HFSC CFPB BLDG 001252-001258. The complete file path where the memoranda were found within the “Front Office” subfolder, together with a description of the last modified date as indicated in the files’ metadata, is described in Addendum #1.

Assessment and Recommendation,” described the results of a facility condition assessment conducted by a contractor for the Office of Thrift Supervision (“OTS”), the former occupant of the 1700 G Street NW building. The information memorandum stated that the assessment and the resulting capital improvement plan (collectively identified as the Gensler plan) “are useful as guides to the CFPB in determining what actions should be initiated to improve the condition of the building and office space.”<sup>8</sup> Two attachments accompany the information memorandum. The first depicts the projects and associated costs identified in the Gensler report’s ten-year capital improvement plan. The second depicts an alternate capital improvement plan focusing on projects affecting the aesthetics of the building interior and functionality of office space design.

The second document, also authored by Diane Cantrell, is a decision memorandum for Elizabeth Warren dated January 24, 2011. The decision memorandum sought approval to initiate preparations to move into the 1700 G Street building. The memorandum states in pertinent part:

Although decisions have not been made concerning the extent of renovations to be undertaken at the OTS building, it is very likely that we will need to occupy a portion of the OTS building soon after July 21, 2011, to alleviate the space constraints facing CFPB. At a minimum, CFPB would remodel the main lobby and update the interior office space. CFPB can occupy portions of the building while the lobby is being remodeled and office space is reconfigured. In addition, any future projects identified (as outlined in the Gensler report) can be completed while the building is occupied.

In order to prepare for occupancy, design work and other preliminary steps should begin immediately so that construction is ready to commence August 2011. OTS has a procurement vehicle in place with three A&E firms that CFPB can write task orders against to obtain the services required. Attachment 1 provides a timeline for the lobby and office space projects.

There are 5 floors of office space available in the OTS building. Two are currently occupied by the Federal Housing and Finance Administration (FHFA) whose lease expires October 31, 2013. It is proposed the CFPB occupy two of the remaining floors and renovate one floor at a time. It is anticipated FHFA will vacate their space as early as January 2012, making their two floors available for additional swing space, as needed.

It is estimated that the cost of each design project will be approximately \$30,000.<sup>9</sup>

Two additional pages accompany the decision memo. The first page outlines a draft timeline for lobby renovation, and the second page outlines a draft timeline for the renovation of office floors.

The electronic PDF copy of the decision memorandum located in the share drive is unsigned, and the Bureau has not been able to locate a signed version. However, circumstantial evidence from the Bureau’s search of email records indicates that it was likely presented to and

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<sup>8</sup> HFSC CFPB BLDG 001176.

<sup>9</sup> HFSC CFPB BLDG 001173.

approved by Ms. Warren. On Monday, January 24, 2011, Treasury Department and Bureau staff circulated preliminary drafts of the January 24 Memoranda for review and editing.<sup>10</sup> The January 24 Memoranda were prepared for provision "in advance of a meeting scheduled for tomorrow at 10am to brief Professor Warren on the OTS building and next steps,"<sup>11</sup> and they appear to have been placed in Ms. Warren's Briefing Book for January 25, 2011.<sup>12</sup> The meeting also appears on Ms. Warren's publicly-released calendar.<sup>13</sup> In an email dated January 26, 2011, the day after the scheduled briefing was to take place, one staff member asked Diane Cantrell, "how did the briefing go with EW?"<sup>14</sup> Ms. Cantrell replied:

Good. We got the go ahead to obtain design options for the lobby and office space. She increased the scope of the lobby design so the cost to obtain competitive designs from the 3 A&E has increased (estimated at \$20/contractor = \$60,000) She was fine with spending the money to obtain the design options.

I am working to finalize the lobby SOW and develop a SOW for the office design plus SOW for feasibility studies on other space she wanted to capture and use (ie – turning the patios into office space, creating office space out of the garage levels.). Will work with procurement to make this all happen.

Anyway, a lot to do! Of course final decisions on design and amount of renovations to the building will ultimately impact when we occupy. More to come.....<sup>15</sup>

The Bureau understands OTS, on the Bureau's behalf, subsequently entered into three task orders for designs from three vendors, valued at \$20,000 apiece.<sup>16</sup>

The January 24 Memoranda were later circulated within the Bureau on at least two occasions. On May 31, 2011, an Attorney-Advisor in the Bureau's Office of Enforcement requested that an employee in the Operations Division search for materials in connection with an OIG request. The two January 24 Memoranda were identified and provided to the Attorney-Advisor on June 6, 2011. This same email chain was then re-circulated among various Bureau employees in the Legal Division, Operations Division, External Affairs Division, and the Office of the Director in late February 2014 and March 2014.<sup>17</sup>

<sup>10</sup> See HFSC CFPB BLDG 001245-001248.

<sup>11</sup> HFSC CFPB BLDG 001245.

<sup>12</sup> See HFSC CFPB BLDG 001165-001182.

<sup>13</sup> Ms. Warren's Briefing Book for January 25, 2011 shows that the meeting was scheduled for 10 a.m.; however, her public calendar indicates that the meeting took place at 11 a.m. See [https://www.consumerfinance.gov/documents/1943/EW\\_Calendar\\_Jan\\_2011.pdf](https://www.consumerfinance.gov/documents/1943/EW_Calendar_Jan_2011.pdf)

<sup>14</sup> HFSC CFPB BLDG 001191.

<sup>15</sup> HFSC CFPB BLDG 001191-001192.

<sup>16</sup> Contemporaneous records indicate that three lobby and courtyard A/E design task orders of \$20,000 apiece were awarded through OTS in April 2011, to AECOM Services, Gensler, and Karn Charuhas Chapman & Twohey. See HFSC CFPB BLDG 001193-001244.

<sup>17</sup> See HFSC CFPB BLDG 001249-001251.

The enclosed documents have been bates-labeled HFSC CFPB BLDG 001165 through 001258 and are being provided in PDF, TIFF, and Native format.<sup>18</sup>

Should you have any questions, please do not hesitate to contact me or have your staff contact Laura Hussain of the Bureau's Legal Division or Meredith Manna of the Bureau's Office of Legislative Affairs. Ms. Hussain can be reached at (202) 435-7789 and Ms. Manna can be reached at (202) 435-9785.

Thank you again.

Sincerely,



Mick Mulvaney  
Acting Director

cc: The Honorable Maxine Waters, Ranking Member, House Committee on Financial Services  
The Honorable Ann Wagner, Chair, Oversight and Investigations Subcommittee of the House Committee on Financial Services  
The Honorable Al Green, Ranking Member, Oversight and Investigations Subcommittee of the House Committee on Financial Services

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<sup>18</sup> The document at bates HFSC CFPB BLDG 001249-001251 was not readily available in Native format but will be provided in Native in a subsequent production.

**Addendum #1**

The January 24 Memoranda were found within the following folder:

Z:\Office of the Director\Front Office\Departing Employee Archive\Gena Stern\L  
SPACE\Background Materials

<b>File name</b>	<b>Date Modified</b>
Information Memorandum to E Warren from D Cantrell OTS Bldg Assessment and Recommendation.pdf	March 21, 2014 4:39 PM
Decision Memorandum for E Warren from D Cantrell to Initiate Preparations to Move to OTS.pdf	March 21, 2014 4:40 PM

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**Martin, Alyssa (CFPB)Disabled**

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**From:** Martin, Alyssa (CFPB)Disabled  
**Sent:** Monday, January 24, 2011 7:26 PM  
**To:** Adeyemo, Adewale (Wally) (CFPB); Canfield, Anna (CFPB)Disabled; Geldon, Daniel (CFPB)Disabled; Jackson, Peter (CFPB); Howard, Jennifer (CFPB); Sealy, William (CFPB); Jackson, Monica (CFPB); Date, Rajeev (CFPB) disabled; Miller, Kimberly (CFPB)Disabled  
**Subject:** Briefing Book for 1/25  
**Attachments:** Calendar\_1.25-1.28.pdf; CFPB Space.zip; MasterCard Incorporated Company Profile.doc; warren draft agenda.doc; Memo to EW - QMQRM Update 1-17-11.docx; Consumer Questions and Complaints.1 18.11 am.draft.doc; State of the US Economy - January 21, 2011 - FINAL.DOC; CFPB Management Weekly Report 01-24-11\_sent.docx

**TABLE OF CONTENTS**

1. **Schedule for 1/25-1/28**
2. **CFPB Space Materials** (Decision Memo, Info Memo, Timelines)
3. **MasterCard Primer, Community Bankers Briefing Material**
4. **Resumes** (unattached)
5. **Qualified Mortgages Update**
6. **Consumer Response Update**
7. **State of the Economy, 1/21**
8. **Press Clips, 1/24** (unattached)
9. **Management Weekly Report**

Alyssa Martin  
Consumer Financial Protection Bureau Implementation Team  
Email [REDACTED]@do.treas.gov  
Office [REDACTED]  
Cell [REDACTED]

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**January 25, 2011**  
Tuesday

8:30 AM - 9:00 AM	Morning Staff Meeting -- 1801 L St. (550)
9:00 AM - 9:30 AM	Hiring Interview with Rebecca Ewing -- 1801 L St. (550)
9:30 AM - 10:00 AM	CFPB Meeting -- Conference Room 503 (A)
10:00 AM - 10:30 AM	Check In w/ Nani Coloretti and Elizabeth Warren -- 550
10:30 AM - 11:00 AM	Hiring Interview with Sartaj Alag -- 1801 L St. (550)
12:00 PM - 1:00 PM	Mortgage Servicing / TFG Prep (continued) -- 1801 L St. (550)
1:00 PM - 1:30 PM	Front Office Staffing -- 1801 L St. (550)
2:00 PM - 2:30 PM	Meeting with Wisconsin Bankers Association -- 2316MT Contact: Rose Poels  WBA Staff: Kurt Bauer, President and CEO, WBA Robert Just, Jr., Chairman of WBA and President of Mound City Bank (Platteville, WI) Dan Riebe, Vice Chair of WBA and President of the Peoples Bank of Wisconsin (Eau Claire, WI) Rose Poels, Senior VP and Counsel, WBA
3:00 PM - 3:30 PM	Media Interview with Donovan Slack (Boston Globe)
4:00 PM - 4:45 PM	Meeting with Ajay Banga (CEO, MasterCard) -- 2316MT MasterCard Staff:  Shawn Miles, Head of Global Public Policy George Foote, Senior Business Leader, Public Policy
5:00 PM - 6:00 PM	Meeting with Staff -- Secretary's Small Conference Room When: Tuesday, January 25, 2011 5:00 PM-6:00 PM (UTC-05:00) Eastern Time (US & Canada). Where: Secretary's Small Conference Room  Note: The GMT offset above does not reflect daylight saving time adjustments.  *****

**TOPIC: RECONVENE SERVICER STANDARDS & FORECLOSURE SETTLEMENT MEETING**

Participants:

Warren, Elizabeth (CFPB)

1

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**January 25, 2011 Continued**  
Tuesday

Secretary Geithner  
Neal Wolin  
Jeff Goldstein  
Don Graves  
Phyllis Caldwell

Elizabeth Warren  
Lucy Morris  
Pat McCoy  
Raj Date

6:30 PM - 7:00 PM Call with Joe Klein (TIME)

**January 26, 2011**  
Wednesday

All Day	Hill Day
9:30 AM - 10:00 AM	Meeting with Rep. Lynn Westmoreland
10:15 AM - 10:45 AM	Meeting with OK Attorney General Scott Pruitt -- Rayburn Cafeteria
11:15 AM - 11:45 AM	Meeting with Rep. Francisco Canseco
12:15 PM - 12:45 PM	Meeting with Rep. Shelley Capito
1:30 PM - 2:00 PM	Meeting with Jeanne Roslanowick & Michael Beresik
2:15 PM - 2:45 PM	Meeting with Rep. Maxine Waters
3:00 PM - 3:30 PM	Meeting with Rep. Michael Grimm
4:00 PM - 4:30 PM	Meeting with Rep. Ed Royce
4:30 PM - 5:00 PM	Meeting with Rep. Mike Capuano
5:30 PM - 9:00 PM	DNS

**January 27, 2011**  
Thursday

8:30 AM - 9:00 AM Call with Drew Faust (HLS)  
Call home

Warren, Elizabeth (CFPB)

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**January 27, 2011 Continued**

Thursday

9:15 AM - 9:30 AM	Call with Dalie Jimenez
10:00 AM - 12:00 PM	Policy Meeting -- 1801 L St. (Conference Room 503)
12:00 PM - 1:30 PM	Lunch/Check In with Raj Date, Dan Geldon, and Wally Adeyemo -- 1801 L St. (550)
1:25 PM - 1:55 PM	Thom Hartmann Radio Program
2:00 PM - 2:45 PM	Financial Education Update -- 1801 L St. (550)
3:00 PM - 4:00 PM	Meeting with Nancy Hogan (Deputy Secretary, Presidential Personnel), Mona Sutphen (WH Deputy Chief of Staff), Neal Wolin (Deputy Secretary, Treasury) -- White House
4:15 PM - 5:00 PM	Meeting with the Council of Institutional Investors -- 2316MT
5:30 PM - 6:00 PM	Budget Update -- 1801 L St. (550)
6:00 PM - 6:30 PM	2011 Operating Plan Meeting -- 1801 L St. (550)

**January 28, 2011**

Friday

8:30 AM - 9:00 AM	Morning Staff Meeting -- 1801 L St. (550)
9:00 AM - 11:00 AM	EW Hiring Interviews 9am - Adam Frisch - Asst. Director for Deposits and Payments  9:30am - Gof Thompson
1:00 PM - 1:30 PM	Meeting with Austan Goolsbee (Chairman, Council of Economic Advisers) -- EEOB 484 Contact: Meryl Holt
2:00 PM - 2:30 PM	Meeting with Jared Bernstein (Chief Economist and Economic Policy Adviser to Vice President Biden) -- EEOB 222
3:00 PM - 3:30 PM	Meeting with Jim Rohr (CEO, PNC) PNC Staff:  Joe Guyaux Andrew Miller Robert Hoyt
4:00 PM - 4:30 PM	Meeting with Melody Barnes -- Melody's Office

Warren, Elizabeth (CFPB)

3

1/24/2011 7:21 PM

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**January 28, 2011 Continued**  
Friday

5:00 PM - 6:00 PM	EV Calls -- 550
6:00 PM - 6:15 PM	End of the Week Check In with Wally Adeyemo
7:00 PM - 9:00 PM	Dinner with Steve Glassman

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This document family member (or some of its attachments if any) has not been included in this production.

**Attachment 1: Building Projects – Draft Timeline****Lobby Renovation****Design Concept**

February 1, 2011 – award design competition task orders  
 February 7 – hold pre-concept design meeting (note – SOW doesn't specify window for this – state "within one week")  
 March 24 – presentations must be completed (45 days after meeting per SOW)  
 March 25-28 – presentations by 3 A/E firms  
 March 28 – April 8 - Decision window for CFPB to choose design (2 weeks)

**Design/Construction Documents**

April 25 – Award design contract (I allowed 2 weeks for procurement to award the task order)  
 May 2 – Post award meeting (change SOW to "within one week")  
 June 16 - 30% submittals due, including prospectus on programmatic portion (SOW gives 45 days)  
 July 30 – CFPB comments due to A/E (change SOW to allow 14 days)  
 August 14 – 60% submittals due (SOW gives 45 days after comments)  
 August 24 – CFPB comments due to A/E (change SOW to allow 10 days)  
 September 23 – 90% submittals due (SOW gives 30 days after comments)  
 October 3 – CFPB comments due to A/E (change SOW to allow 10 days)  
 November 2 – 100% submittals due (SOW gives 30 days)  
 November 12 – CFPB comments due to A/E (change SOW to 10 days)  
 November 26 - bid documents submitted (SOW gives 14 days)

**Construction Award**

December 6 - Issue bid package to prospective contractors (use existing federal energy contracts)  
 December 10 - Pre-Proposal Conference  
 December 24 – Bids due  
 December 27 - January 7, 2012 - Technical review of proposals (with A/E involvement)  
 January 7 - Award Recommendation  
 January 14 - Award  
 January 21 - Post Award Meeting

**Construction**

January – June 30, 2012 – Construction (assumes no hidden issues or particularly complex design features)

**Renovation of Office Floors****Schedule by Floor:**

February 28 – Award of A/E Contract  
March 7 – Kick-Off Meeting

Second Floor

March 8, 2011 – July 25, 2011 – Design second floor  
July 26, 2011 – August 15, 2011 – Award construction contract (2<sup>nd</sup> floor)  
August 16, 2011 – January 9, 2012 – Construction (2<sup>nd</sup> floor)  
January 10, 2012 – January 16 – Occupy 2<sup>nd</sup> floor/vacate 6<sup>th</sup> floor

Sixth Floor

May 17, 2011 – August 22, 2011 – Design sixth floor  
August 23, 2011 – September 12, 2011 – Award construction contract (6<sup>th</sup> floor)  
January 17, 2012 – May 21, 2012 – Construction (6<sup>th</sup> floor)  
May 22, 2012 – May 28, 2012 – Occupy 6<sup>th</sup> floor/vacate 5<sup>th</sup> floor

Third Floor

July 12, 2011 – October 17, 2011 – Design third floor  
October 18, 2011 – November 7, 2011 – Award construction contract (3<sup>rd</sup> floor)  
February 2, 2012 – June 6, 2012 – Construction (3<sup>rd</sup> floor)  
June 7, 2012 – June 13, 2012 – Occupy 2<sup>nd</sup> floor/vacate fourth floor

Fourth Floor

August 9, 2011 – November 14, 2011 – Design fourth floor  
November 15, 2011 – December 5, 2011 – Award construction contract (4<sup>th</sup> floor)  
February 2, 2012 – June 6, 2012 – Construction (4<sup>th</sup> floor)  
June 7, 2012 – June 14, 2012 – Occupy 4<sup>th</sup> floor

Fifth Floor

June 14, 2011 – September 19, 2011 – Design fifth floor  
September 20, 2011 – October 10, 2011 – Award construction contract (5<sup>th</sup> floor)  
May 29, 2012 – October 1, 2012 – Construction (5<sup>th</sup> floor)  
October 2, 2012 – October 8, 2012 – Occupy 5<sup>th</sup> floor/vacate third floor

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**DECISION MEMORANDUM FOR ELIZABETH WARREN**

**From:** Diane Cantrell  
**Date:** January 24, 2011  
**Subject:** Initiate Preparations to Move into OTS Building

**Recommendation**

That you approve our plan to move ahead with design options for renovating the OTS lobby and office space.

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_ Let's Discuss

Although decisions have not been made concerning the extent of renovations to be undertaken at the OTS building, it is very likely we will need to occupy a portion of the OTS building soon after July 21, 2011, to alleviate the space constraints facing CFPB. At a minimum, CFPB would remodel the main lobby and update the interior office space. CFPB can occupy portions of the building while the lobby is being remodeled and office space is reconfigured. In addition, any future projects identified (as outlined in the Gensler report) can be completed while the building is occupied.

In order to prepare for occupancy, design work and other preliminary steps should begin immediately so that construction is ready to commence August 2011. OTS has a procurement vehicle in place with three A&E firms that CFPB can write task orders against to obtain the services required. Attachment 1 provides a timeline for the lobby and office space projects.

There are 5 floors of office space available in the OTS building. Two are currently occupied by the Federal Housing and Finance Administration (FHFA) whose lease expires October 31, 2013. It is proposed the CFPB occupy two of the remaining floors and renovate one floor at a time. It is anticipated FHFA will vacate their space as early as January 2012, making their two floors available for additional swing space, as needed.

It is estimated that the cost of each design project will be approximately \$30,000.

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CFPB BUILDING PLAN  
Attachment A

10-Year Plan	Year 1	Year 2	Year 3	Years 4 - 10
<b>Architectural</b>	Redesign lobby/vestibule - \$2,086,746 Redesign office space (new interior workstations, furniture, and flooring) - \$11,246,552 Redesign elevator cabs, lobbies and atriums - \$2,705,753 Redesign bathrooms - \$2,483,262 Exterior glazing - \$19,607,864			
<b>Structural</b>	Garage repairs - \$938,955 Façade inspection & repairs - \$34,604 Clean and paint exterior steel on roof with rust-inhibiting exterior enamel - \$34,604	Roof maintenance - \$249,958 Garage inspect and routine maintenance - \$173,019	Garage inspect and routine maintenance - \$173,019	Garage inspect and routine maintenance - \$173,019 Façade inspection & repairs - \$34,604 Clean and paint exterior steel on roof with rust-inhibiting exterior enamel - \$34,604
<b>Exterior Plaza</b>	Replace courtyard and sidewalks (remove fixtures, fill and surface treatments; clean, seal cracks and joints; close old and rebuild penetrations; coordinate exterior drainage and collection; coordinate exterior utility work) - \$5,776,783	Continued	Continued	
<b>Energy Measures</b>	Re-distribution of ductwork; upgrade of VAV boxes; installation of fire dampers - \$11,422,485 Install variable frequency drives on pumps/fans - \$80,925 Convert all controls to DDC - \$6,500,733	Continued	Replacing AHU's and equipment w/ heat-recovery systems - \$4,402,855 Performance monitoring & updated control strategy - \$17,915 CO-level controlled garage exhaust w/VFD - \$76,475 Install full spectrum fluorescent lamps - \$650,199	Continued through Year 4.
<b>Water Measures</b>	Replace plumbing fixtures, shower heads, faucets, toilets and urinals - 2,208,075	Continued		Install a solar thermal hot water system - \$306,943
<b>MEP</b>	Replacement of leaking fire pump - \$75,696 Install sub-metering for monitoring of power consumption - \$75,100 Replace fire alarm annunciator with new graphic display panel - \$70,938 New interior ceilings/lighting including energy efficient lighting fixtures, lighting controls and occupancy sensors - \$9,352,295	Replace storm piping - \$3,696,945 Add secondary storm draining - \$93,430		Upgrade emergency generator - \$540,761 Upgrade electrical panels to add spare capacity - \$1,033,867 On-going maintenance - \$173,019
<b>Capital Cost</b>	<b>\$72,705,390</b>	<b>\$4,213,352</b>	<b>\$5,320,463</b>	<b>\$2,296,817</b>

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CFPB BUILDING PLAN  
Attachment B

10-Year Plan	Year 1	Year 2	Year 3	Years 4 - 10
<b>Architectural</b>	Redesign lobby/vestibule - \$2,086,746 Redesign office space (new interior workstations, furniture, and flooring) - \$11,246,552 Redesign elevator cabs, lobbies and atriums - \$2,705,753		Redesign bathrooms - \$2,483,262*	Exterior glazing - \$19,607,884*
<b>Structural</b>	Garage repairs - \$938,955	Continued Roof maintenance - \$249,958 Garage inspect and routine maintenance - \$173,019	Garage inspect and routine maintenance - \$173,019	Garage inspect and routine maintenance - \$173,019 Façade inspection & repairs - \$34,604 Clean and paint exterior steel on roof with rust-inhibiting exterior enamel - \$34,604
<b>Exterior Plaza</b>	Replace courtyard and sidewalks (remove fixtures, fill and surface treatments; clean, seal cracks and joints; close old and rebuild penetrations; coordinate exterior drainage and collection; coordinate exterior utility work) - \$3,776,783	Continued	Continued	
<b>Energy Measures</b>		Replacing AHU's and equipment w/ heat-recovery systems - \$4,402,855	Performance monitoring & updated control strategy - \$17,915 CO-Level controlled garage exhaust w/VFD - \$76,475 Install full spectrum fluorescent lamps - \$650,199	Re-distribution of ductwork; upgrade of VAV boxes; installation of fire dampers - \$11,422,488* Install variable frequency drives on pumps/fans - \$80,925 Convert all controls to DDC - \$6,500,733
<b>Water Measures</b>			Replace plumbing fixtures, shower heads, faucets, toilets and urinals - \$2,408,073*	Install a solar thermal hot water system - \$306,943
<b>MEP</b>	New interior ceilings/lighting including energy efficient lighting fixtures, lighting controls and occupancy sensors - \$9,352,295	Install sub-metering for monitoring of power consumption - \$79,100 Replace fire alarm annunciator with new graphic display panel - \$70,938	Replace storm piping - \$3,696,945* Add secondary storm drainage - \$93,430 Replacement of leaking fire pump - \$75,696	Upgrade emergency generator - \$540,761 Upgrade electrical panels to add spare capacity - \$1,033,867 On-going maintenance - \$173,019
<b>Capital Cost</b>	<b>\$30,107,084</b>	<b>\$4,975,870</b>	<b>\$9,475,016</b>	<b>\$39,908,844</b>

\*This work occurs within office space. Delaying until post-occupancy will significantly increase the cost and will have a negative impact on office occupants.

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**INFORMATION MEMORANDUM FOR ELIZABETH WARREN**

**From:** Diane Cantrell  
**Date:** January 24, 2011  
**Subject:** OTS Building Assessment and Recommendation

The Office of Thrift Supervision (OTS) contracted with Gensler, an architectural and engineering firm, to conduct a Facility Condition Assessment of its headquarters building at 1700 G Street, NW. Gensler conducted a detailed inspection of the building and its systems to determine its current condition and then developed a ten-year capital improvement plan that would bring the facility to a Class B+ designation. (Class B office space has high tenant standards and good location, construction, and management.) The capital improvement plan details recommended improvements to the building envelope, interior finishes, courtyard, and plumbing, electrical, and mechanical systems.

The Gensler assessment and the resulting capital improvement plan are useful as guides to the CFPB in determining what actions should be initiated to improve the condition of the building and office space. The Gensler plan calls for improvements over a period of 10 years. However, a number of these projects can be initiated shortly after CFPB obtains the building. These include renovation of the main building lobby, updating of interior office space to include restacking, new office furniture, and updated lighting and finishes, elevator cab upgrades, HVAC and electrical upgrades, replacement of the exterior courtyard and sidewalks, and repairs to the parking garage decks. These projects would not impact CFPB's ability to occupy the building and would be scheduled and managed to minimize disruption. Federal Housing Finance Administration, Small Savers Child Care Development Center and retail tenants would also be present in the building during this period.

Attachment A depicts the projects and associated costs that have been identified under the Gensler ten-year capital improvement plan. With the exception of the courtyard and sidewalk renovation, which will require extensive design work, it is estimated that all projects identified in Year One can be substantively completed within a one year after CFPB takes occupancy of the building provided design work and other preliminary steps be initiated immediately in preparation for project implementation. The other projects identified in the plan would span into future years and be managed accordingly.

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Due to the cost and complexity of the ten-year capital improvement plan, an alternative proposal is presented in Attachment B. CFPB could choose to initiate only those projects that affect the aesthetics of the building interior and functionality of office space design. Failure to complete other projects identified by Gensler would delay the replacement and maintenance of aging mechanical and electrical systems and would prevent CFPB from meeting federal energy and environmental mandates. In addition, the building would not receive a Class B+, LEAD Silver or Energy Star rating.

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**Canfield, Anna (CFPB)Disabled**

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**From:** Canfield, Anna (CFPB)Disabled  
**Sent:** Monday, January 24, 2011 4:02 PM  
**To:** Martin, Alyssa (CFPB)Disabled  
**Subject:** FW: EW Briefing  
**Attachments:** Decision memorandum for EW on design options.docx; Attachment 1 - Projects Timeline.docx; Information Memo For EW on OTS building improvements.docx; Info memo - Attachment A.docx; Info memo - Attachment B.docx

For EW's book. Nani is going to use her time tomorrow to brief EW on space.

---

**From:** Mann, Benjamin (CFPB)  
**Sent:** Monday, January 24, 2011 4:01 PM  
**To:** Cantrell, Diane (CFPB); Canfield, Anna (CFPB)  
**Cc:** Coloretti, Nani (CFPB)  
**Subject:** RE: EW Briefing

Reformatted memos attached

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**From:** Cantrell, Diane (CFPB)  
**Sent:** Monday, January 24, 2011 2:49 PM  
**To:** Canfield, Anna (CFPB)  
**Cc:** Mann, Benjamin (CFPB); Coloretti, Nani (CFPB)  
**Subject:** EW Briefing

The attached are materials provided in advance of a meeting scheduled for tomorrow at 10am to brief Professor Warren on the OTS building and next steps. Please let me know if you need any additional information.

Diane

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**Attachment 1: Building Projects – Draft Timeline****Lobby Renovation****Design Concept**

February 1, 2011 – award design competition task orders  
 February 7 – hold pre-concept design meeting (note – SOW doesn't specify window for this – state "within one week")  
 March 24 – presentations must be completed (45 days after meeting per SOW)  
 March 25-28 – presentations by 3 A/E firms  
 March 28 – April 8 - Decision window for CFPB to choose design (2 weeks)

**Design/Construction Documents**

April 25 – Award design contract (I allowed 2 weeks for procurement to award the task order)  
 May 2 – Post award meeting (change SOW to "within one week")  
 June 16 - 30% submittals due, including prospectus on programmatic portion (SOW gives 45 days)  
 July 30 – CFPB comments due to A/E (change SOW to allow 14 days)  
 August 14 – 60% submittals due (SOW gives 45 days after comments)  
 August 24 – CFPB comments due to A/E (change SOW to allow 10 days)  
 September 23 – 90% submittals due (SOW gives 30 days after comments)  
 October 3 – CFPB comments due to A/E (change SOW to allow 10 days)  
 November 2 – 100% submittals due (SOW gives 30 days)  
 November 12 – CFPB comments due to A/E (change SOW to 10 days)  
 November 26 - bid documents submitted (SOW gives 14 days)

**Construction Award**

December 6 - Issue bid package to prospective contractors (use existing federal energy contracts)  
 December 10 - Pre-Proposal Conference  
 December 24 – Bids due  
 December 27 - January 7, 2012 - Technical review of proposals (with A/E involvement)  
 January 7 - Award Recommendation  
 January 14 - Award  
 January 21 - Post Award Meeting

**Construction**

January – June 30, 2012 – Construction (assumes no hidden issues or particularly complex design features)

**Renovation of Office Floors****Schedule by Floor:**

February 28 – Award of A/E Contract  
March 7 – Kick-Off Meeting

Second Floor

March 8, 2011 – July 25, 2011 – Design second floor  
July 26, 2011 – August 15, 2011 – Award construction contract (2<sup>nd</sup> floor)  
August 16, 2011 – January 9, 2012 – Construction (2<sup>nd</sup> floor)  
January 10, 2012 – January 16 – Occupy 2<sup>nd</sup> floor/vacate 6<sup>th</sup> floor

Sixth Floor

May 17, 2011 – August 22, 2011 – Design sixth floor  
August 23, 2011 – September 12, 2011 – Award construction contract (6<sup>th</sup> floor)  
January 17, 2012 – May 21, 2012 – Construction (6<sup>th</sup> floor)  
May 22, 2012 – May 28, 2012 – Occupy 6<sup>th</sup> floor/vacate 5<sup>th</sup> floor

Third Floor

July 12, 2011 – October 17, 2011 – Design third floor  
October 18, 2011 – November 7, 2011 – Award construction contract (3<sup>rd</sup> floor)  
February 2, 2012 – June 6, 2012 – Construction (3<sup>rd</sup> floor)  
June 7, 2012 – June 13, 2012 – Occupy 2<sup>nd</sup> floor/vacate fourth floor

Fourth Floor

August 9, 2011 – November 14, 2011 – Design fourth floor  
November 15, 2011 – December 5, 2011 – Award construction contract (4<sup>th</sup> floor)  
February 2, 2012 – June 6, 2012 – Construction (4<sup>th</sup> floor)  
June 7, 2012 – June 14, 2012 – Occupy 4<sup>th</sup> floor

Fifth Floor

June 14, 2011 – September 19, 2011 – Design fifth floor  
September 20, 2011 – October 10, 2011 – Award construction contract (5<sup>th</sup> floor)  
May 29, 2012 – October 1, 2012 – Construction (5<sup>th</sup> floor)  
October 2, 2012 – October 8, 2012 – Occupy 5<sup>th</sup> floor/vacate third floor

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**DECISION MEMORANDUM FOR ELIZABETH WARREN**

**From:** Diane Cantrell  
**Date:** January 24, 2011  
**Subject:** Initiate Preparations to Move into OTS Building

**Recommendation**

That you approve to move ahead with design options for renovating the OTS lobby and office space.

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_ Let's Discuss

Although decisions have not been made concerning the extent of renovations to be undertaken at the OTS building, it is very likely we will need to occupy a portion of the OTS building soon after July 21, 2011, to alleviate the space constraints facing CFPB. At a minimum, CFPB would remodel the main lobby and update the interior office space. CFPB can occupy portions of the building while the lobby is being remodeled and office space is reconfigured. In addition, any future projects identified (as outlined in the Gensler report) can be completed while the building is occupied.

In order to prepare for occupancy, design work and other preliminary steps should begin immediately so that construction is ready to commence August 2011. OTS has a procurement vehicle in place with three A&E firms that CFPB can write task orders against to obtain the services required. Attachment 1 provides a timeline for the lobby and office space projects.

There are 5 floors of office space available in the OTS building. Two are currently occupied by the Federal Housing and Finance Administration (FHFA) whose lease expires October 31, 2013. It is proposed the CFPB occupy two of the remaining floors and renovate one floor at a time. It is anticipated FHFA will vacate their space as early as January 2012, making their two floors available for additional swing space, as needed.

It is estimated that the cost of each design project will be approximately \$30,000.

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CFPB BUILDING PLAN  
Attachment A

10-Year Plan	Year 1	Year 2	Year 3	Years 4 - 10
<b>Architectural</b>	Redesign lobby/vestibule - \$2,086,746 Redesign office space (new interior workstations, furniture, and flooring) - \$11,246,552 Redesign elevator cabs, lobbies and atriums - \$2,705,753 Redesign bathrooms - \$2,483,262 Exterior glazing - \$13,607,884			
<b>Structural</b>	Garage repairs - \$938,955 Façade inspection & repairs - \$34,604 Clean and paint exterior steel on roof with rust-inhibiting exterior enamel - \$34,604	Roof maintenance - \$249,958 Garage inspect and routine maintenance - \$173,019	Garage inspect and routine maintenance - \$173,019	Garage inspect and routine maintenance - \$173,019 Façade inspection & repairs - \$34,604 Clean and paint exterior steel on roof with rust-inhibiting exterior enamel - \$34,604
<b>Exterior Plaza</b>	Replace courtyard and sidewalks (remove fixtures, fill and surface treatments; clean, seal cracks and joints; close old and rebuild penetrations; coordinate exterior drainage and collection; coordinate exterior utility work) - \$3,776,783	Continued	Continued	
<b>Energy Measures</b>	Re-distribution of ductwork; upgrade of VAV boxes; installation of fire dampers - \$11,423,485 Install variable frequency drives on pumps/fans - \$80,925 Convert all controls to DDC - \$6,500,733	Continued	Replacing AHU's and equipment w/ heat-recovery systems - \$4,402,855 Performance monitoring & updated control strategy - \$17,915 CO-Level controlled garage exhaust w/VFD - \$76,475 Install full spectrum fluorescent lamps - \$650,199	Continued through Year 4.
<b>Water Measures</b>	Replace plumbing fixtures, shower heads, faucets, toilets and urinals - 2,208,075	Continued		Install a solar thermal hot water system - \$306,943
<b>MEP</b>	Replacement of leaking fire pump - \$75,696 Install sub-metering for monitoring of power consumption - \$79,100 Replace fire alarm annunciator with new graphic display panel - \$70,938 New interior ceilings/lighting including energy efficient lighting fixtures, lighting controls and occupancy sensors - \$9,352,795	Replace storm piping - \$3,696,945 Add secondary storm draining - \$93,430		Upgrade emergency generator - \$540,761 Upgrade electrical panels to add spare capacity - \$1,033,867 On-going maintenance - \$173,019
<b>Capital Cost</b>	<b>\$72,705,390</b>	<b>\$4,213,352</b>	<b>\$5,320,463</b>	<b>\$2,296,817</b>

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CFPB BUILDING PLAN  
Attachment B

10-Year Plan	Year 1	Year 2	Year 3	Years 4 - 10
<b>Architectural</b>	Redesign lobby/vestibule - \$2,086,746 Redesign office space (new interior workstations, furniture, and flooring) - \$11,246,552 Redesign elevator cabs, lobbies and atriums - \$2,705,753		Redesign bathrooms - \$2,483,262*	Exterior glazing - \$19,607,884*
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<b>Exterior Plaza</b>	Replace courtyard and sidewalks (remove fixtures, fill and surface treatments; clean, seal cracks and joints, close old and rebuild penetrations; coordinate exterior drainage and collection; coordinate exterior utility work) - \$3,776,783	Continued	Continued	
<b>Energy Measures</b>		Replacing AHU's and equipment w/ heat-recovery systems - \$4,402,855	Performance monitoring & updated control strategy - \$17,915 CO-Level controlled garage exhaust w/VFD - \$76,475 Install full spectrum fluorescent lamps - \$650,199	Re-distribution of ductwork; upgrade of VAV boxes; installation of fire dampers - \$11,422,485* Install variable frequency drives on pumps/fans - \$80,925 Convert all controls to DDC - \$6,500,733
<b>Water Measures</b>			Replace plumbing fixtures, shower heads, faucets, toilets and urinals - \$2,208,025*	Install solar thermal hot water system - \$306,943
<b>MEP</b>	New interior ceilings/lighting including energy efficient lighting fixtures, lighting controls and occupancy sensors - \$9,352,295	Install sub-metering for monitoring of power consumption - \$79,100 Replace fire alarm annunciator with new graphic display panel - \$70,938	Replace storm piping - \$3,696,945* Add secondary storm drainage - \$93,430 Replacement of leaking fire pump - \$79,696	Upgrade emergency generator - \$540,761 Upgrade electrical panels to add spare capacity - \$1,033,867 On-going maintenance - \$173,019
<b>Capital Cost</b>	<b>\$30,107,084</b>	<b>\$4,975,870</b>	<b>\$9,475,016</b>	<b>\$39,908,844</b>

\*This work occurs within office space. Delaying until post-occupancy will significantly increase the cost and will have a negative impact on office occupants.

**INFORMATION MEMORANDUM FOR ELIZABETH WARREN**

**From:** Diane Cantrell  
**Date:** January 24, 2011  
**Subject:** OTS Building Assessment and Recommendation

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Attachment A depicts the projects and associated costs that have been identified under the Gensler ten-year capital improvement plan. With the exception of the courtyard and sidewalk renovation, which will require extensive design work, it is estimated that all projects identified in Year One can be substantively completed within a one year after CFPB takes occupancy of the building provided design work and other preliminary steps be initiated immediately in preparation for project implementation. The other projects identified in the plan would span into future years and be managed accordingly.

Due to the cost and complexity of the ten-year capital improvement plan, an alternative proposal is presented in Attachment B. CFPB could choose to initiate only those projects that affect the aesthetics of the building interior and functionality of office space design. Failure to complete other projects identified by Gensler would delay the replacement and maintenance of aging mechanical and electrical systems and would prevent CFPB from meeting federal energy and environmental mandates. In addition, the building would not receive a Class B+, LEAD Silver or Energy Star rating.

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**From:** Mann, Benjamin (CFPB)  
**To:** Canfield, Anna (CFPB)Disabled  
**Subject:** FW: Space Projections Union Center and 717 14 St.xlsx  
**Date:** Wednesday, January 26, 2011 3:40:44 PM

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fyi

**From:** Cantrell, Diane (CFPB)  
**Sent:** Wednesday, January 26, 2011 3:39 PM  
**To:** Mann, Benjamin (CFPB)  
**Subject:** RE: Space Projections Union Center and 717 14 St.xlsx

Good. We got the go ahead to obtain design options for the lobby and office space. She increased the scope of the lobby design so the cost to obtain competitive designs from the 3 A&E has increased (estimated at \$20/contractor = \$60,000) She was fine with spending the money to obtain the design options.

I am working to finalize the lobby SOW and develop a SOW for the office design plus SOW for feasibility studies on other space she wanted to capture and use (ie - turning the patios into office space, creating office space out of the garage levels.). Will work with procurement to make this all happen.

Anyway, a lot to do! Of course final decisions on design and amount of renovations to the building will ultimately impact when we occupy. More to come.....

**From:** Mann, Benjamin (CFPB)  
**Sent:** Wednesday, January 26, 2011 3:17 PM  
**To:** Cantrell, Diane (CFPB)  
**Subject:** RE: Space Projections Union Center and 717 14 St.xlsx

Been meaning to ask, how did the briefing go with EW?

**From:** Cantrell, Diane (CFPB)  
**Sent:** Wednesday, January 26, 2011 3:08 PM  
**To:** Canfield, Anna (CFPB)  
**Cc:** Coloretti, Nani (CFPB); Mann, Benjamin (CFPB)  
**Subject:** Space Projections Union Center and 717 14 St.xlsx

Anna-

Per our conversation, you had asked for information to present Wally on space issues/options. Attached is a chart that depicts three scenarios - current space, current space plus 717 14<sup>th</sup> St, and current space plus 14<sup>th</sup> St/Union Center.

The data does not include use of the OTS space since that is not a definite option. In addition, as we plan for the building renovations we need to have swing space. The timing of when we occupy the OTS space (partially or fully) depends on many factors relating to the final decisions surrounding the design and renovation work. We are several months away from having these types of decisions. In addition, it should be noted that the SEC and OCC space once believed to be options are no longer viable ones.

I strongly believe we need to utilize all space currently available to us including both Union Center  
 th

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and 14 St. IRS has resolved their issues and will be vacating Union Center in early March. We would need to clean up/paint prior to occupancy but should be able to get into the space mid-late March. Treasury has been working with GSA to determine a schedule for occupying 717 14<sup>th</sup> St. Since the building would require remodeling prior to us coming in, it is projected we could move in June/July timeframe. (This date has slipped since we originally talked to Treasury.)

I know it is the desire of management to keep the team together but as we approach critical mass, we need to be realistic in our approach to space to ensure we provide adequate work space for staff and not limit our options when planning for the design and occupancy of the OTS building.

Please let me know if you have any questions.

Diane

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**Cantrell, Diane J**

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**From:** Cantrell, Diane J  
**Sent:** Wednesday, April 20, 2011 7:07 PM  
**To:** Cantrell, Diane (CFPB)Disabled  
**Subject:** Fw: Lobby Design Task Orders  
**Attachments:** TaskOrder2(AECOM).exe.pdf; TaskOrder2(KCCT).exe.pdf; TaskOrder2(Gensler).exe.pdf

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Sent from my BlackBerry Wireless Handheld

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**From:** Adams, Andre D  
**Sent:** Wednesday, April 20, 2011 05:45 PM  
**To:** Chuhaj, Yuri J  
**Cc:** Cantrell, Diane J; Davidson, Terri L  
**Subject:** Lobby Design Task Orders

Yuri,

Attached are copies of the task orders for the lobby design for your records.

Andre Adams

Contracting Officer

Office of Thrift Supervision

1700 G Street, N.W.

Washington, DC 20552

Tel. [REDACTED]

Fax [REDACTED]

Email [REDACTED]@ots.treas.gov

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<<TaskOrder2(AECOM).exe.pdf>> <<TaskOrder2(KCCT).exe.pdf>> <<TaskOrder2(Gensler).exe.pdf>>

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ORDER FOR SUPPLIES OR SERVICES						PAGE OF PAGES	
IMPORTANT: Mark all packages and papers with contract and/or order numbers.						1	17
1. DATE OF ORDER 04/20/2011		2. CONTRACT NO. (If any) TOTS-D-10-D-0001		6. SHIP TO:			
3. ORDER NO. 0002		4. REQUISITION/REFERENCE NO. FAC-110052		a. NAME OF CONSIGNEE OTS-WASHINGTON			
5. ISSUING OFFICE (Address correspondence to) OTS-WASHINGTON 1700 G STREET NW WASHINGTON DC 20552				b. STREET ADDRESS 1700 G STREET NW			
				c. CITY WASHINGTON		d. STATE DC	e. ZIP CODE 20552
7. TO:				f. SHIP VIA			
a. NAME OF CONTRACTOR AECOM SERVICES INC.				8. TYPE OF ORDER			
b. COMPANY NAME				<input type="checkbox"/> a. PURCHASE		<input checked="" type="checkbox"/> b. DELIVERY	
c. STREET ADDRESS 3101 WILSON BLVD. SUITE 900				REFERENCE YOUR:			
d. CITY ARLINGTON				e. STATE VA		f. ZIP CODE 22201-4446	
9. ACCOUNTING AND APPROPRIATION DATA See Schedule				10. REQUISITIONING OFFICE OTS-WASHINGTON			
11. BUSINESS CLASSIFICATION (Check appropriate box(es))				12. F.O.B. POINT Destination			
<input type="checkbox"/> a. SMALL <input type="checkbox"/> d. WOMEN-OWNED <input checked="" type="checkbox"/> b. OTHER THAN SMALL <input type="checkbox"/> e. HUBZone <input type="checkbox"/> c. DISADVANTAGED <input type="checkbox"/> f. EMERGING SMALL BUSINESS <input type="checkbox"/> g. SERVICE-DISABLED VETERAN-OWNED							
13. PLACE OF		14. GOVERNMENT BU. NO.		15. DELIVER TO F.O.B. POINT ON OR BEFORE (Date) 45 Days After Award		16. DISCOUNT TERMS N/30 PROMPT PAY	
a. INSPECTION Destination		b. ACCEPTANCE Destination					
17. SCHEDULE (See reverse for Rejections)							
ITEM NO. (a)	SUPPLIES OR SERVICES (b)	QUANTITY ORDERED (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)	QUANTITY ACCEPTED (g)	
	This task order will constitute Task Order Two under the referenced contract. The Contractor shall provide services in accordance with the attached statement of work (Attachment A) and its proposal dated March 24, 2011. Continued ...						
18. SHIPPING POINT		19. GROSS SHIPPING WEIGHT		20. INVOICE NO.		17(h) TOTAL (Cont. pages)	
a. NAME ARC/ASD/OTS		21. MAIL INVOICE TO:		\$20,000.00		17(i) GRAND TOTAL	
b. STREET ADDRESS (or P.O. Box) ARC/ASD/OTS, AVERY 3G PO BOX 1328 OTS&BPD.TREAS.GOV							
c. CITY PARKERSBURG		d. STATE NV	e. ZIP CODE 26106-1328		\$20,000.00		
22. UNITED STATES OF AMERICA BY (Signature) 				23. NAME (Typed) ANDRE D. ADAMS TITLE: CONTRACTING/ORDERING OFFICER			

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ORDER FOR SUPPLIES OR SERVICES						PAGE NO
SCHEDULE - CONTINUATION						2
IMPORTANT: Mark all packages and papers with contract and/or order numbers.						
DATE OF ORDER	CONTRACT NO.				ORDER NO.	
04/20/2011	TOTS-D-10-D-0001				0002	
ITEM NO.	SUPPLIES/SERVICES	QUANTITY ORDERED	UNIT	UNIT PRICE	AMOUNT	QUANTITY ACCEPTED
(a)	(b)	(c)	(d)	(e)	(f)	(g)
0001	Admin Office: OTS-WASHINGTON 1700 G STREET NW WASHINGTON DC 20552  Accounting Info: OTS4108REXXXX/2011/610001/OTS8900000/2541/00 000000/XXX/XX/OTS625401/XXXXXXXXXX/XXXXXXXXXX Period of Performance: 12/11/2009 to 09/30/2014  Lobby Design				20,000.00	
	Continued ...					
TOTAL CARRIED FORWARD TO 1ST PAGE (ITEM 17(F))					\$20,000.00	

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SCHEDULE - CONTINUATION**

PAGE NO  
3

IMPORTANT: Mark all packages and papers with contract and/or order numbers.

DATE OF ORDER 04/20/2011 CONTRACT NO. TCTS-D-10-D-0001

ORDER NO.  
0002

ITEM NO. (a)	SUPPLIES/SERVICES (b)	QUANTITY ORDERED (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)	QUANTITY ACCEPTED (g)
	<p>PLEASE ENSURE THAT THE ORDER NUMBER (BLOCK 3) IS CLEARLY VISIBLE ON ALL SHIPPING/SERVICE DOCUMENTS, CONTAINERS, AND INVOICES. FOR PAYMENT AND INVOICE QUESTIONS CONTACT ADMINISTRATIVE ACCOUNTS BRANCH AT [REDACTED].</p> <p>52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER-CENTRAL CONTRACTOR REGISTRATION PAYMENT (OCT 2003).</p> <p>RECEIVE A FREE E-MAIL NOTICE OF YOUR ELECTRONIC PAYMENT. REGISTER AT <a href="http://fms.treas.gov/paid">HTTP://FMS.TREAS.GOV/PAID</a>.</p> <p>ACCORDING TO 52.204-7 CENTRAL CONTRACTOR REGISTRATION (APR 2008), THE CONTRACTOR MUST REGISTER IN THE CCR DATABASE AND MAINTAIN REGISTRATION DURING PERFORMANCE AND THROUGH FINAL PAYMENT OF THIS AWARD.</p> <p>INVOICES SHOULD BE SUBMITTED ELECTRONICALLY TO THE EMAIL ADDRESS SHOWN IN BLOCK 21B, PAGE 1. PROTECTED MICROSOFT EXCEL FILES ARE THE PREFERRED FORMAT, HOWEVER, ADOBE ACROBAT PORTABLE DOCUMENT FORMAT (PDF) AND MICROSOFT WORD ARE ALSO ACCEPTABLE.</p> <p>The total amount of award: \$20,000.00. The obligation for this award is shown in box 17(i).</p>					
TOTAL CARRIED FORWARD TO 1ST PAGE (ITEM 17(M))					\$0.00	

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Attachment A

**Statement of Work  
For Architectural/Engineering Design Services**

**Renovation of Main Lobby/Courtyard  
Office of Thrift Supervision Building**

*January 31, 2011*

**1.0 SCOPE**

- 1.1 Title I Services:** The Office of Thrift Supervision (OTS), on behalf of the Consumer Financial Protection Bureau (CFPB), requests the procurement of architectural and engineering (A/E) services under existing A/E task order contracts for the design of the renovation of the main lobby (and adjoining reclaimed retail space and breezeway) and exterior courtyard of the OTS building at 1700 G Street, NW, Washington, DC 20552. The A/E Contractor shall perform survey and complete all design work, drawings, calculations, specifications, cost estimates, and schedules required to prepare the site in accordance with the guidelines established by this Statement of Work. The A/E Contractor shall design a complete lobby facility including furnishings such that it will support employees and those doing business with CFPB. Additionally, the lobby shall include a visitor center that incorporates exhibits and educational elements for the public.
- 1.2 Title II Services:** The A/E Contractor shall also provide construction phase services. When applicable, construction services may include exhibit fabrication and installation. See paragraph 3.15 for required services.
- 1.3 Background:** The building was designed and built in 1976. The existing lobby is approximately 3558 square feet and will be increased in size by 1318 square feet by incorporating an existing retail space adjacent to the lobby, and approximately 3000 square feet by adding and enclosing the east breezeway to the visitors' center.
- 1.4 Objective:** The purpose of this project is to renovate the existing main lobby to create a lobby and visitors center that will be used by CFPB employees and those doing business with the CFPB, as well as visitors to the facility. The visitor center portion of the lobby will serve as a "destination" for the public and visitors to the nation's capital.

The conceptual design portion of this project will be a design competition among the three A&E task order contractors to create a design concept that will include the lobby, visitors' center, and the existing courtyard. The concept will emphasize the cohesiveness of these areas. The post-conceptual phase will include the programmatic development of the visitor center and

the comprehensive design of the new CFPB lobby and visitor center, and will not include the design of the courtyard. The A/E Contractor will be responsible for presenting the selected conceptual design and any required submissions to external reviewing authorities (such as National Capital Planning Commission, Commission of Fine Arts, District of Columbia Historic Preservation Office, etc.) as may be required. A/E Contractor shall prepare deliverables according to the respective requirements for each reviewing authority on behalf of the CFPB for the project design if requested or as is customary for a project of this type. It is the responsibility of the A/E Contractor to determine these requirements and to inform the COTR prior to prospectus development. The final design shall be that of a typical class A building in Washington DC.

The design provided shall take into account the following security standards and operational considerations:

- a) Physical boundaries to control ingress to and egress from non-public areas
- b) Screening of public before accessing restrooms
- c) Interior – specify tempered or high strength glass, if used
- d) Occupant Screening – screen all visitors and their property using an X-ray and magnetometer.
- e) Create separate flow patterns for employees and visitors.
- f) Minimize queuing caused by screening.

## 2.0 **DOCUMENTS**

2.1 **Applicable Documents:** The Contractor shall comply with the current edition of all applicable practices, codes, methods and standards as prepared by technical societies and associations. In the event of conflict between codes and standards of the organizations, the more stringent regulations shall govern. The A/E Contractor shall state applicable requirements of the standards or codes in the specifications, in addition to their general reference. These organizations shall include but may not be limited to:

- UFAS - Uniform Federal Accessibility Standards
- ANSI - American National Standards Institute
- ASHRAE - American Society of Heating, Refrigerating, and Air Conditioning Engineers
- IBC - International Building Code

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- EPA - Environmental Protection Agency
- FM - Factory Mutual
- NFPA - National Fire Protection Association
- NEC - National Electrical Code
- UL - Underwriter's Laboratories
- NSPC - National Standard Plumbing Code
- SIGAED - Smithsonian Institution Guidelines for Accessible Exhibition Design
- SIGUDE - Smithsonian Institution Guidelines for Universal Design of Exhibits
- OSHA - Occupational Safety and Health Administrative Standards

2.2 **Government Furnished Documents:** OTS shall provide the following: Floor plan of the ground level; others as requested/required.

### 3.0 **STATEMENT OF SERVICES**

- 3.1 **Document Review:** The A/E Contractor shall review government furnished documents and perform site visits to gain an understanding of the scope of the project. It should be noted that the OTS record drawings provided may not necessarily meet the current applicable codes and standards required. The A/E Contractor shall review existing architectural, mechanical, structural, electrical, and other pertinent drawings of areas in the buildings affected by the design.
- 3.1.1 Field measurements shall be made to verify all existing dimensions depicted on all drawings.
- 3.1.2 Sufficient site investigations shall be made to confirm all existing conditions depicted on all drawings.
- 3.2 **Site Investigations:** The A/E Contractor shall make sufficient site investigations to evaluate all existing conditions. The A/E Contractor shall obtain additional pertinent information, as needed, from the COTR to ensure the development leading to the completion of an efficient, comprehensive design.
- 3.3 **A/E Conceptual Design (Phase One):** The Conceptual Design submission will be a design competition among the three A/E task order contractors. Each firm will present its conceptual design ideas individually in a meeting

3 of 14

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forty-five (45) calendar days after award of the conceptual design task order. The design, ideas, and all material from each presentation will become the property of the OTS and CFPB. Each A/E contractor will be paid \$20,000 for their efforts in generating and presenting their conceptual design. The presentations will be judged on style, constructability, appeal, and conformance with this SOW. The conceptual designs shall include a minimum of five (5) and a maximum of seven (7) sketches on C size paper, in color, showing multiple renderings of the new lobby, visitor center, and courtyard.

- 3.3.1 Any portion of the Conceptual Design that will require review by external agencies such as NCPD (e.g. exterior work), shall be specifically noted.
  - 3.3.2 The plan will maximize the usable space for the new visitor's center while creating a Class A office building lobby appearance and incorporating security requirements.
  - 3.3.3 The plan will show the flow of employees and guests doing business with the CFPB, as well as visitors through the visitor center.
  - 3.3.4 The plan shall include locations for public awareness and educational including video media that would be part of the visitor center, security screening equipment, security desk, and the location of future restrooms.
  - 3.3.5 The courtyard will be part of the Conceptual Design and should include features to reduce our carbon footprint as well as a creating a cohesive inviting design.
  - 3.3.6 The Conceptual Design submission shall consist of subject headings that address the following:
    - a. Sketches
    - b. Diagrams
    - c. Bubble diagrams of special relationships
  - 3.3.7 A general approximation of construction costs.
  - 3.3.8 The submission shall include one (1) unbound copy of the Conceptual Design & one (1) electronic copy.
- 4 **Post-Conceptual Design Phase (Phase Two)** – Phase Two will be the responsibility of the A/E Contractor that has been awarded the lobby project.

4 of 14

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The purpose and goal of this phase is to establish the programmatic requirements for the visitor center portion of this project. This phase will establish guidance governing planning, development, management, and operation of the CFPB visitor center. Preliminary and final acceptance and buy-in of facilities and exhibits from inside and outside reviewing entities will be a goal during this phase. The primary purposes of the visitor center program are to provide information to the visiting public about the CFPB and its mission, as well as interpretive and educational information relating to consumer financial products and services.

Submission requirements are as follows:

- 3.4.1 The prospectus shall include the following:
  - a. One (1) set of drawings, dry mounted on foam core boards
  - b. Ten (10) copies of each prospectus and one (1) electronic copy
- 3.4.2 The Exhibit Interpretive design submission shall include the following:
  - a. One (1) unbound copy of the Exhibit Interpretive Design and one (1) electronic copy.
  - b. Ten (10) bound copies of the Exhibit Interpretive Design.
- 3.4.3 The Exhibit Interpretive narrative shall consist of subject headings that address the goals, themes, and communication objectives as follows:
  - a. Objectives/expected outcomes
  - b. Interpretive themes and strategies
  - c. Functional use of space/plan/diagram to include a numbered list of all proposed exhibits, subject, location, materials, mount type, and size
  - d. Design narrative/criteria for designers
  - e. Accessibility universal design and facility program
  - f. Projected exhibits fabrication costs

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g. Projected ongoing operation and maintenance costs

3.4.4 The A/E Contractor shall provide the Prospectus and the Exhibit Interpretive Design at the end of the 30% Design submission and not any later to ensure the new design supports the Prospectus and the Exhibit Interpretive Design.

3.5 **A/E Design:** The A/E Contractor shall provide necessary plans for demolition, architectural, structural, mechanical, and electrical designs and specifications showing both existing and new systems and connections thereto. These designs shall include, but may not be limited to, the requirements discussed in paragraphs 3.5.1 - 3.5.5 below. Engineering calculations submission shall be provided pertaining to all designs.

3.5.1 Demolition:

- a. All utility runs to be removed will be clearly identified on the drawings.
- b. Potential lay down areas and access points for debris removal, etc.

3.5.2 Architectural Design:

- a. The new design will have to blend the existing design style with a newer design scheme that would be appropriate for a class A building in Washington, DC.

3.5.3 Structural Design:

- a. The removal of any walls between the existing lobby, adjacent vacant retail space, and the east breezeway may require structural analysis.

3.5.4 Mechanical Design:

- a. The new lobby and visitor center shall include appropriate restroom facilities and minimize conflict with routine ingress/egress of CFPB staff and those doing business with the CFPB.
- b. HVAC requirements will be included in the design.

3.5.5 Electrical Design:

- a. The lobby shall retain a walk through metal detector as well as an

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x-ray machine and badge reading system (one turnstile portal). The Contractor will not be required to keep the existing machines if other more aesthetically-appropriate and functionally-similar units are available. The design will provide wiring runs for this equipment and other security notification systems remaining or added to the new design.

- b. The new lobby and visitor center will have displays, kiosks, and other educational media that will be updated regularly. The design must include means and methods to allow flexibility for the placement as well as utilities that may be required for these continually changing exhibits.

3.6 **NFPA Compliance:** The A/E Contractor shall adopt NFPA requirements within their design or incorporate the requirements in the project documents to be the responsibility of the Construction Contractor. The Construction Contractor shall be responsible for hydraulic calculations and sizing sprinkler pipes accordingly.

3.6.1 The A/E Contractor shall incorporate the following into the project documents to be the responsibility of the Construction Contractor:

1. All exposed sprinkler piping shall be painted red. All unexposed sprinkler piping shall be labeled.
2. Per NFPA 13, section 6.1.1, work plans shall be submitted for approval. The plan is to incorporate all applicable elements listed in NFPA 13, section 6-1.1.1.
3. Per NFPA 13, Section 8-5, hydraulic design information signs
4. All fire management devices shall be compatible with the existing fire alarm system.
5. The following construction submittals shall be required from the Construction Contractor for a parallel review within OTS/CFPB:
  - Indicate panel layout and wire terminations in the panel boxes.
  - Indicate devices.
  - Provide programming, and software copy, for existing display terminals.
  - Provide floor plan graphics for rooms, or alterations

7 of 14

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of existing programming.

- Provide field panel wiring diagrams and battery calculations.

6. All conduits carrying Fire Management System wiring shall be labeled and dedicated.

- 3.7 **Energy Conservation:** The A/E Contractor shall adopt current U.S. Federal Government requirements on energy efficiency, water conservation and the use of recovered materials. These requirements shall be incorporated into the design documents. These requirements include but are not limited to: 42 USC 8253(a), 42 USC 15852, and E.O. 13514. The A/E Contractor shall determine if there are other requirements and applicable documents that are in effect at the time of award and report it to the Contracting Officer immediately.

The A/E shall specify energy-efficient products that are ENERGY STAR® qualified or meet energy efficiency specification set by the Department of Energy's Federal Energy Management Program (FEMP). ENERGY STAR® and FEMP products can be found at: <http://www.energystar.gov/products> and <http://www.eere.energy.gov/femp/procurement/>.

- 3.8 **Environmental Requirements - N/A**

- 3.9 **Construction Cost Estimate and Schedule:** A/E Contractor shall provide a construction cost estimate and schedule with the 100% design submittal.

- 3.9.1 The construction estimates shall be broken down by items to include material costs, quantities, and equipment rentals; and labor hours and rates; overhead, profit and required bonds. The final cost estimate shall be furnished to the CFPB electronically.

- 3.9.2 The construction schedule shall list all applicable tasks and show critical paths throughout the project time frame. The construction schedule shall be furnished to the CFPB electronically in Microsoft Project format.

- 3.10 **Drawings:**

- 3.10.1 All drawings shall be documented 24 inches high by 36 inches wide (D-Size).

- 3.10.2 All drawings shall have all margins approximately ¼ inch wide. Final drawings shall be documented on reproducible polyester drafting film (i.e. mylar) and have left and right margins approximately 1 inches

wide, with all other margins approximately ½ inch wide.

- 3.10.3 All drawings shall have the new CFPB's title block in the lower right hand corner and the A/E Contractor's title block on the adjacent left of CFPB's.
- 3.10.4 All drawings shall be numbered with standard letter sequences applicable to each design discipline and labeled, "CFPB Lobby Renovation and Visitor Center".
- 3.10.5 Each drawing sheet shall include the following statement next to the title block:

"Notice: This document is and shall remain the property of the United States Government. No information contained herein may be copied, disclosed, or used for any purpose without the written authorization of the Consumer Financial Protection Bureau."
- 3.10.6 All final drawings, specifications and calculations shall be stamped by a Professional Engineer registered in Washington, D.C.
- 3.10.7 All drawings generated under this Statement of Work shall be 100% reproducible on AutoCAD 2009. Along with those drawings, any block libraries shall be 100% reproducible as well. These drawings, along with respective block libraries, shall be provided to CFPB.

**3.11 Specifications:**

- 3.11.1 All specifications shall be printed on standard 8 ½" X 11" paper, using standard commercial section numbering. The documents shall be spiral bound, with division dividers.
- 3.11.2 Specifications for construction shall be labeled "CFPB Lobby Renovation and Visitor Center".
- 3.11.3 The A/E Contractor shall provide a summary "check-off" sheet of all construction contractors' submittals indicated in the specifications.
- 3.11.4 Final specifications shall be furnished to the OTS electronically in the Microsoft Word 2007 format.

- 3.12 Calculations:** All engineering calculations for all disciplines at each submission shall be written on standard 8½" X 11" paper. Engineering calculations for all disciplines shall be prepared and/or approved by the registered Professional Engineer of the appropriate discipline. The Professional Engineer shall be registered in Washington, D.C.

**3.13 Meetings:**

- 3.13.1 Conceptual Design Meeting - A pre-conceptual design meeting will be held after the award of the A&E design competition. A date for conceptual design presentation will be determined. Contractor must be prepared for the presentation meeting no later than 45 calendar days after award of the design competition.
- 3.13.2 Post-award Meeting - A post-award meeting will be held within ten (10) calendar days after the award of the Design task order.
- 3.13.2 Design Review Meetings - A design review meeting will be held after each design submittal as required in paragraph 3.14 below.
- 3.13.3 Meeting Minutes - The A/E Contractor shall take minutes of all meetings held relative to this task order. The format must be acceptable to the Contracting Officer (CO). Minutes must include the meeting date and time; agenda; meeting location; list of participants and their affiliations and telephone numbers; be fully descriptive of issues, problems and decisions made; and action items with names of responsible parties and deadlines. In addition, the minutes must include, as attachments, all exhibits and references distributed as handout materials, unless the materials are part of a formal submission. The A/E Contractor shall provide, via email, complete copies of all minutes to the CO and all attendees within 48 hours of the meeting. All challenges to the minutes will be reflected in a revised version prepared by the A/E Contractor. Copies of updated minutes shall be distributed to the CO and all attendees within 24 hours after change notice.

- 3.14 **Design Submittals:** The following contractual periods of performance shall begin from the award date of the design task order. The A/E contractor shall provide 30%, 60%, 100% and bid document submittals, as well as any other submittals that may be required to insure that the design meets CFPB's requirements. CFPB shall respond with comments within 21 calendar days after the receipt of a submittal. At that time, a design review meeting shall be held to review the comments. The A/E shall respond in writing to each comment within 7 calendar days after the design review meeting.

- 3.14.1 The A/E Contractor shall provide the 30% submittal on or before the 45th calendar day after the task order award date. This submission shall include the following:
  - a. One (1) unbound copy of the investigation report as stated in 3.2.

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- b. Six (6) copies of each drawing set to include the following:
    - One (1) cover sheet
    - 60% completion of all demolition drawings
    - All drawing sheets shall include all standard sections, details, schedules, diagrams, and legends, as well as, preliminary layout and development of new sections, details, schedules, diagrams, and legends
  - d. One (1) copy of all significant engineering calculations performed in the design at this date.
  - e. One (1) copy of drawings on a CD-R (AutoCad 2009).
- 3.14.2 The A/E Contractor shall provide the 60% submittal on or before the 45th calendar day after the date CFPB comments on the 30% submittal are received. This submission shall include the following:
- a. Six (6) copies of each drawing to include the following:
    - 1 cover sheet
    - 100% completion of all demolition drawings
    - all remaining drawing sheets which shall include 60 % completion of all plans, elevations, sections, details, schedules, diagrams, and legends.
  - b. Six (6) copies of the specifications.
  - c. One (1) copy of all significant engineering calculations performed in the design at this date.
  - d. One (1) copy of drawings on a CD-R (AutoCad 2009).
- 3.14.3 The A/E Contractor shall provide the 90% submittal on or before the 30th calendar day after the date CFPB comments on the 60% submittal are received. This submission shall include the following:
- a. Six (6) copies of each 90% complete drawing set.
  - b. Six (6) copies of 90% complete specifications.
  - c. One (1) copy of all significant engineering calculations performed

in the design.

- d. One (1) copy of drawings on a CD-R (AutoCad 2009).

3.14.4 The A/E Contractor shall provide the 100% submittal on or before the 30th calendar day after the date CFPB comments on the 90% submittal are received. This submission shall include the following:

- a. Six (6) copies of each 100% complete drawing set.
- b. Six (6) copies of 100% complete specifications.
- a. One (1) copy of all significant engineering calculations performed in the design.
- b. One (1) copy of construction cost estimate.
- e. One (1) copy of construction schedule.
- f. One (1) copy of drawings on a CD-R (AutoCad 2009).

3.14.5 The A/E Contractor shall provide the bid document submittal on or before the 14th calendar day after the date CFPB comments on the 100% submittal are received. This submission shall include the following:

- a. Six (6) copies of each bid document set.
- b. Six (6) copies of bid document specifications.
- c. One (1) copy of all significant engineering calculations performed in the design.
- d. Two sets of B-size drawings.
- e. A copy of drawings on a CD-R (AutoCad 2006).

3.14.6 As-built drawings:

- a. The A/E Contractor shall modify the Final drawings to reflect "as-built" conditions after construction is complete. These drawings, along with respective cell libraries, shall be provided electronically.

3.15 **Construction Phase (including Exhibit Fabrication & Installation) Services:**

3.15.1 The A/E Contractor shall provide submittal review services during the

construction process. The Contractor shall review and comment on all submittals for construction materials and/or shop drawings on or before the 7th calendar day after receipt of submittals.

- 3.15.2 The A/E Contractor shall answer all construction contractor questions, within 48 hours in writing, relating to the design during the pre-bid process and the construction process.
- 3.15.3 The A/E Contractor shall provide services in the form of weekly site visits to ensure proper construction practices and adherence to the design documents and intent. Field observation reports and non-conformance reports shall be submitted, as requested. The Project Manager, or someone closely associated with the design, shall attend weekly construction progress meetings.
- 3.15.4 After construction is complete, the A/E Contractor shall inspect the construction site and assist in developing a punch list report. This report shall be submitted on or before the 3rd day after the receipt of CFPB's request for inspection.

**3.16 Quality Control:**

- 3.16.1 The Contractor shall develop a quality plan. This plan shall be submitted as part of the contractor's technical proposal. The plan should outline the following:
- \* The management and organization of this project.
  - \* Intended key technical personnel, such as subcontractors, discipline managers, project manager, etc.
  - \* Narrative describing product quality control.
- 3.16.2 After the award of the task order, the A/E Contractor shall follow minimum standards of quality as follows:
- \* There shall be a consistency of key personnel throughout the project.
  - \* All deliverables shall be routed through, reviewed and approved by the A/E Contractor project manager.
  - \* All mistakes, omissions or errors discovered during the construction process shall be rectified by the A/E Contractor. The A/E Contractor shall provide the government with additional design drawings, cost estimates and statements of work to make

field design corrections, should they become necessary.

**4.0 GENERAL INFORMATION:**

- 4.1 Upon final payment, the government shall have sole ownership of the designs. The designs shall in no part be reproduced without written permission from the CFPB.
- 4.2 The A/E Contractor shall submit all request for information in writing to the COTR and allow at least seven calendar days for the COTR to respond.

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ORDER FOR SUPPLIES OR SERVICES						PAGE OF PAGES	
IMPORTANT: Mark all packages and papers with contract and/or order numbers.						1	17
1. DATE OF ORDER 04/20/2011		2. CONTRACT NO. (If any) TOTS-D-10-D-0002		6. SHIP TO:			
3. ORDER NO. 0002		4. REQUISITION/REFERENCE NO. FAC-110053		a. NAME OF CONSIGNEE OTS-WASHINGTON			
5. ISSUING OFFICE (Address correspondence to) OTS-WASHINGTON 1700 G STREET NW WASHINGTON DC 20552				b. STREET ADDRESS 1700 G STREET NW			
				c. CITY WASHINGTON	d. STATE DC	e. ZIP CODE 20552	
7. TO:				f. SHIP VIA			
a. NAME OF CONTRACTOR M. ARTHUR GENSLER JR. & ASSC INC.				g. TYPE OF ORDER			
b. COMPANY NAME				<input type="checkbox"/> a. PURCHASE		<input checked="" type="checkbox"/> b. DELIVERY	
c. STREET ADDRESS 2020 K STREET NW SUITE 200				REFERENCE YOUR:		Except for billing instructions on the reverse, this delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above-numbered contract.	
d. CITY WASHINGTON				e. STATE DC	f. ZIP CODE 20006-1806	Please furnish the following on the terms and conditions specified on both sides of this order and on the attached sheet, if any, including delivery as indicated.	
8. ACCOUNTING AND APPROPRIATION DATA See Schedule				10. REQUISITIONING OFFICE OTS-WASHINGTON			
11. BUSINESS CLASSIFICATION (check appropriate box(es))				12. F.O.B. POINT Destination			
<input type="checkbox"/> a. SMALL				<input checked="" type="checkbox"/> b. OTHER THAN SMALL		<input type="checkbox"/> c. DISADVANTAGED BUSINESS	
<input type="checkbox"/> d. WOMEN-OWNED				<input type="checkbox"/> e. HUBZone		<input type="checkbox"/> f. EMERGING SMALL BUSINESS	
<input type="checkbox"/> g. SERVICE-DISABLED VETERAN-OWNED							
13. PLACE OF		14. GOVERNMENT B/L NO.		15. DELIVER TO F.O.B. POINT (ON OR BEFORE (Date) 45 Days After Award		16. DISCOUNT TERMS N/30 PROMPT PAY	
a. INSPECTION Destination		b. ACCEPTANCE Destination					
17. SCHEDULE (See reverse for Rejections)							
ITEM NO. (a)	SUPPLIES OR SERVICES (b)	QUANTITY ORDERED (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)	QUANTITY ACCEPTED (g)	
	This task order will constitute Task Order Two under the referenced contract. The Contractor shall provide services in accordance with the attached statement of work (Attachment A) and its proposal dated March 24, 2011. Continued ...						
18. SHIPPING POINT		19. GROSS SHIPPING WEIGHT		20. INVOICE NO.		17(R) TOTAL (Cont. pages)	
a. NAME ARC/ASD/OTS		21. MAIL INVOICE TO:		\$20,000.00		17(S) GRAND TOTAL	
b. STREET ADDRESS (or P.O. Box) ARC/ASD/OTS, AVERY 3G PO BOX 1328 OTS@BPD.TREAS.GOV				\$20,000.00			
c. CITY PARKERSBURG		d. STATE WV	e. ZIP CODE 26106-1328				
22. UNITED STATES OF AMERICA BY (Signature) <i>Andie Adams</i>				23. NAME (Typed) ANDRE D. ADAMS TITLE: CONTRACTING/ORDERING OFFICER			

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ORDER FOR SUPPLIES OR SERVICES						PAGE NO
SCHEDULE - CONTINUATION						2
<small>IMPORTANT: Mark all packages and papers with contract and/or order numbers.</small>						
DATE OF ORDER		CONTRACT NO.			ORDER NO.	
04/20/2011		TOTS-D-10-D-0002			0002	
ITEM NO.	SUPPLIES/SERVICES	QUANTITY ORDERED	UNIT	UNIT PRICE	AMOUNT	QUANTITY ACCEPTED
(a)	(b)	(c)	(d)	(e)	(f)	(g)
0001	Admin Office: OTS-WASHINGTON 1700 G STREET NW WASHINGTON DC 20552  Accounting Info: OTS4108REXXX-2011-610001-OTS8900000-2541-00 000000-XXX-XX-OTS625401-XXXXXXXX-XXXXXXXX Period of Performance: 12/11/2009 to 09/30/2014  Lobby Design Plan				20,000.00	
	Continued ...					
TOTAL CARRIED FORWARD TO 1ST PAGE (ITEM 17(H))					\$20,000.00	

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**SCHEDULE - CONTINUATION**

PAGE NO  
3

IMPORTANT: Mark all packages and papers with contract and/or order numbers.

DATE OF ORDER 04/20/2011 CONTRACT NO. TOTS-D-10-D-0002 ORDER NO. 0002

ITEM NO. (a)	SUPPLIES/SERVICES (b)	QUANTITY ORDERED (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)	QUANTITY ACCEPTED (g)
	<p>PLEASE ENSURE THAT THE ORDER NUMBER (BLOCK 3) IS CLEARLY VISIBLE ON ALL SHIPPING/SERVICE DOCUMENTS, CONTAINERS, AND INVOICES. FOR PAYMENT AND INVOICE QUESTIONS CONTACT ADMINISTRATIVE ACCOUNTS BRANCH AT [REDACTED].</p> <p>52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER-CENTRAL CONTRACTOR REGISTRATION PAYMENT (OCT 2003).</p> <p>RECEIVE A FREE E-MAIL NOTICE OF YOUR ELECTRONIC PAYMENT. REGISTER AT HTTP://FMS.TREAS.GOV/PAID.</p> <p>ACCORDING TO 52.204-7 CENTRAL CONTRACTOR REGISTRATION (APR 2008), THE CONTRACTOR MUST REGISTER IN THE CCR DATABASE AND MAINTAIN REGISTRATION DURING PERFORMANCE AND THROUGH FINAL PAYMENT OF THIS AWARD.</p> <p>INVOICES SHOULD BE SUBMITTED ELECTRONICALLY TO THE EMAIL ADDRESS SHOWN IN BLOCK 21B, PAGE 1. PROTECTED MICROSOFT EXCEL FILES ARE THE PREFERRED FORMAT, HOWEVER, ADOBE ACROBAT PORTABLE DOCUMENT FORMAT (PDF) AND MICROSOFT WORD ARE ALSO ACCEPTABLE.</p> <p>The total amount of award: \$20,000.00. The obligation for this award is shown in box 17(i).</p>					
TOTAL CARRIED FORWARD TO 1ST PAGE (ITEM 17(f))					\$0.00	

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Attachment A

**Statement of Work  
For Architectural/Engineering Design Services  
Renovation of Main Lobby/Courtyard  
Office of Thrift Supervision Building**

*January 31, 2011*

**1.0 SCOPE**

- 1.1 Title I Services:** The Office of Thrift Supervision (OTS), on behalf of the Consumer Financial Protection Bureau (CFPB), requests the procurement of architectural and engineering (A/E) services under existing A/E task order contracts for the design of the renovation of the main lobby (and adjoining reclaimed retail space and breezeway) and exterior courtyard of the OTS building at 1700 G Street, NW, Washington, DC 20552. The A/E Contractor shall perform survey and complete all design work, drawings, calculations, specifications, cost estimates, and schedules required to prepare the site in accordance with the guidelines established by this Statement of Work. The A/E Contractor shall design a complete lobby facility including furnishings such that it will support employees and those doing business with CFPB. Additionally, the lobby shall include a visitor center that incorporates exhibits and educational elements for the public.
- 1.2 Title II Services:** The A/E Contractor shall also provide construction phase services. When applicable, construction services may include exhibit fabrication and installation. See paragraph 3.15 for required services.
- 1.3 Background:** The building was designed and built in 1976. The existing lobby is approximately 3558 square feet and will be increased in size by 1318 square feet by incorporating an existing retail space adjacent to the lobby, and approximately 3000 square feet by adding and enclosing the east breezeway to the visitors' center.
- 1.4 Objective:** The purpose of this project is to renovate the existing main lobby to create a lobby and visitors center that will be used by CFPB employees and those doing business with the CFPB, as well as visitors to the facility. The visitor center portion of the lobby will serve as a "destination" for the public and visitors to the nation's capital.

The conceptual design portion of this project will be a design competition among the three A&E task order contractors to create a design concept that will include the lobby, visitors' center, and the existing courtyard. The concept will emphasize the cohesiveness of these areas. The post-conceptual phase will include the programmatic development of the visitor center and

the comprehensive design of the new CFPB lobby and visitor center, and will not include the design of the courtyard. The A/E Contractor will be responsible for presenting the selected conceptual design and any required submissions to external reviewing authorities (such as National Capital Planning Commission, Commission of Fine Arts, District of Columbia Historic Preservation Office, etc.) as may be required. A/E Contractor shall prepare deliverables according to the respective requirements for each reviewing authority on behalf of the CFPB for the project design if requested or as is customary for a project of this type. It is the responsibility of the A/E Contractor to determine these requirements and to inform the COTR prior to prospectus development. The final design shall be that of a typical class A building in Washington DC.

The design provided shall take into account the following security standards and operational considerations:

- a) Physical boundaries to control ingress to and egress from non-public areas
- b) Screening of public before accessing restrooms
- c) Interior – specify tempered or high strength glass, if used
- d) Occupant Screening – screen all visitors and their property using an X-ray and magnetometer.
- e) Create separate flow patterns for employees and visitors.
- f) Minimize queuing caused by screening.

## 2.0 **DOCUMENTS**

2.1 **Applicable Documents:** The Contractor shall comply with the current edition of all applicable practices, codes, methods and standards as prepared by technical societies and associations. In the event of conflict between codes and standards of the organizations, the more stringent regulations shall govern. The A/E Contractor shall state applicable requirements of the standards or codes in the specifications, in addition to their general reference. These organizations shall include but may not be limited to:

- UFAS - Uniform Federal Accessibility Standards
- ANSI - American National Standards Institute
- ASHRAE - American Society of Heating, Refrigerating, and Air Conditioning Engineers
- IBC - International Building Code

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- EPA - Environmental Protection Agency
- FM - Factory Mutual
- NFPA - National Fire Protection Association
- NEC - National Electrical Code
- UL - Underwriter's Laboratories
- NSPC - National Standard Plumbing Code
- SIGAED – Smithsonian Institution Guidelines for Accessible Exhibition Design
- SIGUDE – Smithsonian Institution Guidelines for Universal Design of Exhibits
- OSHA - Occupational Safety and Health Administrative Standards

2.2 **Government Furnished Documents:** OTS shall provide the following: Floor plan of the ground level; others as requested/required.

### 3.0 **STATEMENT OF SERVICES**

- 3.1 **Document Review:** The A/E Contractor shall review government furnished documents and perform site visits to gain an understanding of the scope of the project. It should be noted that the OTS record drawings provided may not necessarily meet the current applicable codes and standards required. The A/E Contractor shall review existing architectural, mechanical, structural, electrical, and other pertinent drawings of areas in the buildings affected by the design.
- 3.1.1 Field measurements shall be made to verify all existing dimensions depicted on all drawings.
- 3.1.2 Sufficient site investigations shall be made to confirm all existing conditions depicted on all drawings.
- 3.2 **Site Investigations:** The A/E Contractor shall make sufficient site investigations to evaluate all existing conditions. The A/E Contractor shall obtain additional pertinent information, as needed, from the COTR to ensure the development leading to the completion of an efficient, comprehensive design.
- 3.3 **A/E Conceptual Design (Phase One):** The Conceptual Design submission will be a design competition among the three A/E task order contractors. Each firm will present its conceptual design ideas individually in a meeting

forty-five (45) calendar days after award of the conceptual design task order. The design, ideas, and all material from each presentation will become the property of the OTS and CFPB. Each A/E contractor will be paid \$20,000 for their efforts in generating and presenting their conceptual design. The presentations will be judged on style, constructability, appeal, and conformance with this SOW. The conceptual designs shall include a minimum of five (5) and a maximum of seven (7) sketches on C size paper, in color, showing multiple renderings of the new lobby, visitor center, and courtyard.

- 3.3.1 Any portion of the Conceptual Design that will require review by external agencies such as NCPC (e.g. exterior work), shall be specifically noted.
  - 3.3.2 The plan will maximize the usable space for the new visitor's center while creating a Class A office building lobby appearance and incorporating security requirements.
  - 3.3.3 The plan will show the flow of employees and guests doing business with the CFPB, as well as visitors through the visitor center.
  - 3.3.4 The plan shall include locations for public awareness and educational including video media that would be part of the visitor center, security screening equipment, security desk, and the location of future restrooms.
  - 3.3.5 The courtyard will be part of the Conceptual Design and should include features to reduce our carbon footprint as well as a creating a cohesive inviting design.
  - 3.3.6 The Conceptual Design submission shall consist of subject headings that address the following:
    - a. Sketches
    - b. Diagrams
    - c. Bubble diagrams of special relationships
  - 3.3.7 A general approximation of construction costs.
  - 3.3.8 The submission shall include one (1) unbound copy of the Conceptual Design & one (1) electronic copy.
- 3.4 **Post-Conceptual Design Phase (Phase Two)** – Phase Two will be the responsibility of the A/E Contractor that has been awarded the lobby project.

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The purpose and goal of this phase is to establish the programmatic requirements for the visitor center portion of this project. This phase will establish guidance governing planning, development, management, and operation of the CFPB visitor center. Preliminary and final acceptance and buy-in of facilities and exhibits from inside and outside reviewing entities will be a goal during this phase. The primary purposes of the visitor center program are to provide information to the visiting public about the CFPB and its mission, as well as interpretive and educational information relating to consumer financial products and services.

Submission requirements are as follows:

- 3.4.1 The prospectus shall include the following:
- a. One (1) set of drawings, dry mounted on foam core boards
  - b. Ten (10) copies of each prospectus and one (1) electronic copy
- 3.4.2 The Exhibit Interpretive design submission shall include the following:
- a. One (1) unbound copy of the Exhibit Interpretive Design and one (1) electronic copy.
  - b. Ten (10) bound copies of the Exhibit Interpretive Design.
- 3.4.3 The Exhibit Interpretive narrative shall consist of subject headings that address the goals, themes, and communication objectives as follows:
- a. Objectives/expected outcomes
  - b. Interpretive themes and strategies
  - c. Functional use of space/plan/diagram to include a numbered list of all proposed exhibits, subject, location, materials, mount type, and size
  - d. Design narrative/criteria for designers
  - e. Accessibility universal design and facility program
  - f. Projected exhibits fabrication costs

g. Projected ongoing operation and maintenance costs

3.4.4 The A/E Contractor shall provide the Prospectus and the Exhibit Interpretive Design at the end of the 30% Design submission and not any later to ensure the new design supports the Prospectus and the Exhibit Interpretive Design.

3.5 **A/E Design:** The A/E Contractor shall provide necessary plans for demolition, architectural, structural, mechanical, and electrical designs and specifications showing both existing and new systems and connections thereto. These designs shall include, but may not be limited to, the requirements discussed in paragraphs 3.5.1 - 3.5.5 below. Engineering calculations submission shall be provided pertaining to all designs.

3.5.1 Demolition:

- a. All utility runs to be removed will be clearly identified on the drawings.
- b. Potential lay down areas and access points for debris removal, etc.

3.5.2 Architectural Design:

- a. The new design will have to blend the existing design style with a newer design scheme that would be appropriate for a class A building in Washington, DC.

3.5.3 Structural Design:

- a. The removal of any walls between the existing lobby, adjacent vacant retail space, and the east breezeway may require structural analysis.

3.5.4 Mechanical Design:

- a. The new lobby and visitor center shall include appropriate restroom facilities and minimize conflict with routine ingress/egress of CFPB staff and those doing business with the CFPB.
- b. HVAC requirements will be included in the design.

3.5.5 Electrical Design:

- a. The lobby shall retain a walk through metal detector as well as an

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x-ray machine and badge reading system (one turnstile portal). The Contractor will not be required to keep the existing machines if other more aesthetically-appropriate and functionally-similar units are available. The design will provide wiring runs for this equipment and other security notification systems remaining or added to the new design.

- b. The new lobby and visitor center will have displays, kiosks, and other educational media that will be updated regularly. The design must include means and methods to allow flexibility for the placement as well as utilities that may be required for these continually changing exhibits.

3.6 **NFPA Compliance:** The A/E Contractor shall adopt NFPA requirements within their design or incorporate the requirements in the project documents to be the responsibility of the Construction Contractor. The Construction Contractor shall be responsible for hydraulic calculations and sizing sprinkler pipes accordingly.

3.6.1 The A/E Contractor shall incorporate the following into the project documents to be the responsibility of the Construction Contractor:

1. All exposed sprinkler piping shall be painted red. All unexposed sprinkler piping shall be labeled.
2. Per NFPA 13, section 6.1.1, work plans shall be submitted for approval. The plan is to incorporate all applicable elements listed in NFPA 13, section 6-1.1.1.
3. Per NFPA 13, Section 8-5, hydraulic design information signs
4. All fire management devices shall be compatible with the existing fire alarm system.
5. The following construction submittals shall be required from the Construction Contractor for a parallel review within OTS/CFPB:
  - Indicate panel layout and wire terminations in the panel boxes.
  - Indicate devices.
  - Provide programming, and software copy, for existing display terminals.
  - Provide floor plan graphics for rooms, or alterations

7 of 14

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of existing programming.

Provide field panel wiring diagrams and battery calculations.

6. All conduits carrying Fire Management System wiring shall be labeled and dedicated.

- 3.7 **Energy Conservation:** The A/E Contractor shall adopt current U.S. Federal Government requirements on energy efficiency, water conservation and the use of recovered materials. These requirements shall be incorporated into the design documents. These requirements include but are not limited to: 42 USC 8253(a), 42 USC 15852, and E.O. 13514. The A/E Contractor shall determine if there are other requirements and applicable documents that are in effect at the time of award and report it to the Contracting Officer immediately.

The A/E shall specify energy-efficient products that are ENERGY STAR® qualified or meet energy efficiency specification set by the Department of Energy's Federal Energy Management Program (FEMP). ENERGY STAR® and FEMP products can be found at: <http://www.energystar.gov/products> and <http://www.eere.energy.gov/femp/procurement/>.

- 3.8 **Environmental Requirements - N/A**

- 3.9 **Construction Cost Estimate and Schedule:** A/E Contractor shall provide a construction cost estimate and schedule with the 100% design submittal.

3.9.1 The construction estimates shall be broken down by items to include material costs, quantities, and equipment rentals; and labor hours and rates; overhead, profit and required bonds. The final cost estimate shall be furnished to the CFPB electronically.

3.9.2 The construction schedule shall list all applicable tasks and show critical paths throughout the project time frame. The construction schedule shall be furnished to the CFPB electronically in Microsoft Project format.

- 3.10 **Drawings:**

3.10.1 All drawings shall be documented 24 inches high by 36 inches wide (D-Size).

3.10.2 All drawings shall have all margins approximately ½ inch wide. Final drawings shall be documented on reproducible polyester drafting film (i.e. mylar) and have left and right margins approximately 1 inches

wide, with all other margins approximately ½ inch wide.

- 3.10.3 All drawings shall have the new CFPB's title block in the lower right hand corner and the A/E Contractor's title block on the adjacent left of CFPB's.
- 3.10.4 All drawings shall be numbered with standard letter sequences applicable to each design discipline and labeled, "CFPB Lobby Renovation and Visitor Center".
- 3.10.5 Each drawing sheet shall include the following statement next to the title block:

"Notice: This document is and shall remain the property of the United States Government. No information contained herein may be copied, disclosed, or used for any purpose without the written authorization of the Consumer Financial Protection Bureau."
- 3.10.6 All final drawings, specifications and calculations shall be stamped by a Professional Engineer registered in Washington, D.C.
- 3.10.7 All drawings generated under this Statement of Work shall be 100% reproducible on AutoCAD 2009. Along with those drawings, any block libraries shall be 100% reproducible as well. These drawings, along with respective block libraries, shall be provided to CFPB.

**3.11 Specifications:**

- 3.11.1 All specifications shall be printed on standard 8 ½" X 11" paper, using standard commercial section numbering. The documents shall be spiral bound, with division dividers.
  - 3.11.2 Specifications for construction shall be labeled "CFPB Lobby Renovation and Visitor Center".
  - 3.11.3 The A/E Contractor shall provide a summary "check-off" sheet of all construction contractors' submittals indicated in the specifications.
  - 3.11.4 Final specifications shall be furnished to the OTS electronically in the Microsoft Word 2007 format.
- 3.12 Calculations:** All engineering calculations for all disciplines at each submission shall be written on standard 8 ½" X 11" paper. Engineering calculations for all disciplines shall be prepared and/or approved by the registered Professional Engineer of the appropriate discipline. The Professional Engineer shall be registered in Washington, D.C.

**3.13 Meetings:**

- 3.13.1 Conceptual Design Meeting - A pre-conceptual design meeting will be held after the award of the A&E design competition. A date for conceptual design presentation will be determined. Contractor must be prepared for the presentation meeting no later than 45 calendar days after award of the design competition.
- 3.13.2 Post-award Meeting - A post-award meeting will be held within ten (10) calendar days after the award of the Design task order.
- 3.13.2 Design Review Meetings - A design review meeting will be held after each design submittal as required in paragraph 3.14 below.
- 3.13.3 Meeting Minutes - The A/E Contractor shall take minutes of all meetings held relative to this task order. The format must be acceptable to the Contracting Officer (CO). Minutes must include the meeting date and time; agenda; meeting location; list of participants and their affiliations and telephone numbers; be fully descriptive of issues, problems and decisions made; and action items with names of responsible parties and deadlines. In addition, the minutes must include, as attachments, all exhibits and references distributed as handout materials, unless the materials are part of a formal submission. The A/E Contractor shall provide, via email, complete copies of all minutes to the CO and all attendees within 48 hours of the meeting. All challenges to the minutes will be reflected in a revised version prepared by the A/E Contractor. Copies of updated minutes shall be distributed to the CO and all attendees within 24 hours after change notice.

**3.14 Design Submittals:** The following contractual periods of performance shall begin from the award date of the design task order. The A/E contractor shall provide 30%, 60%, 100% and bid document submittals, as well as any other submittals that may be required to insure that the design meets CFPB's requirements. CFPB shall respond with comments within 21 calendar days after the receipt of a submittal. At that time, a design review meeting shall be held to review the comments. The A/E shall respond in writing to each comment within 7 calendar days after the design review meeting.

- 3.14.1 The A/E Contractor shall provide the 30% submittal on or before the 45th calendar day after the task order award date. This submission shall include the following:
  - a. One (1) unbound copy of the investigation report as stated in 3.2.

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- b. Six (6) copies of each drawing set to include the following:
    - One (1) cover sheet
    - 60% completion of all demolition drawings
    - All drawing sheets shall include all standard sections, details, schedules, diagrams, and legends, as well as, preliminary layout and development of new sections, details, schedules, diagrams, and legends
  - d. One (1) copy of all significant engineering calculations performed in the design at this date.
  - e. One (1) copy of drawings on a CD-R (AutoCad 2009).
- 3.14.2 The A/E Contractor shall provide the 60% submittal on or before the 45th calendar day after the date CFPB comments on the 30% submittal are received. This submission shall include the following:
- a. Six (6) copies of each drawing to include the following:
    - 1 cover sheet
    - 100% completion of all demolition drawings
    - all remaining drawing sheets which shall include 60 % completion of all plans, elevations, sections, details, schedules, diagrams, and legends.
  - b. Six (6) copies of the specifications.
  - c. One (1) copy of all significant engineering calculations performed in the design at this date.
  - d. One (1) copy of drawings on a CD-R (AutoCad 2009).
- 3.14.3 The A/E Contractor shall provide the 90% submittal on or before the 30th calendar day after the date CFPB comments on the 60% submittal are received. This submission shall include the following:
- a. Six (6) copies of each 90% complete drawing set.
  - b. Six (6) copies of 90% complete specifications.
  - c. One (1) copy of all significant engineering calculations performed

in the design.

- d. One (1) copy of drawings on a CD-R (AutoCad 2009).

3.14.4 The A/E Contractor shall provide the 100% submittal on or before the 30th calendar day after the date CFPB comments on the 90% submittal are received. This submission shall include the following:

- a. Six (6) copies of each 100% complete drawing set.
- b. Six (6) copies of 100% complete specifications.
- a. One (1) copy of all significant engineering calculations performed in the design.
- b. One (1) copy of construction cost estimate.
- e. One (1) copy of construction schedule.
- f. One (1) copy of drawings on a CD-R (AutoCad 2009).

3.14.5 The A/E Contractor shall provide the bid document submittal on or before the 14th calendar day after the date CFPB comments on the 100% submittal are received. This submission shall include the following:

- a. Six (6) copies of each bid document set.
- b. Six (6) copies of bid document specifications.
- c. One (1) copy of all significant engineering calculations performed in the design.
- d. Two sets of B-size drawings.
- e. A copy of drawings on a CD-R (AutoCad 2006).

3.14.6 As-built drawings:

- a. The A/E Contractor shall modify the Final drawings to reflect "as-built" conditions after construction is complete. These drawings, along with respective cell libraries, shall be provided electronically.

**3.15 Construction Phase (including Exhibit Fabrication & Installation) Services:**

3.15.1 The A/E Contractor shall provide submittal review services during the

construction process. The Contractor shall review and comment on all submittals for construction materials and/or shop drawings on or before the 7th calendar day after receipt of submittals.

- 3.15.2 The A/E Contractor shall answer all construction contractor questions, within 48 hours in writing, relating to the design during the pre-bid process and the construction process.
- 3.15.3 The A/E Contractor shall provide services in the form of weekly site visits to ensure proper construction practices and adherence to the design documents and intent. Field observation reports and non-conformance reports shall be submitted, as requested. The Project Manager, or someone closely associated with the design, shall attend weekly construction progress meetings.
- 3.15.4 After construction is complete, the A/E Contractor shall inspect the construction site and assist in developing a punch list report. This report shall be submitted on or before the 3rd day after the receipt of CFPB's request for inspection.

**3.16 Quality Control:**

- 3.16.1 The Contractor shall develop a quality plan. This plan shall be submitted as part of the contractor's technical proposal. The plan should outline the following:
- \* The management and organization of this project.
  - \* Intended key technical personnel, such as subcontractors, discipline managers, project manager, etc.
  - \* Narrative describing product quality control.
- 3.16.2 After the award of the task order, the A/E Contractor shall follow minimum standards of quality as follows:
- \* There shall be a consistency of key personnel throughout the project.
  - \* All deliverables shall be routed through, reviewed and approved by the A/E Contractor project manager.
  - \* All mistakes, omissions or errors discovered during the construction process shall be rectified by the A/E Contractor. The A/E Contractor shall provide the government with additional design drawings, cost estimates and statements of work to make

field design corrections, should they become necessary.

**4.0 GENERAL INFORMATION:**

- 4.1 Upon final payment, the government shall have sole ownership of the designs. The designs shall in no part be reproduced without written permission from the CFPB.
- 4.2 The A/E Contractor shall submit all request for information in writing to the COTR and allow at least seven calendar days for the COTR to respond.

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ORDER FOR SUPPLIES OR SERVICES						PAGE OF PAGES	
IMPORTANT: Mark all packages and papers with contract and/or order numbers.						1	17
1. DATE OF ORDER 04/20/2011		2. CONTRACT NO. (If any) TOTS-D-10-D-0003		6. SHIP TO:			
3. ORDER NO. 0002		4. REQUISITION/REFERENCE NO. FAC-110054		a. NAME OF CONSIGNEE OTS-WASHINGTON			
5. ISSUING OFFICE (Address correspondence to) OTS-WASHINGTON 1700 G STREET NW WASHINGTON DC 20552				b. STREET ADDRESS 1700 G STREET NW			
				c. CITY WASHINGTON	d. STATE DC	e. ZIP CODE 20552	
7. TO:				f. SHIP VIA			
a. NAME OF CONTRACTOR KARN CHARUHAS CHAPMAN & TROHEY PC				8. TYPE OF ORDER			
b. COMPANY NAME				<input type="checkbox"/> a. PURCHASE		<input checked="" type="checkbox"/> b. DELIVERY	
c. STREET ADDRESS 1120 CONNECTICUT AVE NW SUITE 1250 JUDITH KOPPERUD				REFERENCE YOUR:		Except for billing instructions on the reverse, this delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above-numbered contract.	
d. CITY WASHINGTON				e. STATE DC	f. ZIP CODE 20036-3912	Please furnish the following on the terms and conditions specified on both sides of this order and on the attached sheet, if any, including delivery as indicated.	
9. ACCOUNTING AND APPROPRIATION DATA See Schedule				10. REQUISITIONING OFFICE OTS-WASHINGTON			
11. BUSINESS CLASSIFICATION (Check appropriate box(es))						12. F.O.B. POINT Destination	
<input type="checkbox"/> a. SMALL <input type="checkbox"/> d. WOMEN-OWNED <input checked="" type="checkbox"/> b. OTHER THAN SMALL <input type="checkbox"/> e. HUBZone <input type="checkbox"/> c. DISADVANTAGED <input type="checkbox"/> f. EMERGING SMALL BUSINESS <input type="checkbox"/> g. SERVICE-DISABLED VETERAN-OWNED							
13. PLACE OF			14. GOVERNMENT B/L NO.		15. DELIVER TO F.O.B. POINT ON OR BEFORE (Date) 45 Days After Award		16. DISCOUNT TERMS N/30 PROMET PAY
a. INSPECTION Destination		b. ACCEPTANCE Destination					
17. SCHEDULE (See reverse for Rejections)							
ITEM NO. (a)	SUPPLIES OR SERVICES (b)	QUANTITY ORDERED (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)	QUANTITY ACCEPTED (g)	
	This task order will constitute Task Order Two under the referenced contract. The Contractor shall provide services in accordance with the attached statement of work (Attachment A) and its proposal dated March 24, 2011. Continued ...						
18. SHIPPING POINT		19. GROSS SHIPPING WEIGHT		20. INVOICE NO.		17(b) TOTAL (Cont. pages)	
21. MAIL INVOICE TO:							
a. NAME ARC/ASD/OTS						\$20,000.00	
b. STREET ADDRESS (or P.O. Box) ARC/ASD/OTS, AVERY 3C PO BOX 132B OTS@BPD.TREAS.GOV							
c. CITY PARKERSBURG						\$20,000.00	
d. STATE WV						e. ZIP CODE 26106-1328	
22. UNITED STATES OF AMERICA BY (Signature) 				23. NAME (Type of) ANDRE D. ADAMS TITLE: CONTRACTING/ORDERING OFFICER			
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ORDER FOR SUPPLIES OR SERVICES						PAGE NO
SCHEDULE - CONTINUATION						2
IMPORTANT: Mark all packages and papers with contract and/or order numbers.						
DATE OF ORDER	CONTRACT NO.				ORDER NO.	
04/20/2011	TOTS-D-10-D-0003				0002	
ITEM NO.	SUPPLIES/SERVICES	QUANTITY ORDERED	UNIT	UNIT PRICE	AMOUNT	QUANTITY ACCEPTED
(a)	(b)	(c)	(d)	(e)	(f)	(g)
0001	Admin Office: OTS-WASHINGTON 1700 G STREET NW WASHINGTON DC 20552  Accounting Info: OTS4108REXXXX/2011/610001/OTS8900000/2541/00 000000/XXX/XX/OTS625401/XXXXXXXXXX/XXXXXXXXXX Period of Performance: 12/11/2009 to 09/30/2014  Lobby Design Plan				20,000.00	
	Continued ...					
TOTAL CARRIED FORWARD TO 1ST PAGE (ITEM 1704)					\$20,000.00	

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ORDER FOR SUPPLIES OR SERVICES		PAGE NO	
SCHEDULE - CONTINUATION		3	
DATE OF ORDER 04/20/2011		CONTRACT NO. TOTS-D-10-D-0003	
		ORDER NO. 0002	
ITEM NO.	SUPPLIES/SERVICES	QUANTITY ORDERED	UNIT PRICE
(4)	(6)	(4)	(6)
	<p>PLEASE ENSURE THAT THE ORDER NUMBER (BLOCK 3) IS CLEARLY VISIBLE ON ALL SHIPPING/SERVICE DOCUMENTS, CONTAINERS, AND INVOICES. FOR PAYMENT AND INVOICE QUESTIONS CONTACT ADMINISTRATIVE ACCOUNTS BRANCH AT [REDACTED].</p> <p>52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER-CENTRAL CONTRACTOR REGISTRATION PAYMENT (OCT 2003).</p> <p>RECEIVE A FREE E-MAIL NOTICE OF YOUR ELECTRONIC PAYMENT. REGISTER AT <a href="http://fms.treas.gov/paid">HTTP://FMS.TREAS.GOV/PAID</a>.</p> <p>ACCORDING TO 52.204-7 CENTRAL CONTRACTOR REGISTRATION (APR 2008), THE CONTRACTOR MUST REGISTER IN THE CCR DATABASE AND MAINTAIN REGISTRATION DURING PERFORMANCE AND THROUGH FINAL PAYMENT OF THIS AWARD.</p> <p>INVOICES SHOULD BE SUBMITTED ELECTRONICALLY TO THE EMAIL ADDRESS SHOWN IN BLOCK 21B, PAGE 1. PROTECTED MICROSOFT EXCEL FILES ARE THE PREFERRED FORMAT, HOWEVER, ADOBE ACRORBAT PORTABLE DOCUMENT FORMAT (PDF) AND MICROSOFT WORD ARE ALSO ACCEPTABLE.</p> <p>The total amount of award: \$20,000.00. The obligation for this award is shown in box 17(1).</p>		
			\$0.00

TOTAL CARRIED FORWARD TO 1ST PAGE (ITEM 17(H))  
 AUTHORIZED FOR LOCAL REPRODUCTION  
 PREVIOUS EDITION NOT USABLE

OPTIONAL FORM 348 (Rev. 4/2005)  
 Prescribed by GSA FPMR (41 CFR) 101-11.6

Attachment A

**Statement of Work  
For Architectural/Engineering Design Services  
Renovation of Main Lobby/Courtyard  
Office of Thrift Supervision Building**

*January 31, 2011*

**1.0 SCOPE**

- 1.1 Title I Services:** The Office of Thrift Supervision (OTS), on behalf of the Consumer Financial Protection Bureau (CFPB), requests the procurement of architectural and engineering (A/E) services under existing A/E task order contracts for the design of the renovation of the main lobby (and adjoining reclaimed retail space and breezeway) and exterior courtyard of the OTS building at 1700 G Street, NW, Washington, DC 20552. The A/E Contractor shall perform survey and complete all design work, drawings, calculations, specifications, cost estimates, and schedules required to prepare the site in accordance with the guidelines established by this Statement of Work. The A/E Contractor shall design a complete lobby facility including furnishings such that it will support employees and those doing business with CFPB. Additionally, the lobby shall include a visitor center that incorporates exhibits and educational elements for the public.
- 1.2 Title II Services:** The A/E Contractor shall also provide construction phase services. When applicable, construction services may include exhibit fabrication and installation. See paragraph 3.15 for required services.
- 1.3 Background:** The building was designed and built in 1976. The existing lobby is approximately 3558 square feet and will be increased in size by 1318 square feet by incorporating an existing retail space adjacent to the lobby, and approximately 3000 square feet by adding and enclosing the east breezeway to the visitors' center.
- 1.4 Objective:** The purpose of this project is to renovate the existing main lobby to create a lobby and visitors center that will be used by CFPB employees and those doing business with the CFPB, as well as visitors to the facility. The visitor center portion of the lobby will serve as a "destination" for the public and visitors to the nation's capital.

The conceptual design portion of this project will be a design competition among the three A&E task order contractors to create a design concept that will include the lobby, visitors' center, and the existing courtyard. The concept will emphasize the cohesiveness of these areas. The post-conceptual phase will include the programmatic development of the visitor center and

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the comprehensive design of the new CFPB lobby and visitor center, and will not include the design of the courtyard. The A/E Contractor will be responsible for presenting the selected conceptual design and any required submissions to external reviewing authorities (such as National Capital Planning Commission, Commission of Fine Arts, District of Columbia Historic Preservation Office, etc.) as may be required. A/E Contractor shall prepare deliverables according to the respective requirements for each reviewing authority on behalf of the CFPB for the project design if requested or as is customary for a project of this type. It is the responsibility of the A/E Contractor to determine these requirements and to inform the COTR prior to prospectus development. The final design shall be that of a typical class A building in Washington DC.

The design provided shall take into account the following security standards and operational considerations:

- a) Physical boundaries to control ingress to and egress from non-public areas
- b) Screening of public before accessing restrooms
- c) Interior - specify tempered or high strength glass, if used
- d) Occupant Screening - screen all visitors and their property using an X-ray and magnetometer.
- e) Create separate flow patterns for employees and visitors.
- f) Minimize queuing caused by screening.

## 2.0 DOCUMENTS

2.1 **Applicable Documents:** The Contractor shall comply with the current edition of all applicable practices, codes, methods and standards as prepared by technical societies and associations. In the event of conflict between codes and standards of the organizations, the more stringent regulations shall govern. The A/E Contractor shall state applicable requirements of the standards or codes in the specifications, in addition to their general reference. These organizations shall include but may not be limited to:

- UFAS - Uniform Federal Accessibility Standards
- ANSI - American National Standards Institute
- ASHRAE - American Society of Heating, Refrigerating, and Air Conditioning Engineers
- IBC - International Building Code

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- EPA - Environmental Protection Agency
- FM - Factory Mutual
- NFPA - National Fire Protection Association
- NEC - National Electrical Code
- UL - Underwriter's Laboratories
- NSPC - National Standard Plumbing Code
- SIGAED - Smithsonian Institution Guidelines for Accessible Exhibition Design
- SIGUDE - Smithsonian Institution Guidelines for Universal Design of Exhibits
- OSHA - Occupational Safety and Health Administrative Standards

2.2 **Government Furnished Documents:** OTS shall provide the following: Floor plan of the ground level; others as requested/required.

### 3.0 **STATEMENT OF SERVICES**

- 3.1 **Document Review:** The A/E Contractor shall review government furnished documents and perform site visits to gain an understanding of the scope of the project. It should be noted that the OTS record drawings provided may not necessarily meet the current applicable codes and standards required. The A/E Contractor shall review existing architectural, mechanical, structural, electrical, and other pertinent drawings of areas in the buildings affected by the design.
- 3.1.1 Field measurements shall be made to verify all existing dimensions depicted on all drawings.
- 3.1.2 Sufficient site investigations shall be made to confirm all existing conditions depicted on all drawings.
- 3.2 **Site Investigations:** The A/E Contractor shall make sufficient site investigations to evaluate all existing conditions. The A/E Contractor shall obtain additional pertinent information, as needed, from the COTR to ensure the development leading to the completion of an efficient, comprehensive design.
- 3.3 **A/E Conceptual Design (Phase One):** The Conceptual Design submission will be a design competition among the three A/E task order contractors. Each firm will present its conceptual design ideas individually in a meeting

3 of 14

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forty-five (45) calendar days after award of the conceptual design task order. The design, ideas, and all material from each presentation will become the property of the OTS and CFPB. Each A/E contractor will be paid \$20,000 for their efforts in generating and presenting their conceptual design. The presentations will be judged on style, constructability, appeal, and conformance with this SOW. The conceptual designs shall include a minimum of five (5) and a maximum of seven (7) sketches on C size paper, in color, showing multiple renderings of the new lobby, visitor center, and courtyard.

- 3.3.1 Any portion of the Conceptual Design that will require review by external agencies such as NCPC (e.g. exterior work), shall be specifically noted.
  - 3.3.2 The plan will maximize the usable space for the new visitor's center while creating a Class A office building lobby appearance and incorporating security requirements.
  - 3.3.3 The plan will show the flow of employees and guests doing business with the CFPB, as well as visitors through the visitor center.
  - 3.3.4 The plan shall include locations for public awareness and educational including video media that would be part of the visitor center, security screening equipment, security desk, and the location of future restrooms.
  - 3.3.5 The courtyard will be part of the Conceptual Design and should include features to reduce our carbon footprint as well as a creating a cohesive inviting design.
  - 3.3.6 The Conceptual Design submission shall consist of subject headings that address the following:
    - a. Sketches
    - b. Diagrams
    - c. Bubble diagrams of special relationships
  - 3.3.7 A general approximation of construction costs.
  - 3.3.8 The submission shall include one (1) unbound copy of the Conceptual Design & one (1) electronic copy.
- 3.4 **Post-Conceptual Design Phase (Phase Two)** - Phase Two will be the responsibility of the A/E Contractor that has been awarded the lobby project.

The purpose and goal of this phase is to establish the programmatic requirements for the visitor center portion of this project. This phase will establish guidance governing planning, development, management, and operation of the CFPB visitor center. Preliminary and final acceptance and buy-in of facilities and exhibits from inside and outside reviewing entities will be a goal during this phase. The primary purposes of the visitor center program are to provide information to the visiting public about the CFPB and its mission, as well as interpretive and educational information relating to consumer financial products and services.

Submission requirements are as follows:

- 3.4.1 The prospectus shall include the following:
  - a. One (1) set of drawings, dry mounted on foam core boards
  - b. Ten (10) copies of each prospectus and one (1) electronic copy
- 3.4.2 The Exhibit Interpretive design submission shall include the following:
  - a. One (1) unbound copy of the Exhibit Interpretive Design and one (1) electronic copy.
  - b. Ten (10) bound copies of the Exhibit Interpretive Design.
- 3.4.3 The Exhibit Interpretive narrative shall consist of subject headings that address the goals, themes, and communication objectives as follows:
  - a. Objectives/expected outcomes
  - b. Interpretive themes and strategies
  - c. Functional use of space/plan/diagram to include a numbered list of all proposed exhibits, subject, location, materials, mount type, and size
  - d. Design narrative/criteria for designers
  - e. Accessibility universal design and facility program
  - f. Projected exhibits fabrication costs

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g. Projected ongoing operation and maintenance costs

3.4.4 The A/E Contractor shall provide the Prospectus and the Exhibit Interpretive Design at the end of the 30% Design submission and not any later to ensure the new design supports the Prospectus and the Exhibit Interpretive Design.

3.5 **A/E Design:** The A/E Contractor shall provide necessary plans for demolition, architectural, structural, mechanical, and electrical designs and specifications showing both existing and new systems and connections thereto. These designs shall include, but may not be limited to, the requirements discussed in paragraphs 3.5.1 - 3.5.5 below. Engineering calculations submission shall be provided pertaining to all designs.

3.5.1 Demolition:

- a. All utility runs to be removed will be clearly identified on the drawings.
- b. Potential lay down areas and access points for debris removal, etc.

3.5.2 Architectural Design:

- a. The new design will have to blend the existing design style with a newer design scheme that would be appropriate for a class A building in Washington, DC.

3.5.3 Structural Design:

- a. The removal of any walls between the existing lobby, adjacent vacant retail space, and the east breezeway may require structural analysis.

3.5.4 Mechanical Design:

- a. The new lobby and visitor center shall include appropriate restroom facilities and minimize conflict with routine ingress/egress of CFPB staff and those doing business with the CFPB.
- b. HVAC requirements will be included in the design.

3.5.5 Electrical Design:

- a. The lobby shall retain a walk through metal detector as well as an

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x-ray machine and badge reading system (one turnstile portal). The Contractor will not be required to keep the existing machines if other more aesthetically-appropriate and functionally-similar units are available. The design will provide wiring runs for this equipment and other security notification systems remaining or added to the new design.

- b. The new lobby and visitor center will have displays, kiosks, and other educational media that will be updated regularly. The design must include means and methods to allow flexibility for the placement as well as utilities that may be required for these continually changing exhibits.

3.6 **NFPA Compliance:** The A/E Contractor shall adopt NFPA requirements within their design or incorporate the requirements in the project documents to be the responsibility of the Construction Contractor. The Construction Contractor shall be responsible for hydraulic calculations and sizing sprinkler pipes accordingly.

3.6.1 The A/E Contractor shall incorporate the following into the project documents to be the responsibility of the Construction Contractor:

1. All exposed sprinkler piping shall be painted red. All unexposed sprinkler piping shall be labeled.
2. Per NFPA 13, section 6.1.1, work plans shall be submitted for approval. The plan is to incorporate all applicable elements listed in NFPA 13, section 6-1.1.1.
3. Per NFPA 13, Section 8-5, hydraulic design information signs
4. All fire management devices shall be compatible with the existing fire alarm system.
5. The following construction submittals shall be required from the Construction Contractor for a parallel review within OTS/CFPB:
  - Indicate panel layout and wire terminations in the panel boxes.
  - Indicate devices.
  - Provide programming, and software copy, for existing display terminals.
  - Provide floor plan graphics for rooms, or alterations

7 of 14

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of existing programming.

- Provide field panel wiring diagrams and battery calculations.

6. All conduits carrying Fire Management System wiring shall be labeled and dedicated.

- 3.7 **Energy Conservation:** The A/E Contractor shall adopt current U.S. Federal Government requirements on energy efficiency, water conservation and the use of recovered materials. These requirements shall be incorporated into the design documents. These requirements include but are not limited to: 42 USC 8253(a), 42 USC 15852, and E.O. 13514. The A/E Contractor shall determine if there are other requirements and applicable documents that are in effect at the time of award and report it to the Contracting Officer immediately.

The A/E shall specify energy-efficient products that are ENERGY STAR® qualified or meet energy efficiency specification set by the Department of Energy's Federal Energy Management Program (FEMP). ENERGY STAR® and FEMP products can be found at: <http://www.energystar.gov/products> and <http://www.eere.energy.gov/femp/procurement/>.

- 3.8 **Environmental Requirements - N/A**

- 3.9 **Construction Cost Estimate and Schedule:** A/E Contractor shall provide a construction cost estimate and schedule with the 100% design submittal.

- 3.9.1 The construction estimates shall be broken down by items to include material costs, quantities, and equipment rentals; and labor hours and rates; overhead, profit and required bonds. The final cost estimate shall be furnished to the CFPB electronically.

- 3.9.2 The construction schedule shall list all applicable tasks and show critical paths throughout the project time frame. The construction schedule shall be furnished to the CFPB electronically in Microsoft Project format.

- 3.10 **Drawings:**

- 3.10.1 All drawings shall be documented 24 inches high by 36 inches wide (D-Size).

- 3.10.2 All drawings shall have all margins approximately ½ inch wide. Final drawings shall be documented on reproducible polyester drafting film (i.e. mylar) and have left and right margins approximately 1 inches

wide, with all other margins approximately ½ inch wide.

- 3.10.3 All drawings shall have the new CFPB's title block in the lower right hand corner and the A/E Contractor's title block on the adjacent left of CFPB's.
- 3.10.4 All drawings shall be numbered with standard letter sequences applicable to each design discipline and labeled, "CFPB Lobby Renovation and Visitor Center".
- 3.10.5 Each drawing sheet shall include the following statement next to the title block:

"Notice: This document is and shall remain the property of the United States Government. No information contained herein may be copied, disclosed, or used for any purpose without the written authorization of the Consumer Financial Protection Bureau."

- 3.10.6 All final drawings, specifications and calculations shall be stamped by a Professional Engineer registered in Washington, D.C.
- 3.10.7 All drawings generated under this Statement of Work shall be 100% reproducible on AutoCAD 2009. Along with those drawings, any block libraries shall be 100% reproducible as well. These drawings, along with respective block libraries, shall be provided to CFPB.

**3.11 Specifications:**

- 3.11.1 All specifications shall be printed on standard 8 ½" X 11" paper, using standard commercial section numbering. The documents shall be spiral bound, with division dividers.
- 3.11.2 Specifications for construction shall be labeled "CFPB Lobby Renovation and Visitor Center".
- 3.11.3 The A/E Contractor shall provide a summary "check-off" sheet of all construction contractors' submittals indicated in the specifications.
- 3.11.4 Final specifications shall be furnished to the OTS electronically in the Microsoft Word 2007 format.

- 3.12 **Calculations:** All engineering calculations for all disciplines at each submission shall be written on standard 8 ½" X 11" paper. Engineering calculations for all disciplines shall be prepared and/or approved by the registered Professional Engineer of the appropriate discipline. The Professional Engineer shall be registered in Washington, D.C.

**3.13 Meetings:**

- 3.13.1 **Conceptual Design Meeting** –A pre-conceptual design meeting will be held after the award of the A&E design competition. A date for conceptual design presentation will be determined. Contractor must be prepared for the presentation meeting no later than 45 calendar days after award of the design competition.
- 3.13.2 **Post-award Meeting** - A post-award meeting will be held within ten (10) calendar days after the award of the Design task order.
- 3.13.2 **Design Review Meetings** - A design review meeting will be held after each design submittal as required in paragraph 3.14 below.
- 3.13.3 **Meeting Minutes** - The A/E Contractor shall take minutes of all meetings held relative to this task order. The format must be acceptable to the Contracting Officer (CO). Minutes must include the meeting date and time; agenda; meeting location; list of participants and their affiliations and telephone numbers; be fully descriptive of issues, problems and decisions made; and action items with names of responsible parties and deadlines. In addition, the minutes must include, as attachments, all exhibits and references distributed as handout materials, unless the materials are part of a formal submission. The A/E Contractor shall provide, via email, complete copies of all minutes to the CO and all attendees within 48 hours of the meeting. All challenges to the minutes will be reflected in a revised version prepared by the A/E Contractor. Copies of updated minutes shall be distributed to the CO and all attendees within 24 hours after change notice.

**3.14 Design Submittals:** The following contractual periods of performance shall begin from the award date of the design task order. The A/E contractor shall provide 30%, 60%, 100% and bid document submittals, as well as any other submittals that may be required to insure that the design meets CFPB's requirements. CFPB shall respond with comments within 21 calendar days after the receipt of a submittal. At that time, a design review meeting shall be held to review the comments. The A/E shall respond in writing to each comment within 7 calendar days after the design review meeting.

- 3.14.1 The A/E Contractor shall provide the 30% submittal on or before the 45th calendar day after the task order award date. This submission shall include the following:
  - a. One (1) unbound copy of the investigation report as stated in 3.2.

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- b. Six (6) copies of each drawing set to include the following:
    - One (1) cover sheet
    - 60% completion of all demolition drawings
    - All drawing sheets shall include all standard sections, details, schedules, diagrams, and legends, as well as, preliminary layout and development of new sections, details, schedules, diagrams, and legends
  - d. One (1) copy of all significant engineering calculations performed in the design at this date.
  - e. One (1) copy of drawings on a CD-R (AutoCad 2009).
- 3.14.2 The A/E Contractor shall provide the 60% submittal on or before the 45th calendar day after the date CFPB comments on the 30% submittal are received. This submission shall include the following:
- a. Six (6) copies of each drawing to include the following:
    - 1 cover sheet
    - 100% completion of all demolition drawings
    - all remaining drawing sheets which shall include 60 % completion of all plans, elevations, sections, details, schedules, diagrams, and legends.
  - b. Six (6) copies of the specifications.
  - c. One (1) copy of all significant engineering calculations performed in the design at this date.
  - d. One (1) copy of drawings on a CD-R (AutoCad 2009).
- 3.14.3 The A/E Contractor shall provide the 90% submittal on or before the 30th calendar day after the date CFPB comments on the 60% submittal are received. This submission shall include the following:
- a. Six (6) copies of each 90% complete drawing set.
  - b. Six (6) copies of 90% complete specifications.
  - c. One (1) copy of all significant engineering calculations performed

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in the design.

- d. One (1) copy of drawings on a CD-R (AutoCad 2009).

3.14.4 The A/E Contractor shall provide the 100% submittal on or before the 30th calendar day after the date CFPB comments on the 90% submittal are received. This submission shall include the following:

- a. Six (6) copies of each 100% complete drawing set.
- b. Six (6) copies of 100% complete specifications.
- a. One (1) copy of all significant engineering calculations performed in the design.
- b. One (1) copy of construction cost estimate.
- e. One (1) copy of construction schedule.
- f. One (1) copy of drawings on a CD-R (AutoCad 2009).

3.14.5 The A/E Contractor shall provide the bid document submittal on or before the 14th calendar day after the date CFPB comments on the 100% submittal are received. This submission shall include the following:

- a. Six (6) copies of each bid document set.
- b. Six (6) copies of bid document specifications.
- c. One (1) copy of all significant engineering calculations performed in the design.
- d. Two sets of B-size drawings.
- e. A copy of drawings on a CD-R (AutoCad 2006).

3.14.6 As-built drawings:

- a. The A/E Contractor shall modify the Final drawings to reflect "as-built" conditions after construction is complete. These drawings, along with respective cell libraries, shall be provided electronically.

**3.15 Construction Phase (including Exhibit Fabrication & Installation) Services:**

3.15.1 The A/E Contractor shall provide submittal review services during the

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construction process. The Contractor shall review and comment on all submittals for construction materials and/or shop drawings on or before the 7th calendar day after receipt of submittals.

- 3.15.2 The A/E Contractor shall answer all construction contractor questions, within 48 hours in writing, relating to the design during the pre-bid process and the construction process.
- 3.15.3 The A/E Contractor shall provide services in the form of weekly site visits to ensure proper construction practices and adherence to the design documents and intent. Field observation reports and non-conformance reports shall be submitted, as requested. The Project Manager, or someone closely associated with the design, shall attend weekly construction progress meetings.
- 3.15.4 After construction is complete, the A/E Contractor shall inspect the construction site and assist in developing a punch list report. This report shall be submitted on or before the 3rd day after the receipt of CFPB's request for inspection.

**3.16 Quality Control:**

- 3.16.1 The Contractor shall develop a quality plan. This plan shall be submitted as part of the contractor's technical proposal. The plan should outline the following:
- \* The management and organization of this project.
  - \* Intended key technical personnel, such as subcontractors, discipline managers, project manager, etc.
  - \* Narrative describing product quality control.
- 3.16.2 After the award of the task order, the A/E Contractor shall follow minimum standards of quality as follows:
- \* There shall be a consistency of key personnel throughout the project.
  - \* All deliverables shall be routed through, reviewed and approved by the A/E Contractor project manager.
  - \* All mistakes, omissions or errors discovered during the construction process shall be rectified by the A/E Contractor. The A/E Contractor shall provide the government with additional design drawings, cost estimates and statements of work to make

field design corrections, should they become necessary.

**4.0 GENERAL INFORMATION:**

- 4.1 Upon final payment, the government shall have sole ownership of the designs. The designs shall in no part be reproduced without written permission from the CFPB.
- 4.2 The A/E Contractor shall submit all request for information in writing to the COTR and allow at least seven calendar days for the COTR to respond.

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**Coloretti, Nani (CFPB)**

---

**From:** Coloretti, Nani (CFPB)  
**Sent:** Monday, January 24, 2011 4:48 PM  
**To:** Martin, Alyssa (CFPB)Disabled  
**Cc:** Mann, Benjamin (CFPB); Cantrell, Diane (CFPB)Disabled; Canfield, Anna (CFPB)Disabled  
**Subject:** RE: EW Briefing  
**Attachments:** Decision memorandum for EW on design options\_final.docx; Information Memo For EW on OTS building improvements\_final.docx

Very minor edits that do not materially change the meaning to these two memos.  
Thanks all!

-Nani

---

**From:** Mann, Benjamin (CFPB)  
**Sent:** Monday, January 24, 2011 4:01 PM  
**To:** Cantrell, Diane (CFPB); Canfield, Anna (CFPB)  
**Cc:** Coloretti, Nani (CFPB)  
**Subject:** RE: EW Briefing

Reformatted memos attached

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**From:** Cantrell, Diane (CFPB)  
**Sent:** Monday, January 24, 2011 2:49 PM  
**To:** Canfield, Anna (CFPB)  
**Cc:** Mann, Benjamin (CFPB); Coloretti, Nani (CFPB)  
**Subject:** EW Briefing

The attached are materials provided in advance of a meeting scheduled for tomorrow at 10am to brief Professor Warren on the OTS building and next steps. Please let me know if you need any additional information.

Diane

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**DECISION MEMORANDUM FOR ELIZABETH WARREN**

**From:** Diane Cantrell  
**Date:** January 24, 2011  
**Subject:** Initiate Preparations to Move into OTS Building

**Recommendation**

That you approve our plan to move ahead with design options for renovating the OTS lobby and office space.

\_\_\_\_\_ Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Let's Discuss

Although decisions have not been made concerning the extent of renovations to be undertaken at the OTS building, it is very likely we will need to occupy a portion of the OTS building soon after July 21, 2011, to alleviate the space constraints facing CFPB. At a minimum, CFPB would remodel the main lobby and update the interior office space. CFPB can occupy portions of the building while the lobby is being remodeled and office space is reconfigured. In addition, any future projects identified (as outlined in the Gensler report) can be completed while the building is occupied.

In order to prepare for occupancy, design work and other preliminary steps should begin immediately so that construction is ready to commence August 2011. OTS has a procurement vehicle in place with three A&E firms that CFPB can write task orders against to obtain the services required. Attachment 1 provides a timeline for the lobby and office space projects.

There are 5 floors of office space available in the OTS building. Two are currently occupied by the Federal Housing and Finance Administration (FHFA) whose lease expires October 31, 2013. It is proposed the CFPB occupy two of the remaining floors and renovate one floor at a time. It is anticipated FHFA will vacate their space as early as January 2012, making their two floors available for additional swing space, as needed.

It is estimated that the cost of each design project will be approximately \$30,000.

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**INFORMATION MEMORANDUM FOR ELIZABETH WARREN**

**From:** Diane Cantrell  
**Date:** January 24, 2011  
**Subject:** OTS Building Assessment and Recommendation

The Office of Thrift Supervision (OTS) contracted with Gensler, an architectural and engineering firm, to conduct a Facility Condition Assessment of its headquarters building at 1700 G Street, NW. Gensler conducted a detailed inspection of the building and its systems to determine its current condition and then developed a ten-year capital improvement plan that would bring the facility to a Class B+ designation. (Class B office space has high tenant standards and good location, construction, and management.) The capital improvement plan details recommended improvements to the building envelope, interior finishes, courtyard, and plumbing, electrical, and mechanical systems.

The Gensler assessment and the resulting capital improvement plan are useful as guides to the CFPB in determining what actions should be initiated to improve the condition of the building and office space. The Gensler plan calls for improvements over a period of 10 years. However, a number of these projects can be initiated shortly after CFPB obtains the building. These include renovation of the main building lobby, updating of interior office space to include restacking, new office furniture, and updated lighting and finishes, elevator cab upgrades, HVAC and electrical upgrades, replacement of the exterior courtyard and sidewalks, and repairs to the parking garage decks. These projects would not impact CFPB's ability to occupy the building and would be scheduled and managed to minimize disruption. Federal Housing Finance Administration, Small Savers Child Care Development Center and retail tenants would also be present in the building during this period.

Attachment A depicts the projects and associated costs that have been identified under the Gensler ten-year capital improvement plan. With the exception of the courtyard and sidewalk renovation, which will require extensive design work, it is estimated that all projects identified in Year One can be substantively completed within a one year after CFPB takes occupancy of the building provided design work and other preliminary steps be initiated immediately in preparation for project implementation. The other projects identified in the plan would span into future years and be managed accordingly.

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Due to the cost and complexity of the ten-year capital improvement plan, an alternative proposal is presented in Attachment B. CFPB could choose to initiate only those projects that affect the aesthetics of the building interior and functionality of office space design. Failure to complete other projects identified by Gensler would delay the replacement and maintenance of aging mechanical and electrical systems and would prevent CFPB from meeting federal energy and environmental mandates. In addition, the building would not receive a Class B+, LEAD Silver or Energy Star rating.

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**From:** Fuchs, Meredith (CFPB)  
**To:** Lealev, Richard (CFPB); Rice, Kevin (CFPB); Tindall, Anne (CFPB)  
**Subject:** FW: Space Planning memos  
**Date:** Tuesday, March 25, 2014 12:59:49 PM  
**Attachments:** Decision Memorandum for E. Warren from D. Cantrell to Initiate Preparations to Move to OTS.pdf  
 Information Memorandum to E. Warren from D. Cantrell OTS Bldg Assessment and Recommendation.pdf

FYI

**From:** Tosini, Suzanne (CFPB)  
**Sent:** Friday, March 21, 2014 4:30 PM  
**To:** Stern, Gena (CFPB); Songvilay, Elizabeth (CFPB); Alag, Sartaj (CFPB); Gilford, Samuel (CFPB); Agostini, Stephen (CFPB); Fuchs, Meredith (CFPB)  
**Subject:** FW: Space Planning memos

FYI – here are the memos. And note Stephanie’s email in June 2011 (below)

**From:** Basham, Stephanie (CFPB)  
**Sent:** Friday, February 28, 2014 10:51 AM  
**To:** Tosini, Suzanne (CFPB)  
**Subject:** FW: Space Planning memos

Found this in my sent folder.

Stephanie Basham  
 Realty Officer | Facilities | Administrative Operations  
 Office: [REDACTED] | Mobile: [REDACTED]

Consumer Financial Protection Bureau  
[consumerfinance.gov](http://consumerfinance.gov)

**From:** Basham, Stephanie (CFPB)  
**Sent:** Wednesday, June 08, 2011 11:27 AM  
**To:** Levisohn, Ethan (CFPB)  
**Subject:** RE: Space Planning memos

Ethan:

I have not found any specific documentation that refers to the decision to move to the OTS Building. I’ve found the Gensler Report talking about the condition of the building and two memorandums that Diane Cantrell prepared for Elizabeth Warren. I have no idea if these were ever presented to Professor Warren or not.

I’ve pretty much gone through what I have access to with regard to Diane’s documents.

Please let me know if there is anything else I can do for you.

Stephanie Basham  
 Realty Officer

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Consumer Financial Protection Bureau (CFPB)  
1801 L Street, N.W., Room #7313b  
Washington, D.C. 20005  
E-Mail: [REDACTED]@Treasury.gov  
Office: [REDACTED]  
Cell: [REDACTED]

---

**From:** Levisohn, Ethan (CFPB)  
**Sent:** Monday, June 06, 2011 5:28 PM  
**To:** Basham, Stephanie (CFPB)  
**Subject:** RE: Space Planning memos

Thanks

---

**From:** Basham, Stephanie (CFPB)  
**Sent:** Monday, June 06, 2011 5:11 PM  
**To:** Levisohn, Ethan (CFPB)  
**Subject:** Re: Space Planning memos

I will look and send what I find in the morning.

---

**From:** Levisohn, Ethan (CFPB)  
**Sent:** Monday, June 06, 2011 04:38 PM  
**To:** Basham, Stephanie (CFPB); Gagan, David (CFPB)  
**Subject:** RE: Space Planning memos

They do, thanks

Do you have any that refer to to the decision to move to the OTS building?

EHL

---

**From:** Basham, Stephanie (CFPB)  
**Sent:** Monday, June 06, 2011 2:59 PM  
**To:** Gagan, David (CFPB); Levisohn, Ethan (CFPB)  
**Cc:** Gordon, Michael (CFPB)  
**Subject:** RE: Space Planning memos

I have found the attached e-mails.

Does this help?

Stephanie Basham  
Realty Officer  
Consumer Financial Protection Bureau (CFPB)  
1801 L Street, N.W., Room #7313b  
Washington, D.C. 20005  
E-Mail: [REDACTED]@Treasury.gov  
Office: [REDACTED]  
Cell: [REDACTED]

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**From:** Gragan, David (CFPB)  
**Sent:** Saturday, June 04, 2011 11:33 AM  
**To:** Levisohn, Ethan (CFPB); Basham, Stephanie (CFPB)  
**Cc:** Gordon, Michael (CFPB)  
**Subject:** RE: Space Planning memos

Ethan, sorry for being slow in responding. The moves have been pretty time consuming. But, to answer your original question, yes, I can check and have Stephanie Basham check for any correspondence about our DC office locations and moves. Stephanie is down at the new office on Pennsylvania Avenue right now, but I will add her to this email so that we can close the loop on this Monday.

David P. Gragan  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
ATTN: 1801 L Street  
Washington, D.C. 20220  
Desk: [REDACTED]  
Cell: [REDACTED]

---

**From:** Levisohn, Ethan (CFPB)  
**Sent:** Friday, June 03, 2011 2:49 PM  
**To:** Gragan, David (CFPB)  
**Cc:** Gordon, Michael (CFPB)  
**Subject:** RE: Space Planning memos

David --  
I wanted to follow up on this request -- is this something that you're familiar with?  
Thanks,  
EHL

---

**From:** Levisohn, Ethan (CFPB)  
**Sent:** Tuesday, May 31, 2011 3:09 PM  
**To:** Gragan, David (CFPB)  
**Subject:** Space Planning memos

David --  
Sorry to keep pestering you on this IG request but in our discussions, it was suggested you might have access to some documents related to space planning decisions, for instance memos that went to EW regarding decisions about our DC or other office locations. In particular, there may have been some memos from Diane Cantrell (and Stephanie Basham might be keeping copies of those memos). Is this something you can help with? I'm happy to swing by to discuss in person.  
Thanks,  
EHL

Ethan Levisohn  
Attorney-Advisor  
Consumer Financial Protection Bureau - Enforcement  
[REDACTED]

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**INFORMATION MEMORANDUM FOR ELIZABETH WARREN**

**From:** Diane Cantrell  
**Date:** January 24, 2011  
**Subject:** OTS Building Assessment and Recommendation

The Office of Thrift Supervision (OTS) contracted with Gensler, an architectural and engineering firm, to conduct a Facility Condition Assessment of its headquarters building at 1700 G Street, NW. Gensler conducted a detailed inspection of the building and its systems to determine its current condition and then developed a ten-year capital improvement plan that would bring the facility to a Class B+ designation. (Class B office space has high tenant standards and good location, construction, and management.) The capital improvement plan details recommended improvements to the building envelope, interior finishes, courtyard, and plumbing, electrical, and mechanical systems.

The Gensler assessment and the resulting capital improvement plan are useful as guides to the CFPB in determining what actions should be initiated to improve the condition of the building and office space. The Gensler plan calls for improvements over a period of 10 years. However, a number of these projects can be initiated shortly after CFPB obtains the building. These include renovation of the main building lobby, updating of interior office space to include restacking, new office furniture, and updated lighting and finishes, elevator cab upgrades, HVAC and electrical upgrades, replacement of the exterior courtyard and sidewalks, and repairs to the parking garage decks. These projects would not impact CFPB's ability to occupy the building and would be scheduled and managed to minimize disruption. Federal Housing Finance Administration, Small Savers Child Care Development Center and retail tenants would also be present in the building during this period.

Attachment A depicts the projects and associated costs that have been identified under the Gensler ten-year capital improvement plan. With the exception of the courtyard and sidewalk renovation, which will require extensive design work, it is estimated that all projects identified in Year One can be substantively completed within a one year after CFPB takes occupancy of the building provided design work and other preliminary steps be initiated immediately in preparation for project implementation. The other projects identified in the plan would span into future years and be managed accordingly.

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Due to the cost and complexity of the ten-year capital improvement plan, an alternative proposal is presented in Attachment B. CFPB could choose to initiate only those projects that affect the aesthetics of the building interior and functionality of office space design. Failure to complete other projects identified by Gensler would delay the replacement and maintenance of aging mechanical and electrical systems and would prevent CFPB from meeting federal energy and environmental mandates. In addition, the building would not receive a Class B+, LEAD Silver or Energy Star rating.

**CFPB BUILDING PLAN  
Attachment A**

10-Year Plan	Year 1	Year 2	Year 3	Years 4 - 10
<b>Architectural</b>	Redesign lobby/vestibule - \$2,086,746 Redesign office space (new interior workstations, furniture, and flooring) - \$11,246,552 Redesign elevator cabs, lobbies and atriums - \$2,705,753 Redesign bathrooms - \$2,483,262 Exterior glazing - \$19,607,884			
<b>Structural</b>	Garage repairs - \$938,955 Façade inspection & repairs - \$34,604 Clean and paint exterior steel on roof with rust-inhibiting exterior enamel - \$34,604	Roof maintenance - \$249,958 Garage inspect and routine maintenance - \$173,019	Garage inspect and routine maintenance - \$173,019	Garage inspect and routine maintenance - \$173,019 Façade inspection & repairs - \$34,604 Clean and paint exterior steel on roof with rust-inhibiting exterior enamel - \$34,604
<b>Exterior Plaza</b>	Replace courtyard and sidewalks (remove fixtures, fill and surface treatments; clean, seal cracks and joints; close old and rebuild penetrations; coordinate exterior drainage and collection; coordinate exterior utility work) - \$3,776,783	Continued	Continued	
<b>Energy Measures</b>	Re-distribution of ductwork; upgrade of VAV boxes; installation of fire dampers - \$11,422,485 Install variable frequency drives on pumps/fans - \$80,925 Convert all controls to DDC - \$6,500,733	Continued	Replacing AHU's and equipment w/ heat-recovery systems - \$4,402,855 Performance monitoring & updated control strategy - \$17,915 CO-Level controlled garage exhaust w/VFD - \$76,475 Install full spectrum fluorescent lamps - \$650,199	Continued through Year 4.
<b>Water Measures</b>	Replace plumbing fixtures, shower heads, faucets, toilets and urinals - 2,208,075	Continued		Install a solar thermal hot water system - \$306,943
<b>MEP</b>	Replacement of leaking fire pump - \$75,696 Install sub-metering for monitoring of power consumption - \$79,100 Replace fire alarm annunciator with new graphic display panel - \$70,938 New interior ceilings/lighting including energy efficient lighting fixtures, lighting controls and occupancy sensors - \$9,352,295	Replace storm piping - \$3,696,945 Add secondary storm draining - \$93,430		Upgrade emergency generator - \$540,761 Upgrade electrical panels to add spare capacity - \$1,033,867 On-going maintenance - \$173,019
<b>Capital Cost</b>	<b>\$72,705,390</b>	<b>\$4,213,352</b>	<b>\$5,320,463</b>	<b>\$2,296,817</b>

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**CFPB BUILDING PLAN  
Attachment B**

10-Year Plan	Year 1	Year 2	Year 3	Years 4 - 10
<b>Architectural</b>	Redesign lobby/vestibule - \$2,066,746 Redesign office space (new interior workstations, furniture, and flooring) - \$11,246,552 Redesign elevator cabs, lobbies and atriums - \$2,705,753		Redesign bathrooms - \$2,483,262*	Exterior glazing - \$19,607,884*
<b>Structural</b>	Garage repairs - \$938,955	Continued  Roof maintenance - \$249,958 Garage inspect and routine maintenance - \$173,019	Garage inspect and routine maintenance - \$173,019	Garage inspect and routine maintenance - \$173,019 Façade inspection & repairs - \$34,604 Clean and paint exterior steel on roof with rust-inhibiting exterior enamel - \$34,604
<b>Exterior Plaza</b>	Replace courtyard and sidewalks (remove fixtures, fill and surface treatments; clean, seal cracks and joints; close old and rebuild penetrations; coordinate exterior drainage and collection; coordinate exterior utility work) - \$3,776,783	Continued	Continued	
<b>Energy Measures</b>		Replacing AHU's and equipment w/ heat-recovery systems - \$4,402,855	Performance monitoring & updated control strategy - \$17,915 CO-Level controlled garage exhaust w/VFD - \$76,475 Install full spectrum fluorescent lamps - \$650,199	Re-distribution of ductwork; upgrade of VAV boxes; installation of fire dampers - \$11,422,485* Install variable frequency drives on pumps/fans - \$80,925 Convert all controls to DDC - \$6,500,733
<b>Water Measures</b>			Replace plumbing fixtures, shower heads, faucets, toilets and urinals - \$2,208,075*	Install a solar thermal hot water system - \$306,943
<b>MEP</b>	New interior ceilings/lighting including energy efficient lighting fixtures, lighting controls and occupancy sensors - \$9,352,295	Install sub-metering for monitoring of power consumption - \$79,100 Replace fire alarm annunciator with new graphic display panel - \$70,938	Replace storm piping - \$3,696,945* Add secondary storm drainage - \$93,430 Replacement of leaking fire pump - \$75,696	Upgrade emergency generator - \$540,761 Upgrade electrical panels to add spare capacity - \$1,033,867 On-going maintenance - \$173,019
<b>Capital Cost</b>	<b>\$30,107,084</b>	<b>\$4,975,870</b>	<b>\$9,475,016</b>	<b>\$39,908,844</b>

\*This work occurs within office space. Delaying until post-occupancy will significantly increase the cost and will have a negative impact on office occupants.

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**DECISION MEMORANDUM FOR ELIZABETH WARREN**

**From:** Diane Cantrell  
**Date:** January 24, 2011  
**Subject:** Initiate Preparations to Move into OTS Building

**Recommendation**

That you approve our plan to move ahead with design options for renovating the OTS lobby and office space.

\_\_\_\_\_ Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Let's Discuss

Although decisions have not been made concerning the extent of renovations to be undertaken at the OTS building, it is very likely we will need to occupy a portion of the OTS building soon after July 21, 2011, to alleviate the space constraints facing CFPB. At a minimum, CFPB would remodel the main lobby and update the interior office space. CFPB can occupy portions of the building while the lobby is being remodeled and office space is reconfigured. In addition, any future projects identified (as outlined in the Gensler report) can be completed while the building is occupied.

In order to prepare for occupancy, design work and other preliminary steps should begin immediately so that construction is ready to commence August 2011. OTS has a procurement vehicle in place with three A&E firms that CFPB can write task orders against to obtain the services required. Attachment 1 provides a timeline for the lobby and office space projects.

There are 5 floors of office space available in the OTS building. Two are currently occupied by the Federal Housing and Finance Administration (FHFA) whose lease expires October 31, 2013. It is proposed the CFPB occupy two of the remaining floors and renovate one floor at a time. It is anticipated FHFA will vacate their space as early as January 2012, making their two floors available for additional swing space, as needed.

It is estimated that the cost of each design project will be approximately \$30,000.

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**Building Projects – Draft Timeline****Lobby Renovation****Design Concept**

February 1, 2011 – award design competition task orders  
February 7 – hold pre-concept design meeting (note – SOW doesn't specify window for this – state "within one week")  
March 24 – presentations must be completed (45 calendar days after meeting per SOW)  
March 25-28 – presentations by 3 A/E firms  
March 28 – April 8 - Decision window for CFPB to choose design (2 weeks)

**Design/Construction Documents**

April 25 – Award design contract (I allowed 2 weeks for procurement to award the task order)  
May 2 – Post award meeting (change SOW to "within one week")  
June 16 - 30% submittals due, including prospectus on programmatic portion (SOW gives 45 days)  
July 30 – CFPB comments due to A/E (change SOW to allow 14 days)  
August 14 – 60% submittals due (SOW gives 45 days after comments)  
August 24 – CFPB comments due to A/E (change SOW to allow 10 days)  
September 23 – 90% submittals due (SOW gives 30 days after comments)  
October 3 – CFPB comments due to A/E (change SOW to allow 10 days)  
November 2 – 100% submittals due (SOW gives 30 days)  
November 12 – CFPB comments due to A/E (change SOW to 10 days)  
November 26 - bid documents submitted (SOW gives 14 days)

**Construction Award**

December 6 - Issue bid package to prospective contractors (use existing federal energy contracts)  
December 10 - Pre-Proposal Conference  
December 24 – Bids due  
December 27 - January 7, 2012 - Technical review of proposals (with A/E involvement)  
January 7 - Award Recommendation  
January 14 - Award  
January 21 - Post Award Meeting

**Construction**

January – June 30, 2012 – Construction (assumes no hidden issues or particularly complex design features)

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**Renovation of Office Floors****Schedule by Floor:**

February 28 – Award of A/E Contract  
March 7 – Kick-Off Meeting

**Second Floor**

March 8, 2011 – July 25, 2011 – Design second floor  
July 26, 2011 – August 15, 2011 – Award construction contract (2<sup>nd</sup> floor)  
August 16, 2011 – January 9, 2012 – Construction (2<sup>nd</sup> floor)  
January 10, 2012 – January 16 – Occupy 2<sup>nd</sup> floor/vacate 6<sup>th</sup> floor

**Sixth Floor**

May 17, 2011 – August 22, 2011 – Design sixth floor  
August 23, 2011 – September 12, 2011 – Award construction contract (6<sup>th</sup> floor)  
January 17, 2012 – May 21, 2012 – Construction (6<sup>th</sup> floor)  
May 22, 2012 – May 28, 2012 – Occupy 6<sup>th</sup> floor/vacate 5<sup>th</sup> floor

**Third Floor**

July 12, 2011 – October 17, 2011 – Design third floor  
October 18, 2011 – November 7, 2011 – Award construction contract (3<sup>rd</sup> floor)  
February 2, 2012 – June 6, 2012 – Construction (3<sup>rd</sup> floor)  
June 7, 2012 – June 13, 2012 – Occupy 2<sup>nd</sup> floor/vacate fourth floor

**Fourth Floor**

August 9, 2011 – November 14, 2011 – Design fourth floor  
November 15, 2011 – December 5, 2011 – Award construction contract (4<sup>th</sup> floor)  
February 2, 2012 – June 6, 2012 – Construction (4<sup>th</sup> floor)  
June 7, 2012 – June 14, 2012 – Occupy 4<sup>th</sup> floor

**Fifth Floor**

June 14, 2011 – September 19, 2011 – Design fifth floor  
September 20, 2011 – October 10, 2011 – Award construction contract (5<sup>th</sup> floor)  
May 29, 2012 – October 1, 2012 – Construction (5<sup>th</sup> floor)  
October 2, 2012 – October 8, 2012 – Occupy 5<sup>th</sup> floor/vacate third floor

**House Committee on Financial Services**  
*The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection*  
**Questions for the Record**  
April 11, 2018

**Questions for the Honorable Mick Mulvaney, Acting Director, Bureau of Consumer Financial Protection, from Ranking Member Maxine Waters:**

Mr. Mulvaney, let me repeat that you are not - and my additional questions should not be construed to suggest - the legitimate, lawful Acting Director of the Consumer Financial Protection Bureau. I look forward to the D.C. Circuit Court's ruling in the matter, but I will not stand idly by while President Trump's OMB Director destroys the Consumer Bureau when harmed consumers need help.

*Question 1*

When can I expect the information regarding Fay Servicing that I asked you in the hearing?

*Response*

I am serving as Acting Director of the Bureau of Consumer Financial Protection (Bureau) pursuant to the Federal Vacancies Reform Act, which permits the President to designate any presidentially-appointed, Senate-confirmed officer to serve in that role. I will continue to satisfy all statutory obligations of both roles so long as I serve. As you may know, Ms. English resigned from the Bureau in early July and withdrew her lawsuit.

The Bureau entered a consent order with Fay Servicing, LLC on June 7, 2017.<sup>1</sup> The order provided for remediation, which is ongoing.

**Payday Lending and Protecting Consumers**

*Question 2*

Mr. Mulvaney, often, I hear my colleagues on the other side of the aisle say that loans with high interest rates in and of themselves are not predatory. But let's be absolutely clear: any lender that intentionally profits off of a borrower's inability to repay a loan is most certainly offering a predatory product.

Under Director Cordray, the Consumer Bureau brought lawsuits against four online payday lenders that were violating the Truth In Lending Act, deceiving consumers, and unlawfully withdrawing funds from their bank accounts to pay debts that the consumers didn't legally owe. Two of these payday lending firms, Golden Valley and Silver Cloud Financial, offered online loans of \$300 and \$1,200 with interest rates up to 1000%. And the Bureau's investigation showed that these high-cost loans violated licensing requirements or interest-rate caps, or both,

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<sup>1</sup> <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/fay-servicing-llc/>.

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

that made the loans void in at least 17 states. After you arrived at the Consumer Bureau, you dropped the lawsuits against these predatory lenders.

You have never publicly explained the reasoning, but the Consumer Bureau put out a statement saying it would “investigate the transactions at issue.” Mr Mulvaney, let me ask you about some of the transactions at issue. Golden Valley was offering short-term payday loans with interest rates of 950%, with over \$3,000 in fees on a \$800 loan.

- Do you think \$3,320 in fees on a \$800 loan is fair? What about \$3,320 in fees on an \$800 loan where the customer is never informed about the true terms of repayment or interest rate on the loan?

*Response*

Usury is generally defined at the State level. Section 1027(o) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) limits the Bureau's authority to impose usury limits. Accordingly, the Bureau has no statutory role in saying what rates are fair, but it expects applicable parties to adhere to Federal consumer financial law, including the Truth in Lending Act (TILA), Regulation Z, and the prohibition against unfair, deceptive, or abusive acts or practices.

*Question 3*

On November 27, 2017, which I believe was the first day you went to the Consumer Bureau's headquarters, the agency announced there would be no payments out of the civil penalties fund for at least 30 days until you “get a handle on what that fund is all about before we make any distributions.” This is despite the fact the Civil Penalty Fund has returned hundreds of millions of dollars to consumers that were harmed by financial institutions, including payday lenders. In fiscal year 2017, a total of \$261.9 million was distributed to 232,000 harmed consumers using the Civil Penalty Fund.

- Given that you reversed course a few days later and allowed the disbursal of payments to harmed consumers, do you admit you were wrong to begin with, that you should have never frozen those payments?

*Response*

As the new leader of the Bureau, it is my duty and responsibility to examine all of the Bureau's actions to ensure that they align with the Bureau's statutory mandate. The Bureau is maintaining operation of the Civil Penalty Fund. During my tenure, the Bureau has completed two allocations from the Fund and distributed over \$110 million to harmed consumers.

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

*Question 4*

Mr. Mulvaney, under the leadership of former Director Cordray, the Consumer Bureau also conducted five years of research and reviewed over one million comments from all types of stakeholders, which culminated in the Consumer Bureau issuing the payday rule to put an end to predatory debt traps by requiring lenders to ensure that consumers can actually afford to pay off their payday loans. On the day the rule was set to take effect, you announced plans to strip those protections from consumers.

When I sent you a letter along with several of my colleagues asking you to elaborate on the rationale behind dropping the lawsuits and halting the implementation of the payday rule, along with a request information about your meetings with the affected payday lenders, you responded with a two-paragraph letter that failed to address any of the questions we raised.

So I'll ask you some of those questions again:

- a) Mr. Mulvaney, what analysis did the Consumer Bureau undertake before deciding to halt the payday rule?

*Response*

The "Payday, Vehicle Title, and Certain High-Cost Installment Loans" rule is complete and became effective on January 16, 2018. As written, most provisions of the rule do not require compliance until August 19, 2019. As the new leader of the Bureau, it is my duty and responsibility to examine all of the Bureau's actions to ensure that they align with the Bureau's statutory mandate and advance its goals to facilitate consumer choice. This effort extends to the Bureau's work on small-dollar lending. For that reason, the Bureau announced that it intends to engage in a rulemaking process to reconsider the "Payday, Vehicle Title, and Certain High-Cost Installment Loans" rule.

- b) Mr. Mulvaney, did you or any other members of your staff meet with or communicate with the representatives of the payday loan industry prior to the decision to dismiss the case against Golden Valley Lending, Inc., Silver Cloud Financial, Inc., Mountain Summit Financial, Inc., and Majestic Lake Financial, Inc.?

*Response*

I have not had any formal meetings of the type described above during my time as the Director of the Office of Management and Budget or as Acting Director of the Bureau. I was once approached at a social event by someone who identified himself as an owner of such an entity, which was in litigation with the Bureau, but I did not engage in any substantive discussion of the pending matter and I referred him to the Enforcement team. I do not consider such an encounter to be a "meeting."

**House Committee on Financial Services**  
*The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection*  
**Questions for the Record**  
**April 11, 2018**

**No Director Nominated and Potential Conflicts**

*Question 5*

Mr. Mulvaney, you are currently the Director of the OMB, working out of President Trump's White House, correct? And you have only been confirmed by the Senate to work in that role, correct? It has been almost five months since former Director Cordray stepped down. By failing to nominate someone quickly, the President seems to be doing all he can to evade the checks and balances of the Senate confirmation process and letting you handle the Consumer Bureau's work as long as possible.

- a) Have you discussed with the President who he should nominate?

*Response*

As you may know, in June President Trump nominated Kathy Kraninger to be the next Director of the Bureau. I anticipate her swift confirmation.

- b) Have you discussed with the President any aspect - big or small - regarding your efforts at the Consumer Bureau?

*Response*

I have not discussed the business of the Bureau with the President. The President has asked me to go over and run the Bureau. There is a statute that says what it shall and shall not do, and I am doing those things.

- c) Furthermore, can you please discuss how you have handled the potential legal and ethical conflicts that occur when serving in two conflicting roles: one heading an Executive agency and the other as the so-called "Acting Director" of an independent regulatory agency with enforcement powers? Would you agree that this arrangement is a major conflict of interest that undermines the Consumer Bureau's independence? What is stopping the President from directing you to use the Consumer Bureau's enforcement powers to go after his enemies or to not go after his friends?

*Response*

I am serving as Acting Director of the Bureau pursuant to the Federal Vacancies Reform Act, which permits the President to designate any presidentially-appointed, Senate-confirmed officer to serve in that role. I reject the premise that there is any theoretical or actual conflict of interest between the two positions, and I will continue to satisfy all statutory obligations of both roles so long as I serve.

House Committee on Financial Services  
*The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection*  
 Questions for the Record  
 April 11, 2018

Your final question poses a hypothetical situation that has never occurred.

- d) What policies and procedures are in place to ensure that your responsibilities at the OMB do not undermine the Bureau's independence?

*Response*

I note that this question is substantively identical to your question 10(a) below. Accordingly, I will provide the same answer to each question.

There is no statutory or regulatory framework that requires any such policies or procedures for an individual serving in an acting capacity pursuant to the Federal Vacancies Reform Act.

- e) Has the Federal Reserve Inspector General reviewed these potential conflicts and the appropriateness of holding two conflicting part-time jobs instead of focusing full-time on the position of which you were confirmed and sworn into?

*Response*

I note that this question is substantively identical to your question 10(b) below. Accordingly, I will provide the same answer to each question.

There is no conflict and I am not aware of any such review by the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection.

**Staff Pay**

*Question 6*

Mr. Mulvaney, you have often complained that the Consumer Bureau engages in "wasteful spending," and for the Consumer Bureau's quarterly funds transfer request in January, you submitted a request to the Federal Reserve of zero dollars. You also told a group of State Attorneys general that "I found out yesterday that I'm paying people — it's amazing what you learn in these places — I'm paying people at the CFPB to do economics research on climate change. Not sure how that happened, but we're going to see if we can't figure out a way to change that." However, it's clear that your problems with Consumer Bureau's spending and staff salaries don't apply to the staff that you've brought in during a hiring freeze. In fact, you recently appointed two senior staff members, who formerly were employed by the Committee Chairman, who are paid salaries in excess of \$230,000. This contradiction was widely covered by major news publications.

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

- Mr. Mulvaney, would you elaborate on this inconsistency? Is this supposed to be an effort for you to highlight the extraordinary power that you claim lies with the Bureau? Or is it simply a case of “do as I say and not as I do”?

*Response*

Agencies, including the Bureau, are authorized to make non-career appointments (often referred to as “Schedule C” appointments) to positions which are policy-determining or involve a close and confidential working relationship with the head of an agency or other key appointed officials. Schedule C hiring authority allows agencies to hire without regard to the competitive requirements of the civil service rules and regulations. Since I began leading the Bureau in November 2017, twelve positions have been created and filled using Schedule C hiring authority, in accordance with 5 U.S.C. § 3302 and 5 C.F.R. § 213.3301. Requests for the authority to hire under Schedule C authority are made to the Director of the U.S. Office of Personnel Management (OPM).

At the Bureau, I have set up a system where we marry a political appointee to a career staffer, and they work together as a team. The pay that non-career appointees are receiving is under the same pay system set out by the previous Bureau leadership and as required by Section 1013 of the Dodd-Frank Act.

On a broader note, I welcome your interest in Bureau spending. I have recommended that the Bureau be placed on appropriations so that Congress can oversee the Bureau’s budget and spending. You may be interested in joining this legislative effort, or that of Congressman Sean Duffy, who has introduced a bill relating to Bureau employee compensation. From an oversight perspective, you may be interested to learn that the Bureau has spent \$242.8 million to date renovating a headquarters building it does not even own – and that renovations are far behind schedule. You may be interested to learn that since its inception, the Bureau has paid \$296 million in management consulting fees to companies like PriceWaterhouse Coopers, Deloitte Consulting, and Booz Allen Hamilton.

**Payday Rule**

*Question 7*

Mr. Mulvaney, let's discuss payday loans. The Consumer Bureau found that payday loan borrowers have an average income of around \$25,000 and that more than four of five payday loans are re-borrowed within a month. In other words, payday loans regularly trap financially vulnerable borrowers in a vicious cycle of debt. After more than five years of extensive study and public engagement, the Consumer Bureau issued a payday rule to rein in these debt traps with the core of the rule being the common sense requirement that lenders verify borrowers’ ability to repay. Just a few days after you showed up at the Consumer Bureau, you called for Congress to pass a resolution pursuant to the Congressional Review Act, a unique measure that

**House Committee on Financial Services**  
**The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection**  
**Questions for the Record**  
**April 11, 2018**

would not only kill the rule now, but could also potentially block any federal agency from issuing a substantially similar rule protecting consumers from payday loan debt traps. A few weeks later, the Bureau announced it would delay implementation of the rule and reconsider it, which looks like a precursor to administratively killing the rule.

- a) Why have you asked Congress to potentially prohibit the agency from moving forward on this subject matter if they concluded that doing so is necessary to protect consumers?

*Response*

As a former member of Congress, and of the House Committee on Financial Services, I support efforts by Congress to use legislative authority to oversee agency activities, including the Congressional Review Act. I have also made four legislative recommendations to make the Bureau more accountable to the American people.

As for the Bureau's prior announcement of its intention to revisit the "Payday, Vehicle Title, and Certain High Cost Installment Loans" rule, I will not pre-judge the outcome of that process.

- b) Given your support for the Congressional Review Act, which would potentially shut the door on any substantially similar payday rule, should we assume that your action to reopen the rule is merely the first step in killing it?

*Response*

Please see my response to question 7(a) above.

- c) In your op-ed published in the *Wall Street Journal*, you stated that data should guide the Bureau's actions. What data on payday loans did you collect before taking these actions against the rule? What efforts have you undertaken to solicit input from the American public in assessing the impact of the Bureau's payday rule?

*Response*

If I decide that the Bureau should propose revisions to the rule, the Bureau will follow the procedures set forth in the Administrative Procedure Act and the Dodd-Frank Act, including analyzing the costs and benefits of the proposal to consumers and to covered institutions. It would have been premature to conduct such an analysis before decisions are made as to what changes, if any, to propose to the rule. The January 16, 2018 statement did not delay the compliance date by which lenders would have to begin complying with most provisions of the rule.

**Debt Collection**

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

*Question 8*

In your *Wall Street Journal* op-ed you said almost a third of consumer complaints received by the Bureau are associated with debt collection and said “data like that should, and will, guide our actions.” Why then did the Consumer Bureau, at your direction, cancel a survey of consumers about their experiences with debt collection?

*Response*

I note that this question is identical to a question I received from Senator Catherine Cortez Masto (NV) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau’s semi-annual report. For that reason, I am providing you the same response I will provide to the Senator.

The survey for which the Bureau sought Office of Management and Budget (OMB) approval under the Paperwork Reduction Act was tied to testing particular disclosures that were under consideration as part of a potential rulemaking with respect to debt collection. The request for comment on the Bureau’s request appeared in the *Federal Register* on November 14, 2017, less than two weeks before I became the Acting Director. I decided that before proceeding with the survey I first wanted to review the proposals that were under consideration for the rulemaking so that any data collection would be tailored to what I determined to be the appropriate scope for the rulemaking rather than driven by decisions that may have been made by my predecessor. Prior to my tenure as Acting Director, the Bureau did conduct a survey of consumers about their experiences with debt collection.

*Question 9*

The debt collection industry and consumer groups both believe a rule is needed either to clarify which types of debt collection practices are acceptable or to protect consumers from abuse.

- a) Given this, are you also in agreement that the Bureau should issue a debt collection rule?
- b) How should the viewpoint of consumers be considered in any future rule?

*Response*

I note that this question is identical to a question I received from Senator Catherine Cortez Masto (NV) following my testimony before the Senate Committee on Banking, Housing and Urban Affairs regarding the Bureau’s semi-annual report. For that reason, I am providing you the same response I will provide to the Senator.

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

The Bureau has identified debt collection as part of its plans for upcoming proposed rules in the Fall 2018 Unified Agenda. Debt collection is one of the most complained-about financial products, and industry and consumer groups have encouraged the Bureau to engage in rulemaking regarding this over forty-year-old statute. The Bureau has engaged in research and pre-rulemaking activities regarding debt collection practices, including issuing an Advance Notice of Proposed Rulemaking in November 2013 and releasing an Outline of Proposals Under Consideration in preparation for a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel in July 2016. The Bureau expects to issue a Notice of Proposed Rulemaking addressing such issues as communication practices and consumer disclosures by spring 2019.

**On Heading Two Agencies**

*Question 10*

Mr. Mulvaney, in addition to being at the Consumer Bureau, you are currently the Director of the Office of Budget and Management, which is part of President Trump's Administration. Can you please discuss how you have handled the potential legal and ethical conflicts that occur when serving in two conflicting roles: one heading an Executive agency and the other as the so-called "Acting Director" of an independent Federal agency? Would you agree that this arrangement is a major conflict of interest?

*Response*

As noted in a previous response, I am currently serving in both roles under the authority of the Federal Vacancies Reform Act, which permits the President to designate any presidentially-appointed, Senate-confirmed officer to serve in that role. I reject the premise that there is any theoretical or actual conflict of interest between the two positions, either ethical or legal, and I will continue to satisfy all statutory obligations of both roles so long as I serve.

- a) What policies and procedures are in place to ensure that your responsibilities at the Office of Management and Budget do not undermine the Bureau's independence?

*Response*

This question is substantively identical to your question 5(d). Please see my response to your question 5(d).

- b) Has either the Consumer Bureau Board or the Office of Management and Budget Inspector General reviewed these potential conflicts and the appropriateness of holding two conflicting part-time jobs instead of focusing full-time on the position of which you were confirmed and sworn into?

*Response*

**House Committee on Financial Services**  
*The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection*  
**Questions for the Record**  
**April 11, 2018**

This question is substantively identical to your question 5(e) above. Please see my response to your question 5(e). There is no Inspector General for the Office of Management and Budget.

**On Halted Data Requests**

*Question 11*

Mr. Mulvaney, on Dec 4<sup>th</sup>, 2017, Assistant Director for Supervision Examinations, Paul Sanford, sent an email to all bank supervisors to request that they not send any examiner information. It is my understanding that this was after the announcement that you made asking that Consumer Bureau staff not collect any personally identifiable information because you believed that data would be vulnerable to cyber security attacks. However, much of this consumer data allows the Bureau to examine banks, and without it, halts the work that the Consumer Bureau does to keep consumers safe.

For example, the Consumer Bureau has been able to catch two different mortgage servicers that hid the process for applying for foreclosure relief from borrowers; it also caught three big credit reporting agencies that misled customers about their credit scores; a lender who got customers through misleading advertisements and then stole from them; and dozens of other companies that were cheating their customers. Once it discovered these frauds, the Consumer Bureau set to work making sure that these covered entities stopped these practices provided appropriate remedies to harmed consumers without ever going to court. Nothing in the Inspector General reports that you have cited justify this data freeze.

- a) How has the Consumer Bureau been able to function without this data?

*Response*

After December 4, 2017, the Division of Supervision, Enforcement, and Fair Lending (SEFL) suspended intaking certain sensitive information, such as data with direct personal identifiers. Enforcement attorneys were conducting reviews of most investigative materials by storing those materials on a system used by the U.S. Department of Justice (DOJ). Supervision did not take data with direct personal identifiers onto the Bureau's systems, instead reviewing it on-site.

On May 31, 2018, after an exhaustive review by outside experts, including a comprehensive "white-hat hacking" effort, I lifted that hold. The independent review concluded that "externally facing Bureau systems appear to be well-secured." The assessors identified no "Critical" findings and made three technical recommendations, all of which the Bureau has completed remediating.

- b) Do you believe that the Consumer Bureau has been able to adequately examine banks and keep consumers safe without this data?

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

*Response*

The Bureau had access to this data. The temporary freeze I instituted related to the storage of the data, not its use. Although no system can guarantee security in a world of sophisticated and constantly evolving external threats, the Bureau is now confident in the security of its systems, and supervision, enforcement, and fair lending teams can again collect and store information in the manner they used prior to the implementation of the freeze in December. This process has been an important exercise in holding the Bureau to the same high standards to which we hold the entities we oversee.

**On the Change in Mission**

*Question 12*

Mr. Mulvaney, under your supervision, the Consumer Bureau has created a new mission statement focusing the Bureau, a regulatory agency, on deregulation. The new mission statement seems to be more focused on getting rid of the rules that protect consumers than to ensure compliance with them and enforce them. The original mission statement of the Consumer Bureau read:

“The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives.”

It now reads:

“The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by regularly identifying and addressing outdated, unnecessary or unduly burdensome regulations, by making rules more effective, by consistently enforcing federal consumer financial law and by empowering consumers to take more control over their economic lives.”

In spite of what you have stated to the contrary, it is clear that this new mission of the favors the financial industry rather than hard-working American consumers.

- Mr. Mulvaney would you please explain why you believed it was necessary to change the language of the mission statement that focused on protecting consumers?

*Response*

I note that this question is identical to a question I received from Senator Catherine Cortez Masto (NV) following my testimony before the Senate Committee on Banking, Housing and Urban

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

Affairs regarding the Bureau's semi-annual report. For that reason, I am providing you the same response I will provide to the Senator.

You may recall that the language is drawn from one of the five statutory objectives of the Bureau, and is drawn directly from Section 1021(b)(3) of the Dodd-Frank Act.

*Question 13*

Mr. Mulvaney, it appears that you have changed the seal of the agency based on the Semiannual Report submitted to Congress.

- When did you commission this new seal to be developed, and what is the cost of rebranding all of the agency's materials?

*Response*

Section 1012 of the Dodd-Frank Act authorizes the Bureau to adopt and use a seal. The development of the seal began under the former Director, Richard Cordray. I approved the final seal selection after my appointment. The Bureau is in the early phases of implementation and we do not yet have an estimate on implementation.

**Wells Fargo**

*Question 14*

Mr. Mulvaney, on Monday, Reuters reported that the Consumer Bureau intends to levy a \$1 billion dollar fine against Wells Fargo for its wrongdoings. This comes after President Trump previously used his preferred communication medium to tweet that the Consumer Bureau's fine against Wells Fargo would be "substantially increased." And though the fine is indeed larger, all of these actions underscore Congress's concerns about how your presence at the Bureau undoubtedly undermines its independence.

- a) Mr. Mulvaney, did you or any other employee at the Consumer Bureau take this action at the behest of President Trump?

*Response*

No.

- b) Did you or any other employee at the Consumer Bureau confer, discuss, or otherwise consult with any Trump Administration official about what actions the Consumer Bureau should take on Wells Fargo?

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

*Response*

Neither I, nor Bureau employees, discussed the Wells Fargo matter with the President or other White House officials prior to the announcement. Bureau staff was in regular discussion with other prudential regulators prior to the announcement as the action taken was a joint one.

- c) What is the rationale for setting the fine threshold, and how much of this amount can we expect will be returned to the bank's harmed consumers?

*Response*

The billion dollar penalty was calculated based upon the statutory factors, including the mitigating factors and the Bureau's ability to compromise. Separate from and in addition to the penalty, Wells Fargo is required to identify and remediate (1) all consumers subjected to the bank's practice of charging borrowers for force-placed insurance when the bank knew or should have known that it had ineffective processes that were likely to result in the bank unnecessarily placing or maintaining force-placed insurance and (2) all consumers who, during the applicable period, were charged a fee for extending an interest-rate-lock period for a residential-mortgage loan in a manner inconsistent with the policies communicated to prospective borrowers. Remediation is ongoing.

**Consumer Complaint Database**

*Question 15*

Mr. Mulvaney, as you know, the Consumer Bureau's public consumer complaint database tracks complaints made by consumers to the agency, as well as how they are resolved. This enables the Consumer Bureau to identify financial practices that threaten to harm consumers, while providing the additional benefit of enabling the public to evaluate both the performance of the financial industry and of the Consumer Bureau. In fact, the complaint database was crucial in aiding the investigation into Wells Fargo account scandal. James Clark, the Chief Deputy of the Office of the Los Angeles City Attorney, testified that his Office used the Consumer Bureau's complaint database in its investigation into Wells Fargo.

In February the Consumer Bureau put out a Request for Information, or "RFI," asking for comments from "interested parties" on the "usefulness" of the Bureau's consumer complaint data reporting and analysis, as well as specific suggestions or best practices for complaint reporting. The RFI also asks whether the Bureau should "expand, limit, or maintain" the same level of access to complaint information that is currently available to external stakeholders such as financial institutions and the public.

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

- Now, Mr. Mulvaney, you've made no efforts to conceal your disdain for the consumer complaint database, in spite of the fact that over one million consumers have submitted complaints, and over 97% of those consumers had their issues with financial companies resolved in a timely manner. Are you using this RFI as a way to damper the effectiveness of the database, or completely remove it from public view?

*Response*

No. The purpose of a Request for Information is to solicit public comment. We have done that. Any decision I may make regarding the database will be informed by the comments received.

**Reorganizing the Office of Fair Lending and Equal Opportunity**

Mr. Mulvaney, as you know, the Consumer Bureau recently announced that it will bring the Office of Fair Lending and Equal Opportunity (OFLEO) under control of the Office of the Director, and strip the OFLEO of its enforcement and supervisory role. I am concerned that by taking these actions, you will frustrate the Consumer Bureau's enforcement of fair lending laws that are critical to protecting racial, ethnic and other minorities from discrimination.

*Question 16*

Mr. Mulvaney, did the Consumer Bureau perform a legal analysis to determine whether stripping the OFLEO of its enforcement authority would hinder the Bureau's ability to carry out its statutory mandate to provide oversight and enforcement of federal fair lending laws?

*Response*

I note that this question is identical to questions I received from Senators Sherrod Brown (OH) and Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing and Urban Affairs regarding the Bureau's semi-annual report. For that reason, I am providing you the same response I will provide to the Senators.

Under the Dodd-Frank Act, the Office of Fair Lending and Equal Opportunity (OFLEO) "shall have such powers and duties as the Director may delegate to the Office." I have been working to ensure that the Bureau's operations are conducted in a way that best enables the Bureau to fulfill all of the Bureau's statutory requirements while reducing redundancy and maximizing efficiency. Changes to the structure and operations of OFLEO are being implemented in furtherance of these priorities. The existing OFLEO performs different functions, including oversight and enforcement of fair lending laws on one hand, and promotion of fair lending compliance and education on the other.

The reorganization will separate the supervision and enforcement functions previously performed by OFLEO from its promotion and education functions. The supervision and

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

enforcement functions will remain in the division that is responsible for supervision and enforcement generally. OFLEO's remaining functions will be elevated to the Director's Office to become part of an Office of Equal Opportunity and Fairness with a focus on advocacy and education, coordination, and reporting.

The changes are designed to create efficiency and consistency in the Bureau's supervision and enforcement functions, and allow OFLEO to focus on promoting advocacy and education, coordination, and reporting. These changes should improve the Bureau's operations and our interactions with consumers and industry, in fulfillment of our mission, and in full compliance with the Bureau's statutory mandate.

*Question 17*

How will bringing the OFLEO under the control of the Office of the Director modify the Consumer Bureau's decision-making process with regard to enforcement and other actions to protect consumers from unfair discrimination?

- a) What, if any, continuing role will the OFLEO play in supporting the Bureau's enforcement of fair lending laws?

*Response*

I note that this question is identical to questions I received from Senators Sherrod Brown (OH) and Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing and Urban Affairs regarding the Bureau's semi-annual report. For that reason, I am providing you the same response I will provide to the Senators.

The reorganization will not hamper the Bureau's fair lending enforcement and supervisory activity; indeed, the reorganization should help the Bureau operate more efficiently and effectively. In consultation with Bureau stakeholders and the National Treasury Employees Union (NTEU) and in accordance with the Bureau's collective bargaining agreement, the Bureau and NTEU have signed a memorandum of understanding (MOU) on the implementation plan for the reorganization. Full implementation of the reorganization is expected to take a few more months to complete. While the Bureau works through the processes required to fully implement such a change, OFLEO will continue to operate as it has previously.

The reorganization of OFLEO will elevate OFLEO to the Director's Office to become part of the Office of Equal Opportunity and Fairness. OFLEO will continue to support the enforcement of fair lending laws through the use of advocacy and education, coordination, and reporting.

- b) How will the reorganization affect the reporting duties for OFLEO employees, including the OFLEO Assistant Director?

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

*Response*

I note that this question is identical to questions I received from Senators Sherrod Brown (OH) and Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing and Urban Affairs regarding the Bureau's semi-annual report. For that reason, I am providing you the same response I will provide to the Senators.

In consultation with Bureau stakeholders and the NTEU, and in accordance with the Bureau's collective bargaining agreement, the Bureau and NTEU have signed a MOU on the implementation plan for the reorganization. While staff will not experience changes in employment status, employees may experience changes in jobs and duties. Some OFLEO employees will remain in the OFLEO while others will take positions throughout what will be the Supervision and Enforcement Division. The OFLEO Assistant Director's duties will change insofar as the role will focus on advocacy and education, coordination, and reporting. We are working diligently to effect these changes while minimizing disruption to operations and employees.

- c) After the reorganization, which officials in the Office of the Director will be consulted about OFLEO activities? Which of these officials have been hired, politically appointed or detailed to the Consumer Bureau since November 24, 2017?
- d) After the reorganization, which political appointees and temporarily-detailed employees will be granted veto power over OFLEO activities and decisions?
- e) What criteria will political appointees and temporarily-detailed employees in the Office of the Director use to determine whether the Bureau will follow the recommendations of career policy experts in the OFLEO?
- f) What actions will the Bureau take to ensure that OFLEO decisions continue to be based on the best advice of independent, expert, career policy staff rather than the whims of political appointees?

*Response (c-f)*

I note that these questions are identical or substantially similar to questions I received from Senators Sherrod Brown (OH) and Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing and Urban Affairs regarding the Bureau's semi-annual report. For that reason, I am providing you the same response I will provide to the Senators.

In consultation with Bureau stakeholders and the NTEU and in accordance with the Bureau's collective bargaining agreement, the Bureau and NTEU have signed a MOU on the implementation plan for the reorganization. Full implementation of the reorganization is

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

expected to take a few more months to complete. While the Bureau works through the processes required to fully implement such a change, OFLEO will continue to operate as it has previously.

- g) How will new requirements that the OFLEO report to the Office of the Director enhance the Consumer Bureau's ability to protect consumers from unfair discrimination?

*Response*

I note that this question is identical to questions I received from Senators Sherrod Brown (OH) and Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing and Urban Affairs regarding the Bureau's semi-annual report. For that reason, I am providing you the same response I will provide to the Senators.

The Bureau intends to continue fulfilling its statutory obligation to enforce Federal consumer financial laws, which include the Equal Credit Opportunity Act (ECOA) and the Home Mortgage Disclosure Act (HMDA). The reorganization should improve the Bureau's operations and our interactions with consumers and industry, in fulfillment of our mission, and in full compliance with the Bureau's statutory mandate. The Bureau's supervision and enforcement of fair lending laws will continue uninterrupted in the existing supervision and enforcement offices. This will allow remaining OFLEO personnel to focus on education, outreach, and compliance efforts. OFLEO's previous organizational structure placed primary emphasis on "back-end" supervision and enforcement of fair lending laws, resulting in a focus on corrective measures, rather than "front-end" promotion of education, and coordination of, fair lending efforts.

*Question 18*

Please describe any independent analyses, such as third-party studies, that informed the decision to bring the OFLEO under the Office of the Director and strip the Office of its enforcement and supervisory authority.

*Response*

I note that this question is identical to questions I received from Senators Sherrod Brown (OH) and Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing and Urban Affairs regarding the Bureau's semi-annual report. For that reason, I am providing you the same response I will provide to the Senators.

Under the Dodd-Frank Act, the OFLEO "shall have such powers and duties as the Director may delegate to the Office." I have been working to ensure that the Bureau's operations are conducted in a way that best enables the Bureau to fulfill all of the Bureau's statutory requirements while reducing redundancy and maximizing efficiency. Changes to the structure and operations of OFLEO are being implemented in furtherance of these priorities.

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

*Question 19*

Did you or any other Consumer Bureau employee consult with or discuss this reorganization with any outside entities – including lobbyists or representatives of the banking or financial services industry – prior to announcing the reorganization?

*Response*

I note that this question is identical to questions I received from Senators Sherrod Brown (OH) and Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing and Urban Affairs regarding the Bureau's semi-annual report. For that reason, I am providing you the same response I will provide to the Senators.

No, I did not consult, nor am I aware of any Bureau employee discussing, the reorganization outside of the Bureau.

*Question 20*

Did you consult with other officials at OMB or the White House about the OFLEO reorganization prior to its announcement?

*Response*

I note that this question is identical or substantially similar to questions I received from Senators Sherrod Brown (OH) and Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing and Urban Affairs regarding the Bureau's semi-annual report. For that reason, I am providing you the same response I will provide to the Senators.

Office of Management and Budget (OMB) detailees to the Bureau were, as a matter of course, part of the discussion, but no other employees at OMB or the White House were consulted.

*Question 21*

Is the Consumer Bureau considering any substantive changes to its approach to the enforcement of fair lending laws, including changes to the Consumer Bureau's interpretation of these laws? If so, please describe the substantive changes that are under consideration.

*Response*

I note that this question is similar to questions I received from Senators Sherrod Brown (OH) and Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking,

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

Housing and Urban Affairs regarding the Bureau's semi-annual report. For that reason, I am providing you the same response I will provide to the Senators.

The Bureau intends to continue fulfilling its statutory obligation to enforce Federal consumer financial laws, which include the Equal Credit Opportunity Act (ECOA) and the Home Mortgage Disclosure Act (HMDA). As you may be aware, the Bureau issued a statement on the passage of the Congressional Review Act resolution disapproving a bulletin titled "Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act," which had provided guidance about the ECOA and its implementing regulation, Regulation B. Consistent with the joint resolution, the guidance has no force or effect. The ECOA and Regulation B are unchanged and remain in force and effect. As I noted in that statement, I want to make it abundantly clear that the Bureau will continue to fight unlawful discrimination at every turn. We will vigorously enforce fair lending laws in our jurisdiction, and will stand on guard against unlawful discrimination in credit. However, given this recent Congressional action, the Bureau will be reexamining the requirements of ECOA in light of relevant Supreme Court precedents.

In addition, on August 31, 2018, the Bureau issued an interpretive and procedural rule<sup>2</sup> to implement and clarify the requirements of section 104(a) of the "Economic Growth, Regulatory Relief, and Consumer Protection Act" (the Act), which amended the HMDA. The Bureau also released updates to the Filing Instructions Guide (FIG) for HMDA data collected in 2018 to incorporate the Act as implemented and clarified by the rule issued that day.

The Act contains provisions that are intended to decrease the burden smaller depository institutions face in complying with HMDA and its implementing regulation, Regulation C. Some such institutions have raised questions about the application of the Act, and the rule issued in August seeks to provide clarification. At a later date, the Bureau anticipates that it will initiate a notice-and-comment rulemaking to incorporate these interpretations and procedures into Regulation C and further implement the Act.

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<sup>2</sup> [https://files.consumerfinance.gov/f/documents/bcfp\\_hmda\\_interpretive-procedural-rule\\_2018-08.pdf](https://files.consumerfinance.gov/f/documents/bcfp_hmda_interpretive-procedural-rule_2018-08.pdf).

House Committee on Financial Services  
*The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection*  
Questions for the Record  
April 11, 2018

**Questions for the Honorable Mick Mulvaney, Acting Director, Bureau of Consumer Financial Protection, from Congressman Ted Budd:**

*Question*

Installment lending is regulated on a state by state basis, which allows regulators to make more informed regulatory decisions based on their state's consumer's needs, and their knowledge of their state's communities. In your experience as a state legislator, member of this Committee, and now as the Director of the CFPB, do you agree that installment lending is best regulated at the state level and not by the CFPB?

*Response*

As someone who is a staunch defender of our federal system, I believe that our Constitution limits Congress to the exercise of specific, enumerated powers, with all other powers reserved to the states or the people.

In my experience, laws enacted at the local level are usually best tailored to the needs of local citizens, and government officials are better held accountable.

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

**Questions for the Honorable Mick Mulvaney, Acting Director, Bureau of Consumer Financial Protection, from Congressman Bill Huizenga:**

*Question 1*

The Bureau has a statutory mandate to review major rulemakings five years after the rules are completed. A number of major mortgage rules, including the Ability to Repay/Qualified Mortgage and servicing rules, are subject to this mandatory lookback. What are the Bureau's plans for this mandatory lookback period under your leadership? What sort of processes are you planning internally to review the feedback received thus far on how the rules are and aren't working? And what is the timeframe for these actions?

*Response*

Section 1022(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires the Bureau of Consumer Financial Protection (Bureau) to conduct an assessment of each significant rule or order adopted by the Bureau under federal consumer financial law. The Bureau must publish a report of the assessment not later than five years after the effective date of such rule or order. The assessment must address, among other relevant factors, the effectiveness of the rule or order in meeting the purposes and objectives of Title X of the Dodd-Frank Act and the specific goals stated by the Bureau. The assessment must reflect available evidence and any data that the Bureau reasonably may collect. Before publishing a report of its assessment, the Bureau must invite public comment on recommendations for modifying, expanding, or eliminating the significant rule or order.

The Bureau is committed to meeting its statutory obligations. The Bureau has released its report on its assessment of the Remittances rule and is currently in the process of conducting assessments of the Ability-to-Repay/Qualified Mortgage (ATR/QM) rule and the Mortgage Servicing (Regulation X) rule and plans to publish its reports by the statutory deadline of January 2019. As part of these assessments, the Bureau has solicited public comment on recommendations for modifying, expanding, or eliminating the rules as well as comments on the assessment plans and certain other information that may be useful in conducting the assessments. The feedback that the Bureau receives through the invitation for public comment can, among other things, provide evidence to the Bureau about the effects of rules and point the Bureau toward reports and other information about the rules. Once the assessments are complete, the Bureau will evaluate whether amending the rules may be warranted.

*Question 2*

The Bureau was granted broad rulemaking authority by the Dodd-Frank Act. Under previous leadership, the Bureau wasn't always consistent in interpreting and exercising its authorities under the statute. What will the approach be under your leadership? Do you believe the Bureau has the latitude to interpret statutory language as it sees fit?

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

*Response*

The Bureau's responsibility is to enforce the law as written. Congress has delegated to the Bureau broad rulemaking authority, the purpose of which should be to effectuate statutes, not make policy as the Bureau sees fit. In exercising this authority, the Bureau should act with humility and prudence, and to undertake rulemakings only where necessary or appropriate.

*Question 3*

The Treasury Department released a series of reports related to the President's February 3, 2017 Executive Order, which include a number of recommendations for administration action by the Bureau with regard to modifying Appendix Q of the Ability-to-Repay rule and revising the QM 3% points and fees standard, among others. What is the Bureau's timing and process for taking action on these recommendations?

*Response*

As noted in a previous response, the Bureau will be examining its Ability-to-Repay/Qualified Mortgage rule (ATR/QM rule) and its impacts through our upcoming assessment of the rule, in accordance with the Dodd-Frank Act, as well as in the Bureau's *Call for Evidence* initiative.

In a *Federal Register* notice published on June 1, 2017, the Bureau announced that it is conducting an assessment of the ATR/QM rule, in accordance with Section 1022(d) of the Dodd-Frank Act. The Bureau asked the public to comment on the planned assessment as well as certain recommendations and information that may be useful in conducting the assessment. Comments were due on July 31, 2017, and the Bureau is considering public feedback in conducting the assessment. Like the assessments of other significant Bureau rules, the Bureau does not anticipate that the ATR/QM assessment report will include specific proposals by the Bureau to modify the rule. However, once the assessment is complete, the Bureau intends to evaluate whether amending the rule may be warranted. We will also consider feedback from many other sources, including the recommendations in the Treasury report, as part of that process.

In addition, as mentioned, the Bureau has completed a *Call for Evidence* initiative aimed at gathering public feedback on the wide range of work done by this agency. The Bureau issued Requests for Information (RFIs) seeking comments and information from interested parties to assist the Bureau in considering, among other things, whether, consistent with its authority to prescribe rules pursuant to federal consumer financial law, the Bureau should amend the rules it has promulgated since its creation. Bureau staff is in the process of reviewing the comments received in response to these RFIs.

**House Committee on Financial Services**  
**The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection**  
**Questions for the Record**  
**April 11, 2018**

**Questions for the Honorable Mick Mulvaney, Acting Director, Bureau of Consumer Financial Protection, from Congressman Randy Hultgren:**

*Question 1*

Section 1035 of the Dodd-Frank Act establishes a Private Education Loan Ombudsman that is designated by the Treasury Secretary in consultation with the Director of the CFPB. The Bureau has also established an Assistant Director for Students and Young Consumers within its Consumer Education and Engagement Division. This Assistant Director appears to be appointed by the Director of the CFPB, not the Treasury Secretary. Under the past leadership of the CFPB, one person has been designated as both the Private Education Loan Ombudsman and the Assistant Director of the Office of Students and Young Consumers. These dual roles have occurred not once, but twice: first with Rohit Chopra and now Seth Frotman.

In general, an Ombudsman is understood to be an impartial arbiter. Merriam-Webster defines Ombudsman defines an "Ombudsman" as: 1) A government official (as in Sweden or New Zealand) appointed to receive and investigate complaints made by individuals against abuses or capricious acts of public officials; or 2) One that investigates, reports on, and helps settle complaints. I am concerned the responsibilities of the Private Education Loan Ombudsman cannot be fulfilled if he or she fills another position at the Bureau.

- a) Do you believe it is important for an Ombudsman to be impartial?

*Response*

As you know, the nature and duties of the Private Education Loan Ombudsman are set forth in Section 1035 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. I agree with you that the position should be impartial.

- b) Will you commit to separating these two discrete positions at the CFPB?

*Response*

I am reviewing all positions at the Bureau and am working to ensure that the staffing reflects the statute and have instructed staff to confer with the Division of Consumer Education and Engagement to better understand how the two roles work.

- c) Will you recommend a new candidate to the Treasury Secretary for the Private Education Loan Ombudsman position?

*Response*

As you know, the Bureau's Private Education Loan Ombudsman resigned on September 1, 2018. As you may also know, the statute states the Secretary of the Treasury, in consultation with the

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

Director, shall designate a Private Education Loan Ombudsman within the Bureau.

House Committee on Financial Services  
*The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection*  
 Questions for the Record  
 April 11, 2018

**Questions for the Honorable Mick Mulvaney, Acting Director, Bureau of Consumer Financial Protection, from Congressman Robert Pittenger:**

*Question 1*

The Bureau in the fall of 2016 adopted a new prepaid account regulation that requires special disclosures and prohibits overdraft fees on prepaid accounts. The rule excludes from the definition of prepaid account checking accounts, which are subject to other disclosures under the same regulation (Regulation E) and under the Truth in Savings Act. However, the prepaid rule does not make a clear distinction between prepaid accounts and checking accounts. The result is a potential “gotcha” if regulators or plaintiffs’ attorneys disagree with a bank that its bank account is a checking account and assert it is a prepaid account, resulting in potential enormous liability and penalties.

Would you agree that an account is a “checking account” and not a prepaid account if:

- It is an account opened directly or indirectly with a bank in the name of a consumer;
- It is subject to customer identification procedures on the consumer;
- The depository institution holding the account complies with the other provisions; of Regulation E and with the Truth in Savings Act with respect to the account, and;
- The account is covered by FDIC insurance?

*Response*

The Bureau of Consumer Financial Protection (Bureau) sought to provide a clear delineation between prepaid accounts and other accounts covered by Regulation E in the 2016 prepaid accounts rule.

However, several stakeholders raised questions specifically about the dividing line between prepaid and checkless checking products in comment letters they submitted when the Bureau proposed certain amendments to the prepaid accounts rule in 2017, as well as through other informal avenues. We are continuing to engage with stakeholders on this issue, and will issue additional guidance or clarification if it is necessary and appropriate to do so.

*Question 2*

The tone coming out of the Bureau regarding its willingness to reexamine its enforcement posture on a number of fronts is refreshing. This is an important step and towards the stated goal of enforcing consumer protection laws while issuing clear guidance to industry with respect to statutory boundaries. These recent actions, however, are reversible in the future. This potential for future uncertainty is unwelcome to businesses who deal with long-duration assets.

- Is there any thought to codifying through rules and regulations the ideal enforcement posture and procedures of the bureau?

**House Committee on Financial Services**  
**The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection**  
**Questions for the Record**  
**April 11, 2018**

*Response*

Through the Bureau's *Call for Evidence* initiative, the Bureau solicited comments on ways to improve its current practices. The Bureau may consider issuing rules as a result of that process.

*Question 3*

While the Bureau is supposed to use a risk-based approach to supervising nonbank mortgage lenders, there remains some opacity on the Bureau's approach examinations of these institutions.

- Will the Bureau issue public guidance on what factors go into that framework? And do you see the Bureau leaning more on state mortgage regulators to supervise nonbank lenders?

*Response*

The Bureau's risk-based approach to allocating supervisory resources among nonbanks is statutory. Section 1024(b)(2) of the Consumer Financial Protection Act (CFPA) lays out five factors to be considered when determining the Bureau's exam calendar; some are market based and some are entity based. One of those factors is "the extent to which such institutions are subject to oversight by State authorities for consumer protection." The Bureau coordinates its exam calendar with state examiners, including in the nonbank mortgage market.

In terms of public guidance, the Bureau periodically publishes *Supervisory Highlights* to share key examination findings and to help the entities we supervise limit risks to consumers and comply with federal consumer financial law. Our *Supervisory Highlights* do not refer to any specific institution in order to maintain the confidentiality of supervised entities. The Bureau has discussed its prioritization process in multiple editions of *Supervisory Highlights*.<sup>3</sup> The Bureau is interested in working more closely with state regulators to ensure proper supervision efforts are coordinated and efficient.

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<sup>3</sup> *Supervisory Highlights: Summer 2013*, at page 23, available at [http://files.consumerfinance.gov/f/201308\\_cfpb\\_supervisory-highlights\\_august.pdf](http://files.consumerfinance.gov/f/201308_cfpb_supervisory-highlights_august.pdf). See also *Supervisory Highlights: Summer 2015*, at page 25, available at [https://files.consumerfinance.gov/f/201506\\_cfpb\\_supervisory-highlights.pdf](https://files.consumerfinance.gov/f/201506_cfpb_supervisory-highlights.pdf). See also *Supervisory Highlights: Summer 2017*, at page 39, available at [https://www.consumerfinance.gov/documents/5386/201709\\_cfpb\\_Supervisory-Highlights\\_Issue-16.pdf](https://www.consumerfinance.gov/documents/5386/201709_cfpb_Supervisory-Highlights_Issue-16.pdf).

**House Committee on Financial Services**  
*The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection*  
**Questions for the Record**  
April 11, 2018

**Questions for the Honorable Mick Mulvaney, Acting Director, Bureau of Consumer Financial Protection, from Congresswoman Kyrsten Sinema:**

*Question 1*

For several years, I've reached across the aisle to protect Arizona seniors from financial fraud and abuse. I worked with Congressman Poliquin to introduce H.R. 3758, the Senior Safe Act, which provides a safe channel for trained personnel at a financial institution to report to the proper authorities if they suspect their customers or clients are victimized. Our bill ensures personnel receive training on how to detect suspicious patterns of transactions that are hallmarks of fraud and abuse. It has broad, bipartisan support in both the House and the Senate. Do you support Congress passing the Senior Safe Act this year, and how do you see the bill's provisions aligning with the CFPB's mission to serve and protect older Americans?

*Response*

As you know, much of H.R. 3758, the "Senior Safe Act," was recently enacted as part of S. 2155, the "Economic Growth, Regulatory Relief and Consumer Protection Act." I applaud your efforts and my former colleagues in Congress for coming together to pass the most significant financial reform legislation in recent history. This new law will improve consumers' access to credit, reduce regulatory burdens on credit unions and community banks, and fuel economic growth and job creation across the nation.

*Question 2*

To best fulfill the consumer-focused mission of the Consumer Financial Protection Bureau, the CFPB should consult with state and local stakeholders to understand their concerns and the challenges they face. It is important that Arizonans have their voices heard regarding financial regulations that govern the products and services they use, and that includes preserving laws our state has enacted. Some of these laws protect consumers from fraud and abuse, and others expand access to small business lending so companies can grow and create jobs. How will the CFPB respect state law and ensure a diverse range of state and local stakeholder positions are reflected in the regulatory process?

*Response*

As I have frequently stated, the Bureau is committed to fulfilling its statutory responsibilities and ensuring that efforts to execute those responsibilities do not go beyond applicable laws and regulations established by the legislative and executive branches of government respectively. Chief among those responsibilities, provided for in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), 12 USC § 5495, 12 U.S.C. § 5512(c)(6)(C), 12 U.S.C. § 5514(b)(3), and 12 U.S.C. § 5515(b)(2), is for the Bureau to coordinate with state

**House Committee on Financial Services**  
***The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 11, 2018**

attorneys general and state regulators to ensure that state laws are taken into account and state sovereignty respected.

I understand these statutory provisions to mean coordination with state and local policymakers before, during, and after the rulemaking and policy-setting processes. The Bureau's leadership and staff are working to maintain and expand this cooperative partnership. To that end, I initiated an aggressive outreach effort with state and local officials soon after I assumed leadership of the agency. This effort was alongside a *Call for Evidence* initiative, seeking input from Bureau stakeholders, including state and local officials. The *Call for Evidence* was designed to ensure the Bureau is fulfilling statutorily mandated functions in protecting consumers in the financial marketplace. The Bureau is in the process of reviewing the thousands of comments, which included comments from national associations representing state and local officials. I expect those results will bolster the Bureau's commitment to more intentionally draw upon the best practices of state and local partners, to better inform the Bureau's regulatory work, policy initiatives, and development of consumer tools.

*Question 3*

Arizonans value their privacy, and they are frustrated by the government largely failing to take action to hold Equifax accountable. A few months ago, news outlets reported that the CFPB was stepping back from its investigation into the data breach at Equifax. Please provide a comprehensive list of specific actions the CFPB has taken on Equifax since your start at the agency, and please provide insight into what the agency plans to do to hold Equifax accountable for any wrongdoing going forward.

*Response*

As a point of clarification, all decisions related to pending enforcement actions are made by or in consultation with career staff at the Bureau.

There has been no change in the position from previous leadership of the Bureau regarding Equifax. Additionally, I intend to vigorously enforce federal consumer financial law and am reviewing all of the Bureau's enforcement matters to ensure that the ongoing work adheres to the proper interpretation of federal consumer financial law.

*Question 4*

Arizona community banks and credit unions are frustrated that multiple regulators routinely come to their offices to ask for the same information. This takes valuable time and resources away from serving customers and expanding personal and small business lending for Arizonans. It also creates the perception that agencies lack coordination and spend taxpayer dollars to conduct redundant activities. Can you share what you have witnessed with respect to regulatory

**House Committee on Financial Services**  
*The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection*  
**Questions for the Record**  
**April 11, 2018**

coordination? Do you think more can be done to streamline the examination process and reduce duplication of effort? Please provide any legislation actions you believe are appropriate in this regard.

*Response*

The Bureau is always looking for ways to improve coordination with its sister regulators, and hopes to continue those efforts through a number of pre-existing mechanisms.

The Dodd-Frank Act contains a number of coordination provisions, all with the goal of minimizing regulatory burden on supervised entities. To that end, we have established strong working relationships with the federal regulators through the Federal Financial Institutions Examination Council (FFIEC),<sup>4</sup> which routinely reviews examination processes with the goals of reducing redundancy and burden on supervised entities. The Bureau dedicates significant resources to staff all FFIEC Task Forces and relevant working groups. We expect that this will continue and that the Bureau will continue to play a leading role in that work.

For entities with state-level regulators, we interact with the state financial regulators through the State Coordinating Committee via the Conference of State Bank Supervisors, and we conduct nonbank coordinated examinations annually in areas where we have concurrent jurisdiction. We hold joint examiner trainings, share all examination reports and supervisory letters pursuant to standing information sharing agreements, and are always working to identify further opportunities for coordination through regular staff check-ins and quarterly executive-level meetings.

Finally, we work closely with the Federal Trade Commission on investigations and matters where we have overlapping jurisdiction, and routinely share relevant information through regular meetings and information sharing agreements.

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<sup>4</sup> The FFIEC includes the Bureau, Federal Deposit Insurance Corporation (FDIC), the Comptroller of the Currency (OCC), the National Credit Union Administration (NCUA), the Federal Reserve Board (FRB), and the State Liaison Committee.