AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

OVERSIGHT OF THE FEDERAL HOUSING FINANCE AGENCY

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

APRIL 12, 2018

Printed for the use of the Committee on Financial Services

Serial No. 115–84

U.S. GOVERNMENT PUBLISHING OFFICE
31–418 PDF WASHINGTON : 2018

HOUSE COMMITTEE ON FINANCIAL SERVICES

JEB HENSARLING, Texas, *Chairman*

PATRICK T. MCHENRY, North Carolina, *Vice Chairman*
PETER T. KING, New York
EDWARD R. ROYCE, California
FRANK D. LUCAS, Oklahoma
STEVAN PEARCE, New Mexico
BILL POSEY, Florida
BLAINE LUETKEMEYER, Missouri
BILL HUIZENGA, Michigan
SEAN P. DUFFY, Wisconsin
STEVE STIVERS, Ohio
RANDY HULTGREN, Illinois
DENNIS A. ROSS, Florida
ROBERT PITTENGER, North Carolina
ANN WAGNER, Missouri
ANDY BARR, Kentucky
KEITH J. ROTHFUS, Pennsylvania
LUKE MESSER, Indiana
SCOTT TIPTON, Colorado
ROGER WILLIAMS, Texas
BRUCE POLIQUIN, Maine
MIA LOVE, Utah
FRENCH HILL, Arkansas
TOM EMMER, Minnesota
LEE M. ZELDIN, New York
DAVID A. TROTT, Michigan
BARRY LOUDERMILK, Georgia
ALEXANDER X. MOONEY, West Virginia
THOMAS MACARTHUR, New Jersey
WARREN DAVIDSON, Ohio
TED BUDD, North Carolina
DAVID KUSTOFF, Tennessee
CLAUDIA TENNEY, New York
TREY HOLLINGSWORTH, Indiana

MAXINE WATERS, California, *Ranking Member*
CAROLYN B. MALONEY, New York
NYDIA M. VELÁZQUEZ, New York
BRAD SHERMAN, California
GREGORY W. MEEKS, New York
MICHAEL E. CAPUANO, Massachusetts
WM. LACY CLAY, Missouri
STEPHEN F. LYNCH, Massachusetts
DAVID SCOTT, Georgia
AL GREEN, Texas
EMANUEL CLEAVER, Missouri
GWEN MOORE, Wisconsin
KEITH ELLISON, Minnesota
ED PERLMUTTER, Colorado
JAMES A. HIMES, Connecticut
BILL FOSTER, Illinois
DANIEL T. KILDEE, Michigan
JOHN K. DELANEY, Maryland
KYRSTEN SINEMA, Arizona
JOYCE BEATTY, Ohio
DENNY HECK, Washington
JUAN VARGAS, California
JOSH GOTTHEIMER, New Jersey
VICENTE GONZALEZ, Texas
CHARLIE CRIST, Florida
RUBEN KIHUEN, Nevada

SHANNON MCGAHN, *Staff Director*

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

ANN WAGNER, Missouri, *Chairwoman*

SCOTT TIPTON, Colorado, *Vice Chairman*
PETER T. KING, New York
PATRICK T. MCHENRY, North Carolina
DENNIS A. ROSS, Florida
LUKE MESSER, Indiana
LEE M. ZELDIN, New York
DAVID A. TROTT, Michigan
BARRY LOUDERMILK, Georgia
DAVID KUSTOFF, Tennessee
CLAUDIA TENNEY, New York
TREY HOLLINGSWORTH, Indiana

AL GREEN, Texas, *Ranking Member*
KEITH ELLISON, Minnesota
EMANUEL CLEAVER, Missouri
JOYCE BEATTY, Ohio
MICHAEL E. CAPUANO, Massachusetts
GWEN MOORE, Wisconsin
JOSH GOTTHEIMER, New Jersey
VICENTE GONZALEZ, Texas
CHARLIE CRIST, Florida

CONTENTS

Page

Hearing held on:
April 12, 2018 1
Appendix:
April 12, 2018 27

WITNESSES

THURSDAY, APRIL 12, 2018

Wertheimer, Hon. Laura, Inspector General, Federal Housing Finance Agency 4

APPENDIX

Prepared statements:
Wertheimer, Hon. Laura 28

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Green, Hon. Al:
MarketWatch article entitled, "CFPB May Fine Wells Fargo as Much as $1 Billion: Report" 44
American Banker article entitled, "CFPB's Mulvaney Strips His Fair-lending Office of Enforcement Powers" 45
Reuters article entitled, "Exclusive: U.S. Watchdog Seeks Record Fine against Wells Fargo for Abuses" 50
Wertheimer, Hon. Laura:
Written responses to questions for the record submitted to Representative Messer 52

OVERSIGHT OF THE FEDERAL HOUSING FINANCE AGENCY

Thursday, April 12, 2018

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2128, Rayburn House Office Building, Hon. Ann Wagner [chairwoman of the subcommittee] presiding.

Members present: Representatives Wagner, Tipton, Zeldin, Trott, Loudermilk, Kustoff, Tenney, Hollingsworth, Green, Cleaver, Beatty, Gottheimer, and Crist.

Mrs. WAGNER. The Subcommittee on Oversight and Investigation will come to order.

Today's hearing is entitled, "Oversight of the Federal Housing Finance Agency."

Without objection, the Chair is authorized to declare a recess of the subcommittee at any time.

Without objection, all members will have 5 legislative days within which to submit extraneous materials to the Chair for inclusion in the record.

Without objection, members of the full committee who are not members of this subcommittee may participate in today's hearing for the purpose of making an opening statement and questioning our witness.

The Chair now recognizes herself for 4 minutes for an opening statement.

The Federal Housing Finance Agency—FHFA—was established as an independent regulatory body tasked with supervision and regulatory authority of the Government-sponsored enterprises—GSE—which include Fannie Mae and Freddie Mac.

In recent years, FHFA has taken on an additional, somewhat unique role, acting as the conservator of Fannie and Freddie.

As conservator, FHFA is tasked with decreasing taxpayer risk, which, roughly, stands at $5.3 trillion, while promoting the role of private capital in the mortgage market.

Unfortunately, acting as both the regulator and conservator of Fannie and Freddie creates an obvious conflict.

FHFA should be shrinking, not expanding, its powers outside the scope of its Congressional mandate. Today's hearing will highlight the need for Congress to build a consensus on a more balanced ap-

proach to home ownership that relies less on taxpayer subsidies and more on private capital and free market incentives.

Since 2008, U.S. taxpayers have invested nearly $193.5 billion into Fannie and Freddie alone, leaving serious concerns about their future.

As to FHFA's role as regulator combined the GSEs represent one of the largest financial institutions in the world with trillions of dollars in assets.

In recent testimony before this committee, FHFA Director Mel Watt noted that absent a conservatorship, both Fannie and Freddie would be considered systemically important financial institutions—SIFIs.

While other SIFIs are supervised and regulated by the Federal Reserve, Fannie and Freddie are not. Unfortunately, it appears that the FHFA regulators are not up to snuff.

FHFA is a young regulator and the IG (inspector general) has identified repeated flaws in supervision. Even more concerning, in my view, is the fact that FHFA has failed to accept and implement all of the IG recommendations designed to fix this issue, as the IG put it in a 2016 report titled, "Safe and Sound Operation of the Enterprises Cannot be Assumed Because of Significant Shortcomings in FHFA's Supervision Program for the Enterprises."

In this regard, the subcommittee is particularly concerned about the GSE's cybersecurity infrastructure. The increase of cyber threats targeting our financial system has increased dramatically over the last decade.

A number of attacks targeting financial services companies rose by more than 80 percent last year alone. The inspector general has previously reported that FHFA did not complete any of its supervisory activities planned for the 2016 examination cycle relating to Fannie Mae's cybersecurity risks.

Ultimately, ensuring that the GSEs are protected from all cyber threats falls to Director Watt, and the members of this subcommittee should be concerned where an entity controlling highly sensitive data, controlling trillions of dollars in assets lacks proper oversight.

In addition to the reports on safety and soundness, the IG's reports raise serious questions as to whether FHFA is appropriately exercising its authority as conservator to ensure that they are good stewards of taxpayer money.

In particular, under conservatorship Fannie Mae elected to relocate a number of its facilities including its headquarters in Washington, D.C.

According to a report from September 2017, the Office of Inspector General questioned upgrades and finishes that push the total renovation cost to $32 million.

Again, I want to thank the inspector general for her time this morning and I look forward to her testimony.

I now have the privilege of recognizing the gentleman from Texas, Mr. Green, the Ranking Member, for 5 minutes.

Mr. GREEN. Thank you very much, Madam Chair. I thank the IG for appearing and I'd also like to just briefly recognize the presence of a former member of the committee, Mr. Garrett. He and I rarely

agreed on anything but we remain friends, and welcome to the committee again, Mr. Garrett.

I'd like to also, if I may, compliment Mr. Watt for his impeccable service, his stellar character. He is a person who has been on this committee, served with a—with distinction on the committee and is someone that is highly respected in the industry, and I am pleased to call him a person that I have great confidence in as the director of FHFA.

I would in no way diminish the value of this hearing. I believe that it is an important hearing. But I also contend that there are some other things that we should look into and I'd like to cite just a few.

Wells Fargo may be fined a billion dollars for auto insurance and mortgage lending. I've got several articles here, one from MarketWatch that's styled, "CFPB May Fine Wells Fargo as Much as a Billion Dollars," another that I won't cite presently but I'll place in the record at a later time.

I'd like to at some point visit with HUD (U.S. Department of Housing and Urban Development) about the disaster relief—that recovery effort in Florida, Texas, Virgin Islands, Puerto Rico. They are much concerned about this.

We had a field hearing in Houston just last week on this issue and there are many housing issues that—of concern to persons in these various areas. We need to at least find out how the money will get to some of the recipients.

For example, will there be a direct funding to a city like Houston that has received funds directly before or will the funds go through another layer of the bureaucracy such that it may take additional time, which means that people will continue to suffer?

Also concerned about the stripping of the CFPB's (Consumer Financial Protection Bureau) Office of Fair Lending's enforcement powers. I think that it was very good, Madam Chair, to hear from Mr. Mulvaney yesterday. But I do believe that there are two sides to these stories and the advocacy groups have a voice.

That voice ought to be heard such that we can better understand what's happening over at the CFPB. Are we really about to restructure it such that it will no longer be the watch dog that we intended and perhaps become some sort of lap dog? The CFPB is there for the consumer.

It is the Consumer Financial Protection Bureau, not the financial system's protection bureau, and I think we need to look into this.

I would also mention to you that invidious discrimination is still afoot in this country. Mr. Mulvaney said as much yesterday, and we know that Bancorp South has been fined more than $10 million for discrimination and that the finding was based in part on testing where there were persons who were actually sent into the bank, had an experience with the bank officers in attempting to get loans, and it was determined that persons of color were treated differently when they went into the bank.

They didn't have the same access to capital. Access to capital is important in this country. Invidious discrimination in banking is something that we can deal with.

We can mitigate and eliminate this type of behavior in banking if we would use the tools that are available to us to acquire the em-

pirical evidence and testing is one of those tools. The CFPB has already engaged in testing as early as 2016.

So these are some issues of concern, too. Advocacy groups have a voice. We should hear from them as well. I appreciate what we will hear today.

I've had the opportunity to peruse the testimony and I look forward to hearing more and saying more about some of these other things as well.

I will yield back the 2 seconds I have.

Mrs. WAGNER. The gentleman yields back.

The Chair now recognizes the Vice Chair of the Oversight and Investigations Committee, the gentleman from Colorado, Mr. Tipton, for 1 minute for an opening statement.

Mr. TIPTON. Thank you, Chairwoman Wagner, and thank you, Ms. Wertheimer, for appearing before the committee today. The work of the inspector general at the FHFA is of crucial importance.

With the charge to oversee high valuation of assets backed by taxpayer dollars and broad discretion to exercise authority, FHFA has the potential to cause serious harm to the American financial system if it derails.

As such, the work of the inspector general to ensure that the FHFA is functioning properly and serves as a shrewd steward of taxpayer dollars comes into focus as essential.

The witness before the committee today, Ms. Wertheimer, has worked diligently to study the practices of the FHFA and make recommendations to keep the agency in check.

I look forward to her testimony and to hearing her thoughts on whether or not the agency has adhered to her recommendations and, again, I would like to thank the Chairwoman for holding the hearing and the witness for appearing.

I yield back.

Mrs. WAGNER. The gentleman from Colorado yields back.

We now welcome our witness, Laura Wertheimer. Today's witness, Laura Wertheimer, was confirmed as inspector general of the Federal Housing Finance Agency by the U.S. Senate in 2014.

Ms. Wertheimer oversees a staff of 135 professionals who are dedicated to promoting economy, efficiency, and effectiveness in all FHFA programs and operations.

Before arriving at the FHFA, she worked in private practice, receiving her law degree from Columbia University.

Once the witness has finished presenting her testimony, each member of the subcommittee will have 5 minutes in which to ask questions.

With that, the witness will now be recognized for 5 minutes to give an oral presentation of her testimony.

STATEMENT OF THE HONORABLE LAURA WERTHEIMER

Ms. WERTHEIMER. Chairman Wagner, Ranking Member Green, members of the subcommittee, thank you for inviting me today to testify regarding the work of the Office of Inspector General of the Federal Housing Finance Agency.

Effective oversight makes Government better and fosters effective change. Healthy skepticism through independent reviews, both by inspectors general and by Congress, acts as the disinfectant of

sunlight to ensure more efficient and effective Government and to identify problems, abuses, and deficiencies.

Because FHFA has unique responsibilities in its dual role as supervisor and conservator of Fannie Mae and Freddie Mac and as supervisor of the Federal Home Loan Banks, FHFA OIG's (Office of Inspector General) responsibilities are broader.

Making the right choices about what we audit, evaluate, and investigate is critical. Our work plan is risk based. It focuses on four major management and performances challenges facing FHFA. My oral remarks this morning focus on one portion of those challenges—FHFA's supervision of Fannie Mae and Freddie Mac.

During my tenure, FHFA OIG has issued 29 reports involving FHFA's supervision program for the enterprises and 56 recommendations to address shortcomings and deficiencies that we found.

FHFA agreed in full to 38 of them, or 68 percent. We found that the design and execution shortcomings burdened FHFA's supervision program and we identified four recurrent themes: First, many FHFA supervisory standards and guidance lack the rigor of those issued by other Federal financial regulators; second, the flexible and prescriptive nature of many FHFA standards and guidance has resulted in inconsistent supervisory practices; third, where FHFA issued clear standards and guidance, examiners have not consistently followed them; and fourth, FHFA lacks adequate assurance that its supervisory resources are devoted to examining the highest risks of the enterprises.

Based on our work, we have cautioned stakeholders that the safe and sound operation of Fannie Mae and Freddie Mac cannot be assumed because of the significant shortcomings in FHFA's supervision program.

While the deputy inspectors general of our audit and evaluation offices have recently observed some signs indicating improvements in the supervision program, it is too early to assess whether these improvements are significant and sustainable.

Clearer standards, guidance, training, responsibility, and accountability are necessary to remediate the shortcomings and deficiencies we have identified. At this juncture, we have not identified sufficient sustained improvements to warrant removal of our caution.

During my tenure as inspector general, we have issued a total of 85 reports to alert FHFA leadership and our stakeholders to significant issues, which include 117 recommendations to address identified shortcomings and deficiencies.

Of those 117, FHFA fully agreed to 95 or, roughly, 81 percent. During the same period, we questioned costs of more than $104 million. Our civil investigations during this period resulted in more than $22 billion in judgments and settlements for the Federal Government and our criminal investigations resulted in more than $784 million in fines, penalties, and the like.

I thank this subcommittee for the opportunity to testify today. I am happy to answer any questions that you may have.

Thank you.

[Prepared statement of Ms. Wertheimer can be found on page 28 of the Appendix.]

Mrs. WAGNER. The Chair thanks the witness for her opening statements and the Chair now recognizes herself for 5 minutes for questioning.

Ms. Wertheimer, are FHFA's statutory supervisory obligations similar to the obligations of the Office of Comptroller of the Currency—the OCC—the Board of Governors of the Federal Reserve system—the Federal Reserve—or the Federal Deposit Insurance Corporation—FDIC?

Ms. WERTHEIMER. We have compared—the answer is short—yes, they are.

Mrs. WAGNER. If it's fair to compare these agencies' requirements and guidance, how would you assess FHFA's standards against the other Federal financial regulators?

Ms. WERTHEIMER. We have reported on this in a number of our reports. Based on those reports, I would provide you this—with this assessment.

They are far more flexible and far less prescriptive than the guidance and requirements issued by the OCC, the Federal Reserve, and the FDIC.

Mrs. WAGNER. Is there—is there a reason why FHFA's standards differ so greatly from the other Federal financial regulators?

Ms. WERTHEIMER. FHFA maintains that the—that Fannie Mae and Freddie Mac—and when I—when I talk about supervisory standards here and the differences, I am talking largely about the supervisory program for the enterprises, not for the Federal Home Loan Banks, because the Federal Home Loan Banks—FHFA does have far more prescriptive guidance that is far closer to the OCC and the Federal Reserve.

The guidance is different when it comes to the enterprises and the position of the FHFA has been that Fannie Mae and Freddie Mac are not depository institutions and so much of the guidance and requirements that the OCC and the Federal Reserve have issued are not applicable.

As you know from our reports, we don't agree with that assessment.

Mrs. WAGNER. Nor do I. Have you—have you asked FHFA to improve its requirements and guidance?

Ms. WERTHEIMER. In multiple reports we have recommended that FHFA compare its flexible requirements and standards to those of the OCC, the Federal Reserve, and the FDIC.

Some of those recommendations they've accepted, some they have not.

Mrs. WAGNER. Reading your reports, it appears FHFA has consistently rejected your recommendations to revise its requirements and guidance to align them with those adopted by other Federal financial regulators.

What basis did FHFA give to reject your recommendations?

Ms. WERTHEIMER. That it has the authority to issue its own requirements, standards, and guidance and that's what it's done.

Mrs. WAGNER. Together, Fannie Mae and Freddie Mac—collectively, the enterprises—owned or guarantee about $5 trillion in mortgages and are among the largest financial institutions in this country.

Should either enterprise sustain losses that exceed their decreasing capital reserves, the Treasury and thus the American taxpayer will be on the hook for those losses.

FHFA is statutorily required to ensure the safety and soundness of the enterprises without prompt and robust attention to address the shortcomings that you have identified.

Can safety and soundness of the enterprises be assumed from FHFA's supervisory program?

Ms. WERTHEIMER. Well, as we cautioned, as you noted in your opening statement, in our December 2016 report, which was a roll-up of 12 prior reports, we cautioned our stakeholders that safety and soundness could not be assumed because of the—just because there was a supervisory program unless the deficiencies in that program were corrected.

Now, we are not the backup regulator for FHFA and safety—a decision of safety and soundness, which HERA (Housing and Economic Recovery Act) vests solely in the FHFA director, is based on factors other than a supervision program.

So I have no opinion on whether they are operating in a safe and sound manner. I can only tell you that the supervision program should not allow anyone—the existence of a supervision program should not allow anyone to assume the enterprises are being operated in a safe and sound manner.

Mrs. WAGNER. There you have it. I thank you.

The Chair now recognizes the gentleman from Florida, Mr. Crist, for 5 minutes.

Mr. CRIST. Thank you. I yield my time to the Ranking Member.

Thank you, Madam Chair.

Mr. GREEN. I thank—I thank the gentleman very much and appreciate his fine service on this committee and his sharing the time with me today.

For edification purposes, I did mention Florida earlier and our need to engage in some sort of oversight as it relates to HUD's transference of funds to the various States that have had some difficulties with the hurricanes.

Let me please start where you were ending in terms of safety and soundness. You indicated that we should not assume that there is safety and soundness. Is that a fair statement?

Ms. WERTHEIMER. No, I don't think it is, sir.

Mr. GREEN. All right. Would you correct it then? Because it's been misunderstood.

Ms. WERTHEIMER. What I have tried to convey in our reports and in my prior answer to Chairman Wagner is that the existence of a supervision program should not lead stakeholders to the conclusion that the enterprises are safe and sound because—

Mr. GREEN. Excuse me, if I may intercede. Thank you.

Should we assume that they are not safe and sound?

Ms. WERTHEIMER. As I said before, we have not done sufficient—

Mr. GREEN. Well, but here's what you're doing. By emphasizing it the way you are using the language, you're leading to believe that they may not be safe and sound and that is not what you intend to do. Am I correct?

Ms. WERTHEIMER. I respectfully disagree with you, sir.

Mr. GREEN. You do intend to cause the public to believe that they are not safe and sound?

Ms. WERTHEIMER. No, sir. I—

Mr. GREEN. Well, then you and I agree they are—that the public should not conclude from your testimony that they are not safe and sound.

Ms. WERTHEIMER. That decision is vested by statute solely in the FHFA.

Mr. GREEN. I do agree with you. But I don't agree that you should allow the verbiage to cause conclusions that are erroneous. Let's move on.

Mr. Watt has indicated that they are not depository institutions, which is correct, and that does make a difference, does it not?

Ms. WERTHEIMER. For some of the requirements and guidance you wouldn't need—wouldn't need guidance or standards that apply to the taking of deposits.

Mr. GREEN. But for others you would. You said for some, but for others you would.

Ms. WERTHEIMER. Right.

Mr. GREEN. What about the others? Are they in conservatorship—the Fed, FDIC, OCC? They are not.

Ms. WERTHEIMER. They are not.

Mr. GREEN. They are not. So Mr. Watt has a dual purpose, if you will. He has more than the other agencies have as a responsibility and, as a result, comparing them can be difficult. But I appreciate your attempt at doing so.

Now, you indicated that he accepted or—excuse me, FHFA accepted 95 of 118 recommendations?

Ms. WERTHEIMER. Seventeen.

Mr. GREEN. One hundred and seventeen recommendations—95 of 117. Has it been your experience that the other regulators always accept 100 percent of your recommendations?

Ms. WERTHEIMER. I don't have experience in that, sir. I've only been the inspector general of the—for the FHFA.

Mr. GREEN. Well, based upon your reading—you're widely read—based upon your understanding of what happens at the other regulators from other intelligence that you have acquired, do the other regulators accept 100 percent of the recommendations all the time?

Ms. WERTHEIMER. I don't have a factual basis to answer that. Ninety-five percent is a high percentage of agreement with our recommendations. There is no question about that and it is why I wanted to make that point to this subcommittee.

Mr. GREEN. Well, I greatly appreciate you making that point and I will welcome my visit with you a little bit later.

I'll yield back the balance of my time for now.

Mrs. WAGNER. Ranking Member yields back.

The Chair now recognizes the gentleman from Colorado, the Vice Chair of the Oversight and Investigations Committee, Mr. Tipton, for 5 minutes.

Mr. TIPTON. Thank you, Chairman.

Ms. Wertheimer, Section 1123 of the 2008 Housing Economic Recovery Act establishes that any new product offered by one of the enterprises must be examined and approved by the director of the

FHFA and each request to offer a new product must be subject to a 30-day public comment period.

Recently, Freddie Mac announced a new pilot program referred to as the Integrated Mortgage Insurance, or IMAGIN, that did not comply with HERA's statutorily required public comment period nor was it publicly approved by the FHFA.

Have you heard any explanations from the director or other relevant employees as to why this process was not adhered to for the IMAGIN program?

Ms. WERTHEIMER. That is not a program that we have examined and I don't lack—I lack any basis in which to answer that question.

Mr. TIPTON. OK. Well, thank you.

Your office recently issued a report in March about another program, "Single Family Mortgage Underwriting Standards and Variances," where you report that the FHFA has continuously failed to implement your office's best practices, recommendations for full visibility into the program, Single Family Underwriting Standards and Risks.

FHFA has repeatedly laid out the courses of action to your office and failed to follow through on these plans. Why hasn't FHFA adopted those standards and what can be done about their lack of adherence?

Ms. WERTHEIMER. As you know, we—that recommendation stemmed from a 2012 audit in which FHFA agreed that it needed greater visibility into the single family mortgage underwriting policies and variances because that is the foundation on which mortgages are written for single family buildings.

And the agreement—FHA proposed to issue and did issue in 2013 a single family process in which that review is—by which that review would be accomplished.

In 2015, our Office of Compliance and Special Projects, and let me just say that is an office that was created during my tenure because my view, based on my experience in private practice, is that you need to hold an entity's feet to the fire.

It's not enough for them to say they are going to do something. You have to go back and test whether in fact they have done it and whether in fact it remediates the deficiency that gave rise to the recommendation.

In 2015, we went back and looked and we found that their process was not complied with by either enterprise. One enterprise submitted everything and one enterprise submitted, I believe, only five, and the head of the office claimed to us that she lacked visibility into the mortgage—single family mortgage underwriting standards for that enterprise.

The FHFA agreed to reopen our prior recommendation and we were told that they would remediate it. There was a 2016 process that was issued. It was not followed by either enterprise.

The FHFA then began another effort to come up with a process they would follow. They've now committed that they will fix this by March 31, 2018.

I won't know about that until we go back and fix it. It has been 6 years since we recommended that they improve their process and they have not.

Is there a reason for that? As you know from our report, sir, there was a—the woman who was running the program had escalated her concerns within FHFA.

FHFA had the authority as conservator to revise the letters of instruction and direct the enterprises to follow the process. It did not.

Mr. TIPTON. You just described 6 years of failure to comply. You talked about the importance of holding their feet to the fire, as you noted. What are the repercussions if the enterprises are not in compliance with the recommendations from your office?

Ms. WERTHEIMER. Well, Congress has chosen to give inspectors general the power of the bully pulpit and that's about it. I have no, neither do any of my fellow inspectors general, have any authority to require agencies to do anything.

We can recommend items that we think are practical ways to fix deficiencies but we are at the mercy, if you will, of the entity we oversee to make those changes.

All we can do, or I believe all we can do, is to go back, as we have done here and call out the failure to follow those recommendations.

Mr. TIPTON. I thank you for that. And Chairman, I would think it would be appropriate for us on this IMAGIN program, given what we have just heard, to be able to request that you would look into, Ms. Wertheimer, into the practices surrounding that IMAGIN program and the processes that led to its implementation because we seem to be seeing a failure to comply statutorily and to sound recommendations coming out as well.

Thank you, and I yield back.

Mrs. WAGNER. Absolutely we will make that a formal request to the IG. The gentleman yields back.

The Chair now recognizes the gentleman from Michigan, Mr. Trott, for 5 minutes of questioning.

Mr. TROTT. I want to thank the Chair for setting up this hearing this morning and thank Ms. Wertheimer for her time and for her work in what I am sure is a difficult job.

The summary you gave of your written testimony was troubling, perhaps even shocking when you consider that we are talking about $5 trillion of exposure to the taxpayers.

I want to ask a few questions about some things you said. The $484 million of fines and penalties—can you elaborate and give us some examples of what some of those penalties might have involved?

Ms. WERTHEIMER. I misspoke, I believe, and tried to correct myself. I believe we are talking about the criminal fines and penalties.

Mr. TROTT. Right.

Ms. WERTHEIMER. The number was $784 since October—million since October 2014. Those arise—you know, we have an Office of Investigations. We are the law enforcement arm of FHFA.

Unlike some agencies that have—like the Department of Homeland Security has its own law enforcement branch, FHFA does not and so we act as the law enforcement agent for FHFA.

Those are criminal matters that our agents investigated, brought to the attention of U.S. attorneys and the Department of Justice.

Indictments were handed down and claims were either tried and brought to verdict or were pled out.

Mr. TROTT. OK.

Ms. WERTHEIMER. So those are just—I think what your question is, is the $784 million related to misconduct of any kind by FHFA—

Mr. TROTT. Right.

Ms. WERTHEIMER. —and the answer is it is not.

Mr. TROTT. OK. Thank you for clarifying that.

So when you talked about the flexible supervisory standards and how they are inconsistent with the private sector and some of the oversight of the Fed and the OCC, what's the justification for that difference?

Ms. WERTHEIMER. As our reports make clear, in any number of areas we have compared FHFA's standards to those of the Federal Reserve for the OCC or the FDIC.

Apart from the assertion that they are not depository institutions, the response has been we make our own rules.

Mr. TROTT. Right.

Ms. WERTHEIMER. We do it the way we want to do it.

Mr. TROTT. You said that earlier in response to a question—

Ms. WERTHEIMER. Yes.

Mr. TROTT. —and do you think any of the reasoning is perhaps motivated by a political agenda, which is basically we need differential treatment for the GSEs because some believe—I am not among them—that the Federal Government needs to be involved to whatever extent necessary to make sure every American should own a home? Is there a political motivation behind this disparity?

Ms. WERTHEIMER. I have not seen any evidence of that.

Mr. TROTT. OK.

Ms. WERTHEIMER. I think, under HERA, the agency has dual responsibilities. They may be in conflict but they are dual—

Mr. TROTT. OK.

Ms. WERTHEIMER. —and to ensure the safety and soundness of these enterprises is a requirement of HERA.

Mr. TROTT. I was thinking a good argument could be made that an entity that's in conservatorship should be subject to more rigorous standards.

Ms. WERTHEIMER. I think it should be subject to at least the same standards that the Federal Reserve applies to SIFIs.

Mr. TROTT. Right. Let's talk about your 117 recommendations, 95 of which you said they agree with. How many have they actually implemented?

It's one thing to agree with the recommendation and concept but then to take action to implement the change or recommendation is another thing.

Ms. WERTHEIMER. It is. Let me give you those numbers because I have them. Give me a moment.

Of the 117 recommendations we made in which they've agreed to 95, we have 74 of them are closed, meaning they have submitted to us in this situation evidence of compliance or implementation, and we have determined, based on what we have received there is evidence of some implementation. There are 43 that remain open.

Mr. TROTT. Great. That's helpful. Thank you.

Now, my friend from Texas took issue with your testimony insofar as you suggested that because of the inconsistent application of standards and oversight we really can't properly assess the risk profile of the GSEs and whether they do pose a systemic threat.

I think that on its face is significant just whether you're—whether you're suggesting they are at risk or not, isn't that something that should give us pause—that we can't properly assess where the GSEs are today because the standards are either unclear or not applied consistently?

Ms. WERTHEIMER. We chose our words carefully when we wrote the roll-up report and with the title of safety and soundness should not be assumed.

It is typical, I think, for stakeholders to believe that with a supervision program that is robust that everything is fine—that there is no problem with the regulated entity.

Our point here was the supervision program exists. There are deficiencies. They haven't been corrected.

There may be fine reasons for Director Watt to conclude that they are safe and sound and that is his mandate and we have not gone out of our lane and rendered any opinion on that. But the supervision program, based on the 29 reports we have issued, has significant deficiencies.

Mr. TROTT. Thank you so much. I am out of time.

I sure hope they are safe and sound because some day Freddie Mac is going to need $100 million to build out its offices like Fannie Mae.

Thank you for your time this morning.

Mrs. WAGNER. The gentleman's time has expired.

The Chair now recognizes the gentlewoman from New York, Ms. Tenney, for 5 minutes.

Ms. TENNEY. Thank you, Chairwoman Wagner, and thank you, Ms. Wertheimer, for coming here today. I just have a couple of quick concerns and one of mine is, obviously, we're—your entity is—either stores, processes, or has control over $5 trillion in secondary mortgage assets.

When it comes to personal information and the storage of that, especially dealing with the mortgage—the confidential information that you hold for people all across the Nation, it indicated that you have not done any supervisory activities dealing with cybersecurity in the 2016 examination cycle.

Can you comment on that and tell me if that's something in the works in light of Equifax and so many of the breaches we have had and the constant attempts on Government to breach into our sensitive security measures?

Ms. WERTHEIMER. Look, since I've—cybersecurity for me has been a top priority. It was a top priority when I was in the private practice of law. It remains a top priority.

As the inspector general and the Office of the Inspector General, we do not have personal information regarding the mortgages that are purchased or guaranteed by Fannie Mae and Freddie Mac. That data resides with them and FHFA is the—

Ms. TENNEY. Can I reclaim my time? Resides with them meaning the banking institution or the individual holders?

Ms. WERTHEIMER. Resides first with the originator of the loan and it—

Ms. TENNEY. Right. OK. The banking institutions.

Ms. WERTHEIMER. Then if—to the extent those mortgages are purchased by Fannie Mae or Freddie Mac, it resides with those two enterprises.

FHFA, as conservator, can access because it has the right title and interest under HERA as conservator to obtain it, we do not because we are the inspector general.

If we are looking at a particular loan program as we did recently with respect to the 97 percent loan programs that were begun in December 2014, we can ask for specific data on specific mortgages.

We don't have that data in our database. Now, your question, I think, as I understood it, went to why—FHFA's supervisory plan for the 2016 supervisory cycle planned a number of supervisory activities to examine Fannie Mae's cyber risk management practices.

As our audit found, it concluded none of those activities. Does that concern me? You bet. Does it keep me up at night? You bet.

Ms. TENNEY. Let me ask you something further on that because I appreciate that it is a very—it's a big concern and I did a lot of mortgages in my past life as a bank attorney.

So many of—much of this information, and we did a lot of GSE-type loans backed either by numerous organizations—a lot of this information actually is in the public domain registered with banking requirements by State law and Federal law where these loans are actually being recorded with clerks across the country, accounting clerks, particularly in New York State, where I reside. And so my concern is that those are requirements coming from the FHA and from your side as well.

So all these documents are in the public domain with county clerks. Is there anything that you do to guard the consumers against the type—these filings that could be—provide exposure to cyber—to cyber or personal theft of whether it's Social Security numbers, addresses, banking information that end up in a county clerk's—is that something that you would guard against when you're actually approving a loan or providing a secondary mortgage market to them?

Ms. WERTHEIMER. Yes. So, again, we don't do any of that. We are here to look at what FHFA has decided to do with that information as conservatory and—

Ms. TENNEY. But wouldn't that be an oversight function you would have when you go to—to make sure that these things aren't disclosed and part of your whole package of providing some kind of protection for consumers when their personal data could end up online when they actually go to seek some kind of loan with a secondary mortgage loan?

Ms. WERTHEIMER. So let me try to explain that.

FHFA has delegated as conservator to the enterprises the responsibility for cybersecurity protection. It is up to the enterprises to put into place rigorous controls to either prevent the inappropriate disclosure or at least mitigate that risk.

Ms. TENNEY. Right. If they don't take that, what is your action if that's not done? Because you've indicated that this—there was no protection in place under the 2016 guidance.

So what would you do to protect the consumer, going forward, as something you would do proactively now in light of what the 2016 showed that you didn't do?

Ms. WERTHEIMER. OK. So we didn't—it's not that we didn't do it. FHFA develops a supervisory plan every year what it's going to examine.

What we do is go back through our audit and evaluation function and determine whether they were—they in fact effected their supervisory plan.

We had two audits we issued in 2015.

Ms. TENNEY. I think my time has expired. Can you quickly get to—so it covers cybersecurity risks?

Ms. WERTHEIMER. Absolutely.

Ms. TENNEY. OK.

Ms. WERTHEIMER. And that's what our 2016 audit found that in fact, notwithstanding the plan, they had not covered—they had not conducted any of the planned activities.

We wrote about it to call it out to our stakeholders, yes, we are concerned. We think it is an unsafe and unsound supervisory strategy and that is what we reported.

Ms. TENNEY. Thank you for your testimony. Thank you.

Mrs. WAGNER. The gentlelady's time has expired.

The Chair now recognizes my friend and colleague, the gentleman from Missouri, for 5 minutes.

Mr. CLEAVER. Thank you, Madam Chair.

Ms. Wertheimer, thank you for being here.

I work a lot with Federal Home Loan Banks and—of Des Moines and one of my concerns is Federal home loans and FHFA—their connection.

I don't understand—you have the—as the IG you have the responsibility, I am assuming, for both.

If you had your druthers, would you say that—would you want to disconnect between the two?

Ms. WERTHEIMER. As you know, until 2008 they were disconnected.

Mr. CLEAVER. Yes.

Ms. WERTHEIMER. The Federal home loan bank board supervised, and its predecessor, supervised the Federal Home Loan Banks and OFHEO supervised Fannie and Freddie.

A decision was made by Congress to put them together. Our experience in—as the inspector general overseeing the supervision of the Federal Home Loan Banks by FHFA has been—that supervision has been pretty good for a number—I mean, there were a number of factors you can draw from our reports as to why that is.

The guidance is different. I mentioned previously that the guidance and requirements that are in place for the enterprises are very flexible.

That isn't the case with the Federal Home Loan Banks. Their guidance and requirements tend to be far more prescriptive and much more similar to that of the OCC and the Federal Reserve, number one.

Number two, by statute, they regulate—pardon me, the supervisors are required to examine the Federal Home Loan Banks

every year. But our experience is, in fact, they complete that mission and issue reports of exam on time.

They issue them to the boards of directors as their requirements provide and they get a certification from each board, and we have looked at this in our reports that normally the board has reviewed it but has agreed to remediate any deficiencies identified.

In the 10 reports we have issued of the 85 that involve the Federal Home Loan Banks and many—I think it's fair to say 6 of them compare Federal home loan bank examination practice to the supervision practice for the enterprises.

We found it far more rigorous. They adhere to their standards and we have only had two recommendations to address deficiencies or shortcomings we identified, both of which were adopted by the FHFA and implemented.

Mr. CLEAVER. Well—

Ms. WERTHEIMER. So at this point in time, there's—this is a Congressional decision but I would say to you the supervision of the Federal Home Loan Banks seems to be working quite well.

Mr. CLEAVER. Well, that's good news to me and probably Congressman Green because we were a part of putting them together, and as we move further and further away from the economic collapse of 2008, I think it's worth exploring and examining many of the decisions we made that we believed, too, at that time to have been extremely important in dealing with what was going on in the country as in relation to housing.

So I appreciate your—for me, that was feedback and some confirmation that the decision we made was the correct one.

Madam Chair, I yield back the balance of my time.

Mrs. WAGNER. The gentleman yields back.

The Chair now recognizes the gentleman from Georgia, Mr. Loudermilk, for 5 minutes.

Mr. LOUDERMILK. Thank you, Madam Chair, and thank you for being here, and I can—I can assure you that I am very interested in what you have to say and you will have time to answer the questions.

I want to continue on with the thing that Ms. Tenney was asking about and predominantly I want to talk about the cybersecurity at the GSEs.

As you know, they store an enormous amount of data and that is a big concern of mine, and I've said this over and over again—when I was in the military, worked in intelligence, and in the IT field, we had the principle of you don't have to keep—you don't to protect what you don't have.

In other words, if you don't absolutely need the information, you need to get rid of it. Otherwise, you're responsible for protecting it and you become more vulnerable.

And I know that the GSEs have a tremendous amount of data and especially with more than $5 trillion in assets, and I was wondering if you could tell me what cybersecurity controls at the FHFA are in existence that maybe your office has identified as problematic?

Ms. WERTHEIMER. I don't think we have done the work that would lead me to have a basis for an opinion, to answer your question.

Mr. LOUDERMILK. OK.

Ms. WERTHEIMER. It is—what we have identified in reports we have issued is that FHFA itself has identified deficiencies in the systems.

There were legacy systems. There was unsupported software. There were—there has been, as you know, a change in philosophy between Acting Director DeMarco and Director Watt.

Director Watt has repeatedly stated that his intention is to run the conservatorships until Congress develops a solution to housing finance.

So if you're going to run the enterprises as opposed to wind them down, you need to have some kind of cybersecurity infrastructure that major financial institutions, others outside the conservatorship have, and given that money was not spent on cybersecurity—that's a misstatement.

Given that the systems were not upgraded on a repeated basis prior to Director Watt's tenure, it is fair to say there has been an enormous emphasis on upgrading those systems and the software, and our reports talk about FHFA's issuance, if you will, of—they are called matters requiring attention.

They are the most significant supervisory deficiencies and FHFA's oversight of the enterprise's efforts to remediate those deficiencies.

But to your question, I have—I am not able to answer the precise systems that would fully respond to your question.

Mr. LOUDERMILK. Maybe you can answer this. Did the GSEs collect and store personally identifiable information (PII)?

Ms. WERTHEIMER. Absolutely.

Mr. LOUDERMILK. And that brings—a level of concern is the PII and the amount and the data, and do you know what type of PII that is included? Is it Social Security numbers, birth dates, names? Is it the entire gamut?

Ms. WERTHEIMER. I think it's all of that and more. When I first joined FHFA OIG as inspector general, we issued a white paper talking about kinds of information as well as the different ways that that information was vulnerable to attack and, you know, it's—we just saw, I think, last weekend that two major retailers had more than 5 million of their charge card holders hacked.

I mean, hacking is a fact of life today.

Mr. LOUDERMILK. Yes.

Ms. WERTHEIMER. So to your answer, yes, they—

Mr. LOUDERMILK. Yes, and I—

Ms. WERTHEIMER. —they do have a lot of PII and they retain it in connection with their business.

Mr. LOUDERMILK. And just shift directions for the last few seconds we have here. Are you aware of any type of lobbying activities being done by Fannie and Freddie?

Ms. WERTHEIMER. I am aware that HERA has prohibited that activity. It has not come to my attention that they are engaged in any lobbying on the Hill.

Mr. LOUDERMILK. OK. Thank you.

I yield back.

Mrs. WAGNER. The gentleman yields back.

The Chair now recognizes the gentlelady from Ohio, Mrs. Beatty, for 5 minutes.

Mrs. BEATTY. Thank you, Madam Chairwoman, and to our Ranking Member, and thank you, Madam Inspector General, for your testimony and for your work and for being here today.

In your report—one of your reports you talked about the spending of the $171 million by Fannie Mae in its Washington, D.C. headquarters.

I can remember when Director Watt was here. Many of my colleagues also talked about that and asked questions about it, and as I recall there was a lot of time spent comparing it to reports of health and wellness for staff to be able to feel secure, to be able to walk, to not have to go outside and around to use the pathway.

And since then, I did do some reviewing of other—whether it was private sector facilities to see how employees felt about it and, certainly, I think it is not only the quantity of what we expand or put in something but it is the quality of the outcome as well.

So I just wanted to interject that. Additionally, you questioned the comps, I believe, used by the FHFA to justify its spending. I was really fortunate enough to be speaking at an event with the Ohio Association of Realtors at their annual legislative conference in Columbus because we are celebrating the 50th anniversary of the Fair Housing Act.

And while I was there to speak about the passage of that historic bill that was passed in 1968, it made me think about how realtors use comps in real estate business when I read your report and your testimony.

In your testimony, you question the cost associated with Fannie Mae's new office spaces in Washington and in Dallas, Texas.

You also questioned the standards or the comps used by the FHFA to justify some of these costs, and certainly, the standards or the comps used by FHFA for justification of some of those costs was against the upgrades at major financial institutions and larger public sector agencies.

To me, this seems to be a reasonable comparison, and while we have heard that Fannie Mae—I'll get this out of the way—is in conservatorship, it seems to me that it is a reasonable comparison because Fannie Mae is a large financial institution with $110 billion revenue in 2017 and it's controlled by a large public sector agency, FHFA.

So could you share with me why did your report question the standards used?

Ms. WERTHEIMER. Our report—all inspectors general reports should, according to our own professional standards, contain four elements: Condition, criteria, cause, and effect.

Here, the condition was the build-out—what was being spent on the build-out and the criteria was not a criteria that what JPMorgan Chase or Bank of America would spend.

The criteria set by this Congress and HERA, when an entity—a regulated entity by the FHFA is put into conservatorship, the conservator has an obligation to preserve and conserve.

Now, what does that mean? In our first report in May 2016, we set out our view of what that meant—what are the upgrades, if you will, that Fannie Mae has sought, what are their efficiencies, do

the efficiencies warrant the cost, and is the cost appropriate for an entity in conservatorship with an uncertain future in a building it does not own. That is how we understood preserve and conserve.

It its response, FHFA didn't take issue with that standard. In fact, Director Watt in his response explained, well, there may be short-term costs to the spiral staircases but, over time, there are greater efficiencies.

He offered the same with the walkways and said, yes, of course we are going to consider cost efficiencies and whether it's warranted for an entity in conservatorship.

We went back a year later to see what had happened and what we found was we spoke to the oversight committee within FHFA—a committee that was put together in response to a recommendation, as well as the expert—and what we were told was by each person we interviewed—and we report that in our September 2017 report—they didn't consider cost efficiencies.

They didn't consider whether it was warranted for an entity in conservatorship with an uncertain future in a rental building to spend that kind of money.

And for that reason, we came to the view that the standard wasn't met and we heard something different, and FHFA's response was, well, that we did consider cost efficiencies. That was not what our field work showed and that's what we reported.

Mrs. BEATTY. Thank you.

Madam Chairman, in light of us not having enough members here, may I have an additional minute to—

Mrs. WAGNER. Without objection.

Mrs. BEATTY. Thank you. Let me just say thank you for that and we will continue probably to have discussions on that and the quality of it and how narrowly focused sometimes we are when we are trying to make those determinations and we know that there is not another building or entity like this. So it does make it very difficult from where I sit.

But last, I want to thank you and I also want to thank you for sharing with us the number of responses that Director Watt did provide and am pleased that you stated that that is the majority of being able to meet the standards and to meet 95 out of 100 and some.

I want to thank both of you, and I'd also, Madam Chair, would just like to conclude, because we do spend a lot of time here and we are fortunate to have a Chairwoman of Oversight that allows us to get engaged.

So maybe one of the things that we can continue to work on is for Congress to be more engaged in the actual housing finance reform, and I think that's one of the things that Director Watt and his just maintaining it—I think he was waiting on Congress to be more engaged.

So I think I'd like to say to Director Watt, who was one of us and served admirably here on this committee, that for the things he's been able to accomplish over there has been short of miraculous. It's a new entity. You, being relatively new, the only second director there, I can imagine to have to always find things that are thought wrong can be very challenging. So I'd like to thank you for your service and thank you, Madam Chairwoman.

Mrs. WAGNER. I thank you.

Ms. WERTHEIMER. Might I respond to one thing? We don't start our work with an objective that says prove that FHFA failed to do X. We identify risk areas. We get input from our stakeholders.

Whether it's FHFA employees, Members of Congress, reading reports issued by think tanks, we come up with project ideas. We then do the field work.

We report what we find. I would only direct your attention to, for example, the two audits we recently issued on the 97 percent loan to value program.

When that program was tried as a pilot program under Director Watt's leadership there was a lot of criticism about that program, that it was opening the credit box unduly, that it was going to cause—that it was putting taxpayers at risk because of the opening of the credit box.

What we found and what we reported was a well over 97 percent rate of compliance by the originating banks with the requirements that FHFA established in December 2014.

So we are not only here to find and report bad news. We are here to examine risk areas and report what we find, good or bad.

Mrs. BEATTY. Thank you. That's a good note to end on, that there were some very good things found and I really appreciate your adding that.

Thank you.

Mrs. WAGNER. The gentlelady from Ohio's time has expired and I thank her for her comments, and I will say that I plan on, in my close, talking about perhaps more ways, as you well put, Mrs. Beatty, for this committee to be more and Congress to be more involved in the process.

Moving on, the Chair now recognizes the gentleman from Indiana, Mr. Hollingsworth, for 5 minutes.

Mr. HOLLINGSWORTH. Well, happy Thursday. I appreciate you being here and have to say that I've heard from so many people, both sides of the aisle, both staffs, how great, how diligent, how thoughtful you are at every turn and really appreciate that.

And I can assure you my constituents, Hoosiers back home, rest well at night knowing that someone is watching all aspects of at least one area of Government for them.

I did want to talk about new products and some of the new products that are currently being offered and some real concerns about those from two aspects.

The first aspect is the potential for them to transition from secondary market focus, secondary market activity, to primary market activity.

I know that the IMAGIN product has been brought up and I know that you don't want to address that directly. But I just want to talk about the general big concept here of making sure that what I think is if not written into the specific language of the charter, certainly the spirit of the charter, that these two entities would operate in the secondary market and are responsible for developing a robust secondary market and that these products may be transitioning to the primary market.

And I think the history of Government-conferred advantaged companies entering into environments where others don't have those same advantages is one wrought with failure and problems.

When you drop a lion onto the Serengeti with a bunch of antelope you don't get more antelope and more diverse species. You get a fatter lion.

And so I wanted to make sure that some oversight was being provided to—that they are not transitioning from secondary to primary market, and some of the newer products that are being offered are an attempt to do so or, in your mind, aren't beginning that process of crossing that bright line that we have had for the last 50 years?

Ms. WERTHEIMER. We haven't done the work for me to render an opinion on that. I certainly have heard concerns from two members of the committee about that and we will factor that into our work plan.

Mr. HOLLINGSWORTH. OK. But it is something, I guess, from a broader perspective that is worth watching, would you say?

Ms. WERTHEIMER. Absolutely.

Mr. HOLLINGSWORTH. Great. Thank you.

Ms. WERTHEIMER. You know, we have a lot of—we do a lot of watching at the—

Mr. HOLLINGSWORTH. I have no doubt. I have no doubt. It is a big purview to watch.

But there are a lot of things that you could watch in small ways in making sure that every taxpayer dollar is spent as effectively, as efficiently as possible.

But this could be a really large problem down the road. It could create really catastrophic results for taxpayer losses in companies having these advantages and operating in an environment where others don't, especially when that same company gets to set the standards for others that might compete with that primary—in that primary market. I think that's really important.

Ms. WERTHEIMER. No, and I hear that. We have established an Office of Risk Analysis—

Mr. HOLLINGSWORTH. Great.

Ms. WERTHEIMER. —precisely to monitor emerging risks because the first inspector general, Steven Linick, who was very helpful in sharing his information about the FHFA and about the OIG with me, said, this IG is unlike many IGs.

You're not doing autopsies on contracts that have already been led and figuring out whether there is any waste, fraud, or abuse. You're operating on a live patient without a lot of anesthetic.

Mr. HOLLINGSWORTH. Yes.

Ms. WERTHEIMER. So they are open institutions. When we speak, we have to be measured in what we say.

Mr. HOLLINGSWORTH. Yes.

Ms. WERTHEIMER. But we cannot close our eyes to emerging risks and just, oh my goodness, this catastrophe is upon us. And so we have, in the last semi-annual period, issued three white papers talking about adjustable rate mortgages, which are on the rise at custodial institutions and the like and we continue to—I mean, this is an area of emerging risk. We need to look at it.

Mr. HOLLINGSWORTH. And I love that you're focused on it because, ultimately, we do have the economic tailwinds today, and that is the moment when risk gets built, that risk comes to fruition, and comes to losses at times of economic recession.

Ms. WERTHEIMER. Absolutely.

Mr. HOLLINGSWORTH. The last thing I wanted to talk about—the second point with regard to this—is you said an open institution and one of the concerns that many have raised about some of the new products that are being offered is that they are being offered without appropriate public comment period beforehand and there is not the same level of transparency that we had come to expect or that taxpayers demand or are written into the previous act.

Do you have any comment? I think there are four new products that are now being offered without having gone through that 30-day public comment period that's required.

Ms. WERTHEIMER. I don't. I am sorry.

Mr. HOLLINGSWORTH. Well, that you were watching is important in making sure that taxpayers not only are being looked out for on present and current expenses but also for risk that may be building or—

Ms. WERTHEIMER. Absolutely.

Mr. HOLLINGSWORTH. —the emergence of risk in the system or just the gradual grabbing of more and more purview by these institutions. That's what got us into the problem before and I want to make sure that we don't have that same problem 10, 15, 5 years from now.

Ms. WERTHEIMER. I do, too, and it's why this Office of Risk Analysis is critical for us as well as the fact that we have—there have been many changes we have put into place because my view is financial crisis—if you were a student of housing finance you may have been predicting it in 2004 and 2005. Most Americans, including myself, were sort of hit upside the head when it started and how fast it escalated.

We don't have the luxury of taking 18 to 20 months to do an audit or an evaluation. We have to look at something quickly, thoroughly, and report our findings, because if there are problems we need to identify them, propose recommendations, and alert our stakeholders.

Mr. HOLLINGSWORTH. Well, this is an important area that certainly I and, as you alluded to, several other members are very concerned about and would love to have your continued watchful eye on that.

And as I started with, I've heard from everybody just how diligent and thoughtful you are. You have certainly resoundingly reinforced that opinion today, and I appreciate you being here.

Ms. WERTHEIMER. Thank you very much.

Mrs. WAGNER. The gentleman's time has expired.

The Chair now recognizes the Ranking Member, the gentleman from Texas, Mr. Green, for 5 minutes.

Mr. GREEN. Thank you, Madam Chair.

As I indicated earlier, I have some news articles that I'd like to place into the record, one styled, "CFPB May Fine Wells Fargo as Much as a Billion Dollars"—that's from MarketWatch—another from Reuters Exclusive—"U.S. Watchdog Seeks Record Find

Against Wells Fargo for Abuses"—another—this is from the American Banker—"CFPB's Mulvaney Strips His Fair Lending Office of Enforcement Powers."

Mrs. WAGNER. Without objection.

Mr. GREEN. Thank you, Madam Chair.

Let's quickly go to the fines—the criminal fines. Who were these fines levied against, please, ma'am—Madam?

Ms. WERTHEIMER. So they are all over the place. Some were against institutions. Some are against individuals.

Mr. GREEN. Were any levied against FHFA?

Ms. WERTHEIMER. Not—to the best of my knowledge, they were not.

Mr. GREEN. OK. When you say to the best of your knowledge, based on the empirical evidence that you have, in other words. Is that correct?

Ms. WERTHEIMER. I am not aware of any that were levied on—criminal fines levied on FHFA. I am just not aware of any during my tenure.

Mr. GREEN. Well, if there were some, you would be aware, wouldn't you?

Ms. WERTHEIMER. I surely would hope so.

Mr. GREEN. OK. Well, why do you—why do you choose to engage in this sophistry to the extent that you leave the notion that there may be something shady there but I don't know about it?

FHFA hasn't had criminal fines levied against it, has it? It has not. Let's move on.

You indicate on page 11 of your statement to the committee—the full statement—page 11, first paragraph, last sentence. You indicate that, "The work that we do does not provide us with a sufficient basis on which to make such a safety and soundness assessment for either enterprise."

You're talking about safety and soundness, and you indicate that your work doesn't provide you a basis for making an assessment of safety and soundness.

Is that a fair statement of what you stated?

Ms. WERTHEIMER. That is correct.

Mr. GREEN. OK. So if this is a fair statement of what you stated, why would you go on to make the statement that safety and soundness should not be assumed?

Now, let me tell you why I am pursuing this. In this area, your diction has to be superb and it has to be superb because markets move on safety and soundness.

We would not want the public to conclude that there may be a safety and soundness issue that you are aware of but you're not reporting.

You have no evidence of there not being—of there being something other than safety and soundness at FHFA. So I want to clarify this with you because you've stated it two ways—this language two ways in your report.

In one, you use the language safety and soundness should not be assumed. But then in another, you indicate that your caution, however, should not be understood as our having concluded that the enterprises are not being operated in a safe and sound manner.

Both of those are your statements.

Ms. WERTHEIMER. Correct.

Mr. GREEN. OK. So can we say to the public, the public that can cause markets to move based upon words that you articulate—can we say to the public that you are not here today to imply that FHFA is something other than safe and sound?

Ms. WERTHEIMER. Well, FHFA is the conservator of these enterprises. It is also the supervisor. It's charged under HERA with making the safety and soundness decision for these enterprises and for the Federal Home Loan Banks.

It's also charged with reporting that to the Congress every year. What we are saying is the public often assumes that the existence of a supervision program, that someone's on the beat, means the entities are safe and sound.

Mr. GREEN. Are you—are you concluding that the safety and soundness report from the authorized agent to produce such a report is incorrect?

Ms. WERTHEIMER. I think I am clear that we are not saying that.

Mr. GREEN. OK. So then you walked into this when you decided you were going to make a commentary about the safety and soundness when that really is not within the purview of your responsibilities. You don't make safety and soundness decisions about FHFA.

Ms. WERTHEIMER. And we did—sir, we never said we did.

Mr. GREEN. All right. Well, I appreciate your being here today and thank you for your testimony.

Mrs. WAGNER. The Ranking Member's time has expired.

The Chair now recognizes the gentleman from Tennessee, Mr. Kustoff, for 5 minutes.

Mr. KUSTOFF. Thank you, Madam Chair, and I thank the witness for appearing this morning. We appreciate it.

Your office prepared a number of reports describing the cost of building renovations for Fannie Mae. If you could, could you walk us through some of the improvements your office identified that you thought were noteworthy where there are costs and expenditures?

Ms. WERTHEIMER. I'd be happy to do that.

We, as our first report indicated, received a whistleblower complaint on this. We set out, as we do with all whistleblower complaints—we triage them because we can't—we don't have the bandwidth to look at each and every complaint.

We decided that this complaint merited an administrative inquiry and we went about looking to figure this out. What we learned was that the landlord, Carr Properties, had given Fannie Mae a very generous tenant improvement allowance by the terms of this area—$120 a square foot.

And so what we were looking to see was OK, are they spending within the tenant improvement allowance, which would cost them nothing, or were they in excess of the tenant improvement allowance.

At that time, FHFA did not have an expert. Fannie Mae had retained an expert. Fannie Mae's expert told us that in his or its, pardon me, experience $164 a square foot was what you could—what a—Class A is the best space you can get, and this is new space, but what a—what you would expect a tenant moving into Class A space to spend on improvements and the like.

We then looked at what the projections were, and to be clear, they were only projections at the time, of what Fannie Mae planned to spend.

At that time, they were roughly $252 a square foot, which was well in excess of what Fannie Mae's own expert said was customary—not necessary but customary.

We began asking questions. The gentleman at FHFA who was in charge of the oversight had told our investigators, golly, we have no exposure here—we are capped at $120 a square foot, and if Fannie Mae was going to exceed that, why, they would have told us that.

Well, at that point, their own budget showed $252. I believe it may be $253 a square foot. We, in the course of our looking over 8 weeks, the budget went down to $235 a square foot.

We issued the management alert in June 2016 in which we said, look, you're in conservatorship, Fannie Mae. You, FHFA, while you delegated the build-out costs to Fannie Mae, you—they are your agent.

You're ultimately, as conservator, responsible for that. The statutory standards set by Congress is preserve and conserve. Whatever that means it cannot mean $252 a square foot when law firms, lobbying shops, et cetera, are paying $164 a square foot.

And we identified what our view of what conserve and preserve meant, and I identified that earlier—what are the efficiencies, do they warrant the cost, are they appropriate for an entity in conservatorship in a space it does not own and it may not be existence for 15 years.

So while I certainly appreciate employees enjoying open spaces and crystal walkways, et cetera, I can tell you I practiced law in a firm where the carpet was coming up, where the mail chute was jammed, and I had the best time of my life there. We didn't need to have luxuries in order to practice law well.

But be that as it may, Director Watt agreed that our recommendations and standard would enhance the oversight. And so we came back a year later because the last thing I wanted or anyone in my office wanted was for the building to open and for the Congress to say, well, where was that IG.

So we went back—what's gone on. Well, we interviewed the committee that was responsible. We interviewed the expert who was retained.

What did we find? Well, we have a cafeteria that's being put in which the experts said would be underutilized. We have a third generator which was put in. The experts said, well, Fannie wanted it.

We have a broadcast studio—Fannie wanted it. We have finishes, lunch huts, pergolas. It is a—it is, as the expert wrote in the report, it felt that the standard for the—for the baseline, if you will, for Washington, D.C., had gone up from $164 to $175. I am leaving out the change.

So it only looked at improvements and upgrades above $175 and that's where that $32 million comes from. It's above and beyond the $175 a square foot.

Mr. KUSTOFF. Thank you very much. My time has expired.

Mrs. WAGNER. The gentleman's time has expired.

Without seeing any further members to question, let me close by saying that today's hearing has raised important questions that are extremely concerning.

It appears that statutory discretion under HERA has led to a lack of oversight at the FHFA, which, in turn, has led to objectively bad performance as measured by the independent and nonpartisan IG.

I hope my friends on the other side of the aisle see this and will work with us on reforming HERA. I also have to note that our concerns are exacerbated by the fact that Director Watt recently failed to substantially comply with the committee records request seeking to further explore the important issues raised by the IG—Director Watt's statutory discretion and perhaps, more importantly, Director Watt's failure to fully implement many of Ms. Wertheimer's common sense recommendations. Simply put, I will not allow failure to comply with many records requests to stand.

Again, I want to thank Ms. Wertheimer for her testimony today and without objection, all members—

Mr. GREEN. Ms.—Madam Chair, objection. I have a question.

I would like unanimous consent to place a response to your statement in the record, if that can be done without objection.

Mrs. WAGNER. Without objection.

Mr. GREEN. Thank you.

Mrs. WAGNER. Again, I want to thank Ms. Wertheimer for her 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 is now adjourned.

[Whereupon, at 11:25 a.m., the subcommittee was adjourned.]

A P P E N D I X

April 12, 2018

Written Testimony of Laura S. Wertheimer
Inspector General, Federal Housing Finance Agency
before the
U.S. House Committee on Financial Services
Subcommittee on Oversight and Investigations
concerning
Oversight of the Federal Housing Finance Agency

April 12, 2018

Chairman Wagner, Ranking Member Green, and Members of the Subcommittee, thank you for inviting me to testify regarding the work of the Office of Inspector General (OIG) for the Federal Housing Finance Agency (FHFA).

FHFA was established by the Housing and Economic Recovery Act of 2008 (HERA), which authorizes FHFA to conduct examinations, develop regulations, and issue enforcement orders for Fannie Mae and Freddie Mac (the Enterprises) and the Federal Home Loan Banks (FHLBanks) (collectively, the regulated entities), and the FHLBanks' fiscal agent, the Office of Finance.

HERA also authorized the FHFA Director to appoint FHFA as conservator or receiver of the regulated entities. In September 2008, FHFA used its statutory authorities to place the Enterprises into conservatorship, after it determined that a substantial deterioration in the housing markets severely damaged their financial condition and left them unable to continue without government intervention. Now in their 10th year, FHFA's conservatorships of the Enterprises are of unprecedented scope, scale, and complexity. Since September 2008, FHFA has served in a unique dual role for the Enterprises. As conservator, it is charged by HERA to take actions "necessary to put [Fannie Mae and Freddie Mac] in a sound and solvent condition"; "appropriate to carry on the business of [Fannie Mae and Freddie Mac]"; and to "preserve and conserve" their assets. As supervisor, it is tasked by HERA to ensure that the Enterprises operate safely and soundly so that they can serve as a reliable source of liquidity and funding for housing finance and community investment.

HERA also authorized the establishment of an OIG to oversee the work of FHFA. FHFA-OIG began operations in October 2010 when its first Inspector General was sworn in. As a result of FHFA's dual responsibilities as regulator of the Enterprises and the FHLBanks and as conservator of the Enterprises since September 2008, FHFA-OIG's responsibilities are broader than those of an OIG for other prudential federal financial regulators because they include oversight of FHFA's actions as conservator.

Our mission is to promote economy, efficiency, and effectiveness in the programs and operations of FHFA and protect it and the entities it regulates against fraud, waste, and abuse. We accomplish this mission by providing independent, relevant, timely, and transparent oversight of the Agency and advising the Director of the Agency, Congress, and the public on our findings and recommendations. In doing so, we further the Agency's statutory obligation to ensure that the regulated entities operate in a safe and sound manner and that their operations foster liquid, efficient, competitive, and resilient national housing finance markets. We also engage in robust law enforcement efforts to protect the interests of the regulated entities and American taxpayers.

The Value of Independent Oversight in Improving Government Operations

Effective oversight makes government better and fosters positive change. Healthy skepticism through independent reviews of programs and operations, both by inspectors general and by Congress, act as the "disinfectant of sunlight" to ensure a more efficient and effective government and to identify problems, abuses, and deficiencies.

Based on my professional experience, I have found that, absent such oversight, few organizations voluntarily make fundamental changes to their programs and operations. I have observed that change often is driven by three things: a significant failure in a program or operation; intense scrutiny of that program or operation; and a leadership commitment to change. Independent oversight by inspectors general and Congress is a critical and necessary ingredient to positive, constructive change. We seek to be a catalyst for effective management, accountability, and positive change in FHFA and to hold accountable those, whether inside or outside of the federal government, who waste, steal, or abuse funds in connection with FHFA and its regulated entities.

Focusing on the Right Things

FHFA has unique responsibilities in its dual roles as regulator of the FHLBanks and as conservator and regulator of the Enterprises. Despite their high leverage, diminished capital buffer, conservatorship status, and uncertain future, the Enterprises have grown during conservatorship and, according to FHFA, their combined market share of newly issued mortgage-backed securities is more than 60%. As of year-end 2017, the Enterprises collectively reported approximately $5.4 trillion in assets. As conservator of the Enterprises, FHFA exercises control over trillions of dollars in assets and billions of dollars in revenue and makes business and policy decisions that influence and affect the entire mortgage finance industry. As of year-end 2017, the FHLBanks collectively reported roughly $1.1 trillion in assets. Given the size and complexity of the regulated entities and the dual responsibilities of FHFA, making the right choices about what we at FHFA-OIG audit, evaluate, and investigate in our oversight efforts is critical.

To assist in making those choices, we created, in 2015, the Office of Risk Analysis to enhance our ability to focus our resources on the areas of greatest risk to FHFA. The Office of Risk Analysis is tasked with identifying, analyzing, monitoring, and prioritizing emerging and ongoing risks and with educating stakeholders on those issues. Through its work, it has contributed data and information to our annual risk-based planning process for audits, evaluations, and compliance reviews. It has also made significant contributions to our online knowledge library accessible to FHFA-OIG employees.

Equipped with a greater understanding of current and emerging risks, we have established a rigorous process to develop oversight projects based on risk. Once we begin an oversight project, we follow the facts, wherever they lead, without fear or favor; report findings that are supported by sufficient evidence in accordance with professional standards; and recommend actions tied to our findings. Our goal is to complete each oversight project within its established timetable and to provide impactful recommendations to FHFA to address deficiencies identified through our fact-finding.

My experience leading internal investigations as a lawyer in private practice taught me that recommendations to address deficiencies identified during an investigation require meaningful follow-up and oversight. To provide that follow-up and oversight, we created, in 2014, the Office of Compliance and Special Projects (Office of Compliance). That office has several responsibilities:

- *Closing Recommendations*. When FHFA believes that its implementation efforts are well underway or that implementation is complete, FHFA provides that information to us, along with corroborating documents. We review the materials and representations submitted by the Agency to determine whether to close recommendations – and may close some recommendations based on the Agency's representations as to corrective actions it has taken. The Office of Compliance consults with each FHFA-OIG division prior to the closure of a recommendation to facilitate application of a single standard across FHFA-OIG for closing recommendations.

- *Tracking Recommendations*. The Office of Compliance maintains a database in which it tracks the status of all recommendations issued by FHFA-OIG in its reports.

- *Validation Testing*. We are not always able to assess, at the time of closure, whether the implementation actions by FHFA meet the letter and spirit of the agreed-upon recommendation, nor can we always determine, at closure, whether the underlying shortcoming has been addressed. The Office of Compliance conducts validation testing on a sample of closed recommendations to hold FHFA accountable for the corrective actions it has agreed to undertake. We publish the results of that validation testing to enable our stakeholders to assess the efficacy of FHFA's implementation of actions to correct the underlying shortcoming. Compliance reviews enhance our ability to stimulate

positive change in critical areas and promote economy, efficiency, and effectiveness at FHFA.[1]

To date, we have issued 10 compliance reviews reporting on the validation testing of 12 closed recommendations. Our validation testing found that FHFA had fully implemented 6 of those 12 recommendations and had not fully implemented the remaining 6.

Each month, we publish on our website a compendium that sets forth all open recommendations from our audits, evaluations, and other reports. Because we recognize the importance of transparency, we also report in this compendium recommendations that have been closed in light of FHFA's stated refusal to accept and implement them.

During my tenure as Inspector General, FHFA-OIG has issued 85 reports[2] to alert FHFA leadership and our stakeholders to significant issues (many of which require corrective action), which included 117 recommendations to address identified shortcomings.[3] Of those 117 recommendations, FHFA fully agreed to 95, or roughly 81%.

During this same period, we questioned costs of more than $104 million. Additionally, our civil investigations during this period resulted in more than $22 billion in settlements and other monetary results, and our criminal investigations resulted in more than $784 million in forfeitures, restitution, and other monetary results.

Priorities and Challenges

Our risk-based work plan focuses on four significant management and performance challenges facing FHFA that we have identified and reported.[4] They are:

- Conservatorship of the Enterprises

[1] The Office of Compliance also conducts reviews and administrative investigations of hotline complaints alleging non-criminal misconduct and undertakes special projects.

[2] This total includes performance audits of FHFA's information security and privacy programs and its implementation of specific security and privacy controls as directed by the Cybersecurity Act of 2015, but does not include performance audits of FHFA-OIG's information security program. Those audits were performed by an independent public accounting firm at the direction and oversight of FHFA-OIG's Office of Audits.

[3] Oversight by FHFA-OIG is not limited to independent oversight through audits, inspections, and investigations. We also conduct independent oversight through evaluations, compliance reviews, management alerts, status and special reports, and white papers.

[4] OIG, *Fiscal Year 2018 Management and Performance Challenges* (October15, 2017) (online at https://www.fhfaoig.gov/Content/Files/FHFA%20management%20challenges%20FY2018.pdf).

- Supervision of the Regulated Entities
- Cybersecurity
- Counterparties and Third Parties

At the request of this Subcommittee, my written testimony focuses on one of these four challenges: *Supervision of the Regulated Entities*.

FHFA's Supervision of the Enterprises

As FHFA Director Watt has observed in testimony, Fannie Mae and Freddie Mac would be Systemically Important Financial Institutions (SIFIs), but for the conservatorships, and are subject to the heightened supervision requirements for SIFIs, except that they are supervised by FHFA, not the Federal Reserve. Because the asset size of the FHLBanks and Office of Finance, together, is a fraction of the asset size of the Enterprises and because the Enterprises are in conservatorship, we determined that the magnitude of risk is significantly greater for the Enterprises and, accordingly, the majority of our work on supervision issues has focused on FHFA's supervision of the Enterprises.

During my tenure, FHFA-OIG has issued 29 reports involving FHFA's supervision program for the Enterprises. In these reports, we found this supervision program to be burdened by both design and execution shortcomings.

Over an 18-month period from June 2015 to December 2016, we assessed the supervision program for the Enterprises in 12 reports. We found a number of shortcomings and made recommendations designed to address these shortcomings and upgrade FHFA's supervision program. Based on our assessments, we identified four recurring themes reflected in these shortcomings. We issued a roll-up report, in December 2016, in which we discussed each of these four themes.[5] They are:

- Many FHFA supervisory standards and much of its guidance lack the rigor of those issued by other federal financial regulators;
- The flexible and less prescriptive nature of many FHFA standards and much of its guidance has resulted in inconsistent supervisory practices;
- Where clear standards and guidance for specific elements of FHFA's supervisory program exist, examiners have not consistently followed them; and

[5] *Safe and Sound Operation of the Enterprises Cannot Be Assumed Because of Significant Shortcomings in FHFA's Supervision Program for the Enterprises* (December 15, 2016) (OIG-2017-003) (online at www.fhfaoig.gov/Content/Files/OIG-2017-003.pdf).

- FHFA lacks adequate assurance that its supervisory resources are devoted to examining the highest risks of the Enterprises.

Since December 2016, we have issued an additional 17 reports addressing other aspects of FHFA's supervision program for the Enterprises, and the findings of those reports demonstrate that the concerns reflected in these four themes have continued. A list of the 29 reports follows this written testimony.

Provided below are several examples of each theme from our issued reports.

- *Many FHFA supervisory standards and much of its guidance lack the rigor of those issued by other federal financial regulators.* Unlike the Office of the Comptroller of the Currency (OCC) and the Federal Reserve, which have supervised large financial institutions for decades, FHFA was created in 2008 and has less than 10 years of supervisory experience. While it could have used the supervisory standards and guidance issued by the OCC and the Federal Reserve as a template, we found that, for a number of elements of its supervisory program for the Enterprises, FHFA created its own less rigorous standards and guidance or, in some areas, issued no standards or guidance. We recommended in several reports that FHFA compare specific supervisory standards and guidance to those issued by the OCC and the Federal Reserve and enhance its standards and guidance, as warranted. FHFA accepted some of our recommendations and rejected others.

- *Flexible and less prescriptive nature of many FHFA standards and much of its guidance has resulted in inconsistent supervisory practices.* Because FHFA has determined, in many areas, to issue sparse guidance and standards and/or has elected not to issue templates or instructions, we found that FHFA examiners had significant discretion in a number of critical supervisory areas. As our reports make clear, the exercise of this discretion has led to inconsistent supervisory practices and has limited the utility of some examiner work products. We recommended that FHFA develop standards and guidance, or enhance existing standards and guidance, to establish benchmarks against which to assess examiners' work products and to assure itself that there is an adequate, supportable basis for its supervisory conclusions. FHFA agreed with many, but not all, of these recommendations.

- *Where clear standards and guidance for specific elements of FHFA's supervisory program exist, examiners have not consistently followed them.* Our work has identified a number of areas in which FHFA examiners, in contravention of requirements issued by

FHFA, failed to follow those requirements. By way of example, those include: issuance of revised supervisory plans without risk-related reasons; failure to create and maintain complete supervisory documentation in the official system of records; failure to ensure issuance of the annual reports of examination to Enterprise directors and obtain written affirmations that supervisory concerns will be addressed; failure to consistently conduct and document independent assessments of the Enterprises' remediation activities during the period of ongoing remediation; and failure to establish a comprehensive quality control review process for examinations over a four-year period. In our view, these patterns and practices, taken together, demonstrate a lack of commitment to follow established requirements.

- *FHFA lacks adequate assurance that its supervisory resources are devoted to examining the highest risks of the Enterprises.* Like other federal financial regulators, FHFA maintains that it uses a risk-based approach to carry out its supervisory activities. It uses the analyses in its risk assessments to prepare an annual supervisory plan that schedules specific supervisory activities. Those supervisory activities include targeted examinations and ongoing monitoring. According to FHFA, targeted examinations enable examiners to conduct a deep or comprehensive assessment of selected areas of high importance or risk, while the purpose of ongoing monitoring is to analyze real-time information and to use those analyses to identify Enterprise practices and changes in an Enterprise's risk profile that may warrant supervisory attention.

Beginning in 2011, FHFA-OIG questioned whether FHFA had a sufficient number of examiners, including commissioned examiners, to supervise the Enterprises, and we followed up on that report in 2013. Building on that work, we conducted an audit in 2016 to determine whether, for Fannie Mae and Freddie Mac, FHFA (1) supported its 2014 and 2015 high-priority planned targeted examinations identified in its annual supervisory plans with risk assessments and completed those planned high-priority examinations; and (2) performed its planned targeted examinations for each Enterprise from 2012 through 2015 and, if it did not, whether FHFA documented the deviations from its plan in accordance with policies and procedures.

For Freddie Mac, our audit found that FHFA planned 90 targeted examinations from 2012 through 2015. Of those 90, our audit found that 50 were completed; 17 were cancelled; 4 were deferred; 7 were converted to ongoing monitoring; 4 were commenced but were not completed; and 8 lacked documentation as to their disposition. Overall, we found that both the number and percentage of completed targeted examinations identified in the annual supervisory plans decreased significantly during this four-year period.

For Fannie Mae, our audit found that 102 targeted examinations were planned from 2012 through 2015. Of these 102, we found that 43 were completed; 19 were cancelled; 9 were deferred; 14 were converted to ongoing monitoring; 7 were commenced but were not completed; and 10 lacked documentation as to their disposition. Again, we found that both the number and percentage of completed targeted examinations that were identified in the annual supervisory plans decreased significantly during this four-year period. We observed:

> For a federal financial regulator, responsible for supervising two Enterprises that together own or guarantee more than $5 trillion in mortgage assets and operate in conservatorship, to fail to complete a substantial number of planned targeted examinations, including completing none of its 2015 planned targeted examinations for Fannie Mae within the 2015 supervisory cycle, is an unsound supervisory practice and strategy.

In 2017, we audited whether planned supervisory activities relating to cybersecurity risk management at each Enterprise for the 2016 examination cycle were completed during that cycle, in light of FHFA's representations in its 2015 Performance and Accountability Report that "a key objective of FHFA's supervisory work will continue to be the effective oversight of how each Enterprise manages cyber risks and addresses vulnerabilities."

For Freddie Mac, our audit found FHFA planned two targeted examinations and three ongoing monitoring activities relating to cybersecurity risks at Freddie Mac for the 2016 supervisory cycle. (It also planned an ongoing monitoring activity to oversee Freddie Mac's effort to remediate a Matter Requiring Attention (MRA) issued previously.[6]) We found that FHFA did not complete one of its planned targeted examinations until after the 2016 Report of Examination issued to Freddie Mac in March 2017, and deferred the other. We also found that FHFA completed the three planned ongoing monitoring activities relating to cybersecurity risks at Freddie Mac (as well as the planned MRA remediation ongoing monitoring activity).

For Fannie Mae, our audit found that FHFA planned, based on its 2016 revised supervisory plan, to conduct one targeted examination and three ongoing monitoring activities relating to cybersecurity risks at Fannie Mae. (It also planned three ongoing monitoring activities to oversee Fannie Mae's efforts to remediate MRAs issued in prior years.) We found that FHFA completed none of its supervisory activities relating to Fannie Mae's cybersecurity risks planned for the 2016 examination cycle during that cycle. (However, we did find that FHFA completed

[6] According to FHFA, an MRA is the most serious examination finding, issued for non-compliance with laws or regulations, repeat deficiencies, unsafe or unsound practices, significant control weaknesses, and inappropriate risk-taking.

its three ongoing monitoring activities of Fannie Mae's remediation of MRAs issued in prior years and closed them during the 2016 cycle.) We found that FHFA's failure to complete any of its planned supervisory activities relating to Fannie Mae's cybersecurity risks during 2016, a stated key objective of FHFA's supervision during 2016, provides additional cause for concern about the soundness of FHFA's supervisory practices and strategy.

We also assessed, in a compliance review and status reports, FHFA's efforts to establish and implement a commissioned examiner program, which it agreed to do in response to a recommendation in our 2011 evaluation on examiner capacity. As we have reported, FHFA established a commissioned examiner program in 2013, but we identified a number of shortcomings in that program, including that it was not on track to produce commissioned examiners within the four-year completion period. As of March 2017, we found that FHFA employed a total of 45 commissioned examiners, all of whom received FHFA commissions based on prior commissions awarded by other financial regulators, which was five more than the 40 commissioned examiners employed by FHFA in 2011. At that time, FHFA had not graduated any examiners from its commissioned examiner program.

These 29 reports on FHFA's supervision of the Enterprises contained 56 recommendations to address the shortcomings that we found. FHFA agreed in full to 38 of them, or 68%.[7]

Based on our fact-finding and analysis, we cautioned stakeholders in December 2016 that the safe and sound operation of Fannie Mae and Freddie Mac cannot be assumed because of significant shortcomings in FHFA's supervision program. While the Deputy Inspectors General of our Audits and Evaluations offices have recently observed some signs indicating improvements in the supervision program, it is too early to assess whether these improvements are sustainable. As our recommendations make plain, clearer standards and guidance, training, responsibility, and accountability are necessary to remediate the shortcomings we have identified. At this juncture, we have not observed sufficient, sustained improvements to warrant removal of our caution.

FHFA-OIG's caution, however, should not be understood as our having concluded that the Enterprises are not being operated in a safe and sound manner. Pursuant to HERA, the obligation to reach a safety and soundness conclusion rests with the FHFA Director.[8] According

[7] For the remaining 18, FHFA rejected 9 and "partially agreed" with 9.

[8] According to FHFA, its examination framework consists of seven components: Capital; Asset quality; Management; Earnings; Liquidity; Sensitivity to market risk; and Operational risk (together, called CAMELSO). See FHFA's 2016 Report to Congress, at 1. On an annual basis, FHFA rates each component on a scale of 1 to 5

to FHFA, each annual report that it issues to Congress "meets the requirement of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by the Housing and Economic Recovery Act of 2008 (HERA), that FHFA submit a report to Congress describing the actions undertaken by FHFA to carry out its statutory responsibilities, including a description of the financial safety and soundness of the entities the Agency regulates."[9] In contrast, FHFA-OIG does not have the statutory charter to reach safety and soundness decisions. Our mandate, under the Inspector General Act, as amended, is to oversee the programs and operations of FHFA, which we do. The work we do does not provide us with a sufficient basis on which to make such a safety and soundness assessment for either Enterprise.

FHFA's Supervision of the Federal Home Loan Banks

As explained earlier, we determined that the magnitude of the supervision risk is greater for the Enterprises, both because the asset size of the FHLBanks and Office of Finance, together, is a fraction of the asset size of the Enterprises and the Enterprises are in conservatorship. Accordingly, the majority of our work on supervision issues has focused on FHFA's supervision of the Enterprises. By statute, FHFA must conduct an annual examination of each FHLBank, and our reports have found that such examinations have been conducted as mandated.

During my tenure, we have issued 10 reports on different elements of FHFA's supervision program for the FHLBanks. For a number of these elements, we found that FHFA has issued prescriptive standards and guidance for its bank examiners and those examiners have largely followed those standards and guidance. We also looked at a number of the same discrete elements of FHFA's supervision programs for the Enterprises and the FHLBanks where FHFA had issued the same standards and guidance and found that FHFA's bank examiners largely complied with those standards and guidance. Where our reports identified shortcomings, we made two recommendations to address those shortcomings. FHFA agreed with both of those recommendations.

Conclusion

Currently, FHFA serves in a unique role: it is both conservator of and regulator for the Enterprises and regulator for the FHLBanks. Its duties as conservator of the Enterprises, which together own or guarantee more than $5 trillion in mortgages, are fundamentally different from

---

and then assigns a composite rating, which it reports in its annual report of examination to each of its regulated entities. Id. at Executive Summary.

[9] See, e.g., Cover Letter from FHFA Director Watt to FHFA's 2016 Report to Congress.

its responsibilities as their supervisor. FHFA's stakeholders, including the Congress, American taxpayers, and others, expect FHFA, as conservator, to ensure that both Enterprises are effectively governed and employ sound risk management practices; they also expect FHFA, as regulator, to exercise vigilant supervision of its regulated entities to ensure that they operate in a safe and sound manner.

FHFA-OIG has focused its efforts on four serious management and performance challenges it has identified to FHFA. To fulfill its responsibilities, FHFA must continue its efforts to address these challenges.

I thank this Subcommittee for the opportunity to testify today. I am happy to answer any questions that you may have.

FHFA-OIG'S REPORTS ON FHFA'S SUPERVISION PROGRAM FOR THE ENTERPRISES FROM JUNE 2015 TO MARCH 2018

FHFA Failed to Ensure Freddie Mac's Remedial Plans for a Cybersecurity MRA Addressed All Deficiencies; as Allowed by its Standard, FHFA Closed the MRA after Independently Determining the Enterprise Completed its Planned Remedial Actions (March 28, 2018) (AUD-2018-008) (online at www.fhfaoig.gov/Content/Files/AUD-2018-008%20FRE%20Cyber%20MRA%20Closure%20%28public%29%20Redacted.pdf)

As Allowed by its Standard, FHFA Closed Three Fannie Mae Cybersecurity MRAs after Independently Determining the Enterprise Completed its Planned Remedial Actions (March 28, 2018) (AUD-2018-007) (online at www.fhfaoig.gov/Content/Files/AUD-2018-007%20FNM%20Cyber%20MRAs%20%28public%29%20Redacted.pdf)

FHFA's Adoption of Clear Guidance on the Review of the Enterprises' Internal Audit Work When Assessing the Sufficiency of Remediation of Serious Deficiencies Would Assist FHFA Examiners (March 28, 2018) (EVL-2018-003) (online at www.fhfaoig.gov/Content/Files/EVL-2018-003.pdf)

FHFA Requires the Enterprises' Internal Audit Functions to Validate Remediation of Serious Deficiencies but Provides No Guidance and Imposes No Preconditions on Examiners' Use of that Validation Work (March 28, 2018) (EVL-2018-002) (online at www.fhfaoig.gov/Content/Files/EVL-2018-002_Redacted.pdf)

FHFA Should Address the Potential Disparity Between the Statutory Requirement for Fraud Reporting and its Implementing Regulation and Advisory Bulletin (March 23, 2018) (COM-2018-002) (online at www.fhfaoig.gov/Content/Files/2018_03_23%20Enterprise%20Fraud%20Reporting.FINAL_.pdf)

FHFA Completed its Planned Procedures for a 2016 Representation and Warranty Framework Targeted Examination at Freddie Mac, but the Supporting Workpapers Did Not Sufficiently Document the Examination Work (March 13, 2018) (AUD-2018-006) (online at www.fhfaoig.gov/Content/Files/AUD-2018-006%20FRE%20RWF%202016%20Targeted%20Examination%20%28public%29_Redacted.pdf)

FHFA Completed its Planned Procedures for a 2015 Representation and Warranty Framework Targeted Examination at Fannie Mae, but Did Not Document a Change to Planned Testing (March 13, 2018) (AUD-2018-005) (online at www.fhfaoig.gov/Content/Files/AUD-2018-005%20FNM%20RWF%202015%20Targeted%20Examination%20%28public%29_Redacted.pdf)

FHFA Did Not Complete All Planned Supervisory Activities Related to Cybersecurity Risks at Freddie Mac for the 2016 Examination Cycle (September 27, 2017) (AUD-2017-011) (online at www.fhfaoig.gov/Content/Files/AUD-2017-011%20FRE%20Cyber%20Examinations%20%28redacted%29.pdf)

FHFA Failed to Complete Non-MRA Supervisory Activities Related to Cybersecurity Risks at Fannie Mae Planned for the 2016 Examination Cycle (September 27, 2017) (AUD-2017-010) (online at www.fhfaoig.gov/Content/Files/AUD-2017-010%20FNM%20Cyber%20Examinations%20Redacted_Redacted.pdf)

FHFA's 2015 and 2016 Supervisory Activities, as Planned, Addressed Identified Risks with Freddie Mac's New Representation and Warranty Framework (September 22, 2017) (AUD-2017-009) (online at www.fhfaoig.gov/Content/Files/AUD-2017-009%20FRE%20RWF%20Examinations%20%28redacted%29.pdf)

FHFA's 2015 Report of Examination to Fannie Mae Failed to Follow FHFA's Standards Because it Reported on an Incomplete Targeted Examination of the Enterprise's New Representation and Warranty Framework (September 22, 2017) (AUD-2017-008) (online at www.fhfaoig.gov/Content/Files/AUD-2017-008%20FNM%20RWF%20Examinations%20%28redacted%29.pdf)

The Gap in FHFA's Quality Control Review Program Increases the Risk of Inaccurate Conclusions in its Reports of Examination of Fannie Mae and Freddie Mac (August 17, 2017) (EVL-2017-006) (online at www.fhfaoig.gov/Content/Files/EVL-2017-006.pdf)

FHFA's Compliance with its Documentary Standards for Issuing Housing Finance Examiner Commissions (July 25, 2017) (COM-2017-004) (online at www.fhfaoig.gov/Content/Files/HFEreport%2007-10-17.pdf)

Closure of OIG Review of FHFA's Supervision of an Enterprise's Remediation of Matters Requiring Attention (June 12, 2017) (ESR-2017-005) (online at www.fhfaoig.gov/Content/Files/ESR-2017-005.pdf)

FHFA's Practice for Rotation of its Examiners Is Inconsistent between its Two Supervisory Divisions (March 28, 2017) (EVL-2017-004) (online at www.fhfaoig.gov/Content/Files/EVL-2017-004.pdf)

Update on FHFA's Implementation of its Housing Finance Examiner Commission Program (March 22, 2017) (COM-2017-003) (online at www.fhfaoig.gov/Content/Files/Update%20on%20HFE%20Program-final.pdf)

FHFA's Examinations Have Not Confirmed Compliance by One Enterprise with its Advisory Bulletins Regarding Risk Management of Nonbank Sellers and Servicers (December 21, 2016) (EVL-2017-002) (online at www.fhfaoig.gov/Content/Files/EVL-2017-002.pdf)

FHFA's Targeted Examinations of Freddie Mac: Just Over Half of the Targeted Examinations Planned for 2012 through 2015 Were Completed (September 30, 2016) (AUD-2016-007) (online at www.fhfaoig.gov/Content/Files/AUD-2016-007.pdf)

FHFA's Targeted Examinations of Fannie Mae: Less than Half of the Targeted Examinations Planned for 2012 through 2015 Were Completed and No Examinations Planned for 2015 Were Completed Before the Report of Examination Issued (September 30, 2016) (AUD-2016-006) (online at www.fhfaoig.gov/Content/Files/AUD-2016-006.pdf)

FHFA's Supervisory Planning Process for the Enterprises: Roughly Half of FHFA's 2014 and 2015 High-Priority Planned Targeted Examinations Did Not Trace to Risk Assessments and Most High-Priority Planned Examinations Were Not Completed (September 30, 2016) (AUD-2016-005) (online at www.fhfaoig.gov/Content/Files/AUD-2016-005.pdf)

FHFA Failed to Consistently Deliver Timely Reports of Examination to the Enterprise Boards and Obtain Written Responses from the Boards Regarding Remediation of Supervisory Concerns Identified in those Reports (July 14, 2016) (EVL-2016-009) (online at www.fhfaoig.gov/Content/Files/EVL-2016-009.pdf)

FHFA's Failure to Consistently Identify Specific Deficiencies and Their Root Causes in Its Reports of Examination Constrains the Ability of the Enterprise Boards to Exercise Effective Oversight of Management's Remediation of Supervisory Concerns (July 14, 2016) (EVL-2016-008) (online at www.fhfaoig.gov/Content/Files/EVL-2016-008.pdf)

FHFA's Inconsistent Practices in Assessing Enterprise Remediation of Serious Deficiencies and Weaknesses in its Tracking Systems Limit the Effectiveness of FHFA's Supervision of the Enterprises (July 14, 2016) (EVL-2016-007) (online at www.fhfaoig.gov/Content/Files/EVL-2016-007.pdf)

FHFA's Supervisory Standards for Communication of Serious Deficiencies to Enterprise Boards and for Board Oversight of Management's Remediation Efforts are Inadequate (March 31, 2016) (EVL-2016-005) (online at www.fhfaoig.gov/Content/Files/EVL-2016-005.pdf)

FHFA's Examiners Did Not Meet Requirements and Guidance for Oversight of an Enterprise's Remediation of Serious Deficiencies (March 29, 2016) (EVL-2016-004) (online at www.fhfaoig.gov/Content/Files/EVL-2016-004.pdf)

FHFA Should Map Its Supervisory Standards for Cyber Risk Management to Appropriate Elements of the NIST Framework (March 28, 2016) (EVL-2016-003) (online at www.fhfaoig.gov/Content/Files/EVL-2016-003.pdf)

Utility of FHFA's Semi-Annual Risk Assessments Would Be Enhanced Through Adoption of Clear Standards and Defined Measures of Risk Levels (January 4, 2016) (EVL-2016-001) (online at www.fhfaoig.gov/Content/Files/EVL-2016-001_0.pdf)

Intermittent Efforts Over Almost Four Years to Develop a Quality Control Review Process Deprived FHFA of Assurance of the Adequacy and Quality of Enterprise Examinations (September 30, 2015) (EVL-2015-007) (online at www.fhfaoig.gov/Content/Files/EVL-2015-007.pdf)

OIG's Compliance Review of FHFA's Implementation of Its Housing Finance Examiner Commission Program (July 29, 2015) (COM-2015-001) (online at www.fhfaoig.gov/Content/Files/COM-2015-001_1_0.pdf)

MarketWatch

CFPB may fine Wells Fargo as much as $1 billion: report

By Steve Goldstein
Published: Apr 9, 2018 1:41 p.m. ET

The Consumer Financial Protection Bureau may fine Wells Fargo WFC, +0.10% several hundred million dollars and as much as $1 billion for auto insurance and mortgage lending abuses, Reuters reported, citing sources with knowledge of the plans. The fine would be the first since Mick Mulvaney was named interim director of the CFPB. Mulvaney is eyeing a penalty that would dwarf the $100 million the CFPB fined Wells Fargo in September 2016 to settle its phony accounts scandal, the report said.

Today's Highest Yield Savings Accounts

Initial Deposit
$ 10,000

Location
Washington, DC

Account Type
Savings & MM...

INSTITUTION	APY	Min. Balance for APY	
360 Money Market®: 1.60% APY for Balances $10k+ - Open now Rate: 1.59% • Fees: N/A • FDIC Insured			
American Express National Bank - Savings PERSONAL SAVINGS	1.55%	$0	Sponsored Get Details
Grow your savings with no fees/minimum balance and 24/7 access. Member FDIC. Learn more. Rate: 1.55% • Fees: N/A • FDIC Insured			
Synchrony Bank - Savings synchrony	1.55%	$0	Sponsored Get Details
Easy Withdrawals. No Monthly Fees. Rate: 1.54% • Fees: N/A • FDIC Insured			
Ally Bank - Savings ally	1.45%	$0	Sponsored Get Details
Consistently Competitive Rates. 24/7 Customer Care. Rate: 1.44% • Fees: N/A • FDIC Insured			

Ad Disclosure Source: Smartasset.com

smartasset Follow this Link to See the Top 3 Financial Advisors For You

SMARTASSET.COM

BACK TO TOP

- **MarketWatch**
- Site Index
- Topics

Login Free Trial/Subscribe

AMERICAN BANKER

The Latest (0/5)

CFPB's Mulvaney strips his fair-lending office of enforcement powers

By **Kate Berry**
Published **February 01 2018, 6:43pm EST**

More in **Enforcement, Enforcement actions, Mick Mulvaney, CFPB**

Print Reprint

Acting Consumer Financial Protection Bureau Director Mick Mulvaney has stripped the agency's fair-lending office of enforcement powers in a sign that many consumer advocates see as trying to reduce oversight and penalties for firms that discriminate against borrowers.

The move appeared to be a demotion for the fair-lending division, which was previously an equal division alongside supervision and enforcement, and which is now part of the office that handles internal agency concerns about employees.

"The Fair Lending Office will continue to focus on advocacy, coordination, and education, while its current supervision and enforcement functions will remain in SEFL," Mulvaney wrote in a memo sent to staff on Tuesday, referring to the Office of Supervision, Enforcement and Fair Lending. "I do not expect that staff will experience changes in employment status, but it is possible that some may experience changes in jobs and duties."

"It never made sense to have two separate and duplicative supervision and enforcement functions within the same agency," said a senior adviser to acting CFPB Director Mick Mulvaney.
Bloomberg News

The move was part of a broader restructuring effort by Mulvaney, who also moved the agency's consumer response division to a separate office of education and engagement.

The Mulvaney memo was first reported by the Intercept, an online news publication. The CFPB confirmed the memo's accuracy on Thursday.

ADVERTISING

inRead invented by Teads

What impact the restructuring will have is open for debate. Under the Dodd-Frank Act, the CFPB's Office of Fair Lending and Equal Opportunity provides "oversight and enforcement of federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities that are enforced by the bureau."

Given that enforcement of fair-lending laws is mandated by the 2010 financial reform law, it is unclear what happens now that Mulvaney has stripped enforcement from the division, lawyers said.

"In some ways, having separate supervision and enforcement staff in the Office of Fair Lending is duplicative, because there was already staff in the Offices of Supervision and Enforcement," said Richard Horn of Richard Horn Legal, a former CFPB senior counsel and special adviser. "But if the current staff handling supervision and enforcement in the Office of Fair Lending are moved with the office to handle only education, this could signal that there will be less of a focus on fair-lending examinations and enforcement under Mulvaney. Also, resources in SEFL will now be spread over a larger area, and this could signal a slowdown in enforcement activity generally."

Sen. Elizabeth Warren, D-Mass., saw it as one more sign that Mulvaney was attempting to gut the agency. She noted that the fair-lending office will now technically be under the "director's office," along with Office of Equal Opportunity and Fairness, giving Mulvaney greater control.

"Mulvaney is putting the Office of Fair Lending under his control so that he can weaken it — leaving neighborhoods and consumers across the country more vulnerable to bias," Warren said in an emailed statement. "For years, Mick Mulvaney opposed CFPB's efforts to fight discrimination in the consumer financial marketplace even as the agency returned $400 million from discriminatory financial institutions to American families who had been overcharged or denied credit."

The division came under criticism from House Republicans several years ago, who accused the CFPB of overreach in extracting settlements from indirect auto lenders for possible

discrimination against minorities.

Moving fair lending to another division is also seen as a way to sideline Patrice Ficklin, the assistant director of fair lending, who has been instrumental in enforcing the Equal Credit Opportunity Act and other fair-lending laws.

The CFPB characterized the move as helping make the bureau more efficient and said it will continue to perform supervision and enforcement of fair-lending laws and regulations.

"The fact is, it never made sense to have two separate and duplicative supervision and enforcement functions within the same agency — one for all cases except fair lending, and the other only for fair-lending cases," said John Czwartacki, a senior adviser to Mulvaney. "By announcing our intent to combine these efforts under one roof, we gain efficiency and consistency without sacrificing effectiveness. And by elevating the Office of Fair Lending to the Director's Office, we have enhanced its ability to focus on its other important responsibilities."

But consumer advocates didn't see it that way.

"Gutting the office's enforcement powers is the latest example of interim CFPB Director Mick Mulvaney unashamedly working on behalf of big banks and predatory lenders instead of consumers," said Lisa Gilbert, vice president of legislative affairs at Public Citizen. "The Office of Fair Lending and Equal Opportunity has been crucial in protecting consumers, especially people of color and low-income borrowers."

Advocates questioned why Mulvaney, who is also the head of the Office of Management and Budget, would reorganize the agency without waiting for a permanent director to make the changes.

They wondered if the moves might also have an impact on how the CFPB treats consumer complaints. The CFPB's consumer response unit takes complaints firsthand directly from individuals and identifies harmful patterns and practices that may be used in enforcement and supervisory actions against companies.

Three consumer groups — Americans for Financial Reform, Consumer Action and U.S. PIRG — raised questions about the CFPB's changes, arguing they will hurt the agency's effectiveness.

Article Underwriting self-employed borrowers

Freddie Mac helps lenders to better serve this expanding market segment

PARTNER INSIGHTS
SPONSOR CONTENT FROM:

Freddie Mac

Fintech
April 17

"Is this transfer designed to diminish the Consumer Response unit's important role in helping all units of the agency collect and understand the ongoing complaints that consumers raise?" the consumer groups said in an emailed statement. U.S. PIRG. "Why make changes to some of the bureau's most consumer-oriented offices at all?"

But observers said Mulvaney is free to make these changes because the agency's director has broad latitude to restructure it.

"Obviously, fair lending is part of the bureau's mission, but where you put that office and how they carry out the mission is left to the discretion of whoever is in charge," said Lucy Morris, a partner at Hudson Cook and a former deputy enforcement director at the CFPB.

Print Reprint

Kate Berry

Kate Berry covers the Consumer Financial Protection Bureau for American Banker.

▸ 2 Comments

Exclusive: U.S. watchdog seeks record fine against Wells Fargo for abuses - sources

reuters.com/article/us-wells-fargo-accounts-fine-exclusive/exclusive-u-s-watchdog-seeks-record-fine-against-wells-fargo-for-abuses-sources-idUSKBN1HG2PO

WASHINGTON (Reuters) - The top U.S. watchdog for consumer finance is seeking a record fine against Wells Fargo & Co that could exceed several hundred million dollars for auto insurance and mortgage lending abuses, according to three sources with knowledge of the plans.

FILE PHOTO: A Wells Fargo logo is seen at the SIBOS banking and financial conference in Toronto, Ontario, Canada October 19, 2017. REUTERS/Chris Helgren/File Photo
The penalty would be the first issued by Mick Mulvaney, whom President Donald Trump tapped in November to head the Consumer Financial Protection Bureau (CFPB).

The fine would fulfill Trump's vow to come down hard on the country's third-largest lender, which has been grappling with a sales practices scandal since September 2016.

The CFPB is readying sanctions alongside the Office of the Comptroller of the Currency (OCC), Wells Fargo's day-to-day regulator. The agencies are ready to sanction Wells Fargo for layering extra insurance on drivers and collecting commissions on those policies, Reuters reported last month.

Both agencies have also been investigating the bank for wrongly levying fees on mortgage borrowers.

Mulvaney is eyeing a penalty that would settle both those matters and dwarf the $100 million the CFPB fined Wells Fargo in September 2016 to settle its phony accounts scandal, said the sources familiar with the talks. That 2016 fine had been the CFPB's largest ever.

Settlement terms have not been finalized but Mulvaney is pushing for a figure as high as $1 billion, said three people with knowledge of the discussions.

A stiff penalty against Wells Fargo could burnish Mulvaney's image as a tough regulator even as his agency has dropped cases against at least two payday lenders.

Mulvaney has said the CFPB has gone too far in policing industry in the past but that abuses do exist.

FILE PHOTO: Director of the Office of Management and Budget Mick Mulvaney speaks at the Conservative Political Action Conference (CPAC) at National Harbor, Maryland, U.S., February 24, 2018. REUTERS/Joshua Roberts/File Photo
"I think you're being naïve if you think there aren't folks out there who are breaking consumer financial protection laws," Mulvaney told an industry meeting last month.

The OCC and Wells Fargo declined to comment. A spokesman for the CFPB did not respond to a request for comment.

Lawmakers will get a chance to question Mulvaney about the settlement talks at two separate hearings in Congress on Wednesday and Thursday. Wells Fargo is due to report earnings on Friday and some officials hoped to have a deal by then.

Mulvaney was asked about the Wells Fargo matter at an industry event on Monday and declined to comment.

In the case of Wells Fargo and auto insurance, agency lawyers have raised concerns about how different customers received different treatment from the bank.

Drivers who financed a car through a dealer could be pushed into insurance if Wells Fargo suspected a policy had lapsed. Drivers who went directly to the bank for a loan were not subject to such "force-place" insurance after 2011, the bank has said.

The bank has also said it did not monitor insurance for borrowers with high credit scores. Borrowers with lower credit scores could get pushed into force-placed insurance.

Lawyers are debating whether the bank should pay a higher fine for the uneven treatment of customers, the sources said.

Trump had pledged tough penalties for Wells Fargo after Reuters reported in December that Mulvaney put the mortgage-lending abuse sanctions on ice.

Reporting By Patrick Rucker; Editing by Michelle Price and Meredith Mazzilli

Our Standards:The Thomson Reuters Trust Principles.

HOUSE COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS
HEARING: OVERSIGHT OF THE FEDERAL HOUSING FINANCE AGENCY
HONORABLE LAURA WERTHEIMER, INSPECTOR GENERAL, FEDERAL HOUSING FINANCE AGENCY
Rep. Luke Messer
April 12, 2018

QUESTIONS FOR THE RECORD

And

FHFA-OIG RESPONSES
June 18, 2018

Ms. Wertheimer, thank you for testifying before the House Financial Services Committee, Oversight and Investigations Subcommittee on April 12, 2018. I recognize you may not have all the answers to my questions submitted for the record, but I would encourage you and your team to conduct a unbiased analysis—not of just what the Government-Sponsored Enterprises ("GSEs") (and possibly Federal Housing Finance Authority ("FHFA") *want*)), but an analysis to understand what the motives of existing and pilot programs, if these programs truly translate into meaningful risk, and how to enhance overall transparency. It is my opinion that the FHFA can operate as a more as unbiased regulator when it comes to the counterparties and the role the GSEs play in the marketplace.

TOPIC: Credit Enhancement and Minimum Standards

Question 1: Ms. Wertheimer, when examining the way the Government-Sponsored Enterprises (GSEs) conduct credit risk transfer ("CRT"), it is my understanding that different credit enhancement forms are allowed to compete. Furthermore, it appears that the standards for different counterparties, in particular, in terms of capital and operational standards, are unclear. If there are standards, can you further elaborate on these standards and why standards may differ?

Response: While we monitor FHFA's oversight of the GSE's CRTs, we have not issued a report on CRT standards or providers in the last few years. Accordingly, we lack a sufficient evidentiary basis to elaborate on these standards, or their differences, if any.

- It has been widely acknowledged that many if not most of these different backend CRT providers are opportunistic capital—meaning, they will not be available when returns are not as good as anticipated or when there is volatility in the housing market. Do you believe this creates a positive outcome for the housing system?

Response: Again, because we have not issued a report on CRT standards or providers in the last few years, we lack a sufficient evidentiary basis to reach any conclusions on the impact of certain backend CRT providers on the housing system.

- Turning to the different layers or credit risk, should the GSEs establish a set of minimum standards? If so, what should be the basis of these minimum standards?

Response: While we monitor FHFA's oversight of the GSEs' underwriting standards, we have not issued a report evaluating whether the GSEs should establish a set of minimum standards or the basis of these minimum standards in the last few years. Accordingly, we lack a sufficient evidentiary basis to respond to this question.

- To the best of my knowledge, the only standards in existence are the Private Mortgage Insurer Eligibility Requirements (PMIERs). Ms. Wertheimer, why do you believe all credit enhancement subject to first loss should be subject minimum standards?

Response: We have expressed no opinion whether all credit enhancement subject to first loss should be subject to minimum standards and have not issued any report assessing whether all credit enhancements subject to first loss should be subject to minimum standards in the last few years. Accordingly, we lack a sufficient evidentiary basis to respond to this question.

- It appears the differential capital requirements create capital arbitrage by having different standards for different parties taking the exact same risk? Would you agree with this observation?

Response: We have not issued a report on whether differential capital requirements create capital arbitrage by having different standards for different parties in the last few years. Accordingly, we lack a sufficient evidentiary basis to respond to this question.

- If you do not agree, can you explain why this approach does not create capital arbitrage?

Response: Please see prior response.

- Ms. Wertheimer, in your opinion as Inspector General, do you believe GSEs are incentivized to completely ignore PMIERs when it is in their best interest to accomplish their other objectives? Likewise, pilot products such as the Integrated Mortgage Insurance "IMAGIN" product, which was in coordination with *one* company, allows the GSEs to skirt as close to a charter violation to self-insure because it has the potential to dictate private mortgage insurance decisions normally determined by lenders.

Response: We have not issued published a report in the last few years on whether GSEs are incentivized to completely ignore PMIERs when it is in their best interest to accomplish their other objectives. Accordingly, we lack a sufficient evidentiary basis to respond to this question.

TOPIC: Transparency

Questions 2: The FHFA OIG issued a report on March 27, 2018 about *Update on FHFA's Implementation of its Revised Procedures for Overseeing the Enterprises' Single-Family Mortgage Underwriting Standards and Variances*[1]. The report cites:

---

[1] *Update on FHFA's Implementation of its Revised Procedures for Overseeing the Enterprises' Single-Family Mortgage Underwriting Standards and Variances.* Compliance Review • COM-2018-003 • March 27, 2018.

> "According to the Enterprises' Forms 10K for 2016, the unpaid principal balance (UPB) of the Enterprises' combined single-family portfolios was over $4.6 trillion; Fannie Mae's UPB was $2.8 trillion, and Freddie Mac's UPB was $1.8 trillion. Because effective credit risk oversight requires full visibility into the selling policies governing portfolios of this size, FHFA has promulgated standards instructing the Enterprises which selling policies and variances to submit for its review. However, nearly six years since the issuance of our 2012 audit report, FHFA continues to lack full visibility into one Enterprise's single-family underwriting practices and risks. In our view, FHFA's failure to require the Enterprises to comply with its submission standards from February 2013 until the end of 2017, and its continued lack of full visibility into one Enterprise's single-family underwriting policies, raises serious questions about the effectiveness of FHFA's oversight of this area and the significant risks associated with it."

It is highly alarming to me and should be very alarming to taxpayers that there is still not transparency into the underwriting standards of the GSEs. Do you think that the automated underwriting systems ("AUS") —that have been developed and built primarily while in conservatorship—should be made completely public—or, at minimum, to the regulator and others who are taking credit risk such as investors, mortgage insurers and other credit enhancement?

Response: We have not issued a report in the last few years on the question of whether the GSEs' AUS should be made completely public—or, at minimum, to the regulator and others who are taking credit risk such as investors, mortgage insurers and other credit enhancement. Accordingly, we have no view on this matter.

3. For the housing finance system to most accurately and holistically price credit risk there should be full transparency regarding the GSEs capital framework. Late last year, the FHFA approved the GSEs' *Conservator Capital Framework* but industry stakeholders have not had access to the documents and their analysis. Transparency with pricing and capital levels for the mortgages guaranteed by the GSEs is essential for the market to having a full understanding of how much capital is needed and how to appropriately price the risk. Are you aware if the FHFA plans to publicly released the *Conservator Capital Framework* and if not, why?

Response: We have not issued a report in the last few years on the matter of the *Conservator Capital Framework*. FHFA informed us that it has proposed a new regulation on Enterprise Capital Requirements, and that the proposal includes a new regulatory capital framework for the Enterprises, which includes a new framework for risk-based capital requirements and two alternatives for an updated minimum leverage capital requirement. According to FHFA, the risk-based framework would provide a granular assessment of credit risk specific to different mortgage loan categories, as well as market risk, operational risk, and going-concern buffer components. FHFA informed us that they submitted the text of the proposed regulation to GPO for publication on June 12, 2018, and that there will be a 60-day comment period.

○