

# THE CONSUMER FINANCIAL PROTECTION BUREAU'S SEMI-ANNUAL REPORT TO CONGRESS

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## HEARING BEFORE THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE ONE HUNDRED FIFTEENTH CONGRESS SECOND SESSION ON

RECEIVING AND DISCUSSING THE CONSUMER FINANCIAL PROTECTION  
BUREAU'S SEMI-ANNUAL REPORT TO THE COMMITTEE ON RECENT  
ACTIVITIES, RULEMAKINGS, SUPERVISORY ACTIONS, AS WELL AS FU-  
TURE PLANS FOR ACTION

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APRIL 12, 2018

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# C O N T E N T S

**THURSDAY, APRIL 12, 2018**

	Page
Opening statement of Chairman Crapo .....	1
Prepared statement .....	40
Opening statements, comments, or prepared statements of:	
Senator Brown .....	2
Prepared statement .....	40

## WITNESS

Mick Mulvaney, Acting Director, Consumer Financial Protection Bureau .....	4
Prepared statement .....	41
Responses to written questions of:	
Senators Brown, Warner, Van Hollen, Cortez Masto, and Jones .....	47
Senator Reed .....	62
Senator Scott .....	63
Senator Sasse .....	65
Senator Warren .....	72
Senator Cotton .....	184
Senator Schatz .....	184
Senator Cortez Masto .....	188

## ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

The April 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection .....	205
List of bills cosponsored by Mick Mulvaney submitted by Senator Warren .....	261
Letter submitted by the National Association of Federally-Insured Credit Unions .....	264
Letter submitted by the Consumer Bankers Association .....	269
Letter submitted by the Carolinas Credit Union League .....	279
Letter submitted the American Council of Life Insurers, American Insurance Association, American Land Title Association, and other U.S. Trade associations .....	280
Letter submitted by the National Association of Insurance Commissioners and the Center for Insurance Policy and Research .....	281
Letter submitted by the Credit Union National Association .....	283





# **THE CONSUMER FINANCIAL PROTECTION BUREAU'S SEMI-ANNUAL REPORT TO CON- GRESS**

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**THURSDAY, APRIL 12, 2018**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
*Washington, DC.*

The Committee met at 10:16 a.m. in room SD-538, Dirksen Senate Office Building, Hon. Mike Crapo, Chairman of the Committee, presiding.

## **OPENING STATEMENT OF CHAIRMAN MIKE CRAPO**

Chairman CRAPO. By a slim majority vote, the hearing comes to order.

[Laughter.]

Chairman CRAPO. Today we will hear from CFPB Acting Director Mick Mulvaney on the most recent Semi-Annual Report of the Consumer Financial Protection Bureau and the Bureau's activities since his appointment in November 2017.

On April 2nd, the CFPB released its fall 2017 Semi-Annual Report, which provides insights on the issues consumers face and primarily focuses on the CFPB's significant work between April and September 2017, including rulemakings, supervisory actions, and enforcement actions.

The CFPB recently announced a series of requests for information on various functions, including its rulemaking, supervision, guidance, and enforcement processes.

Consumer protection is vital for a properly functioning financial marketplace and is best determined by a robust, quantitative analysis.

I look forward to learning what feedback the CFPB has received from stakeholders with respect to its requests and how consumers and the marketplace stand to benefit from changes being considered.

I have long been concerned about the ever increasing amounts of "big data" collected by companies and the Government.

In 2014, the Government Accountability Office issued a report in which it highlighted shortcomings in the CFPB's data collection process and privacy controls and recommended a number of improvements.

The CFPB's data collection is especially concerning in light of a number of high-profile cyber attacks, such as last year's Equifax

data breach and recent news about how outside groups have collected private information from Facebook users.

I commend Acting Director Mulvaney for treating these concerns seriously by freezing the agency's collection of personal information while the agency reviews the ways it can improve its data security program.

Today we should discuss how the CFPB's data collection process can be narrowed and enhanced to better protect consumers' personal information.

While I am encouraged by today's testimony, the fundamental structure of the CFPB needs to be reconsidered to make it more transparent and more accountable.

I continue to support a bipartisan commission instead of a single Director, a congressional funding mechanism, and a safety and soundness check.

Given the changes taking place at the agency, now is an appropriate time to consider the future of the CFPB.

Senator Brown.

#### **STATEMENT OF SENATOR SHERROD BROWN**

Senator BROWN. Thank you, Mr. Chairman. Welcome, Director. Good to have you.

The reason we are here today is that there was a financial crisis a decade ago caused by predatory lenders. That crisis cost millions of Americans their jobs, their homes, their savings.

The St. Louis Fed looked at the subprime mortgages made from 2000 to 2007. It found that 70 percent—7-0—of those loans were refinances. That is important. It means that most subprime loans were not going to people who were “buying too much house.” These loans were going to people that had already paid off some of their debt and built some equity.

Subprime refinance loans allowed shady lenders to steal the equity from homeowners with false promises of lower monthly rates under confusing payment plans. These loans, designed to steal wealth from hardworking families, overwhelmed the banking system and crashed the whole economy.

There was no Consumer Financial Protection Bureau while this was happening in those years, from 2000 to 2007. There was no dedicated cop on the beat to be tough on predatory mortgage lenders or to warn consumers about these loans.

The result was the biggest financial crisis and recession since the Great Depression. The lesson from 2008 is simple: If we do not protect hardworking Americans from powerful Wall Street banks and financial scammers, it can bring down our entire economy.

That is why we created the CFPB. Its job is clear: to fight for hardworking families against unfair, abusive, and deceptive practices, the tricks and traps that some financial institutions design in order to line their pockets.

It is a consumer-first agency. Before Mr. Mulvaney's arrival, the CFPB got \$12 billion—\$12 billion, \$1,200 million—in relief for 29 million Americans that had been harmed by shady practices.

Before Mr. Mulvaney arrived, the CFPB was doing its job. It initiated a handful of enforcement actions every month on behalf of

the consumers it was created to serve. It is a consumer-first agency.

But now Mr. Mulvaney is trying to convince us that protecting families and prosecuting shady lenders is “pushing the envelope.” That is simply a lie. Protecting consumers is not “pushing the envelope.” That is the agency’s mission. It is a consumer-first agency. Look at the title: Consumer Financial Protection Bureau.

It is a mission that Mr. Mulvaney is completely failing at. The number of enforcement actions under his watch? Zero. Well, actually, that is not correct. The number of enforcement actions under his watch is negative four. Not only has the CFPB not initiated a single enforcement action, it has withdrawn lawsuits against four payday lenders that charge consumers triple-digit interest rates.

It is Mr. Mulvaney who is pushing the envelope. His appointment at the CFPB was only made possible by ignoring the law that created the CFPB, which says that the Deputy Director should be in charge of the agency.

Yesterday marked the 50th anniversary of the Fair Housing Act. Mr. Mulvaney observed this year’s anniversary by moving to weaken the office of Fair Lending—the office that focuses on discriminatory lending.

While he claims the agency is under a hiring freeze, he has actually created new positions at the Bureau. He has installed his own political appointees. That may seem unsurprising given the behavior of this Administration, but it has no precedent in the short life of the CFPB.

Not only did Mr. Mulvaney replace nonpartisan career staff with his political allies, he gave them enormous salaries.

In his role at the CFPB, Mr. Mulvaney is continuing the war on working families he started at OMB. As Budget Director, he worked to slash benefits for Americans making \$30,000 to \$40,000 a year and enact tax cuts that benefit the wealthiest Americans while adding trillions of dollars to our national debt.

At the CFPB, he is handing out favors to Wall Street and shady lenders. He is lining the pockets of his top four political appointees with over \$1 million in salaries. Remember I said there are eight political appointees, never been done in this agency. Four of those appointees together make over \$1 million in salary. They are not economists. They are not doing the work of bringing actions against people who cheat consumers. They are political appointees. He has not taken on a single enforcement action that would continue the CFPB’s good work of putting money back in the pockets of consumers harmed by financial scammers, harmed by shady lenders.

Shel Silverstein, with whom we are all familiar, once said, “If you have to dry the dishes, and you drop one on the floor, maybe they will not let you dry the dishes anymore.” Mr. Mulvaney seems to be following that advice. He is hoping that if he does a bad enough job running the CFPB, Congress will take away the CFPB’s ability to protect consumers.

Congress should not fall for it. We have seen that the CFPB can be a real, positive voice and force for American consumers. We know the real problem is not the CFPB.

Thank you.

Chairman CRAPO. Thank you, Senator Brown.

Director Mulvaney, thank you for being with us today. We appreciate your attendance here and look forward to our discussions with you. You may proceed with your testimony, and as usual, we ask you to try to conclude it within 5 minutes. And anything you do not get said of your statement will be put in the record. The time is yours.

**STATEMENT OF MICK MULVANEY, ACTING DIRECTOR,  
CONSUMER FINANCIAL PROTECTION BUREAU**

Mr. MULVANEY. Thank you, Senator. Mr. Chairman, thank you, Ranking Member Brown. I will not take the whole 5 minutes. I think I have submitted a written statement for the record, and I think you also have the written copy of the Semi-Annual Report, which is the reason for the hearing today.

Let me just say this: I am happy to be here, happy to answer your questions, happy to talk a little bit about the operations of the Bureau of Consumer Financial Protection, and I hope that amongst other things today we can use this time to try and draw attention to ways that the Bureau can be improved, especially in terms of accountability and transparency.

I evidently made a little bit of news yesterday when I reminded everybody, or at least pointed out the fact that while I have to be here by statute, I do not think I have to answer your questions. If you take a look at the actual statute that requires me to be here, it says that I "shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate," and I am here and I am happy to do it.

I want to make it clear that I am going to answer every question that I can today. I am not using this as an excuse not to answer your questions. But the statute says I have to appear. Elsewhere in the same statute, it says that the head of FSOC "shall appear, discuss, and answer questions," and it says that the Office of Financial Research, the Director "shall appear and testify." Either that is a mistake and it needs to be fixed, or it was done on purpose and it needs to be fixed. It is just one example of many of ways that I think we can improve the Bureau of Consumer Financial Protection because I think we all maybe could admit that it was not perfect the first time. As someone said yesterday, actually, it was a Democratic Member yesterday who said the statute was not handed down from on high.

So I look forward to talking about my management of the Bureau, about the statute, and about ways that we can make this Bureau more accountable to you and more accountable to the American people. I know it was set up to be independent, and that is fine; it was set up supposedly to be free of micromanagement, and I agree with that. I do not think that equates to being free of oversight, free of accountability, and free of transparency. So I hope that if we can accomplish anything together today, we can maybe draw some attention to ways that this particular part of Government can be improved.

Senator BROWN. [Presiding.] Senator Shelby can go first, if you would like.

Senator SHELBY. Thank you.

Director Mulvaney, we appreciate you. We know your background as a Member of the House, and I believe you knew a lot about the House Financial Services Committee. We call it the "Banking Committee." You served there, so you bring some experience to this job, not just to OMB but to this job itself.

Actually, I personally believe you will bring a ray of sunshine to a black hole of bureaucracy, and it is just a good start. I like what you are trying to do. I have always been concerned about the structure of this. I fought it. I agree with Chairman Crapo. We tried to make a commission here, not one person, not like a czar or a dictator or whatever with no accountability. And I think you are on the right track.

I do believe that as we have a discussion here, a conversation this morning, some of us would be interested in some of your thoughts on how we can restructure this or what direction should we go. We all have some ideas, because I think it is important. And you seized on a couple of things a minute ago, and I think they are very important to any agency, and especially this agency—that is, accountability and transparency. And if we can work on that together, we will do something for the American people, because I do not think you can get around that.

So what are your thoughts as far as structure? I think we might have to do some legislative changes here.

Mr. MULVANEY. We do. I have got one suggestion. In fact, the Semi-Annual Report makes four, but the one at the top of the list is the one I will talk about. Please put the Bureau on appropriations. Seriously. I mean, why you all wanted to give up the appropriation power that Congress has over this agency I do not understand.

Senator SHELBY. Excuse me. Now, a lot of us did not. Just appropriators did.

[Laughter.]

Mr. MULVANEY. I can walk down to the Federal Reserve on October 1st, of this year or next year, Senator, and they will give me \$700 million if I ask for it. And I do not have to tell you what I am going to do with it. The Ranking Member made comments about salaries; I welcome a discussion of the salaries at the Bureau. There are 370 folks who work there who make more than you do. And that may be fine, but my guess is you probably did not know that because we do not go through the appropriations process.

The inquiry, the sunshine that is attached to the appropriations process does not apply here. So there is a lot of stuff that goes on that you all will never know about unless you know to ask or I choose to tell you.

Senator SHELBY. Mr. Director, excuse me. Basically it is just we have had no oversight of this agency, have we?

Mr. MULVANEY. I have to come here twice a year, and that is about it.

Senator SHELBY. Go ahead.

Mr. MULVANEY. So there are other things you can do. We have asked for you all to take a look at our major regulations. I have asked separately for an independent Inspector General. There are a bunch of things we can do, Senator, to make this better without

undermining the mission. I am not seeking to undermine the mission of the Bureau. I have every interest in enforcing the law. I am required by law to protect consumers and educate consumers, and I intend to do both of those things. But there is no reason for this Bureau to be a black hole, as you put it, Senator, in order to conduct that mission. And I very much hope that both the House and the Senate choose in the near future to sort of take back some of their oversight ability over this Bureau.

Senator SHELBY. Thank you.

Thank you, Mr. Chairman.

Senator BROWN. Thank you, Senator Shelby.

Thank you, Director. I would add that I would just point out that there have been some 60 appearances in front of the two committees, either Director Cordray or one of his top assistants, and thousands of pages coming from the Consumer Bureau in response to questions, many of them from Members of this Committee and the House. So to say there is no oversight is, I think, a bit of a reach, but that is all right.

I want to talk about payday lending. Pew has said that Ohio has the biggest payday lending problem in the country. Ohioans pay the highest rates for payday loans in the country. The Ohio Speaker of the House just resigned, a Republican Speaker, perhaps due in part to some exotic trips he went on with payday lobbyists.

Since you started at the CFPB, have you rubbed elbows with payday CEOs or their lobbyists and lawyers in exotic locations?

Mr. MULVANEY. No, sir. The only contact that I have had that I know of with anybody associated with the industry was as part of our community groups that we have. We have advisory boards, we have groups from industry, we have consumer advocates. And I have met with those groups in the ordinary course of business, but that is the only contact I am aware of.

Senator BROWN. That is the only time, OK. Thank you for that.

You talk about the power of the CFPB. Before your appointment, the CFPB used that power, in a good way mostly, to get \$12 billion in relief for 29 million Americans. You have heard those numbers. You have not disputed those numbers. Five months, you, on the other hand, have not initiated a single enforcement action to put money back in the pockets of servicemembers or veterans or seniors or students. You have said publicly that it is naive to think financial institutions are not out there breaking the law. So what gives there? Why don't you use the power to do—why are you using your power to do favors for shady lenders and Wall Street banks rather than taking action, decisive action, against these bad actors that you claim are out there?

Mr. MULVANEY. I will disagree with that characterization, but I will answer your question, which is that we have over 100 investigations ongoing right now. We have 25 lawsuits, including 10 against short-term, small-dollar payday lenders, as you describe them. We have, I think, another dozen that are in what we call the "sue or settle part" of the process where we decide to either settle with them or move to a lawsuit. I will point out that my predecessor in his first 6 months never filed a lawsuit, so it is not at all unusual.

We continue to enforce the law, Senator. It is a true fact that we have not filed a new lawsuit in the last 5 months, but I would disagree with the characterization that means that we are not enforcing the law.

Senator BROWN. Why, against the advice of nonpartisan CFPB staff, did you drop a lawsuit against those four payday lenders? What was that about?

Mr. MULVANEY. I will challenge the characterization of the advice I get from staff. That being said, I will not comment on the advice that I get from my staff, especially my legal staff, and I will point out to you that the dismissal is one of 25 that I could have done. I chose to only dismiss one. The dismissal was without prejudice to bring the action again, and there is a current ongoing investigation against the same entity. So with that, I will not comment any further because we do not comment, as Mr. Cordray did not either, on ongoing investigations. But I can assure you that the characterization just made is not accurate.

Senator BROWN. Is the CFPB still subject to a hiring freeze?

Mr. MULVANEY. Yes, sir.

Senator BROWN. So during that hiring freeze, you hired eight political appointees, more distinct from the nonpartisan professional career staff. There used to be none of those at the CFPB. Why does CFPB require more political staff in the aggregate than worked at the Federal Reserve, the FDIC, and the OCC combined in 2016?

Mr. MULVANEY. Actually, I do not think that last statement is accurate. I was just talking—I cannot remember which one of the other regulators that I share, and I think it may have been the FTC, another independent regulator, and they have more political appointees than we do. There was nobody there, there were no political appointees other than me on the day that I showed up.

Senator BROWN. That is the point.

Mr. MULVANEY. I will point out, which was unusual, that I think I have netted three additional positions, so you talk about the eight, but many of them have replaced other positions that already existed. They were career, not political. But there have only been three new positions created in my time.

Senator BROWN. But eight political appointees.

Mr. MULVANEY. I think that is right, yes, sir.

Senator BROWN. And you do not question the characterization of those, the four of those, their pay exceeds \$1 million in the aggregate?

Mr. MULVANEY. Because the pay that they are receiving is under the exact same pay system that my predecessor set out.

Senator BROWN. But for career people as opposed to political people.

Mr. MULVANEY. Yes, but they are on the same level. I would also point out that I have complete statutory authority to do so.

Senator BROWN. But with less necessity because they are not doing the kind of work that their predecessors were doing.

Mr. MULVANEY. No, no. In fact, nothing could be further from the truth. What I have done is set up a—if you are familiar with OMB, and I think that you are, we have a PADs and DADs system where we marry a political appointee to a career staffer, and they work

together as a team. And that is simply the same model that I have used at the Bureau.

I will also point out that I have complete authority under the statute to do exactly what I have done. The statute actually contemplates hiring the SES people under Schedule C that I have, and we have received approval from the Office of Personnel Management to hire the folks. We have done it 100 percent legally and 100 percent by the book.

Senator BROWN. Of course you have received approval, but you have received the approval of this Administration, so no surprise there.

One other question in my last few seconds. You claim to want CFPB to be data-driven. You have told staff, "There is a lot more math in our future."

Mr. MULVANEY. Yes, sir.

Senator BROWN. But at OMB you reportedly quashed the Department of Labor's analysis that showed employers would pocket hundreds of millions of dollars in tips meant for employees. Is rejecting data that does not help your agenda the kind of quantitative analysis we can expect?

Mr. MULVANEY. Again, I appreciate the question. I disagree with the characterization. I did not quash anything at OIRA.

Senator BROWN. So who did that?

Mr. MULVANEY. I would suggest to you that nobody quashed anything. But, again, we do not comment on the OIRA process. That is part of the delivery process of the executive branch. We do not comment on that. But I can assure you that we did not do what you said we did.

Senator BROWN. So you are claiming there was no attempt by your agency or any other agency to wipe that information away in that process?

Mr. MULVANEY. The rule to which you are referring is a Department of Labor regulation, and I would encourage you to raise that issue with the Secretary of Labor the next time you get the opportunity.

Senator BROWN. So you are not saying the Secretary—you are saying you did not do it. You are not saying the Secretary of Labor did not do it.

Mr. MULVANEY. I am saying I do not comment on how OIRA functions.

Senator BROWN. So can we be confident that you will not engage in that kind of behavior in this job?

Mr. MULVANEY. I am not in the business of quashing information. I want as much information as I can get. In fact, one of the things I have done since I have been there is ask for a lot more information from a lot more sources.

Senator BROWN. All right. Thank you.

Chairman CRAPO. [Presiding.] Thank you. Thank you very much. Mr. Director, I apologize. I had to step out for a vote in the Judiciary Committee.

Mr. MULVANEY. I completely understand. Of all the folks who appear before you, I probably appreciate that more than anybody.

Chairman CRAPO. Well, thank you.



In your Semi-Annual Report's introduction letter, you recommend four changes to the Dodd-Frank Act. The first one is to fund the Bureau through congressional appropriations. The second one is to require legislative approval of major rules. The third recommendation is to ensure that the Director answers to the President in the exercise of executive authority. And the fourth is to create an independent Inspector General for the Bureau.

Could you take a minute or two and explain how important that fourth recommendation is about the Inspector General?

Mr. MULVANEY. Sure, and I want to make one thing perfectly clear. This is not to denigrate the work that the Inspector General has done. I share an Inspector General right now with the Federal Reserve Board, and I have absolutely no complaints about the service that I have received from them, so this is not a personal attack on the IG. I will tell you that I think in the long run it serves this agency, this Bureau, better to have our own IG who is dedicated to what we do, who is familiar and focused with what we do exclusively. And I would also point out to you, Senator, that it is a cost-reducing move for us to have our own IG. I think we save about \$2 million a year in our analysis.

I honestly do not know what the objection is as to why you would not give us our own Inspector General. It makes me wonder why we could not get our own Inspector General. I do not know how often executive agencies come to you and say, "Please, please, give me more IG oversight. Give me my own." But for some reason, that appears to be controversial to some folks, and I do not understand why.

Chairman CRAPO. Well, thank you. I do not sometimes understand the disagreements we have up here either, but I do agree with your recommendation here, and I point out this would be an independent Inspector General that you are requesting.

Mr. MULVANEY. Yes, sir.

Chairman CRAPO. We will see if we can find a way, a pathway on that.

In my opening remarks, I talked about data collection. I have long been concerned about the ever increasing amounts of big data collected by both private sector companies and by the Government. The CFPB's data collection has been especially concerning to me because of how broad it was and concerns that I held about the fact that it was not appropriately being managed. And, in fact, some of our evaluation has proven that to be the case.

In light of the high-profile cyber attacks that we have seen recently, like the Equifax breach, the OPM data breach, and recent news about Facebook—and the list continues to grow—I would like to ask you to tell me: How can the CFPB's data collection process be narrowed and enhanced to better protect consumers' personal information?

Mr. MULVANEY. We are in the process right now, Mr. Chairman, of asking those exact same questions for the reasons that you raised. When I got there, the two priorities that the previous IG reports had sort of brought to light within the Bureau were the travel card—there are some potential difficulties there—and our data security. And for that reason, I immediately instituted a data

collection freeze until I could get my arms around what the scope of the difficulty was.

I met with the IG. We can talk privately about what the IG told me because I do not want to talk about it publicly. But after the meeting with the IG, what we decided to do is that we will go ahead and continue some data collection as it is necessary to our enforcement, and we have taken some steps to work with our sister agencies, for example, the Department of Justice, and then we have also changed some of our practices in terms of looking at data but not collecting it. I heard a great expression yesterday: "You do not have to protect what you do not have." So there is stuff we have to see, but it is not stuff we have to keep.

We have also hired an outside party, I believe it is with the Defense Department, to see if they can test the integrity of our system, sort of a white-hat hacker type of situation, as we try and get a better handle on what we can do. Until I nail it down and until I know that we are holding ourselves to at least as high a standard as we intend to hold the people we oversee, we are trying to be extraordinarily judicious in the amount of data that we take, the scope of the data that we take in, and how we keep that data. We will continue to keep Congress up to speed. I think we have commissioned a report on data sources and uses that we will make available to you and to the public once it is completed.

Chairman CRAPO. Well, I appreciate that, and I will just indicate to you I have been focused on this with regard to the CFPB for some time. My understanding is that it was the objective and perhaps an achieve objective for the CFPB collecting data on somewhere in the neighborhood of about 900 million credit card accounts. And I do not think most people in America realize that there is an extremely high likelihood that every time they swipe their credit card, the CFPB collects their data. That single fact alone to me is alarming. And so I would like to see your evaluation of exactly what is being collected, whether there is a justification for collecting it, and whether there are adequate safeguards in place.

Mr. MULVANEY. We actually share your concern, and I hope that we will have bipartisan support if we have suggestions on how to fix our systems.

Chairman CRAPO. Thank you very much.

Mr. MULVANEY. Thank you.

Chairman CRAPO. Senator Tester.

Senator TESTER. Thank you, Mr. Chairman and Ranking Member Brown. I want to thank you for being here today, Director Mulvaney. I appreciate you appearing in front of the Banking Committee.

You had previously referenced that you have the authority to ask the Fed for some dollars, which you do.

Mr. MULVANEY. Yes.

Senator TESTER. How much do you intend on asking the Fed when it comes up in October?

Mr. MULVANEY. We have not done that analysis, Senator. I will tell you, because we just got into a new quarter, I asked for \$98.5 million at the end of March, and that will be sufficient to run the Bureau for the next fiscal quarter.

Senator TESTER. OK. How does that compare with the previous Director?

Mr. MULVANEY. That is the same amount he asked for in 2015. It is less than he asked for the last couple of years. We have some cost savings related to the hiring freeze. But we are also spending down what started off as a \$170 million reserve fund that I did not think we needed.

Senator TESTER. OK. Thank you.

Mr. Mulvaney, you come to this position with a record of being a deficit hawk, and I think that is true.

Mr. MULVANEY. I try.

Senator TESTER. Yes. But I will tell you that it is somewhat troubling that—and this goes on with the Ranking Member's questions that your chief of staff is getting paid \$47,000 more per year, more than Members of Congress, most Federal judges, the Vice President, and Cabinet Secretaries, more than you. You have got political designees that are making right at or right next to \$240,000. That does not jibe with being a fiscal conservative. Can you explain to me why you had to pay these salaries to get the political appointees?

Mr. MULVANEY. Sure. That is the system that you all set up in the statute.

Senator TESTER. I know, but you have the flexibility to pay whatever you want.

Mr. MULVANEY. My average compensation is \$195,000.

Senator TESTER. I know, but your political appointees are making a lot more than that.

Mr. MULVANEY. Yes, and, again, I do have the authority statutorily to bring in political appointees. Most of the folks that you referenced are the senior team that the practice of the previous administrator or Director was to pay those folks as much as he possibly could, and he did. I did not want to set up a situation, Senator, where—

Senator TESTER. So what you are saying is you are given more flexibility for your chief of staff to pay him nearly \$260,000 when Cordray's chief received \$212,234?

Mr. MULVANEY. But the folks who are actually working with their senior partners are making the exact same thing that they are, so my political folks—

Senator TESTER. I am not talking about them. I am talking about your political appointees, because it looks like favoritism.

Mr. MULVANEY. I am saying my political appointees I mentioned—I do not know if you are aware or not. The system at OMB marries a political person with a career person. And at the CFPB, I thought it was important that those folks make exactly the same, and they do. That is how we arrived at those numbers.

Senator TESTER. Well, it is—I will just tell you, from my perspective—and I think that the debt is important to address—I think it smacks of impropriety.

Mr. MULVANEY. Senator, I would welcome bipartisan review of our compensation structure over at the Bureau. I cannot tell you the number of folks who I know on the Hill, the number of folks who I know in the White House who are begging for jobs at the Bureau because of how much money we pay. I do not think it is

necessary to pay that. We pay it because that is what the statute says.

Senator TESTER. Well, all I know is when I look at the numbers—and you can talk about how you are paying and how you are not. But when Cordray was in there, he paid his chief of staff 212,000 bucks. You stepped in, being a fiscal conservative, budget hawk and you are paying him \$260,000.

Mr. MULVANEY. And my overall budget will still be \$16 million less than previous years.

Senator TESTER. I know your overall budget will be that, but the truth is that I think it is good to be conservative. But you need to be consistent. You cannot be conservative when convenient. That is all.

I want to talk about the budget process. We had Secretary Perdue in front of the Appropriations Committee yesterday, and I talked to Secretary Perdue about cutting crop insurance subsidies significantly—I think by almost half, by the way—which is going to price a bunch of folks out of the business in the crop insurance thing. I think Perdue gets it. I think the problem may be at OMB. And I am going to tell you, as a farmer, you reduce those safety net programs and food security becomes a problem because farmers will not buy that insurance. They will go broke. And I guarantee you unequivocally if we are dependent on multinational corporations to feed this country, we have got a national security issue.

Can you tell me the thought process that went into reducing crop insurance subsidies?

Mr. MULVANEY. Senator, I am having to take off my Bureau hat now and put my OMB hat on. To be perfectly candid with you, I am not as well prepared on that as I was when I met before you on the Budget Committee, but I seem to recall we had this similar conversation.

Senator TESTER. No, I am not on the Budget Committee.

Mr. MULVANEY. Oh, you are not? OK. I got asked the question, and the point of the matter was that we tried to tailor our benefits to farms that had below quarter of a million dollars of adjusted gross income to speak to the exact group that you have just talked about, to encourage family farming, but small farming.

Senator TESTER. That is not what the President's budget proposal does, and I am going to tell you—

Mr. MULVANEY. With respect, I think it—

Senator TESTER.—Perdue understands agriculture. I hope you have people in your agency that understand family farm agriculture. Otherwise, I am telling you we will see a mass exodus off the land. It will hurt our security in this country. It is critically important.

The last thing, and then I will give up the mic. When I go around and talk to folks in Montana—agriculture is the number one industry—they say one thing to me, the first thing out of their mouth, when we talk about reauthorizing the farm program, “Do not screw up crop insurance. It is our safety net. It will put us out of business.” And I am talking about the little guys that are telling me that. OK? Thank you.

Mr. MULVANEY. Thank you, sir.

Chairman CRAPO. Senator Perdue.

Senator PERDUE. Director, thank you for being here today. You get double duty, as we have talked about before. I want to focus on a couple of things.

First, you know, the characterization of the creation of the CFPB is just astounding to me because people talk about it since 2008 forward, the cause and the need for it. It actually started in 1998 when that Administration decided that homeownership should go up from the low 60s to the mid-70s, and it did over a few years. The problem with that, to do that they created things like no-income-verification loans, low-income-verification loans, and the documentation went down and people took advantage of that. So it is a much more complicated issue.

My concern today is that it is the only regulatory body I can find that has no oversight by the U.S. Congress.

Let me ask you a question directly. Are there any responsibilities the Consumer Financial Protection Bureau has today that were not already under the purview of the OCC, FDIC, Federal Reserve, and the FTC?

Mr. MULVANEY. I think there are two. I think we alone have some additional scope under the UDAAP statutes that nobody else has, and I think we are the only ones who are explicitly charged with promulgating rules and regulations on fair debt collection practices. But other than that, the answer to your question is no.

Senator PERDUE. In your opinion, do those two needs, those two charges, do they justify being outside the purview and the oversight of the United States Congress?

Mr. MULVANEY. No. You could protect consumers without me being here.

Senator PERDUE. We already have at least four Federal agencies who are charged with consumer financial protection. Is that correct?

Mr. MULVANEY. I think it is at least four, yes, sir.

Senator PERDUE. Now, the next thing is—there are at least four. These are the four major ones. The next question I have—and I get questions about this all the time. When I tell people what is being collected, they are really apoplectic. I just got back from China and talked to two of the largest market cap companies in the world, Tencent and Alibaba, and over there they are collecting data, and the customers just assume that the Federal Government has access to their data. American citizens do not have that assumption. We had Equifax in here a few months ago and grilling their CEO over the exposure, and rightfully so, of Social Security numbers. But your agency today, prior to your taking this responsibility, collects—has the right to collect every credit card transaction, every debit card transaction, every car loan application, and every home loan application package. Is that generally correct?

Mr. MULVANEY. My understanding is that, yes, we do have the right to collect that data.

Senator PERDUE. So the question then is: How is that stored? Where is it stored? Are there third parties? Have you been hacked? Can you provide a report to this Committee with regard to that data? Have there been any breaches to your knowledge before you got there and since you have been Director?

Mr. MULVANEY. We have been able to, to your point, Senator—and I want to be careful about what I say, and I would be happy to talk about this more in private. But we have been able to document about 200-odd—I think 240—lapses in our data security.

Senator PERDUE. Lapses? Is that a breach?

Mr. MULVANEY. I think data got out that should not have gotten out.

Senator PERDUE. So they call that “exfiltration,” right? That is when data gets exfiltrated out of your control, and we do not know who—do we know who—

Mr. MULVANEY. I think in that circumstance we put up stuff that we should not have put up.

Senator PERDUE. OK.

Mr. MULVANEY. There are another 800 lapses that we suspect but have not been able to confirm.

Senator PERDUE. So 800 potential exfiltrations so far, and this could be not just Social Security numbers. This could be my personal bank account. Is that correct?

Mr. MULVANEY. It could be a lot of different things, yes, sir, including those.

Senator PERDUE. But every single factor that I have as an individual in the United States, every single financial factor can be reviewed and can be collected and can be exposed by the CFPB. Is that correct?

Mr. MULVANEY. Everything that we keep is subject to being lost, yes, sir.

Senator PERDUE. Thank you. Has any of that information been lost?

Mr. MULVANEY. I do not want to say anything in public. I would be more than happy to talk to all of you about what I have talked with the IG about, and I think it actually does more harm than good to mention it in a public setting.

Senator PERDUE. Agreed. Mr. Chairman, I would propose that we have a follow-up meeting. You are not obligated to do that, I understand, under this—

Mr. MULVANEY. I am happy to do it.

Senator PERDUE. But I would love to request a classified conversation about this, because I am absolutely deathly concerned about the exposure of our data in this rogue agency that has no responsibility to this Congress about the security of financial information that nobody in my State really understands that they are collecting. I am very concerned about that, and I have seen the other side just recently in China where, if we decide to go in that direction, we have got the rogue agency here that will absolutely do that. So I am very concerned about the data collection.

Tell me about the third-party people who are storing this data today.

Mr. MULVANEY. Senator, I would have to get back to you.

Senator PERDUE. Would you, please?

Mr. MULVANEY. I was under the impression we kept most of our own, but I have just been told some of our data is kept by third parties.

Senator PERDUE. I know that for a fact.

Mr. MULVANEY. OK.

Senator PERDUE. I just do not know who.

Mr. MULVANEY. I would be happy to find out and let you know.

Senator PERDUE. To me, I am very concerned about that. We went through laborious questioning of one company, an individual corporation, about the collection of Social Security numbers. And yet I am talking about an agency here that has every single financial fact about every single United States citizen, potentially, and we have no control over that.

Mr. MULVANEY. We have what is called "loan level data," which is fairly detailed.

Senator PERDUE. It is very detailed.

Mr. MULVANEY. Yes.

Senator PERDUE. And by loan level, you mean it goes all the way to the second decimal place. Is that correct?

Mr. MULVANEY. Loan level, but, yes, so when you put it on a loan application, we know about it.

Senator PERDUE. Now, what is included—I am sorry. I am out of time. But what is included in a home mortgage application is pretty much every financial fact about an individual. Is that correct?

Mr. MULVANEY. We like to collect a lot of information about you from institutions when you take a loan.

Senator PERDUE. So how does that information help the agency protect me from, what do we call it, predatory lenders?

Mr. MULVANEY. We share your concerns, which is one of the reasons we have already changed our data collection and are continuing to work on trying to—

Senator PERDUE. Would you provide us an update on that?

Mr. MULVANEY. I would be more than happy to. In fact, I think I mentioned we have already commissioned a report, which we will be sharing with you.

Senator PERDUE. Thank you, sir.

Thank you, Mr. Chairman.

Chairman CRAPO. Senator Warner.

Senator WARNER. Thank you, Mr. Chairman.

I respectfully have to disagree with my colleague from Georgia. Having lived through the crisis, having been here and seen the meltdown, I think it was absolutely appropriate to create this agency. I recall that there were proposals made to make this a more traditional agency, and, frankly, the majority at that point did not want to do it that way, so it was put within the structure that was created, really in many ways based upon the majority's wishes. And candidly, Mr. Mulvaney, I think—I do not know if you do not know the facts or you are not understanding fully data security, but the information that the CFPB collects is information on a macro level but does not have personalized individual indicators. It is anonymous. But to be able to show patterns of behavior is part of the goal to see if there are inappropriate practices. Where there is individual data collected on an individual basis—and there does not seem to be the same kind of concern—is on a bank examination, an OCC, a Fed, an FDIC, where you actually go in and look at the individual person's account by name. The information that the CFPB collects is on a macro basis to see trends so that we can identify—and I am very anxious to have this in a full-scale hearing,

Mr. Chairman, to get into data security issues, because I think what happened with Equifax is a complete reason why we need a CFPB, a company that was so sloppy with personalized information, 147 million Americans' data exposed. The company was so sloppy it was unwilling to even put in place a known patch that the software vendor had put out in place, and then in their aftereffects, put out a website that was full of additional flaws. So if there was ever a case for a need of a CFPB, it is Equifax, and, candidly, I have been disappointed that your agency has not taken more aggressive steps to make sure that the Equifax disaster does not happen again.

But I have got a specific separate question. I want to talk to you about the payday lending rule. Now, I think the payday lending rule's purpose is pretty simple, and I think actually most Americans, regardless of side, would agree on this, that lenders should figure out up front whether a borrower is able to pay back a loan and to make sure that consumers do not get caught up in this revolving cycle of debt by folks that do not have the same kind of regulatory oversight that our traditional lending institutions do.

Now, you have been in this job a few months, acting in this job. Did you order the Bureau to engage in a rulemaking process to reconsider the rule on the payday lending?

Mr. MULVANEY. Yes, sir.

Senator WARNER. And how would revoking the rule or changing it help consumers, particularly consumers who are living paycheck to paycheck?

Mr. MULVANEY. Senator, I do not automatically conclude that making an indication to revisit the rule assumes that we will be revoking the rule or even changing the rule. I have the right under the statute to revisit the rules, which I am doing, but we have not arrived at any preconceived notions of outcomes. That would violate the Administrative Procedure Act, which we have not done.

Senator WARNER. But, sir, my understanding is this rulemaking took a number of years. It was a subject of a great deal of scrutiny. I believe there was industry input as well as consumer input. And I guess I really wonder why in your first few months of coming into this acting role that this would rise to the top of a priority that would say we need to relook at the practices of payday lenders, which I think most folks would agree is a last result—last resort financial tool and one that was absolutely appropriate for this Bureau to take on.

Mr. MULVANEY. Again, I think it was appropriate for it to take on, although I think you could make the argument that the statute simply says you have to supervise this industry, which may not include regulating. Different story for another day perhaps. But why was it at the top of the list? Because it was the last thing the previous Director did on his way out the door. There was a bunch of public criticism or questions as to whether or not it had been rushed. So for a variety of reasons, I thought it was entirely appropriate in my role as Acting Director to do that the very first thing. In fact, I think I did it the first or second day I was there.

Senator WARNER. Well, Mr. Mulvaney, I think there was a great deal of work that went into it, and I think the previous Director took those actions because of an ongoing need, a need that people



on both sides of the aisle had discussed for a long time. I was disappointed you took that as your first action, and I would look forward—my time is up, but I think it is very important, Mr. Chairman, on these questions of data security, on these questions of how and which institutions collect data and whether that data is actually individualized or anonymous, that we get the facts out and we tell folks the truth about the process that it has engaged.

Thank you.

Chairman CRAPO. Thank you.

Senator Heller.

Senator HELLER. Mr. Chairman, thank you. And to the Director, thank you very much for taking the time to be here today. I know you wear a couple of different hats. In your particular position, I appreciate all your hard work and efforts.

As you know, Director, there are things you and I agree on, a lot of things that you and I agree on. There are some things that we do disagree on, and I would probably like to touch on both of those, if you do not mind.

Mr. MULVANEY. You are not going to talk about Yucca, are you?

Senator HELLER. You read my mind. You read my mind. But I do want to begin by applauding your efforts to cut the waste out of CFPB and your efforts in that behalf. For a State like Nevada that has grown as quickly as it has, and the financial institutions that are now finally starting to expand after new banking rules, this accountability and transparency of the CFPB is, I believe, long term going to have a very positive effect on my State. So that is where we agree.

Let us talk for a minute, put your other hat on as the Budget Director, and talk a little bit about the issue that you brought up. Let me ask you this: Do you believe that Yucca Mountain is an unsafe, ill-conceived proposal?

Mr. MULVANEY. My immediate reaction to that is no. The more educated answer is probably to say all I asked for in the budget was a continuation of the certification process so that we could answer that question as best as we can.

Senator HELLER. Do you know how long this certification process has been going on?

Mr. MULVANEY. All I know is that—and, again, I am almost taking off my OMB hat and putting on my old U.S. House of Representatives hat the folks in my State have been paying for it for about 40 years.

Senator HELLER. Yes, at least 30 or 40 years. You know, in 2017, as the Budget Director, you put in the application process money—I cannot remember, \$120, \$130 million.

Mr. MULVANEY. That sounds about right, yes, sir.

Senator HELLER. And I took it out.

Mr. MULVANEY. Yes, you did.

Senator HELLER. Then you put it in in 2018.

Mr. MULVANEY. Yes, I did.

Senator HELLER. And I took it out.

Mr. MULVANEY. Yes, sir.

Senator HELLER. Are you going to put it back in in 2019?

Mr. MULVANEY. Obviously, we have not started the 2019 budget, Senator. I look forward to working with you on it. I do not know

if I have had my mind changed about it yet, but I know that you have not changed yours either.

Senator HELLER. If you do, I will take it out. All right? I will give you a heads-up.

Mr. MULVANEY. And that is how it works.

Senator HELLER. All right. You have said yourself that the reason that the proposal is in there to restart the licensing activity is yours and your decision alone. I think you have been quoted as saying that. Is that accurate?

Mr. MULVANEY. My decision alone? No. I remember meeting with Secretary Perry on this a couple different times, so I do not know if that is an accurate representation.

Senator HELLER. OK. Over the past 30 years, the Federal Government has wasted billions of dollars on this proposal. According to the official DOE cost estimates, in 2008 close to \$15 billion has already been spent on the project before it was suspended. Another \$82 billion would be needed to license, construct, operate the repository through closure, for a total cost of approximately \$97 billion. Now, that was in 2008 dollars. I would guess that, if recalculated, those amounts would be probably 15 to 20 percent higher. Would you disagree with that?

Mr. MULVANEY. It would certainly be higher. I do not know if I could do the net present value or time value of money analysis right now. But, yes, they are going to be higher.

Senator HELLER. Knowing that Yucca has not and will not ever see the light of day, do you think it is fiscally responsible to continue to seek hundreds of millions of dollars for this unsafe and ill-conceived proposal?

Mr. MULVANEY. Senator, let me see if we can agree on something, which is you know what is driving it, which is that we have nuclear power plants all over the country, including in my home State, that are filled to the brim with the waste, and we promised those folks that if they paid a tax over the course of the last several decades, we would put it someplace. So maybe we could work together. If Yucca is not the answer, let us work together on finding an answer, because the temporary fix we have now is fraught with risk.

Senator HELLER. Are you familiar with a proposal in Texas for a repository for this purpose?

Mr. MULVANEY. Yes, the West Texas something. I remember a little bit about that from when I was in the House.

Senator HELLER. Senator Cornyn has spoken of this, and I would urge that you have a conversation with him and the desire of Texas to actually take this waste.

Are you also familiar with a proposal in New Mexico to do the same thing?

Mr. MULVANEY. Again, generally, yes, sir.

Senator HELLER. OK.

Mr. MULVANEY. And I am open-minded to other resolutions. I am not trying to beat up on Nevada.

Senator HELLER. I know.

Mr. MULVANEY. I am trying to figure out a way to put this stuff someplace safe.

Senator HELLER. Well, we feel like we are being beat up on.

Mr. MULVANEY. Fair enough.

Senator HELLER. Just so that you know. And you talk about your constituents, those who have paid utility bills and have actually had to fund this for three or four decades. You know that the amount of money that is in that account right now would not cover even in current dollars the \$97 billion it would take to open this thing up to fruition?

Mr. MULVANEY. I think that is accurate, yes, sir.

Senator HELLER. OK. Mr. Chairman, I have run out of time, but I do want to thank again the Director of taking time for being here, listening to my questions and concerns, and let me just reiterate, if that proposal is back in there in 2019, I am going to do everything I can to reverse those funds and get them back out.

Mr. MULVANEY. I hear you, Senator. Thank you very much.

Senator HELLER. Thank you.

Chairman CRAPO. Senator Warren.

Senator WARREN. Thank you, Mr. Chairman.

So before the 2008 crash, mortgage lenders ripped off families, and regulators did almost nothing to stop it. The result was a disaster: 4 million people were forced out of their homes, more than 8 million people lost their jobs, and 2.5 million businesses were shut down.

So in 2010, Congress established the CFPB to make sure that that kind of crisis did not happen again, and a lot of people supported it: 60 Senators, 237 Representatives, Democrats and Republicans, voted for it.

But you never supported the consumer watchdog, Mr. Mulvaney. You got to Congress after the CFPB was created. But in 2012, you voted in favor of a Republican budget that called for eliminating the agency entirely. Is that right?

Mr. MULVANEY. I do not have a specific recollection, but that sounds familiar to me, yes, ma'am.

Senator WARREN. Sounds familiar, OK. But that was only the beginning. You also voted for Republican budgets that eliminated the CFPB in 2013, 2014, and 2015. Does that sound right?

Mr. MULVANEY. Again, yes, ma'am. There were occasional Republican budgets I did not vote for. I do not know what was in them. But, generally speaking, I see your point, yes, ma'am.

Senator WARREN. All right. And in 2015, you also supported a stand-alone bill that would have killed off the CFPB. Is that right?

Mr. MULVANEY. I think that is correct. I think I was a cosponsor of that bill.

Senator WARREN. OK. So I want to take a look at what would have happened if you had gotten your wish and the CFPB had been abolished as early as 2012. So in 2015, the CFPB went after Citigroup for cheating its credit card customers. CFPB forced Citigroup to return \$700 million to people that it cheated.

Now, if you had gotten your way and the CFPB had been abolished in 2012, that \$700 million would be in Citigroup's bank account right now instead of in the pockets of thousands of Americans. Right?

Mr. MULVANEY. Not necessarily. The Office of the Comptroller of the Currency also has jurisdiction over those actions and could have brought the same actions.

Senator WARREN. Oh, I see. They could have brought the same action. That is the same agency that did not bring those actions before the crash of 2008 and that did not bring this particular case. But, you know, let us not kid ourselves. Let us not pretend like you hope that some other agency would do that work, Mr. Mulvaney. I have a list of 11 bills that you supported during your time in Congress that would have made it harder for States and other Federal agencies to protect consumers and to hold cheaters accountable. I would like to submit it for the record.

Chairman CRAPO. Without objection.

Senator WARREN. Thank you.

Senator WARREN. So let us look at another example. In 2016, the CFPB went after a for-profit college chain called "Bridgepoint" that scammed students with deceptive loans. The CFPB returned nearly \$25 million to those students. If the CFPB had not existed, that \$25 million would still be sitting at Bridgepoint instead of with working families.

Let me do one more. In 2017, the CFPB shut down a company called "Top Notch Funding," which was scamming 9/11 first responders out of the taxpayer money they got to treat medical problems developed after 9/11.

Mr. Mulvaney, if the CFPB had been abolished like you wanted, Top Notch Funding might still be out there stealing from 9/11 first responders, right?

Mr. MULVANEY. They might be, or the FTC might have enforced the law.

Senator WARREN. Or some other agency might magically have intervened, when they did not.

Mr. MULVANEY. Why would it be more magic to have the FTC do it than the Bureau?

Senator WARREN. They have a history of not doing this.

You know, let us do one more example. In 2013, CFPB went after DFS and US Bank and recovered \$6.5 million for 50,000 active-duty members of the military who were targeted for scam car loans. Those 50,000 active-duty military would have been out of luck if the CFPB had been abolished in 2012, just like you wanted. Right, Mr. Mulvaney?

Mr. MULVANEY. Again, the OCC has concurrent jurisdiction over this issue.

Senator WARREN. Yes, they have concurrent jurisdiction, which they did not use.

So I just want to point out one of those 50,000 active-duty military members is Ari Cabot-Booras from Hull, Massachusetts. His father, Harry, is in the audience today, right back over there. When Ari was a 20-year-old soldier, he had good credit, but he was pushed into a car loan that was a scam. When he deployed to Iraq, his Dad discovered that the loan and the fees were taking up more than 60 percent of Ari's military paycheck every month. Mr. Booras alerted the CFPB. The agency stopped the scam, and Ari got some money back.

You know, in Congress, you repeatedly tried to kill the consumer agency. Since you got to the agency, you have announced that you will not use the exact enforcement tool that CFPB used to stop every single scam that I have mentioned today. You have taken

obvious joy in talking about how the agency will help banks a lot more than it will help consumers and how upset this must make me.

But here is what you do not get, Mr. Mulvaney. This is not about me. This is about active-duty military. It is about first responders and students and seniors and families and Ari and his Dad and millions of other people who need someone on their side when consumers get cheated. You are hurting real people to score cheap political points.

Thank you, Mr. Chairman.

Chairman CRAPO. Senator Cotton.

Senator COTTON. Director Mulvaney, welcome to the Committee. How does it feel to lead an unconstitutional agency?

Mr. MULVANEY. Senator, I have given that one a lot of thought. I am not sure that I have the discretion to consider this agency to be unconstitutional. I work there. I have been appointed by the President to be the Acting Director, and I think the system starts to break down if people who work at places make their own conclusions about constitutionality. If the President tells me it is unconstitutional, I will pay attention. I am assuming it is constitutional every single day when I go in. But I see your point and it is well taken.

Senator COTTON. That is a reasonable response. As you know, a three-judge panel of the DC Circuit had held it to be unconstitutional for a variety of reasons.

Mr. MULVANEY. Yes, sir.

Senator COTTON. Combining the single Director structure as opposed to a five-member commission, its independence from the congressional appropriations process, and its independence from the President's Executive authority. That court, the whole court, just reversed that decision *en banc* after it was packed when Senator Reid broke the rules of the Senate in 2013 to fill the DC Circuit. Of those two opinions, which one do you find more persuasive—the DC Circuit panel or the DC Circuit *en banc* opinion?

Mr. MULVANEY. Having worked there, having seen the authority and the discretion that is given to the sole Director, I think that the circuit decision was well reasoned.

Senator COTTON. Let us turn then to your report. You mentioned a few changes, two of which are funding the Bureau through congressional appropriations.

Mr. MULVANEY. Yes, sir.

Senator COTTON. We have addressed one of those issues. Another one is ensuring that the Director will answer to the President in the exercise of his Executive authority. But it does not mention, as far as I can tell, the single Director structure as opposed to having a five-member commission. Could you give me your opinion on that question?

Mr. MULVANEY. Thank you for that, yes, sir, and we absolutely support that. The four that we put in the report this year, we tried to have a constant theme, and the constant theme was accountability and transparency. And while we think that a five-person commission could help smooth out some of the variations from one Director to another, Mr. Cordray and I are very different people, and we plan to run the agency very differently. And a five-person

commission might sort of bring some stability. We tried to focus these four specifics on your oversight and on the accountability that we have.

Senator COTTON. But from your experiences, you believe that the Bureau would operate in a more effective manner for taxpayers and consumers alike if it had a five-member commission leading it as opposed to a sole Director?

Mr. MULVANEY. I do not know if any Director of any bureaucracy has ever come to you and said, "Please take my power away," but that is what I am doing. And to the extent you can do that, I think we will all be well served by it.

Senator COTTON. So let me ask you now to draw on your experience as the Director of the Office of Management and Budget, which oversees the entire Federal Government. There are many examples of five-member commissions, to include in the financial services world the SEC, or in your world, in consumer protection, like the FTC. From what you have seen and the way those agencies operate, is there any reason to believe that five-member structure that they have is not suitable for the Consumer Financial Protection Bureau?

Mr. MULVANEY. None whatsoever.

Senator COTTON. Thank you. Let us turn to the conversation we had earlier about your compensation for your employees. I believe you said that your payroll will be \$16 million less than your predecessor's?

Mr. MULVANEY. Yes, sir.

Senator COTTON. So \$16 million less. Do you know what the average compensation numbers are compared to your predecessor?

Mr. MULVANEY. Total compensation average, \$195,000 a year. We have 1,627 employees.

Senator COTTON. How does that compare to Director Cordray's average compensation?

Mr. MULVANEY. It is the same. He is the one who set most of this up. I have three departments where the average compensation is about \$250,000. I have a dozen employees that are above \$230,000. And I have another dozen after that that are above what you all earn.

Senator COTTON. So the CFPB has had pretty high employee salaries going back to its very beginning?

Mr. MULVANEY. Oh, yes. I think it was set up that way.

Senator COTTON. Indeed, it was set up in that fashion. I have to say I do not remember any Democratic Member of this Committee ever asking Director Cordray about the salaries that he paid his employees.

Chairman CRAPO, you have been around for a long time. Do you remember questions like that?

Chairman CRAPO. I do not recall one.

Senator COTTON. What about Senator Shelby?

Chairman CRAPO. He is engaged in a conversation.

Senator COTTON. He was the Chairman. I do not think I remember any questions from them either.

Let me ask you a question about one specific employee: Leandra English. What is she up to today?

Mr. MULVANEY. I honestly do not know.

Senator COTTON. She purports to be the Acting Director, correct?

Mr. MULVANEY. There is a lawsuit that she is maintaining that asserts that, yes, sir.

Senator COTTON. And I think that actually is in court today. How much does she earn?

Mr. MULVANEY. I honestly do not know; \$212,000 is her base compensation.

Senator COTTON. And you do not know what she does?

Mr. MULVANEY. I am trying to be careful here, Senator, because she is suing me. But I have never met her.

Senator COTTON. So she is earning \$212,000, claiming to be the Director, running around, and we have no idea what she does all day long.

Mr. MULVANEY. You said it better than I probably could.

Senator COTTON. If this Bureau was accountable to the President and had five members and had congressional oversight of its appropriations, do you think maybe we would avoid a situation like this?

Mr. MULVANEY. Well, I certainly think someone would have been able to ask the question.

Senator COTTON. I have to say I am somewhat amused by the tone of this morning's hearing. Again, the roles seem to be reversed from what they were for the first several years of this Bureau. The Democrats seem to have been hoisted on their own petard the way this Bureau was structured in the Dodd-Frank bill. I think, therefore, we should all take a lesson from what we have done here and just adopt some of these prudent amendments to its structure. If it was more like the SEC or the CFTC or the FTC or the FCC—

Mr. MULVANEY. All of which are appropriated.

Senator COTTON. All of which are appropriated and have five-member structures and have some greater degree of accountability, we would not see this wild swing in the opinion that Congress had toward the Bureau and what consumers and businesses and other people can expect from the Bureau.

Thank you, Mr. Director. My time has expired.

Mr. MULVANEY. Thank you, Senator.

Chairman CRAPO. Senator Jones.

Senator JONES. Thank you, Mr. Chairman. And thank you, Director Mulvaney, for being here today.

I would like to revisit just a moment the questions from Senator Brown and Senator Warner regarding payday lending because that is such an important issue in my State. There was a reason why President Obama in 2015 came to Alabama. Senator Brown's State may be the worst, but we are right up there. In fact, President Obama mentioned in his speech that there were four times as many payday lenders in Alabama as there are McDonald's hamburgers. That is unconscionable. For every one person that takes out a payday loan, they end up taking an average of eight. About a quarter of a million people, Alabamans, in 1 year took out those loans, and they ended up being over 2 million loans made that same year.

I am struck—this is an important issue for State lawmakers, for civic leaders. It to me seems bipartisan. It is personal. As I watch the members of my community, it is very important to the faith community in Alabama. In fact, my home church, Canterbury

Methodist, took the lead in some—you know, kind of lobbying for some changes.

My concern about the removal of the rule—I do not disagree with you that you have the right to take another look, to redo the rule, and I initially took you at your word that you had no preconceived notions about where that ended up. And then you made a comment that you are not sure that supervising means regulating, and that troubled me a lot, because I can watch my children and supervise them at a playground, but unless I can regulate them and they have no consequences for bad behavior, I do not know what the difference is.

So I would like to ask you just your basic philosophy about the payday lending industry and whether or not your organization will, in fact, commit to some pretty strong Federal rules to make sure that they are not completely ripping off customers in creating this spiral of debt.

Mr. MULVANEY. And I think you have actually hit the nail on the head there, Senator, which is that I think we might both agree that the best way to address this would be through legislation, which was what my State did when I lived there. I imagine your State either has done or certainly has the ability to do it.

Senator JONES. They have the ability. I am not sure they have the political will. I think that is the problem when you have got payday lenders who are spending tens and tens of thousands of dollars, and the consumers who are taking out these loans are taking out loans because they cannot make ends meet. It is not emergencies. They cannot match the dollar-for-dollar payday lenders that are giving to the legislatures around the country.

Mr. MULVANEY. I guess it comes down to who do you trust more, your hometown legislature or the U.S. Congress. Personally, I have a great deal of faith in my State legislature.

Senator JONES. Does that mean that your notion is that you are likely to have a payday lending rule in favor of letting legislatures—

Mr. MULVANEY. We are going to follow the act. We are not going at this with any preconceived notions. We have already made a request for notice and comment. We are going to go through that process. We are going to go by the book. It may be possible, it may be that I look at the exact same type of data that Mr. Cordray looked at and draw a different conclusion.

Senator JONES. I agree with that.

Mr. MULVANEY. That is the discretion that was given in the Dodd-Frank Wall Street Reform and Consumer Protection Act, to the Director's position, and I encourage you to consider whether or not you want to change that. But keep in mind, we do not have the ability to make law. That is not what we are supposed to do in the executive branch. We are supposed to enforce the laws that you pass. And I would encourage you that the best way to address the problem that you perceive is to pass legislation and not rely on me to do it for you.

Senator JONES. All right. So thank you very much for that.

I would like to also get back—and I apologize for doing this because I am going to ask you to kind of put both your hats on again as well.



Mr. MULVANEY. Yes, sir.

Senator JONES. I know that is maybe a little bit uncomfortable. It is a little bit bizarre to me that you have done that.

Mr. MULVANEY. I get used to it.

Senator JONES. But I would like to ask you about the equal pay. Earlier on, as OMB Director, you unilaterally withdrew things and rules considering equal pay and collection of data. This is an important issue for folks in Alabama. The Lilly Ledbetter Fair Pay Act was named after an Alabama native. You were asked about this in the House yesterday, why you halted a rule that would have required large employers to collect and report aggregate pay data that was designed to help detect trends in unequal pay. Your answers, with all due respect, were a little bit flip to me that you just did not give it much thought, and I can tell you, Mr. Director, that there are millions of women, there are millions of African Americans that think about this issue every day. So I basically have two questions for you, one as OMB Director and the other as Director of the CFPB.

Number one is: Are you going to revisit the rule concerning equal pay and the collection of data concerning equal pay.

And the second is: I tend to see that attitude about the noncollection of that data involving major corporations of over 100 people in the workplace in the same way as I see, as Senator Brown said, about putting consumers first. In other words, if you are not wanting to collect data about discrimination in the workplace, how can we be assured that you are going to in your role put consumers first in your role as Director of CFPB?

Mr. MULVANEY. Thank you for that, Senator, and I apologize if my answer came across as flip. What I remember saying yesterday was I am simply not familiar with it because I had not been asked about it in a while. I think this is an action that took place last September, and I have been in front of several congressional hearings and had press conferences, and nobody asked me. So I simply was not as familiar with it. Since yesterday, I have not had a chance to go back and get a little bit more up to speed on it.

Senator JONES. Fair enough.

Mr. MULVANEY. And keep in mind the reason it comes to OIRA, which is part of OMB, is because of the Paperwork Reduction Act, and one of the things we noticed when it went through the process on paperwork reduction is that we were increasing the data fields from 180 to 3,660, which is a dramatic increase.

We also found when we drilled down into it, Senator, that the data was unlikely to yield information that was useful. I will give you the classic example. Under health care we were treating the accountants and the janitors and the doctors as the same. If you were an accountant making X in a hospital and you were a doctor making Y in a hospital, you would be lumped together, and I am not sure how usable that data would actually be as to whether or not there was equal pay for equal work. So there were a lot of difficulties with it, which is why we did what we did.

So, again, it is not that it is not important to us. It is just we are following the law, and the Paperwork Reduction Act tells us to do that, and I think we did it in an acceptable and defensible fashion.

Senator JONES. All right. I think I am out of time, Mr. Chairman. Thank you.

Chairman CRAPO. Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman. Mr. Director, how are you, sir?

Mr. MULVANEY. Senator, I am hanging in there. I hope you are.

Senator KENNEDY. I am. I know you are familiar with the way our credit reporting agencies work. They collect information, financial information on all of us and give us a score, and then they sell that score and the report to folks who are considering loaning us money.

Senator Schatz and I have a bill. It is a pretty simple bill, really, but I think it will be good for the American people. Sometimes the reporting agencies get that information wrong, but since we are the product, not the customer, they have no real obligation to listen to us when you call them up and say, "Hey, you got my information wrong, man, and I cannot get my loan."

So Senator Schatz and I have a bill that is going to ask our reporting agencies to set up a portal so consumers can go in there and say, "Hey, you got my information wrong. Let me explain to you why."

I am not asking you to commit to supporting that bill, but we would like to be able to talk with folks in your office to make sure that we get the regulatory part right. Would you be willing to—

Mr. MULVANEY. I am a little bit familiar with it. We do look forward to working with you on it. I think there are some good ideas there.

Senator KENNEDY. Thank you for that.

I want to take you back a few years. It is true, is it not, that in 2008 and 2009, the American taxpayer—I am talking about the people who get up every day and go to work and obey the law and pay their taxes and try to do the right thing by their kids. The American taxpayer had to give one of our large banks, Citigroup, \$476.2 billion in loans and guarantees under the TARP program. Do you remember that?

Mr. MULVANEY. I am not familiar with the exact number, but I am familiar with the bailouts, yes, sir.

Senator KENNEDY. OK. It is also true, is it not, that the American taxpayer had to bail out Bank of America to the tune of \$120 billion taxpayer dollars. Does that sound about right?

Mr. MULVANEY. It would not surprise me.

Senator KENNEDY. Well, our friends at Citigroup and Bank of America apparently are not busy enough with their banking business. They have decided that they are going to set policy for the Second Amendment, and Citigroup has announced that it will no longer do business with any customer who sells lawful weapons to someone under the age of 21. Citigroup has announced that it will not sell banking services to anybody who sells bump stocks or large-capacity magazines. And I understand that Bank of America is about to do the same thing.

So it looks like we are headed toward red banks and blue banks. Do you think that is appropriate?

Mr. MULVANEY. I think it is troubling, Senator. I do not know if there is a role for the Bureau in addressing it. I do not bank with

either of those institutions, and I think as long as I have got the ability to make that decision, then it is up to consumers to adequately defend themselves. I think when you start to run into the area of possible Government oversight is when that choice is not a real choice, and you run afoul of the antitrust laws and so forth. But I would be personally slow to want to get my Bureau involved in telling companies what they must provide when it comes to matters like that.

Senator KENNEDY. Well, let us suppose tomorrow that Citigroup decided that it would no longer provide banking services to abortion providers. Do you think that would be appropriate?

Mr. MULVANEY. I think that is completely within their discretion.

Senator KENNEDY. Do you think it is appropriate?

Mr. MULVANEY. Personally? I mean, to take my bureaucrat hat off, it would not bother me at all. In fact, I might be more likely to bank at an institution that did not contribute to that.

Senator KENNEDY. OK. Suppose that Citigroup decided it was going to no longer offer banking services to people who support the pro-life position?

Mr. MULVANEY. Again, as long as I know about that and have the ability to make real decisions, I do not see a role for Government intervention in the marketplace.

Senator KENNEDY. Has anybody filed a complaint about Citigroup's thoughts and actions with respect to the Second Amendment?

Mr. MULVANEY. That is a great question, and I do not think we have searched our consumer complaint database recently for that. But I would be happy to take a look and see if a complaint has been submitted.

Senator KENNEDY. Well, I am going to file a complaint.

Mr. MULVANEY. OK.

Senator KENNEDY. OK? Against Citigroup and Bank of America.

Mr. MULVANEY. We would be happy to work with you on that, on searching our database, because it is publicly available data.

Senator KENNEDY. I am going to file a complaint because they are hurting my people for exercising their constitutional rights, and I hope you will—I do not want any special treatment, but I would like my complaint considered.

Mr. MULVANEY. Absolutely.

Senator KENNEDY. Because I find their conduct offensive.

Mr. MULVANEY. Thank you, Senator.

Senator KENNEDY. Thank you, Mr. Director. Thanks for your good work. I think you are doing a great job. I do not care what Senator Warren says.

Chairman CRAPO. Senator Menendez.

Senator MENENDEZ. Mr. Mulvaney, in December the Bureau announced that it was eliminating penalties to lenders for errors in mortgage reporting and that it plans to reconsider its Home Mortgage Disclosure Act rule, which could mean allowing lenders to omit information critical to understanding lending patterns and policing discriminatory practices. And in January you reorganized the Office of Fair Lending and Equal Opportunity, and you stripped the office of its enforcement powers. This is the office that

Congress—Congress—remember that? I think you started in the other House, didn't you?

Mr. MULVANEY. I am familiar with it, yes, sir. I have heard of it.

Senator MENENDEZ. Yes, OK. So Congress charged in the law with combating predatory lending practices, the very practices that contributed to the destruction of nearly half of African American and Latino household wealth during the crisis and Great Recession. Don't these actions send a clear message to lenders that the Bureau is pumping the brakes on vigorous oversight and enforcement of the Federal fair lending laws?

Mr. MULVANEY. Not at all, and I can deal with HMDA separately, but let me deal with the Office of Fair Lending, which has several things that it is supposed to do. It does enforcement and supervision, and it also does education in one area.

Within the Bureau, the system that I inherited from the previous Director, actually supervision and enforcement is in one place, and education is in another. And all I have done is to move those things into the appropriate category.

Senator MENENDEZ. But it was Congress that said that this department should do enforcement, not your judgment.

Mr. MULVANEY. Actually, I think you gave me a great deal of discretion over what they do and what they enforce.

Senator MENENDEZ. Let me tell you what the message has been that has been received by lenders. In a February memo to its clients, who include Bank of America and Deutsche Bank, on law firm said, and I quote:

On January 31st, we witnessed a major concrete change with the announcement of the Office of Fair Lending and Equal Opportunity would be removed from the CFPB's Supervision, Enforcement, and Fair Lending Division. The removal of a supervision and enforcement team focused exclusively on fair lending issues will significantly reduce the CFPB's enforcement.

So let us be clear. We are not going to stand by while you thwart the statute and subvert congressional intent, nor will we be silent while you give winks and nods to lenders that they will no longer be subject to vigorous review of their activities under the fair lending laws. We are not going to do that. And I do not know how you think you can usurp congressional intent, but it is not going to go unchallenged.

In a January op-ed published in the Wall Street Journal, you said that the Bureau would no longer be "pushing the envelope" when it comes to enforcement. In the 137 days since you took over the Bureau, you have not initiated a single new enforcement action. The scandals and breaches of consumer trust at Wells Fargo and Equifax demonstrate that consumers need the CFPB now more than ever. Equifax's egregious failures compromised the personal information of an astounding 145.5 million consumers. Consumers are understandably concerned about identity theft and fraud. They are concerned that they will not be able to get a fair rate the next time they go get a mortgage or a car loan because Equifax failed them.

In 2017 consumers submitted more complaints to the Bureau about consumer reporting agencies than any other product or

service, something you said should help guide the Bureau's actions. But yet yesterday, in testimony before the House, you reiterated your commitment to scaling back the Bureau's activities, saying, "Regulation by enforcement is done. We are not doing it anymore."

So, Mr. Mulvaney, does that include eliminating enforcement actions under the Bureau's authority to prevent unfair, deceptive, abusive acts and practices?

Mr. MULVANEY. No, sir. Do you know what regulation by enforcement is?

Senator MENENDEZ. Can you answer my question? I am not here to answer yours.

Mr. MULVANEY. Regulation by enforcement is where people find out that you accuse them of breaking the law after you file a lawsuit against them. That is what I stopped. I believe you have the right to know what the law is before I sue you for breaking it. Under previous leadership, Mr. Cordray believed it was actually OK to change years and years of practice. In fact, there is a major lawsuit, I think, that is being considered right now over this exact issue, where there was an entity—I think it may be from your State, as a matter of fact. In fact, it is a resident in your State that was acting under the assumption that HUD guidance that had been in force for decades was still good law—

Senator MENENDEZ. Well, obviously, rulemaking needs—always has notification and a process before it—

Mr. MULVANEY. No, it—

Senator MENENDEZ.—goes into effect, but in addition to enforcement activity, the CFPB has rulemaking authority to prevent unfair, deceptive, or abusive acts and practices. That is the primary way that the Bureau can prevent consumer abuses by consumer reporting agencies like Equifax. And your most recent regulatory agenda including—you know, does the Bureau's most recent regulatory agenda include a rulemaking to protect consumers from failures and abuses by consumer reporting agencies?

Mr. MULVANEY. I am sorry. Is there a question?

Senator MENENDEZ. Does your agency's most recent regulatory agenda include a rulemaking to protect consumers from failures and abuses by consumer reporting agencies?

Mr. MULVANEY. It does. That is in the statute, and I think my predecessor was there for 5 years and did not do it either.

Senator MENENDEZ. Well, my understanding is that it is not. So if the Bureau does not intend to use its enforcement or rulemaking authority to prevent unfair, deceptive, and abusive practices by companies like Equifax, I do not know how you intend to hold Equifax accountable and protect consumers from future catastrophes.

Thank you, Mr. Chairman.

Mr. MULVANEY. We have—

Chairman CRAPO. Senator Rounds.

Mr. MULVANEY. Yes, thank you.

Senator ROUNDS. Thank you, Mr. Chairman.

I want to followup just a little bit on what Senator Menendez has suggested, but I perhaps would go at it in a little bit different way, Director. If a United States Senator or, for that matter, a Member of Congress had a problem with the way that you were doing your

job, under the current guidelines and layout of the CFPB, what are their options?

Mr. MULVANEY. Very little. In fact, it goes beyond that. If you have a constituent back home who does not know or does not like what I have done, there is nothing you can do to help them.

Senator ROUNDS. I think that is really the concern that a lot of us have had, that I think there are some times in which—as a matter of fact, I think there are a lot of times in which a Member of Congress should have a way to get a message across to an agency of the Federal Government. Do you know of any other Federal agencies that have the autonomy that the CFPB does to simply do—and in this particular case, I understand that Senator Menendez is disappointed in the way that he believes that you should be working on your job. I think a lot of us on the other side had real frustrations with the way the previous Director had been doing his job.

Isn't there something within this process that is absolutely broken when Members of the elected body here and, in fact, the President of the United States, do not have the ability to influence the way that this agency is going about doing or not doing the job that they were supposed to be doing in the first place?

Mr. MULVANEY. I think it is a dangerous precedent. There is no question. You asked a question as to whether or not anybody else has the type of discretion and authority that the Director of the Bureau of Consumer Financial Protection has, and the answer is no.

Senator ROUNDS. I think there might be some opportunities here for some bipartisan discussions about taking some of that authority back.

Mr. MULVANEY. Again, I do not know why you do not want to appropriate my Bureau.

Senator ROUNDS. Thank you. Let me work in just a little bit different direction for just a minute. You had mentioned earlier, Director, and had expressed a concern that while there are some perhaps classified discussions that should occur with regard to data breaches, loan level data. There might have been a misunderstanding as to how much data was included in loan level data. Could you share with us how much information the agency, the organization, actually collects?

Mr. MULVANEY. A couple different things, and I can get you more details on exactly what we do and do not collect. The ordinary practice is to take things like balances, average balances, balances at the beginning of the month, balances at the end of the month, but we know of no limitation on what we can get. None.

Senator ROUNDS. So would you be receiving data from a bank that would include a Social Security number?

Mr. MULVANEY. We could.

Senator ROUNDS. Would it have loan numbers?

Mr. MULVANEY. In a bank exam context, yes, absolutely, we get the loan numbers.

Senator ROUNDS. Would it have account numbers at a bank?

Mr. MULVANEY. The same, yes, sir.

Senator ROUNDS. Would it have tracking numbers from—

Mr. MULVANEY. That is a good—and, again, I can get you all the detail on what we actually do collect. I am not familiar with what we actually go in and take out of every particular file.

Senator ROUNDS. Would it be fair to say that in your discussions with your staff as you come into this agency to try to gear up, did you ask questions about how much information and did you have any concern about the amount of data that this agency was collecting?

Mr. MULVANEY. Again, yesterday I thought it was a Democratic colleague of mine who said that you do not have to worry about what you do not keep. So one of the questions is: Do we actually need the stuff we are asking for? And if we do not, then why are we asking for it?

Senator ROUNDS. Do you actually keep it, or do you—and I understand that there are different ways in which you can securely obtain, maintain data over a long period of time. Are there third-party entities that are retaining this on a contractual basis for the agency?

Mr. MULVANEY. I just asked that question of my staff in response to an earlier question. I understand that we do farm some of our data out to third parties.

Senator ROUNDS. But would it be fair to say that it is similar to a cloud establishment, basically where there is an intent to utilize independent third parties that have as their area of expertise the ability to maintain that data for you?

Mr. MULVANEY. I do not know if it is a cloud-type structure, but, yes, it would be somebody other than us.

Senator ROUNDS. Did the—

Mr. MULVANEY. And if they get hacked, then that information is at risk.

Senator ROUNDS. You have had a lot of discussion back and forth today with a lot of folks on either side of the aisle. Have you had any questions that you looked at so far into this process and said, “I needed to clarify something a little bit more than what I have done so far”? Are there any questions that have been asked so far that you would like an opportunity to clarify or correct in terms of material that we have received so far today?

Mr. MULVANEY. Oh, there is probably a bunch of stuff that I will find after the hearing. I did want to point out to Mr. Menendez that I think he tried to make the insinuation that we were not enforcing the UDAAP statute. That is not true. We are actually litigating lawsuits right now. There has been a lot of attention to the fact I have not filed any brand-new lawsuits. We are litigating 24 or 25 lawsuits right now. We are doing 100 investigations right now. There are a dozen investigations that have gone into that “sue or settle” component that I am talking about. We are enforcing the law. I want to be perfectly clear. Do I have criticisms of this Bureau? I absolutely do. But I am trying to be a good bureaucrat. I never thought I would say that, but that is my job. And I am trying to enforce the law vigorously where necessary, and I think we are doing a good job of it. So I think some of the characterizations that we do not care about protecting consumers, it is unfortunate and not accurate.

Senator ROUNDS. Thank you, Director Mulvaney.

Mr. MULVANEY. Thank you for the opportunity.

Senator ROUNDS. Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman. Welcome, Mr. Director.

Mr. MULVANEY. Mr. Van Hollen, sir.

Senator VAN HOLLEN. I think some of our colleagues may be surprised to learn that we actually worked together in the House on some deficit reduction efforts with respect to the budget.

Mr. MULVANEY. Clearly, you and I were the only ones worried about it.

Senator VAN HOLLEN. Which is why I wanted to raise a question with your other hat on. Just yesterday in the Budget Committee, we had Dr. Hall, the head of CBO, the nonpartisan Congressional Budget Office, who issued their report finding that the tax bill that was passed out of this Congress and signed by the President is going to add \$2 trillion, very close to \$2 trillion to the national debt over the next 10 years. Did you see that report?

Mr. MULVANEY. I know of the report. I have not had a chance to read it.

Senator VAN HOLLEN. I really urge you to take a look at their analysis because it directly contradicts the fanciful theories we heard floating around that somehow the tax cut was going to pay for itself.

The other thing that we have found, since the beginning of the year corporations that have gotten these windfall tax breaks have used \$235 billion of that money for stock buybacks. Are you aware of that phenomenon?

Mr. MULVANEY. I am not familiar with the exact number, but I am familiar with the reporting generally, yes, sir.

Senator VAN HOLLEN. All right. And stock buybacks are simply a way of increasing the value of stocks held by CEOs and executives and stockholders. And during the whole debate, one of the things we tried to point out was that 35 percent of the stock owned is actually owned by foreign stockholders, money being borrowed by the U.S. Government and in the form of stock buybacks going directly into the pockets of foreigners.

One of the things I found stunning, actually—maybe not totally surprising, but still the magnitude of it was stunning—was the CBO report found that when the tax plan has fully kicked in at the end of the 10-year period, 80 percent of the income generated from new economic activity is going to go into the pockets of foreigners, not American workers.

I want you to take a look at that because it certainly does not sound like putting Americans first to me, and it was a stunning finding. And I just want to be clear what he said. He said, yes, the tax bill will generate some new economic activity, but 10 years from now, 80 percent of the income generated from that new economic activity into the pockets of foreigners. Very disturbing finding.

Mr. MULVANEY. Did he explain how that was going to happen?



Senator VAN HOLLEN. I would be happy to go into great detail. Part of it is the fact that foreigners own a large share of our stock, but there were other components.

Mr. MULVANEY. I was going to say because 35 percent and 80 percent are different.

Senator VAN HOLLEN. That is true. But that is the conclusion they reached at the end of the 10-year period, which I found stunning, and I hope our colleagues will take a look at it.

Let me ask you a question on payday lending because I want to pick up on what Senator Jones asked.

Mr. MULVANEY. Sure.

Senator VAN HOLLEN. Because you made this reference during your response to a question about supervisory versus regulatory, and then you told Members here that you are going to look at the same facts and you may reach the same conclusion with respect to regulation.

Mr. MULVANEY. Or may not.

Senator VAN HOLLEN. But it is a threshold question, right, is it not, as to whether or not you have the regulatory authority? So have you concluded—would you agree that you have the regulatory authority, regardless of what the details of the regulation may be, you have the regulatory authority with respect—

Mr. MULVANEY. There have not been any conclusions. I raised the point to make this point, Senator, which is it would be a lot clearer if you all would legislate and I would enforce.

Senator VAN HOLLEN. Look, but this is a threshold question. You must have reached a decision—

Mr. MULVANEY. No, sir.

Senator VAN HOLLEN.—on this threshold question. You are telling me you have not reached a threshold question about whether you can do any payday lending regulation?

Mr. MULVANEY. I am looking you in the face. I do not think I am under oath, but I am looking you in the face under oath and saying, no, I have not made any predetermination about that issue.

Senator VAN HOLLEN. So apart from the details of what any regulation might entail, you say you might not do one, period, because of the possibility that you claim you do not have the authority.

Mr. MULVANEY. Senator, I can honestly tell you, I have no idea what we are going to do in payday.

Senator VAN HOLLEN. Let me just—in terms of protecting information, Equifax has come up here, and I think we are all very concerned about confidential data. I do think it is important to point out that Federal agencies are bound by what is called the Federal Information Security Act, FISMA. Are you familiar with that?

Mr. MULVANEY. Yes, sir.

Senator VAN HOLLEN. Right, and under FISMA, if there is any agency that has compromised or lost the data of more than 100,000 people, they have to report to OMB, do they not?

Mr. MULVANEY. I believe that is correct, yes.

Senator VAN HOLLEN. Within 7 days. And they have to report to Congress within 7 days?

Mr. MULVANEY. I think that is right as well.

Senator VAN HOLLEN. Do you think that companies like Equifax should have some kind of standard that applies to when they have to inform the public about data breaches?

Mr. MULVANEY. Isn't that addressed in Mr. Crapo's bill? I thought that it was raised.

Senator VAN HOLLEN. I am just asking——

Mr. MULVANEY. I think it is good practice, yes, sir.

Senator VAN HOLLEN. OK, because I think we want to take a look at nailing that down.

Chairman CRAPO. Equifax is addressed about this issue.

Senator VAN HOLLEN. No, the——

Mr. MULVANEY. I am sorry.

Senator VAN HOLLEN. The issue of generally having the responsibility to inform the public within a certain period of time is something that applies to the Federal Government, but it does not apply today in the private sector.

Mr. MULVANEY. As a member of the public, I would like to know if my stuff gets hacked.

Senator VAN HOLLEN. I appreciate it. Thank you.

Chairman CRAPO. Senator Tillis.

Senator TILLIS. Welcome, Director Mulvaney. You have spent some time in North Carolina and South Carolina, and all Carolinians are proud and I am proud of you being in a job and head of a department or an agency that I personally wish did not exist.

Mr. MULVANEY. I need you to talk to my son. He got into UVA and UNC, and he is making the wrong decision.

Senator TILLIS. We know what the wrong decision is.

Mr. MULVANEY. That is exactly right.

Senator TILLIS. Look, first off, as you go through the process on the payday issue, you said something earlier as a former speaker of a State legislature, I hope you will recognize that the States are well within their authority to deal with this issue. And I do not necessarily think that the Federal Government needs to weigh into it. States can decide what is appropriate and then protect the consumers along the way.

I feel like since the CFPB was created, it kind of reminds me of the final stages of a Monopoly game where the players are the FTC, the Fed, the FDIC, the OCC. But all of a sudden, the CFPB is just buying up all the properties or they are putting their hotels and houses on the other places on the Monopoly board. It is absurd. I mean, I think in response to one of the things that Senator Warren said, that but for the CFPB, this person would have been harmed, you responded very quickly that the FTC, if they were doing their job, they would have probably protected that consumer.

So outside of UDAAP and fair debt collection, what on Earth are you guys doing that should not be something that we should—incidentally to the agencies that we have control over, that we actually have some responsibility from, should be doing their jobs, why on Earth should you be doing it? And isn't there a risk that because of that lack of clarity in terms of regulatory jurisdiction that some legitimate opportunities to enforce regulations could fall through the cracks?

Mr. MULVANEY. Absolutely, and I think I said earlier in response to a question, I think there is an appropriate Federal role in

protecting consumers. That does not mean that you have to do it through the Bureau of Consumer Financial Protection.

Senator TILLIS. Is there a way for you to really just take the position to redefine the scope of the regulatory purview of the CFPB and say we do not do this because the FTC should, we do not do this because the Fed should, we do not do this because the FDIC should, we do not do this because the OCC should? You know, actually as a result of the reg reform bill that I supported and is now lying in the House, we have got four and maybe five *de novo* banks that are talking about moving forward with charters in North Carolina. That is because they recognize that maybe they can make a business model work if they have a little bit more regulatory certainty and regulations that are tailored to the size of their institutions.

One of the real victims that we do not talk about with all this regulatory overreach are the people who are not getting loans, who are not getting capital. I heard someone speak on the floor about how our bill was going to kill the opportunity for that mobile homeowner to get a mobile home loan. I have had one, and I also lived in that trailer park with a father that was doing construction work that we were living on 90-day notes. And I know damn well right now those 90-day notes that my father was getting back in the 1970s and 1980s he could not get today because you simply cannot underwrite them.

So when we have this discussion about the victims that are being saved only because of the CFPB, let us talk about the untold victims that because of the regulatory overreach are not getting loans, are not getting mobile home mortgages, are not able to pay their bills. Do you agree with that?

Mr. MULVANEY. You and I may be the only people in this room who have ever lived in a mobile home, but you are absolutely right. There is a consequence to all of this overregulation, which is that people do not have access to credit. They do not have access to capital.

Senator TILLIS. Yes, so it makes me wonder whether or not some people are just laying the predicate to nationalize our financial—our banking institution here, and they are willing to have some of these victims just lie along the path to their end goal.

Mr. MULVANEY. There is a Senator who is no longer present who has written a very vigorous defense of why the Postal Service should be in the banking business.

Senator TILLIS. Yes, so if you want to come here and you want to talk about all the victims that have been saved by the CFPB, you better damn sure be willing to list out all the other people who are suffering as a result of the regulatory overreach. Do you agree with that?

Mr. MULVANEY. Yes, sir.

Senator TILLIS. Now, the other thing that I find remarkable—I mean, I would expect that you came into this hearing with a heart rate of about two, because you know damn well there is not a single thing that any one of us can do and hold you account for. Do you agree with that?

Mr. MULVANEY. You can make me look bad, and that is about it. You cannot touch me statutorily.

Senator TILLIS. If I could come out with this enormous, this horrible story about how you have destroyed a business or somebody else's personal life back in my State, you would just tell me to pound sand if that is something you wanted to do, right?

Mr. MULVANEY. I am unelected, and nobody can do anything about it.

Senator TILLIS. So thank you for being in charge of an agency in the administrative branch and try to tell us to make you more accountable. I appreciate your service.

Mr. MULVANEY. If I may, thank you for that. I appreciate that. Do not rely on me, because I am not always going to be here. At some point there is going to be somebody that these folks do not like; at another point it will be somebody you folks do not like. Do not rely on the person. Fix the structure so that we avoid the potential abuses that exist today. Thank you for that, Senator.

Senator TILLIS. Thank you.

Chairman CRAPO. Senator Cortez Masto.

Senator CORTEZ MASTO. Director Mulvaney, thank you for appearing today, and I appreciate your comments as I was sitting and listening.

I would like to jump back to enforcement actions, and you started out by talking about that you are engaging in enforcement actions. And I believe you talked about undergoing right now 100 investigations. Is that correct?

Mr. MULVANEY. Yes, ma'am.

Senator CORTEZ MASTO. Were those investigations started under your watch or prior to you coming into the—

Mr. MULVANEY. Some of them. The ordinary course of business is that we sort of add some on a regular basis. They drop off. There are 100 ongoing at any one particular time.

Senator CORTEZ MASTO. And under your watch, of those 100, some you started?

Mr. MULVANEY. You would actually be surprised to know I am actually not involved in the decisionmaking to start or stop an investigation.

Senator CORTEZ MASTO. But they were either started under—some of them were started under your watch?

Mr. MULVANEY. I would imagine, yes, ma'am.

Senator CORTEZ MASTO. You would imagine but you do not know for sure?

Mr. MULVANEY. Again, I know it sounds strange. I am not involved in the process. That is a decision made by career employees as to who they investigate.

Senator CORTEZ MASTO. And the 25 litigation efforts you talked about that are ongoing, do you know if any of those were started while you were—while you are under the—

Mr. MULVANEY. I know the answer to that question. We have not started any new lawsuits since I have been here.

Senator CORTEZ MASTO. So there has been no enforcement action say, for instance, under your watch?

Mr. MULVANEY. No new ones.

Senator CORTEZ MASTO. No new enforcement—

Mr. MULVANEY. We are actively litigating 24 or—

Senator CORTEZ MASTO. OK. That is helpful. Does that have anything to do with the fact that I heard your comment earlier, you were talking about that the CFPB engages in regulation by enforcement, and so you have stopped enforcement because you have concerns about that?

Mr. MULVANEY. No. Again, regulation by enforcement is different than enforcement. Regulation by enforcement is essentially, look, we do not have a rule, we do not have a reg, we are not going to tell you what the rules are, but we are going to sue you and then tell you after that what you did that we thought was against the rules.

Senator CORTEZ MASTO. Right. For that reason you have not started any enforcement actions.

Mr. MULVANEY. No, ma'am. There are a lot of contributing factors as to why we have not filed any lawsuits. That might be one of them.

Senator CORTEZ MASTO. So can I ask, has the Consumer Bureau taken any public enforcement action related to the Equifax breach?

Mr. MULVANEY. The policy of the Bureau is not to comment on the existence or nonexistence of any ongoing investigations. As to Equifax, I would point out to you that they disclosed publicly in their last 10-Q that they were under investigation by the Bureau of Consumer Financial Protection.

Senator CORTEZ MASTO. Has the Bureau taken any public action related to allegations that Clayton Homes practiced racial discrimination in lending to manufactured home buyers?

Mr. MULVANEY. I do not want to comment on the existence or nonexistence. I would be happy to get back to you as to whether or not—well, as to—I am not familiar with Clayton Homes as to the matters you have just raised.

Senator CORTEZ MASTO. OK. So let me jump back to another issue that has come to my attention. In February the Consumer Bureau put out a Request for Information asking for comments from interested parties on the usefulness of the Bureau's consumer complaint data reporting and analysis.

Mr. MULVANEY. Yes, ma'am.

Senator CORTEZ MASTO. Are you using this RFI to either dampen the effectiveness of the database or completely remove it from public view?

Mr. MULVANEY. Well, the collection of data is mandated statutorily, so we will continue to do that.

Senator CORTEZ MASTO. Let us talk about this, because we are not just saying general data. These are consumer complaints.

Mr. MULVANEY. Yes, ma'am.

Senator CORTEZ MASTO. That is what I am talking about.

Mr. MULVANEY. Yes.

Senator CORTEZ MASTO. So you did an RFI.

Mr. MULVANEY. Right.

Senator CORTEZ MASTO. And what is the intent of the RFI? Is it your intent to take the consumer database offline, out of public view?

Mr. MULVANEY. It is not the intent. It is one option available to me.

Senator CORTEZ MASTO. Why are you even looking at that?

Mr. MULVANEY. Because it is not statutorily mandated.

Senator CORTEZ MASTO. What is not statutorily mandated?

Mr. MULVANEY. The public-facing portion of the consumer database, the complaint database.

Senator CORTEZ MASTO. So let me ask you this then: How are we to gather information and see patterns or practices? And how are you going to continue to work with other law enforcement agencies like the attorney generals across the States when you are looking at consumer protection?

Mr. MULVANEY. Closing off the public-facing portion of the consumer complaint database would not impact the collection of that data in any way.

Senator CORTEZ MASTO. So you have not made a determination as you sit here right now whether you are going to take it off public view?

Mr. MULVANEY. No, ma'am.

Senator CORTEZ MASTO. OK. Let me jump——

Mr. MULVANEY. But, again, if I were to make that decision, that is completely within my discretion under the statute.

Senator CORTEZ MASTO. So the Bureau has a legal charge to protect people from unfair, deceptive, and abusive practices. We have talked about that.

Mr. MULVANEY. Yes, ma'am.

Senator CORTEZ MASTO. And you have the responsibility to make sure financial firms treat similar customers the same. The way that you enforce that is by looking at the data, and we have talked about that. However, it is my understanding that you have stopped banks from sharing information with examiners. Is that true?

Mr. MULVANEY. No, ma'am. I think you may be referring to the data freeze that we made. We have changed some of the methods by which we collect data for the reasons I mentioned before regarding our security. Again, if anyone wants to stick around, it would take 2 minutes to talk privately afterwards as to why we have done that.

Senator CORTEZ MASTO. So as we sit here today, what you are telling me is that you have not stopped banks from sharing information with the examiners?

Mr. MULVANEY. That is correct.

Senator CORTEZ MASTO. OK.

Mr. MULVANEY. What we have tried to do is limit the amount of data that we actually take possession of. I will give you an example. Instead of having them send it to us electronically, we are going to look at it.

Senator CORTEZ MASTO. OK. I notice my time is up. Thank you very much.

Mr. MULVANEY. Thank you.

Senator CORTEZ MASTO. And I will submit the rest of my questions for the record.

Thank you.

Mr. MULVANEY. Yes, ma'am.

Chairman CRAPO. Thank you very much. And Senator Brown has——

Senator BROWN. Only one statement. Thank you, Director, for being here. I know in response to one of my first questions you

made the comparison to the first 6 months of Director Cordray, and you, of course——

Mr. MULVANEY. Yes, sir.

Senator BROWN.——know that was as he was setting the agency up. So I hope that you will move aggressively——

Mr. MULVANEY. Actually, the agency was set up by other folks——

Senator BROWN. But it was not—but it was still getting up and running. It was not—there was not the actions in the pipeline that there have been when you took over, so I hope you will be a little more aggressive. I will just leave it at that.

Mr. MULVANEY. Fair enough. Thank you, sir.

Chairman CRAPO. All right. Thank you. I want to thank you, Director Mulvaney, for being here with us today and for being firm and forthright in your answers and helping work with us. I appreciated a lot of your insights and a lot of your suggestions. I do think you should expect that the Committee will follow up with you in some kind of form.

Mr. MULVANEY. I would expect nothing less. I used to be on one of these committees.

Chairman CRAPO. I am referring specifically to this data collection issue. I think we may need to get together further. I have to be somewhere in about 2 minutes, and so it will not be the 2 minutes after this hearing. But for Senators who wish to submit questions for the record, those questions are due on Thursday, April 19th, and I encourage you, Acting Director Mulvaney, if you received questions, to please respond promptly.

With that, this hearing is adjourned.

Mr. MULVANEY. Thank you, sir.

[Whereupon, at 11:58 a.m., the hearing was adjourned.]

[Prepared statements, responses to written questions, and additional material supplied for the record follow:]

### PREPARED STATEMENT OF CHAIRMAN MIKE CRAPO

Today, we will hear from CFPB Acting Director Mick Mulvaney on the most recent Semi-Annual Report of the Consumer Financial Protection Bureau, and the Bureau's activities since his appointment in November 2017.

On April 2nd, the CFPB released its Fall 2017 Semi-Annual Report, which provides insights on the issues consumers face, and primarily focuses on the CFPB's significant work between April and September 2017, including rulemakings, supervisory actions and enforcement actions.

The CFPB recently announced a series of requests for information on various functions, including its rulemaking, supervision, guidance and enforcement processes.

Consumer protection is vital for a properly functioning financial market place and is best determined by a robust, quantitative analysis.

I look forward to learning what feedback the CFPB has received from stakeholders with respect to its requests for information, and how consumers and the marketplace stand to benefit from changes being considered.

I have long been concerned about the ever increasing amounts of "big data" collected by companies and the Government.

In 2014, the Government Accountability Office issued a report in which it highlighted shortcomings in the CFPB's data collection process and privacy controls, and recommended a number of improvements.

The CFPB's data collection is especially concerning in light of a number of high-profile cyberattacks, such as last year's Equifax data breach, and recent news about how outside groups have collected private information from Facebook users.

I commend Acting Director Mulvaney for treating these concerns seriously by freezing the agency's collection of personal information while the agency reviews ways it can improve its data-security program.

Today, we should discuss how the CFPB's data collection process can be narrowed and enhanced to better protect consumers' personal information.

While I am encouraged by today's testimony, the fundamental structure of the CFPB needs to be reconsidered to make it more transparent and accountable.

I continue to support a bipartisan commission instead of a single director, a Congressional funding mechanism, and a safety and soundness check.

Given the changes taking place at the agency, now is an appropriate time to consider the future of the CFPB.

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### PREPARED STATEMENT OF SENATOR SHERROD BROWN

The reason we are here today is that there was a financial crisis 10 years ago caused by predatory lenders, and that crisis cost millions of Americans their jobs and their homes.

The St. Louis Fed looked at the subprime mortgages made from 2000 to 2007, and it found that 70 percent of those loans were refinances. That's important—it means that most subprime loans weren't going to people who were "buying too much house," these loans were going to people that had already paid off some of their debt and built some equity.

Subprime refinance loans allowed shady lenders to steal that equity from homeowners with false promises of lower monthly rates under confusing payment plans. These loans, designed to steal wealth from hardworking families, overwhelmed the banking system and crashed the whole economy.

There was no Consumer Financial Protection Bureau while this was happening from 2000 to 2007. There was no dedicated cop on the beat to be tough on predatory mortgage lenders or to warn consumers about these loans.

The result was the biggest financial crisis and recession since the Great Depression. The lesson from 2008 is simple—if we don't protect hardworking Americans from powerful Wall Street banks and financial scammers, it can bring down our entire economy.

That's why we created the Consumer Financial Protection Bureau. Its job is clear—to fight for hardworking families against unfair, abusive, and deceptive practices, the tricks and traps that some financial institutions design in order to line their pockets.

It's a consumer first agency. Before Mr. Mulvaney's arrival, the CFPB got 12 billion dollars in relief for 29 million Americans that had been harmed by shady practices.

Before Mr. Mulvaney arrived, the CFPB was doing its job, initiating a handful of enforcement actions every month on behalf of the consumers it was created to serve.



But now Mr. Mulvaney is trying to convince us that protecting families and prosecuting shady lenders is, “pushing the envelope.” That’s a lie. Protecting consumers is not “pushing the envelope,” that’s the agency’s mission.

It’s a mission that Mr. Mulvaney is completely failing at. The number of enforcement actions under his watch? Negative four. Not only has the CFPB not initiated a single enforcement action, but it has withdrawn lawsuits against four payday lenders that charge consumers triple digit interest rates.

It is Mr. Mulvaney who is pushing the envelope. His appointment at the CFPB was only made possible by ignoring the law that created the CFPB, which says that the Deputy Director should be in charge of the agency.

Yesterday marked the 50th anniversary of the Fair Housing Act. Mr. Mulvaney observed this year’s anniversary by moving to weaken the office of Fair Lending—the office that focuses on discriminatory lending.

While he claims the agency is under a hiring freeze, he has actually created new positions at the Bureau and installed his own political appointees. That may seem unsurprising given the change in the Administration, but it has no precedent in the short life of the CFPB.

Not only did he replace nonpartisan career staff with his political allies, he gave them enormous salaries. In his role at the CFPB, Mr. Mulvaney is continuing the war on working families he started at OMB. As budget director he worked to slash benefits for Americans making \$30,000–\$40,000 a year, and enact tax cuts that benefit the wealthiest Americans while adding trillions of dollars to the debt.

At the CFPB, he’s handing out favors to Wall Street and shady lenders. He’s lining the pockets of his top four political appointees with over \$1 million in salaries, but hasn’t taken on a single enforcement action that would continue the CFPB’s good work of putting money back in the pockets of consumers harmed by shady lenders and financial scammers.

Shel Silverstein once said “if you have to dry the dishes, and you drop one on the floor, maybe they won’t let you dry the dishes anymore.” Mr. Mulvaney seems to be following that advice. He’s hoping that if he does a bad enough job running the CFPB, Congress will take away the CFPB’s ability to protect consumers.

I hope Congress doesn’t fall for it. We have seen that the CFPB can be a real, positive force for consumers. We all know that the real problem is not the CFPB.

#### **PREPARED STATEMENT OF MICK MULVANEY**

MICK MULVANEY, ACTING DIRECTOR, BUREAU OF CONSUMER FINANCIAL PROTECTION

APRIL 12, 2018

Chairman Crapo, Ranking Member Brown, and Members of the Committee, I am pleased to present the Bureau of Consumer Financial Protection (Bureau) Semi-Annual Report to Congress for the period beginning April 1, 2017 to September 30, 2017, as well as to provide you an update on the activities of the Bureau during my tenure.

Shortly after President Trump appointed me as Acting Director of the Bureau, I announced that the Bureau would continue to execute the law but would no longer go beyond its statutory mandate. In enacting section 1016(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Congress enumerated nine elements for inclusion in the Bureau’s Semi-Annual Reports to Congress:

1. A discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services;
2. A justification of the budget request of the previous year;
3. A list of the significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period;
4. An analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year;
5. A list, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year;
6. The actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions;
7. An assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law;

8. An analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau; and
9. An analysis of the efforts of the Bureau to increase workforce and contracting diversity consistent with the procedures established by the Office of Minority and Women Inclusion.

This Semi-Annual Report meets this mandate.

Moreover, section 1012(c)(4) of the Dodd-Frank Act contemplates that the Director will submit independent legislative recommendations to Congress. It is appropriate to include legislative recommendations in this Semi-Annual Report, because doing so will afford Members of Congress a timely opportunity to discuss my recommendations in the hearing.

Undoubtedly, many Members of Congress disagree with my actions as the Acting Director of the Bureau, just as many Members disagreed with the actions of my predecessor. Such continued frustration with the Bureau's lack of accountability to any representative branch of Government should be a warning sign that a lapse in democratic structure and republican principles has occurred. This cycle will repeat *ad infinitum* unless Congress acts to make the Bureau accountable to the American people.

Accordingly, I request that Congress make four legislative changes to the law in order to establish meaningful accountability for the Bureau:<sup>1</sup>

1. Fund the Bureau through Congressional appropriations;
2. Require affirmative legislative approval of major Bureau rules;
3. Ensure that the Director answers to the President in the exercise of executive authority; and
4. Create an independent Inspector General for the Bureau.

You also requested that I discuss the activities of the Bureau during my tenure, and I am prepared to explain the Bureau's new strategic priorities and new approach.

#### *Semi-Annual Report requirements*

The first section of the Bureau's Semi-Annual Report to Congress is a discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services. In this section of the report, the Bureau discusses "credit invisibles," consumers who lack a credit record at one of the nationwide credit reporting companies. In June 2017, the Bureau released the Data Point: Becoming Credit Invisible,<sup>2</sup> which explores the means by which consumers transitioned out of credit invisibility. The Semi-Annual Report also discusses the Bureau's mandate to provide consumers with financial education and the Bureau's 2017 financial literacy annual report.<sup>3</sup>

The second section of the Semi-Annual Report is a justification of the Bureau's budget request of the previous year. The Bureau's FY 2017 Strategic Plan, Budget, and Performance Plan and Report includes estimates of the resources needed for the Bureau to carry out its mission. The justification of the FY 2017 budget request is on the Bureau's website at <https://www.consumerfinance.gov/about-us/budget-strategy/budget-and-performance/>.

The third section of the Semi-Annual Report lists the significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period. The Bureau's significant final rules during the term of this report are the final rule on arbitration agreements (which will not go into effect because Congress adopted a joint resolution of disapproval, which the President signed pursuant to the Congressional Review Act) and the final rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans. The Bureau's significant initiatives include requests for information on assessments of significant rules under section 1022(d) of the Dodd-Frank Act, which include 2013 Real Estate Settlement Procedures Act Servicing Rule Assessment; Remittance Rule Assessment; and Ability-to-Repay/Qualified Mortgage Rule Assessment. On September 14, 2017, Bureau staff also issued its first no-action letter to

<sup>1</sup> Other than the Bureau's Acting Director, no other officer or agency of the United States approved these legislative recommendations prior to submission to Congress. The views contained herein are those of the Acting Director and do not necessarily reflect the views of the Board of Governors of the Federal Reserve System or the President of the United States.

<sup>2</sup> [https://www.consumerfinance.gov/documents/4822/BecomingCreditVisible\\_Data\\_Point\\_Final.pdf](https://www.consumerfinance.gov/documents/4822/BecomingCreditVisible_Data_Point_Final.pdf).

<sup>3</sup> [https://www.consumerfinance.gov/documents/5810/cfpb\\_financial-literacy-annual-report-2017.pdf](https://www.consumerfinance.gov/documents/5810/cfpb_financial-literacy-annual-report-2017.pdf).

Upstart Network. Additionally, the Bureau's plan for upcoming initiatives lays out a series of Calls for Evidence about various aspects of the Bureau's work. This section of the Semi-Annual Report also lists out the Bureau's plans for upcoming proposed rules: Payday, Vehicle Title, and Certain High-Cost Installment Loans rule; the Expedited Funds Availability Act rule; the Debt Collection rule; and Home Mortgage Disclosure Act rule, as well as upcoming final rules: Gramm-Leach-Bliley Act Privacy Notice rule; Amendments Relating to Disclosure of Records and Information rule; and the Amendment to the Federal Mortgage Disclosure Requirements under the Truth in Lending Act rule. The Semi-Annual Report contains additional details on these and other Bureau initiatives.

The fourth section of the Semi-Annual Report provides an analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year. During the period October 1, 2016 through September 30, 2017, the Bureau handled approximately 317,200 consumer complaints. Most of those complaints were submitted through the Bureau's website. The Bureau does not verify all the facts alleged in complaints, but it takes steps to confirm a commercial relationship between the consumer and the company. Approximately 235,400 (or 74 percent) of all complaints handled were sent by the Bureau to companies for review and response. Companies have responded to approximately 93 percent of complaints sent to them for response during the period. Consumers did not receive a timely response from the company in only 3 percent of complaints. The top four complaints by the product category designated by the consumer when submitting the complaint are debt collection (27 percent), credit or consumer reporting (27 percent), mortgages (13 percent), and credit cards (9 percent).

As required by the Dodd-Frank Act, the fifth section of the Semi-Annual Report discusses the public supervisory and enforcement actions to which the Bureau was a party during the preceding year. The Bureau's supervisory activities with respect to individual institutions are nonpublic. The Bureau has, however, issued numerous supervisory guidance documents and bulletins during the preceding year. These documents are listed under section 3.3 of this report as "issued guidance documents undertaken within the preceding year." With regard to enforcement actions, the Bureau was a party in 53 public enforcement actions from October 1, 2016 through September 30, 2017. The detailed list of those actions, with a brief statement of the issues, is set out in section 5.2 of the Semi-Annual Report. Section 5.2 also identifies those actions involving Office of Administrative Adjudication Orders with respect to covered persons that are not credit unions or depository institutions.

The sixth section of the Semi-Annual Report addresses actions taken regarding rules, orders, and supervisory actions with respect to covered persons that are not credit unions or depository institutions. The Bureau's Supervisory Highlights publications provide general information about the Bureau's supervisory activities at banks and nonbanks without identifying specific companies. The Bureau published four issues of Supervisory Highlights between October 1, 2016 and September 30, 2017. As noted in the previous paragraph, all public enforcement actions are list in section 5.2 of the Semi-Annual Report. The brief statement of issues identifies those actions taken with respect to covered persons that are not credit unions or deposit institutions.

The seventh section of the Semi-Annual Report requires an assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law. For purposes of the section 1016(c)(7) reporting requirement, the Bureau determines that any actions asserting claims pursuant to section 1042 of the Dodd-Frank Act are "significant." The Bureau is aware of two State Attorney General actions that were initiated during the reporting period and that asserted Dodd-Frank Act claims. The actions are listed in the Semi-Annual Report.

The eighth section of the Semi-Annual Report provides an analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau. This update is focused on highlights from the Bureau's fair lending enforcement<sup>4</sup> and rulemaking<sup>5</sup> activities from October 1, 2016 through September 30, 2017, and continued efforts to fulfill the fair lending mission of the Bureau, through supervision, interagency coordination, and outreach from April 1, 2017 through September 30, 2017.<sup>6</sup> The Bureau's Fair Lending Supervision program assesses compliance with Federal fair lending consumer financial laws and regulations at banks and nonbanks over which the Bureau has supervisory authority. As a result of the Bureau's efforts to fulfill its fair lending mission in this reporting period, the Bureau's Fair Lending Super-

<sup>4</sup>Dodd-Frank Act section 1016(c)(5).

<sup>5</sup>Dodd-Frank Act section 1016(c)(3).

<sup>6</sup>Dodd-Frank Act section 1016(c)(8).

vision program initiated 11 supervisory events at financial services institutions under the Bureau's jurisdiction to determine compliance with Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities, including the Equal Credit Opportunity Act (ECOA) and the Home Mortgage Disclosure Act (HMDA). Over the past year, the Bureau announced two fair lending public enforcement actions involving HMDA reporting and credit cards. First, as described in section 5 of this report, on March 15, 2017, the Bureau resolved an enforcement action against a national mortgage originator for violating HMDA by consistently failing to report accurate data about mortgage transactions for 2012 through 2014. Second, as described in section 5 of this report, on August 23, 2017, the Bureau took action against a credit card company, for violating ECOA by discriminating against consumers in Puerto Rico, the U.S. Virgin Islands, and other U.S. territories by providing them with credit and charge card terms that were inferior to those available in the 50 United States.

The ninth, and final, section of the Semi-Annual Report provides an analysis of the efforts of the Bureau to increase workforce and contracting diversity consistent with the procedures established by the Office of Minority and Women Inclusion (OMWI). The Bureau has developed an agency-wide strategic plan—Diversity Strategic Plan—to guide the Bureau in its efforts to manage its diversity and inclusion goals and objectives.<sup>7</sup> The Bureau also publishes an Annual OMWI report in the spring of each year. The 2017 OMWI Annual report was published on March 29, 2018.<sup>8</sup> Additionally, during FY 2017,<sup>9</sup> the Bureau awarded 30 percent of contract dollars to small businesses enterprises (SBEs), some of which are also minority-owned or woman-owned businesses (MWOBs). The Bureau's contracting rate to small businesses exceeds the Small Business Administration's recommended goal for each Federal agency of 23 percent. Of the 30 percent of SBE contracts awarded at the Bureau in FY 2017, 10 percent went to small disadvantaged businesses (minority-owned). The total contract dollars awarded to woman-owned small businesses during this period was 11.9 percent. In accordance with the mandates in section 342(c)(2) of the Dodd-Frank Act, goal six of the Bureau's Diversity and Inclusion Strategic Plan describes the efforts the Bureau takes to determine that a contractor will ensure, to the maximum extent possible, the fair inclusion of women and minorities in the contractor workforce, and, as applicable, subcontractors workforce. This concludes the overview of the Bureau's Fall 2017 Semi-Annual Report to Congress.

#### *New strategic priorities*

As noted above, you have also requested that I discuss the activities of the Bureau during my tenure. I will begin by outlining the Bureau's new strategic priorities, and then I will provide an overview of the new approach I have taken in leading the Bureau.

The Bureau's new strategic priorities are to recognize free markets and consumer choice and to take a prudent, consistent, and humble approach to enforcing the law. This reflects my understanding that consumers and creditors alike gain from mutual exchange, provided that promises are kept, terms are clearly disclosed, and property rights are protected.

As an officer in the executive branch, I am sworn to execute the law, and that is what I am doing. That is all I should be doing. My job is to make sure the Bureau is acting consistently with our statutory responsibilities, to improve our daily operations and our interactions with consumers and industry, and to ensure we are accountable to the American people.

Our recently published Strategic Plan outlines how I intend to fulfill the Bureau's statutory duties. Specifically, the Bureau's mission statement is "to regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws and to educate and empower consumers to make better informed financial decisions." That is what Congress created us to do.

And that is what we will do. We will adhere to the Bureau's statutory responsibilities. Our job is to enforce Federal consumer financial laws, and our focus will be on carrying out only those activities Congress explicitly wrote into law.

<sup>7</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201611\\_cfpb\\_diversity-and-inclusion-strategic-plan-2016-2020.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201611_cfpb_diversity-and-inclusion-strategic-plan-2016-2020.pdf).

<sup>8</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201703\\_cfpb\\_OMWI-2017-annual-report.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201703_cfpb_OMWI-2017-annual-report.pdf).

<sup>9</sup> Data source is from the Federal Procurement Data System (FPDS) for FY 2017 from October 1, 2016 through September 30, 2017. The data are current as of October 4, 2017. FPDS data is subject to an OMB annual validation each January for the previous fiscal year.

### *New approach*

The Bureau is going about its work in several new ways. First, to execute the new mission, the Bureau will continue to seek the counsel of others and make decisions only after weighing relevant available evidence and a full range of perspectives. Second, the Bureau will protect the legal rights of all, equally. And third, we will do what is right with confidence, acting with humility and moderation.

That is why we launched the Call for Evidence—an initiative aimed at gathering public feedback on the wide range of work done by this agency. It is important to learn more about what is working and what needs to improve in the work done by the Bureau. An agency that is confident in its mission should care about getting it right. An agency should welcome constructive feedback and then learn from it.

We are actively seeking this feedback. To date, the Bureau had issued 11 requests for information—RFIs. We are seeking public comment on the Bureau’s Civil Investigative Demands, administrative adjudications, enforcement processes, supervision processes, complaint reporting, external engagement strategies, our rulemaking process, rules issued by the Bureau, and rules the Bureau inherited. Most recently, we issued RFIs on guidance and implementation support and consumer education. Later this week, we will issue an RFI on consumer complaints and inquiries. We have extended all of the comment periods to 90 days to give everyone more time to provide us with feedback. I encourage any interested parties to submit comments. Your comments will help the Bureau evaluate what we do and how we do it and determine whether changes are warranted.

Another area where we are doing things differently is executing the Bureau’s regulatory agenda. First, regulatory agencies like the Bureau are not legislatures. The Bureau has very broad rulemaking authority to regulate consumer financial products and services. We must be very judicious in the use of this power.

Second, we are committed to making sure the Bureau’s regulations work not only for those who use consumer financial products and services but also for those who provide them. This means clear rules that, where appropriate, can be tailored to the business models of the companies subject to these rules. For instance, the Bureau is here to help protect people who use credit, but we’re also here to establish clear guidelines for those who provide that credit because it is an important service for consumers and central to our capitalist system.

Additionally, under my leadership the Bureau will implement a more robust quantitative analysis of potential costs and benefits to consumers and those we regulate.

We are also opening up the rulemaking process to reconsider elements that may create unnecessary burden or restrict consumer choice. Specifically, the Bureau recently issued statements about revisiting the regulation issued under the Home Mortgage Disclosure Act and the “Payday, Vehicle Title, and Certain High-Cost Installment Loans” rule.

Regarding HMDA, the Bureau intends to open a rulemaking to reconsider various aspects of the 2015 HMDA rule, such as reporting thresholds and transactional coverage and reconsider data points not mandated by the Dodd-Frank Act. Furthermore, we have announced, with our partners at the Office of Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation, that our supervisory examinations of 2018 HMDA data will be diagnostic. Our goal is to help companies identify any weaknesses, and we will credit good-faith efforts to comply. Financial institutions that submit HMDA data are doing so through the Bureau’s new online platform, which allows an institution to upload loan application registers, review edits, certify data, and submit data for the filing year without the manual processes required previously. Over 5,800 institutions have submitted their 2017 data using the new platform.

We are not pre-judging the outcome of any rulemaking; instead, I share our recent efforts with you to demonstrate that under new leadership the Bureau is willing to revisit existing rules to find ways to ease undue burdens and protect consumer choice. This we will do efficiently, effectively, and transparently. We will structure ourselves and conduct Bureau operations in a way that reduces redundancy and makes the best use of resources.

Above all, the Bureau must be efficient. That means I will organize the agency and conduct its operations in ways that reduce redundancy and make the most of our resources. For example, the Office of Fair Lending and Equal Opportunity is being moved to the Director’s Office, to become part of the Office of Equal Opportunity and Fairness. The Office of Fair Lending will continue to focus on advocacy, coordination, and education.

The Bureau will continue to enforce fair lending laws. The current fair lending supervision and enforcement functions will remain in the soon-to-be-renamed

Division of Supervision, Enforcement, and Fair Lending. Accordingly, the Bureau will have one office, not two, that handles enforcement matters. It will have one office, not two, that handle supervision policy, and one office, not two, that handle supervision examinations. This will make enforcement and supervision more efficient, effective, and accountable.

In another change, the Bureau practice of “regulation by enforcement” has ceased. The Bureau will continue to enforce the law. That is our job, and we take it seriously. However, people will know what the rules are before the Bureau accuses them of breaking those rules.

Through the changes I have discussed and others, I am making sure the Bureau is operating within its statutory mandate, is accountable for its actions, and is doing the American people’s business in ways that are efficient and effective.

The best that any Bureau Director can do on his own is to fulfill his responsibilities with humility and prudence and to temper his decisions with the knowledge that the power he wields could all too easily be used to harm consumers, destroy businesses, or arbitrarily remake American financial markets. But all human beings are imperfect, and history shows that the temptation of power is strong. Our laws should be written to restrain that human weakness, not empower it.

Thank you again for the opportunity to present the Bureau of Consumer Financial Protection’s Semi-Annual Report to Congress for the period beginning April 1, 2017 to September 30, 2017, as well as to provide you an update on the activities of the Bureau during my tenure. I would be happy to answer any of your questions about the Bureau’s work.

**RESPONSES TO WRITTEN QUESTIONS OF SENATORS BROWN,  
WARNER, VAN HOLLEN, CORTEZ MASTO, AND JONES FROM  
MICK MULVANEY**

**Q.1.** We would like clarity on the CFPB's enforcement trends since you assumed leadership:

**Q.1.a.** How many CFPB investigations were ongoing as of November 24, 2017?

**Q.1.b.** How many CFPB investigations were ongoing as of April 19, 2018?

**Q.1.c.** How many new CFPB investigations were initiated from November 25, 2017 to April 19, 2018?

**A.1.a.-c.** As I noted at the hearing, the Bureau of Consumer Financial Protection (Bureau) had roughly 100 ongoing investigations as of April 19, 2018. The Bureau does not generally comment publicly on confidential enforcement investigations.

**Q.2.** In January, you announced that the CFPB would reconsider its 2017 payday loan rule and delay the compliance date for the rule's main requirements. You have claimed that you plan to undertake a great deal more cost-benefit analysis at the CFPB.

Did you undertake any cost-benefit analysis in connection with the decision to revisit the payday loan rule and delay the compliance date for the rule's main requirements? If so, please provide a copy of that analysis to the Committee.

**A.2.** I note that this question is similar to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member.

If I decide that the Bureau should propose revisions to the rule, the Bureau will follow the procedures set forth in the Administrative Procedure Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), including analyzing the costs and benefits of the proposal to consumers and to covered institutions. It would have been premature to conduct such an analysis before decisions are made as to what changes, if any, to propose to the rule. The January 16, 2018, statement did not delay the compliance date by which lenders would have to begin complying with most provisions of the rule.

**Q.3.** In a speech to State attorneys general in February, you implied that the CFPB would step back if State authorities "don't think it's against the law" or "don't think it's your State's best interest." This was in the context of a case against four payday lenders accused of charging triple-digit interest rates in violation of State and Federal law. You noted that some State attorneys general opposed the case. But what you didn't mention was the fact

that this case charged the lenders with making illegal loans in 15 different States, with varying policies on payday lending.

Did the State attorneys general of any States other than New Mexico and Oklahoma express an opinion on the case? If so, please provide copies of any written correspondence.

**A.3.** The Oklahoma Attorney General and the New Mexico Attorney General filed amicus briefs on the question of whether State and Tribes are considered “persons” against whom the Bureau may bring civil actions under 12 U.S.C. § 5564(a). The briefs did not comment on payday lending, interest rates, or where the loans in question were made. Though it must be noted that New Mexico filed an amicus brief in support of defendants even though it was a “subject State” whose laws might have deemed void *ab initio* the loans at issue in that litigation. No other State attorney general filed an amicus brief in this case.

**Q.4.** According to the CFPB’s complaint, Connecticut and New York State authorities sent cease-and-desist letters to some of the lenders telling them the loans were illegal.

**Q.4.a.** Did you reach out to those States to solicit their opinion? If so, why does it seem that you take the advice of the States you agree with and dismiss the advice of those you disagree with?

**A.4.a.** No.

**Q.4.b.** What is the statutory authority for making the opinions of some State authorities determinative in CFPB’s decision to pursue an enforcement action to protect consumers in other States?

**A.4.b.** It is incorrect to assert that the opinions of some State attorneys general are “determinative” of decisions made by the Bureau. Rather, as I have explained in my public remarks, the Bureau will weigh those opinions in making many decisions, including whether to pursue any given enforcement action.

**Q.4.c.** If you choose not to bring an enforcement action because certain State authorities recommend against it, how is that consistent with CFPB’s role as a Federal regulatory agency to enforce Federal law?

**A.4.c.** The Bureau independently enforces Federal consumer financial law as defined in the Dodd-Frank Act. That fact does not mean that the Bureau cannot consider the perspectives of State attorneys general when making decisions about whether and how to enforce Federal consumer financial law.

**Q.4.d.** Did you undertake any cost-benefit analysis in connection with the decision to drop this case? If so, please provide a copy of that analysis to the Committee.

**A.4.d.** The Bureau considers a number of factors when deciding whether to bring or continue with an enforcement action. Although the Dodd-Frank Act generally requires the Bureau to consider benefits and costs to consumers and providers of consumer financial products or services when promulgating a rule, it does not require the Bureau to conduct such an analysis before exercising its enforcement discretion.

**Q.5.** In 2011, the CFPB entered an agreement with State attorneys general to support each other in enforcing consumer protection



laws, including through “joint or coordinated investigations of wrongdoing and coordinated enforcement actions.” State attorneys general from coast to coast have said they’ve appreciated the CFPB’s partnership in the past. However, Virginia Attorney General Mark Herring recently said that you’re now dropping cases that were previously approved. In light of these comments, we are concerned that you have abandoned the CFPB’s previous agreement to support State efforts to protect consumers.

**Q.5.a.** How many CFPB investigations or lawsuits in which the CFPB worked with State authorities were ongoing as of November 24, 2017?

**Q.5.b.** How many CFPB investigations or lawsuits in which the CFPB worked with State authorities were ongoing as of April 19, 2018?

**A.5.a.–b.** Four publicly filed lawsuits in partnership with State authorities were ongoing as of November 24, 2017. The number and type of nonpublic enforcement investigations are confidential to protect the integrity of the investigation. The Bureau continues to value its partnerships with State regulators and attorneys general. As I stated to a group of attorneys general at the National Association of Attorneys General Winter Meeting, under my leadership they can expect to see even more collaboration from the Bureau. The Bureau will also be making a greater effort to seek input from State regulators and the attorneys general before the Bureau exercises its enforcement authority.

**Q.5.c.** How many new CFPB investigations or lawsuits in which the CFPB worked with State authorities were initiated from November 25, 2017 to April 19, 2018?

**A.5.c.** No new lawsuits in partnership with State authorities were initiated from November 25, 2017 to April 19, 2018. The Bureau does not generally comment publicly on confidential enforcement investigations.

**Q.5.d.** Since November 25, 2017, have you or CFPB staff denied any requests by State authorities for the CFPB to join or support an investigation or lawsuit?

**A.5.d.** As a matter of policy, the Bureau does not comment on non-public enforcement matters. As noted in my previous response, under my leadership State law enforcement partners can expect to see even more collaboration from the Bureau. The Bureau will also be making a greater effort to seek input from State regulators and attorneys general before exercising its enforcement authority.

**Q.5.e.** Is the Virginia Attorney General correct, and if so, which cases or investigations have been dropped? If so, did you undertake a cost-benefit analysis before coming to a decision to drop those cases? Please provide a copy of an analysis to the Committee.

**A.5.e.** No public enforcement matters were brought in conjunction with a State regulator. The Bureau does not generally comment publicly on confidential enforcement investigations.

**Q.5.f.** Do you continue to adhere to the CFPB’s 2011 agreement with State attorneys general? If there have been any changes to

the CFPB's approach to working with State authorities, did you personally approve these changes?

**A.5.f.** In 2011, the Bureau and the National Association of Attorneys General Presidential Initiative Working Group adopted a joint statement of principles to, where appropriate and to the greatest possible extent:

- Develop joint training programs and share information about developments in Federal consumer financial law and State consumer protection laws that apply to consumer financial products or services;
- Share information, data, and analysis about conduct and practices in the markets for consumer financial products or services to inform enforcement policies and priorities;
- Engage in regular consultation to identify mutual enforcement priorities that will ensure effective and consistent enforcement of the laws that protect consumers of financial products or services;
- Support each other, to the fullest extent permitted by law as warranted by the circumstances, in the enforcement of the laws that protect consumers of financial products or services, including by joint or coordinated investigations of wrongdoing and coordinated enforcement actions;
- Pursue legal remedies to foster transparency, competition, and fairness in the markets for consumer financial products or services across State lines and without regard to corporate forms or charter choice for those providers who compete directly with one another in the same markets;
- Develop a consistent and enduring framework to share investigatory information and to coordinate enforcement activities to the extent practicable and consistent with governing law;
- Share, refer, and route complaints and consumer complaint information between the Consumer Bureau and the State attorneys general;
- Analyze and leverage the input they receive from consumers and the public in order to advance their mutual goal of protecting consumers of financial products or services; and
- Create and support technologies to enable data sharing and procedures that will support complaint cooperation.

The Bureau continues to be guided by these principles in its work with State attorneys general.

**Q.5.g.** If there have been any changes to the CFPB's approach to working with State authorities, did you undertake a cost-benefit analysis in connection with those changes? If so, please provide a copy of that analysis to the Committee.

**A.5.g.** See above.

**Q.6.a.** We have a number of questions related to the reorganization of the Office of Fair Lending and Equal Opportunity (OFLEO):

Did the CFPB perform a legal analysis to determine whether stripping the OFLEO of its enforcement authority would hinder the CFPB's ability to carry out its statutory mandate to provide oversight and enforcement of Federal fair lending laws?

**A.6.a.** I note that this question is identical to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical to a question I received from Senator Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs (BHUA), regarding the Bureau's semiannual report. For that reason, I am providing you the same response I will provide to the Senator.

Under the Dodd-Frank Act, the Office of Fair Lending and Equal Opportunity (OFLEO) "shall have such powers and duties as the Director may delegate to the Office."

I have been working to ensure that the Bureau's operations are conducted in a way that best enables the Bureau to fulfill all of the Bureau's statutory requirements while reducing redundancy and maximizing efficiency. Changes to the structure and operations of OFLEO are being implemented in furtherance of these priorities. The existing OFLEO performs different functions, including oversight and enforcement of fair lending laws on one hand, and promotion of fair lending compliance and education on the other.

The reorganization will separate the supervision and enforcement functions previously performed by OFLEO from its promotion and education functions. The supervision and enforcement functions will remain in the division that is responsible for supervision and enforcement generally. OFLEO's remaining functions will be elevated to the Director's Office to become part of an Office of Equal Opportunity and Fairness with a focus on advocacy and education, coordination, and reporting.

The changes are designed to create efficiency and consistency in the Bureau's supervision and enforcement functions, and allow OFLEO to focus on promoting advocacy and education, coordination, and reporting. These changes should improve the Bureau's operations and our interactions with consumers and industry, in fulfillment of our mission, and in full compliance with the Bureau's statutory mandate.

**Q.6.b.** How will bringing the OFLEO under the control of the Office of the Director modify the Bureau's decisionmaking process with regard to enforcement and other actions to protect consumers from unfair discrimination?

**Q.6.c.** What, if any, continuing role will the OFLEO play in supporting the Bureau's enforcement of fair lending laws?

**A.6.b.-c.** I note that these questions are identical to questions I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, these questions are identical to questions I received from Senator Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Senator.

The reorganization will not hamper the Bureau's fair lending enforcement and supervisory activity; indeed, the reorganization should help the Bureau operate more efficiently and effectively. In consultation with Bureau stakeholders and the National Treasury Employees Union (NTEU) and in accordance with the Bureau's collective bargaining agreement, the Bureau and NTEU have signed a memorandum of understanding (MOU) on the implementation plan for the reorganization. Full implementation of the reorganization is expected to take a few more months to complete. While the Bureau works through the processes required to fully implement such a change, OFLEO will continue to operate as it has previously.

The reorganization of OFLEO will elevate OFLEO to the Director's Office to become part of the Office of Equal Opportunity and Fairness. OFLEO will continue to support the enforcement of fair lending laws through the use of advocacy and education, coordination, and reporting.

**Q.6.d.** How will the reorganization affect the reporting duties for OFLEO employees, including the OFLEO Assistant Director?

**A.6.d.** I note that this question is identical to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical to a question I received from Senator Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Senator.

In consultation with Bureau stakeholders and the NTEU, and in accordance with the Bureau's collective bargaining agreement, the Bureau and NTEU have signed a MOU on the implementation plan for the reorganization. While staff will not experience changes in employment status, employees may experience changes in jobs and duties. Some OFLEO employees will remain in the OFLEO while others will take positions throughout the Supervision and Enforcement Division. The OFLEO Assistant Director's duties will change insofar as the role will focus on advocacy and education, coordination, and reporting. We are working diligently to effect these changes while minimizing disruption to operations and employees.

**Q.6.e.** After the reorganization, which officials in the Office of the Director will be consulted about OFLEO activities?

**Q.6.f.** Which of these officials have been hired, politically appointed, or detailed to the CFPB since November 24, 2017?

**Q.6.g.** After the reorganization, which political appointees and temporarily detailed employees will be granted veto power over OFLEO activities and decisions?

**Q.6.h.** What criteria will political appointees and temporarily detailed employees in the Office of the Director use to determine whether the Bureau will follow the recommendations of career policy experts in the OFLEO?

**Q.6.i.** What actions will the Bureau take to ensure that OFLEO decisions continue to be based on the best advice of independent, expert, career policy staff?

**A.6.e.-i.** I note that these questions are identical or substantially similar to questions I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, these questions are identical or substantially similar to questions I received from Senator Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Senator.

In consultation with Bureau stakeholders and the NTEU and in accordance with the Bureau's collective bargaining agreement, the Bureau and NTEU have signed a MOU on the implementation plan for the reorganization. Full implementation of the reorganization is expected to take a few more months to complete. While the Bureau works through the processes required to fully implement such a change, OFLEO will continue to operate as it has previously.

**Q.6.j.** How will new requirements that the OFLEO report to the Office of the Director enhance the CFPB's ability to protect consumers from unfair discrimination?

**A.6.j.** I note that this question is identical to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical to a question I received from Senator Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Senator.

The Bureau intends to continue fulfilling its statutory obligation to enforce Federal consumer financial laws, which include the Equal Credit Opportunity Act (ECOA) and the Home Mortgage Disclosure Act (HMDA). The reorganization should improve the Bureau's operations and our interactions with consumers and industry, in fulfillment of our mission, and in full compliance with the Bureau's statutory mandate. The Bureau's supervision and enforcement of fair lending laws will continue uninterrupted in the existing supervision and enforcement divisions. This will allow remaining OFLEO personnel to focus on education, outreach, and compliance efforts. OFLEO's previous organizational structure placed primary emphasis on "back-end" supervision and enforcement of fair lending laws, resulting in a focus on corrective measures, rather than "front-end" promotion of education, and coordination of, fair lending efforts.

**Q.6.k.** Please describe any independent analyses, such as third-party studies, that informed the decision to bring the OFLEO

under the Office of the Director and strip OFLEO of its enforcement and supervisory authority.

**A.6.k.** I note that this question is identical to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical to a question I received from Senator Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Senator.

Under the Dodd-Frank Act, the OFLEO "shall have such powers and duties as the Director may delegate to the Office." I have been working to ensure that the Bureau's operations are conducted in a way that best enables the Bureau to fulfill all of the Bureau's statutory requirements while reducing redundancy and maximizing efficiency. Changes to the structure and operations of OFLEO are being implemented in furtherance of these priorities.

**Q.6.l.** Did you or any other CFPB employee consult with or discuss this reorganization with any outside entities—including lobbyists or representatives of the banking or financial services industry—prior to announcing the reorganization?

**A.6.l.** I note that this question is identical or substantially similar to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical or substantially similar to a question I received from Senator Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Senator.

No, I did not consult, nor am I aware of any Bureau employee discussing, the reorganization outside of the Bureau.

**Q.6.m.** Did you consult with other officials, employees, or political appointees at OMB or the White House about the OFLEO reorganization prior to its announcement?

**A.6.m.** I note that this question is identical to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical to a question I received from Senator Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Senator.

Office of Management and Budget (OMB) detailees to the Bureau were, as a matter of course, part of the discussion, but no other employees at OMB or the White House were consulted.

**Q.6.n.** Is the CFPB considering any substantive changes to its approach to the enforcement of fair lending laws, including changes to the CFPB's interpretation of these laws?

**A.6.n.** I note that this question is identical or substantially similar to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical or substantially similar to a question I received from Senator Elizabeth Warren (MA) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Senator.

The Bureau intends to continue fulfilling its statutory obligation to enforce Federal consumer financial laws, which include the Equal Credit Opportunity Act (ECOA) and the Home Mortgage Disclosure Act (HMDA). As you may be aware, the Bureau issued a statement on the passage of the Congressional Review Act resolution disapproving a bulletin titled "Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act," which had provided guidance about the ECOA and its implementing regulation, Regulation B. Consistent with the joint resolution, the guidance has no force or effect. The ECOA and Regulation B are unchanged and remain in force and effect. As I noted in that statement, I want to make it abundantly clear that the Bureau will continue to fight unlawful discrimination at every turn. We will vigorously enforce fair lending laws in our jurisdiction, and will stand on guard against unlawful discrimination in credit. However, given this recent Congressional action, the Bureau will be reexamining the requirements of ECOA in light of relevant Supreme Court precedents.

In addition, on August 31, 2018, the Bureau issued an interpretive and procedural rule<sup>1</sup> to implement and clarify the requirements of section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (the Act), which amended the HMDA. The Bureau also released updates to the Filing Instructions Guide (FIG) for HMDA data collected in 2018 to incorporate the Act as implemented and clarified by the rule issued that day.

The Act contains provisions that are intended to decrease the burden smaller depository institutions face in complying with HMDA and its implementing regulation, Regulation C. Some such institutions have raised questions about the application of the Act, and the rule issued in August seeks to provide clarification. At a later date, the Bureau anticipates that it will initiate a notice-and-comment rulemaking to incorporate these interpretations and procedures into Regulation C and further implement the Act.

**Q.6.o.** Please provide a copy of all documents and communications relating to the decision to bring the OFLEO under the control of the Office of the Director, and strip OFLEO of its enforcement and oversight responsibilities.

<sup>1</sup> [https://files.consumerfinance.gov/f/documents/bcfp\\_hmda\\_interpretive-procedural-rule\\_2018-08.pdf](https://files.consumerfinance.gov/f/documents/bcfp_hmda_interpretive-procedural-rule_2018-08.pdf).

**A.6.o.** The requested documents would contain confidential Bureau information. It would not be appropriate to submit them into the public record. I urge you to work with the Committee Chairman when submitting requests for confidential Bureau information.

**Q.7.** At the hearing, you said you had received approval to hire several political appointees to the CFPB. Please provide copies of that approval to the Committee.

**A.7.** The Bureau received official approval from the Office of Personnel Management (OPM) for the Schedule C political appointees via the OPM Form 1019 forms attached. [Attachment follows response to Senator Warren—A.47.e.].

**Q.7.a.** Additionally, did you perform any cost-benefit analysis in connection with the decision to hire these employees or set their salaries? If so, please provide copies of that analysis to the Committee.

**A.7.a.** The decision to place a position in the Schedule C category is made by the Director of OPM at the request of an agency head. The Bureau followed the process established by OPM and provided all of the information that OPM required. OPM does not require a cost-benefit analysis.

**Q.8.** At the hearing, you said you “did not quash anything at OIRA,” and that in fact “no one” had quashed anything. However, Bloomberg Law previously reported that “Labor Department leadership convinced OMB Director Mick Mulvaney to overrule the White House regulatory affairs chief and release a controversial tip-sharing rule without data showing it could allow businesses to skim \$640 million in gratuities.” We have several follow-up questions:

**Q.8.a.** Were you aware of any dispute between OIRA Administrator Rao and the Department of Labor about whether the Department should include certain quantitative analysis in materials accompanying the tip-sharing regulation?

**Q.8.b.** Were you aware of any initial opposition by Administrator Rao to publishing the regulation without certain quantitative analysis?

**Q.8.c.** Have you, as OMB Director, ever intervened in disputes between the OIRA Administrator and the head or staff of a Federal agency (such as the Department of Labor)?

**Q.8.d.** Did you play any role, direct or indirect, either yourself or through your agents or political appointees, in resolving any dispute related to the tip-sharing rule between the OIRA Administrator and the Secretary of Labor or the staff of the Department of Labor? If so, please describe that role. Did the Secretary of Labor or the staff of the Department of Labor request your intervention related to the tip-sharing rule?

**A.8.a.–d.** We do not comment on the deliberative interagency review process for particular rules, but OMB Circular A–4 continues to require that agencies quantify costs, benefits, and transfers to the extent feasible when preparing regulatory analysis for economically significant rules.



No quantitative analysis was prepared by the Obama administration when the rule was originally promulgated. As the Department of Labor was preparing its analysis for this rule, it had no prior analysis to rely on. The Secretary of Labor has publicly stated that critical assumptions were required to provide quantitative analysis that could lead to almost any number. As a result, the Department of Labor determined they lacked sufficient data to provide a meaningful quantitative analysis.

As you know, Congress recently acted on the Administration's recommendation to legislatively resolve the issue of whether employers may retain the tips of tipped employees. The amendments to the Fair Labor Standards Act (FLSA) that were included in the Consolidated Appropriations Act of 2018 now prohibit employers from keeping tips received by their employees, regardless of whether an employer takes a tip credit under the FLSA. The Department of Labor has announced that they expect to proceed with rulemaking in the near future to fully address the impact of the 2018 amendments to the FLSA, and OMB looks forward to working with DOL to ensure that any such rulemaking in this area contains an appropriately thorough and transparent regulatory impact analysis.

**Q.9.** At the hearing, you expressed concern about the handling of personal data by third parties with which the CFPB has contracted. Senator Perdue asked you if, "every single factor that I have as an individual in the United States, every single financial factor can be reviewed, and can be collected, and can be exposed by the CFPB, is that correct?" In creating the CFPB, Congress required the Bureau to monitor consumer financial products and services, including developments in those markets. It also limited the Bureau's market monitoring authority to prevent the Bureau from obtaining information for the purpose of gathering or analyzing the personally identifiable information of consumers.

**Q.9.a.** Can you clarify that the Bureau does not collect data for the purposes of monitoring any individual?

**A.9.a.** Correct, the Bureau does not collect data using its market monitoring authority in order to monitor individual consumers. Rather, the Bureau collects data to track the behavior of the markets. To do this, the Bureau does collect certain account-level data; however these data are de-identified so that any particular individual is not directly identified. In September, the Bureau released a report<sup>2</sup> on the Bureau's data governance program, what data the Bureau collects, where the data come from, how data are used, and how data are reused within the Bureau.

**Q.9.b.** Does the data that the Bureau collects for market monitoring purposes differ from the data it reviews under its examination and supervisory authority?

**A.9.b.** Yes. The composition of a data collection differs depending on the purpose of the collection. The data collected for market monitoring is de-identified information so that it does not contain any consumer's name, address, account number, or Social Security

<sup>2</sup> <https://www.consumerfinance.gov/data-research/research-reports/sources-and-uses-data-bureau-consumer-financial-protection/>.

number. The Bureau's Enforcement and Supervision staff often review individualized transactional data as part of their work.

**Q.9.c.** Is data gathered for market monitoring purposes stripped of personally identifiable information before it is studied by the Bureau?

**A.9.c.** The Bureau ensures that the data it uses for market monitoring purposes is first stripped of "personally identifiable financial information," *i.e.*, direct personal identifiers such as names, account numbers, or Social Security numbers. The Dodd-Frank Act places restrictions on the Bureau's collection and use of personally identifiable financial information in its market monitoring work.

To be clear, "personally identifiable information" (PII) is a technical term that has been defined by the Office of Management and Budget (OMB) very broadly to include any information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual. See OMB Circular A-130, Appendix II-1. Thus, any data that presents re-identification risk, however remote, is technically considered PII, even if it has been stripped of direct personal identifiers.

**Q.9.d.** Is it true that the private entities from whom the Bureau collects anonymized data have access to millions of Americans' personally identifiable information, and that those entities offer that information for sale to other private businesses?

**A.9.d.** Yes, the Bureau purchases publicly available data from entities with access to PII. The Bureau also has collected de-identified data from financial institutions via financial firms that, due to the nature of their business, have access to PII on their customers.

**Q.9.e.** Does the data that the Bureau reviews in supervision and examination differ from the data that the prudential banking regulators review during their supervision and examinations?

**A.9.e.** The Bureau and prudential regulators review the same kinds of data during their respective compliance examinations. Prudential regulators review additional data for purposes of their safety and soundness examinations, which the Bureau does not conduct.

**Q.9.f.** What evidence exists that shows that third parties have mishandled such personal data? Please provide copies of any analysis that shows that these third parties have mishandled any personal data.

**A.9.f.** We are not aware of any data breach in connection with Bureau data possessed or handled by a third-party vendor under contract with the Bureau to assist with the Bureau's market monitoring, supervision, and examination work.

The Bureau also has a relationship with the Conference of State Bank Supervisors (CSBS). CSBS created the Nationwide Multistate Licensing System and Registry, which is the system of record for nondepository, financial services licensing or registration in participating State agencies under the Bureau's Regulation G. In May 2015, CSBS notified the Bureau of a potential incident involving Nationwide Multistate Licensing System data where files from one

financial institution were shared with another financial institution in error. The misrouted data was quickly identified and destroyed.

**Q.10.a.** In early December 2017, the CFPB withdrew its request to OMB to conduct an online survey of 8,000 individuals related to debt collection disclosures. This survey would have provided important data about debt collection disclosures to assist the CFPB's obligations to root out unfair, deceptive, and abusive acts and practices related to debt collection.

Why did the CFPB withdraw this survey?

**A.10.a.** I note that this question is substantially similar to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is substantially similar to a question I received from Senator Catherine Cortez Masto (NV) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Senator.

The survey for which the Bureau sought Office of Management and Budget (OMB) approval under the Paperwork Reduction Act was tied to testing particular disclosures that were under consideration as part of a potential rulemaking with respect to debt collection. The request for comment on the Bureau's request appeared in the Federal Register on November 14, 2017, less than 2 weeks before I became the Acting Director. I decided that before proceeding with the survey I first wanted to review the proposals that were under consideration for the rulemaking so that any data collection would be tailored to what I determined to be the appropriate scope for the rulemaking rather than driven by decisions that may have been made by my predecessor. Prior to my tenure as Acting Director, the Bureau did conduct a survey of consumers about their experiences with debt collection.

**Q.10.b.** Did you personally approve this decision?

**A.10.b.** Yes.

**Q.10.c.** How do you reconcile this decision to deprive the CFPB of important data with your previous statements about your intention to engage in more cost-benefit analysis based on quantitative data?

**A.10.c.** Withdrawing the request to OMB did not deprive the Bureau of any data, but rather deferred a decision on what data would be relevant to collect until such time as I had the opportunity to review the scope of the underlying rulemaking.

**Q.10.d.** Did you undertake any cost-benefit analysis in connection with this decision? If so, please provide a copy of that analysis to the Committee.

**A.10.d.** As noted in a previous response, I decided that before proceeding with the survey I first wanted to review the proposals that were under consideration for the rulemaking so that any data collection would be tailored to what I determined to be the appropriate scope for the rulemaking.

**Q.11.a.** At the hearing, you said that you immediately issued a data collection freeze with certain accommodations made for enforcement data and that you are now looking at some data offsite instead of storing it onsite.

Did the Bureau perform a cost-benefit analysis prior to a decision to halt collection of certain data and instead view it offsite? If so, please provide that analysis.

**A.11.a.** When I joined the Bureau, I announced a 30-day data freeze on the collection of new sensitive data for the Bureau in order to assess the Bureau's data security program. While we instituted the freeze, I ensured that we could continue our enforcement and supervisory activities. To ensure strong data security in the meanwhile, we stored data at the same commercial vendor as the Department of Justice. Bureau staff budgeted for an increase of \$1,055,830 in FY18, and anticipates that this funding will get us through the end of the 2018 calendar year.

**Q.11.b.** What, if any, information did the Bureau previously collect that it does not collect now?

**Q.11.c.** What, if any, information did the Bureau previously collect that it does not collect or view offsite now?

**A.11.b.-c.** After December 4, 2017, the Division of Supervision, Enforcement, and Fair Lending (SEFL) suspended intaking certain sensitive information, such as data with direct personal identifiers. Enforcement attorneys were conducting review of most investigative materials by storing those materials on a system used by the U.S. Department of Justice (DOJ). Supervision did not take data with direct personal identifiers onto the Bureau's systems, instead reviewing it onsite.

On May 31, 2018, after an exhaustive review by outside experts, including a comprehensive "white-hat hacking" effort, I lifted that hold. The independent review concluded that "externally facing Bureau systems appear to be well-secured." The assessors identified no "Critical" findings and made only three technical recommendations, all of which the Bureau has completed remediating.

**Q.12.** At the hearing, you said that you have been able to document 240 lapses in data security and that you suspect but have not been able to confirm 800 others. Are the 240 lapses in data security that you described 240 separate pieces of information or 240 instances in which multiple data lapses occurred? Please describe the nature of these lapses and how many of these lapses contained personally identifiable information (PII).

**A.12.** You may not be aware that prior to my appointment as Acting Director, there were 233 confirmed breaches of consumer PII within the Bureau's Consumer Response system. These confirmed breaches generally occurred in one of three ways: (1) the Bureau failed to follow internal processes and provided an update to a consumer about his or her complaint prior to receiving three pieces of information that would validate the consumer's identity; (2) the Bureau attached an incorrect document to a consumer's complaint; or (3) the Bureau sent an unencrypted email to the wrong consumer. Almost all breaches (approximately 90 percent) involved one or more of the following data elements: first name, last name, email address, phone number, or account number. For almost all

of these breaches, the number of individuals potentially impacted by each breach was most likely one. This means that those breaches each involved separate pieces of information and no multiple data lapses occurred for any breach.

In addition, prior to my appointment there were at least another 840 suspected PII breaches committed by financial institutions that the Bureau had not investigated to determine whether a breach occurred. Earlier this year, I instructed the staff to develop a proposal for responding to them.

By July 1st, staff had implemented enhancements to the Bureau's processes for handling suspected PII breaches by financial institutions to determine whether a breach occurred, identify what steps the financial institution took to provide redress, and determine whether suspending, restricting, or otherwise modifying a financial institution's access to the secure Company Portal is warranted. These process enhancements reflect improved coordination between the Office of Consumer Response and the Chief Privacy Officer's staff.

**Q.12.a.** Does the Bureau monitor the accounts of particular consumers or track the financial habits or activities of any individual consumer? If so, in what cases?

**A.12.a.** To my knowledge the Bureau does not collect data for the purpose of monitoring an individual. The Bureau collects individual-level data to understand how consumer markets perform and proactively monitor consumer financial markets. However, data collected for the Bureau's monitoring function is generally de-identified so that any particular individual is not directly identified. In September, the Bureau released a report<sup>3</sup> on the Bureau's data governance program, what data the Bureau collects, where the data come from, how data are used, and how data are reused within the Bureau.

**Q.13.a.** In response to questions about data security at the Bureau, you said, "the rule is this, I'm not going to hold somebody to a higher standard than we're willing to hold ourselves."

Will you assure us that the Bureau also will hold any company that holds consumers' data to the same standard that you hold the Bureau?

**A.13.a.** The Bureau will exercise the authority granted to it.

**Q.13.b.** How has the data collection freeze affected the CFPB's supervisory and examination efforts? Please provide statistics on the following:

- The mean and median time to complete an examination over (i) the 6 months before you implemented the data freeze and (ii) the period beginning when you implemented the data freeze and ending April 19, 2018.
- The mean and median cost per examination over (i) the 6 months before you implemented the data freeze and (ii) the period beginning when you implemented the data freeze and ending April 19, 2018.

<sup>3</sup> <https://www.consumerfinance.gov/data-research/research-reports/sources-and-uses-data-bureau-consumer-financial-protection/>.

**A.13.b.** I am not aware of any evidence suggesting that the temporary data security measures affected supervisory and exam efforts in a quantifiable way. To address the specific metrics identified, the mean number of days it took to issue an exam report or supervisory letter after first going onsite was 212 days for exams taking place between June 4, 2017 and December 4, 2017. The median for that same period was 170 days. For the period between December 5, 2017 and April 19, 2018, the mean was 210 days and the median was 182 days.

I am not aware of any evidence suggesting that the temporary data security measures have affected supervisory and exam efforts in a quantifiable way. Further, there is not sufficient data to estimate what the cost difference would be, and/or whether there is a cost difference.

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**RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED  
FROM MICK MULVANEY**

**Q.1.** Does the President stand by the Bipartisan Budget Agreement he signed into law in February, including the top line numbers for defense and nondefense spending?

**A.1.** The President supported the agreement that he signed into law in February, as it allowed for critical investments to be made in support of our National Security. The President recognizes that the agreement set funding caps for both defense and nondefense. However, the caps—by definition—are ceilings on spending and not floors. The President believes it is his responsibility to spend only what is necessary under the caps. Given the current fiscal situation, and the Administration's views on the proper role and scope of the Federal Government, the President's Budget does not propose spending at the nondefense levels for FY 2019 included in the recent budget agreement. Furthermore, as the President carries out his duties to execute enacted appropriations, he also believes it is his responsibility to propose reductions in places where he believes the spending will be wasteful or unnecessary.

**Q.2.a.** One of the early decisions under your tenure was to reverse the CFPB's previous practice of consolidating the required reporting on campus credit cards with a broader analysis of campus-based financial products. Institutions of higher education have considerable influence on their students' financial choices, from student loans to credit cards to bank accounts and other financial products. CFPB, in fulfilling its broader mandate to protect consumers in the financial products marketplace, previously has played an important role in disclosing information on these financial products to students.

What actions are you taking to protect and inform student consumers?

**A.2.a.** The Bureau of Consumer Financial Protection (Bureau) helps young adult consumers navigate the consumer finance market and manage their money by developing tools and resources with a focus on student debt and paying for college.<sup>1</sup> The Bureau also provides student loan borrowers with commonly asked

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<sup>1</sup> See <https://www.consumerfinance.gov/consumer-tools/student-loans/>.

questions and answers on financial topics from bank accounts to credit cards through our online question and answer tool.

**Q.2.b.** Please describe how the CFPB is currently collaborating with the U.S. Department of Education on the following:

**Q.2.b.i.** Student loan servicing complaints;

**A.2.b.i.** The Bureau's collaboration with the Department of Education on student loan servicing complaints was governed by an October 19, 2011, Memorandum of Understanding (MOU) that allowed the Bureau to refer servicing complaints to the Department of Education through a secure web portal. The Department of Education terminated that MOU effective October 1, 2017. In the absence of an MOU, the Department of Education continues to have access to the Bureau's public complaint database.

**Q.2.b.ii.** Student loan servicing standards; and

**A.2.b.ii.** The Bureau's Office of Supervision and the Department of Education's Office of Federal Student Aid (FSA) have held inter-agency consultations to discuss student loan servicing and the standards adhered to by servicers.

**Q.2.b.iii.** Protecting student loan borrowers from debt relief scams.

**A.2.b.iii.** Since the termination of the supervisory MOU, the Bureau continues to pursue options that would allow for the Bureau to share Confidential Supervisory Information with the Department of Education for permissible purposes under 12 CFR 1070.43. These efforts include providing relevant supervisory information where the Department of Education has active confidentiality assurances and negotiating with the Department of Education for the Bureau to obtain information from student loan servicers necessary for supervisory examinations. The Department of Education continues to have access to the Bureau's public complaint database. Bureau staff also continues to analyze complaint data and provide that analysis as technical assistance when requested by the Department of Education.

**Q.2.c.** Has the Federal Student Aid Administration at the U.S. Department of Education consulted with the CFPB on the proposal to create a pilot student aid payment card program? If so, what guidance has the CFPB offered?

**A.2.c.** The Bureau and the FSA have participated in a series of staff-level discussions related to FSA's proposed pilot student aid payment card program, during which Bureau staff offered general subject-matter expertise about the prepaid card market. In addition, the Bureau provided FSA with an analysis, at its request, of publicly available data on fees assessed by companies that currently provide college-sponsored debit and prepaid products to students.

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#### RESPONSES TO WRITTEN QUESTIONS OF SENATOR SCOTT FROM MICK MULVANEY

**Q.1.** Thank you Director Mulvaney for joining the Committee. It's always a pleasure to have a South Carolinian in the mix. I have to confess: I'm a bit confused by the outrage from my friends across the aisle over the CFPB's lack of accountability. Weren't they the

ones that designed the Bureau and voted for its creation? Did they not realize there would be another election? Did they not think there was a chance their party wouldn't be in power? Now that the shoe's on the other foot, it's not so fun. That's why both sides of this debate should meet in the middle. A CFPB that swings wildly in the political winds is bad for consumers and terrible for the economy. Mick, I agree with your commonsense recommendations. It's time for a bipartisan commission at the Bureau. And it's time to place the Bureau under Congressional appropriations. Doing so will create a more trustworthy CFPB better able to protect consumers. With that, I do have some questions.

I was glad to see your report's first section was titled "credit invisibles." The Bureau found that over 26 million Americans are "credit invisible," meaning they have no recorded credit history. That includes 23 percent of South Carolinian adults. A disproportionate amount of these folks are African American or Hispanic. We're trying to tackle this problem through the Credit Score Competition Act, legislation that will allow for the use of newer credit scoring models by Fannie and Freddie. Modern credit scoring models use data like rent payments, utility payments, and cell phone bill payments, all of which benefits the "credit invisible." Plus, a free market guy like yourself would agree that the Government shouldn't be picking winners and losers. Unfortunately, the CFPB's safe harbor for its QM rule applies to loans using the same old credit score mandated by the GSEs. Please answer the following with specificity:

Wouldn't encouraging the use of newer credit scoring models better align with the Bureau's dual mandate to provide market access to all consumers and ensure competitive markets?

**A.1.** As you note, the Bureau of Consumer Financial Protection's (Bureau's) research shows that 26 million consumers are "credit invisible" and do not have credit files at all in our national credit reporting system. Another 19 million adult consumers have credit files that are "stale" or "thin," *i.e.*, the file information is insufficient to generate a credit score. The Bureau has taken a number of steps to explore the use of alternative data and modeling techniques as a potential way to increase access to credit for these consumers, while being mindful of the risks that these innovations can pose to consumers. For example, last year, the Bureau published a Request for Information (RFI) Regarding Use of Alternative Data and Modeling Techniques in the Credit Process, and received approximately 100 comments in response. Comments received in response to this RFI have been made public and may help industry develop best practices for using alternative data and modeling techniques. Also, the Bureau held a day-long symposium, Building a Bridge to Credit Visibility on September 17, 2018. This event explored challenges many consumers face in accessing credit. Sessions also highlighted strategies and innovations to overcome barriers and expand consumer credit access.

In addition, the Bureau issued a No-Action Letter to a company that uses alternative data in making credit and pricing decisions. That company evaluates consumer loan applications using traditional factors such as credit score and income, as well as incorporating nontraditional sources of information such as education



and employment history, and will be required to regularly report lending and compliance information to the Bureau to mitigate risk to consumers and aid the Bureau's understanding of the real-world impact of alternative data on lending decisionmaking. The Bureau may explore similar steps in the future.

**Q.2.** I want to move on to the topic of insurance, a product I sold for over 20 years. Please answer the following with specificity:

**Q.2.a.** Is the CFPB an insurance regulator?

**A.2.a.** No.

**Q.2.b.** Did Congress intend for the CFPB to regulate insurance?

**A.2.b.** No, I do not believe so.

**Q.2.c.** Would you support legislation to make it clear that Congress intended to exempt insurance from the Bureau's authority when it passed the Dodd-Frank Act?

**A.2.c.** I believe that in Section 1027(t) of Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) Congress made clear its intention not to provide the Bureau jurisdiction over State-regulated insurance companies except to the extent they offer a consumer financial product or service. The Bureau should not regulate insurance.

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#### RESPONSES TO WRITTEN QUESTIONS OF SENATOR SASSE FROM MICK MULVANEY

**Q.1.a.** I appreciate your concern about the CFPB's large-scale collection of consumer data. In November 2015, I wrote then-CFPB Director Cordray on this topic. Director Cordray responded on April 6, 2017. Please answer the following questions, all of which are substantially similar to those that Director Cordray answered on April 6, 2016.

Former Director Cordray testified at a hearing with the Senate Banking Committee on July 15, 2015, regarding reverse engineering of information in the CFPB's database collections, that "it is not easy to do that. It would take a lot of time and effort to do that. I don't see that it would be worth anybody's while to try to do that."<sup>1</sup>

Do you agree?

**A.1.a.** When originally asked this question, it pertained to the credit card data the Bureau of Consumer Financial Protection (Bureau) receives. These data are difficult to reidentify. Even so, since then, the Bureau has changed key aspects of the data collection that further decrease any privacy risks.

**Q.1.b.** Why or why not?

**A.1.b.** The credit card data that the Bureau receives does not contain direct personal identifiers or account numbers and does not contain information about transactions such as purchases. Rather, it is de-identified account level data. In addition, at the urging of

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<sup>1</sup>See The Consumer Financial Protection Bureau's Semi-Annual Report to Congress: Hearing Before the Senate Banking Committee on Banking, Housing, and Urban Affairs, 114th Cong. (2015) [http://www.banking.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing\\_ID=7cac453a-bd43-4f4c-b071-9aba43c80946](http://www.banking.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=7cac453a-bd43-4f4c-b071-9aba43c80946).

multiple Members of Congress, the Bureau has reduced the data it retains to a 40 percent sample, making it increasingly harder to re-identify data housed at the Bureau.

Identifying an individual from a de-identified dataset (“reverse engineering”) generally involves combining that data with additional data that is not de-identified. Reverse engineering the Bureau’s data likely would involve acquiring multiple similar data sources that are not publicly available, a task that would be time consuming, difficult, and expensive.

**Q.1.c.** Has the CFPB conducted a study looking at the national security, privacy, and economic risk that could come from a data breach, including the possibility that information contained in the databases could be reverse engineered? If so, please provide us with a copy of this report. If not, please provide an explanation for why the CFPB has not yet conducted this study.

**A.1.c.** I share your concern about the risk of a breach of Bureau data, and the consequences thereof. Soon after I arrived, I commissioned a white hat hackers exercise to test the security of the Bureau’s systems. The independent review concluded that “externally facing Bureau systems appear to be well-secured.” The assessors identified no “Critical” findings and made only three technical recommendations, all of which the Bureau has completed remediating. This is, however, no guarantee of security, and the Bureau must remain vigilant in its efforts and response to emergency threats.

**Q.1.d.** Who is the highest-ranking person in charge of cybersecurity at CFPB?

**A.1.d.** Jerry Horton, Chief Information Officer (CIO).

**Q.1.e.** Is this person solely and directly responsible for cybersecurity or are there others as well?

**A.1.e.** The CIO has designated a Chief Information Security Officer (CISO) to carry out those responsibilities. The CISO manages a cyber-security team.

**Q.1.f.** Is anyone at the CFPB in charge of assessing the strategic security risks the various databases could pose? If so, who?

**A.1.f.** The Bureau’s Chief Information Officer is the senior Bureau official in charge of assessing risk associated with data maintained by the Bureau. The CIO is supported by numerous staff in making these risk assessments, including a Chief Information Security Officer, a Chief Data Officer, a Chief Privacy Officer, and staff in their respective offices.

**Q.1.g.** Does the CFPB and the OCC hold information on transaction level data, such as on individual purchases, in the CFPB’s credit-related databases? If so, what type of information is held?

Does this include data on the date, location, and price of each transaction?

**A.1.g.** No. The Bureau’s credit card database does not contain transaction-level information, such as individual purchases.

**Q.1.h.** Can you state with certainty that a data breach at the CFPB could not result in the reverse engineering of information in

the CFPB's various credit databases to identify personal information from individual consumers?

**A.1.h.** No. It is not possible to state categorically that any system is incapable of being breached or that any protections can ensure with certainty that information cannot be reverse engineered.

**Q.1.i.** Can you state with certainty that a data breach at the CFPB could not result in the reverse engineering of information in the CFPB's National Mortgage Database to identify personal information from individual consumers?

**A.1.i.** No. As noted in the previous response, it is not possible to state categorically that any system is incapable of being breached or that any protections can ensure with certainty that information cannot be reverse engineered.

**Q.1.j.** Can you state with certainty that a data breach at the CFPB could not result in the reverse engineering of information in any of the CFPB's other databases to identify personal information from individual consumers?

**A.1.j.** No. As noted in the previous response, it is not possible to state categorically that any system is incapable of being breached or that any protections can ensure with certainty that information cannot be reverse engineered.

**Q.1.k.** Is the CFPB in full compliance with all Federal cybersecurity laws and guidance?

**A.1.k.** The Bureau complies with requirements provided in FISMA, applicable Office of Management and Budget (OMB) Memoranda, U.S. Department of Homeland Security (DHS) Binding Operational Directives, and other applicable guidance.

**Q.1.l.** If any of the CFPB's large-scale databases were ever breached, how many Americans would have their information exposed?

**A.1.l.** As noted in a previous response, much of the data held by the Bureau (including collections previously examined by the Government Accountability Office) consist of de-identified information that do not contain any consumer's name, address, account number, or Social Security number. Therefore, information that could be exposed by a breach of the large-scale databases (such as those identified in the GAO report<sup>2</sup>) would not be attributable to a specific American. If an individual were to attempt to re-identify a record from the Bureau's datasets, he or she would generally find only basic non-identifiable data that would not be very useful in any attempted combination with other available information.

**Q.1.m.** What if information about the identity of individual consumers in your databases could be reverse engineered?

**A.1.m.** As noted in a previous response, it is not possible to state categorically that any protections can ensure with certainty that information cannot be reverse engineered. For the de-identified information contained in the Bureau's databases (including

<sup>2</sup> Consumer Financial Protection Bureau: Some Privacy and Security Procedures for Data Collections Should Continue Being Enhanced, GAO-14-758, September 22, 2014.

collections examined by GAO) much of the data are at the account rather than transaction level.

**Q.1.n.** Does the CFPB's databases ever contain personal information that will be depersonalized at any point? If so, when does the CFPB store such information, and for how long is such information stored on the CFPB's servers?

**A.1.n.** Data from the consumer complaint database are de-identified and made available to the public and internally.<sup>3</sup>

Occasionally, enforcement or supervisory data are de-identified and used for market monitoring or research that may inform rule-making or assessments. These data are de-identified before they are used for these purposes. The retention of these data is based on records retention schedule for the data.

**Q.1.o.** Can you provide a comprehensive list of the sources from which the CFPB purchases and receives data?

**A.1.o.** In September, the Bureau released a report<sup>4</sup> on the Bureau's data governance program as well as what data the Bureau collects, where the data come from, how data are used, and how data are reused within the Bureau.

**Q.2.** A June 10, 2015, letter from Senators Scott and Crapo, along with 21 other Senators, noted the following:

At [a 2013 House Financial Services Subcommittee hearing, Acting Deputy Director Stephen Antonakes] said that CFPB was "in the process of developing . . . our data destruction schedules," and confirmed that until such destruction protocol was in place, that CFPB would be holding all the data it has ever collected." Director Cordray's July 14, 2015 response to this letter explained that the CFPB has received approval from the National Archivist on some of the CFPB's retention schedules but not others. However, this letter did not clarify if the CFPB has started to delete any of its data.

**Q.2.a.** Please provide us with a list of what—if any—data the CFPB has already started to delete, what specific data the CFPB plans to delete, and an expected timeline for when the CFPB will fully implement its data destruction schedules.

**A.2.a.** The destruction of data depends on variables, including how the data was acquired and the type of data. For example, commercially purchased data has vendor license agreement restrictions. Ultimately, the destruction of records is controlled by the record retention schedules for each division within the Bureau. A list of the approved records management schedules for the Bureau can be found at: <https://www.archives.gov/recordsmgmt/rcs/schedules/index.html?dir=/independent-agencies/rg-0587>.

**Q.2.b.** How does CFPB control access to its various databases that contain consumer information?

**Q.2.b.i.** Please provide a comprehensive list of what types of people the CFPB provides, and plans to provide, access to the database.

<sup>3</sup>In November 2017, the Bureau identified that its redaction program inadvertently had not redacted proper nouns that arose in certain circumstances in published complaint narratives, impacting 101 complaints. The Bureau determined that the privacy risk associated with the disclosure was minimal with respect to most of the complaints. It identified two individuals who could be subject to risk of harm by the disclosure and notified them of the breach. The Bureau also fixed the error that led to the missed redactions.

<sup>4</sup><https://www.consumerfinance.gov/data-research/research-reports/sources-and-uses-data-bureau-consumer-financial-protection/>.

For example, are outside researchers able to access these databases?

**A.2.b.i.** As outlined in the Bureau's report on the Sources and Uses of Data at the Bureau, the Bureau's Policy on Information Governance establishes guidelines regarding access to information by CFPB employees and contractors. This policy sets forth the principles governing who may be granted access to what data, based on the sensitivity level of the data and the user's assigned duties. The Bureau manages access to data at the level of each individual data asset for all network users, including contractors. In addition, all users are subject to the same training requirements and background checks. The Bureau grants access to information consistent with the information's sensitivity level (as outlined in the Bureau's Information Sensitivity Leveling Standard), the authority under which the Bureau collected the information, the Bureau's information sharing standards, cybersecurity policies and procedures, and applicable law or contractual obligations.

The Bureau has a limited number of researchers who are subject to Intergovernmental Personnel Agreements and therefore, subject to all Bureau policies, standards and related data access restrictions. The Bureau does not currently have an outside researchers program.

**Q.2.c.** Does the CFPB conduct background checks on any individuals who are provided access to their consumer databases?

**A.2.c.** All Federal employees and contractors go through background checks. The Bureau also has established access control policies.

**Q.3.** On January 9, 2017, I wrote to the Trump administration, with Senator Mike Lee, calling for President Trump to fire then-CFPB Director Richard Cordray. As we said at the time:

[R]emoving Director Cordray would be consistent with President Trump's oath to 'preserve, protect, and defend the Constitution of the United States' and his duty to serve as an independent guardian of the U.S. Constitution. Removing Director Cordray would also uphold the American idea of limited government, because Director Cordray has vigorously supported the unconstitutional independence of the CFPB and pursued a regulatory agenda that is harmful to the American people.

Please answer the following questions relating to this letter on unconstitutional independence of the CFPB. Our letter argued the following:

Over the past 80 years, however, the Federal Government has blurred the lines between the executive branch and Congress by delegating lawmaking authority to agencies, including to a "headless fourth branch" of independent agencies unaccountable to the public or the president. The CFPB is the single-most egregious example of this practice.

**Q.3.a.** Do you agree?

**A.3.a.** I expressed my views regarding the structure of the Bureau in the preface to the semi-annual Report of the Bureau of Con-

sumer Financial Protection issued in April 2018.<sup>5</sup> As I stated there, the structure and powers of the Bureau are not something the Founders and Framers would recognize.

**Q.3.b.** Why or why not?

**A.3.b.** As I explained in the semi-annual Report issued in April 2018, the Bureau is far too powerful, and with precious little oversight of its activities. Per the statute, in the normal course the Bureau's Director simultaneously serves in three roles: as a one-man legislature empowered to write rules to bind parties in new ways; as an executive officer subject to limited control by the President; and as an appellate judge presiding over the Bureau's in-house court-like adjudications. By structuring the Bureau the way it has, Congress established an agency primed to ignore due process and abandon the rule of law in favor bureaucratic fiat and administrative absolutism.

**Q.3.c.** Our letter cited the CFPB's "ill-defined authority to prohibit 'abusive acts or practices,'" as an example of the agency's "vague and sweeping authority to regulate large swaths of the economy

Do you agree?

**A.3.c.** During my testimony before the House Committee on Financial Services, I expressed my view that the term "abusive," while defined by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), provides the agency with a great deal of discretion because the terms of the definition are inherently subjective. I suggested that this would be a place for Congress to provide additional guidance.

**Q.3.d.** If so, what do you intend to do to reign in this authority?

**A.3.d.** The Bureau has and will continue to closely review any exercise of the Bureau's authority to enforce the Dodd-Frank Act's prohibition on abusive acts and practices. In addition, on January 16, 2018, the Bureau publicly announced its intention to engage in a rulemaking process so that the Bureau may reconsider its rule entitled "Payday, Vehicle Title, and Certain High-Cost Installment Loans" (Payday Rule). The Payday Rule is the only rule issued by the Bureau to date that relies on the Bureau's authority to identify abusive acts or practices and imposes requirements intended to prevent abusive practices. The Bureau is also considering how rule-making may be helpful to further clarify the meaning of "abusive-ness" under the section 1031 of the Dodd-Frank Act.

**Q.4.** Judge Kavanaugh's dissent for the DC Circuit's *en bane* decision in *PHH Corp. v. CFPB* argued that the CFPB's structure "represents a gross departure from settled historical practice" because "[n]ever before has an independent agency exercising substantial executive authority been headed by just one person." As a result of the broad authority delegated to the CFPB and its novel structure, aside from the president, the CFPB Director is quite possibly the "single most powerful official in the entire U.S. Government."

<sup>5</sup> <https://www.consumerfinance.gov/data-research/research-reports/semi-annual-report-fall-2017/>.

**Q.4.a.** Do you agree?

**A.4.a.** As noted in a previous response, I expressed my views regarding the structure of the Bureau in the preface to the semi-annual Report of the Bureau of Consumer Financial Protection issued in April 2018. As I stated there, the structure and powers of the Bureau are not something the Founders and Framers would recognize. I also sought four legislative changes to the Bureau to improve accountability: fund the Bureau through Congressional appropriations, require legislative approval of major Bureau rules, ensure that the Director answers to the President in the exercise of executive authority, and create an independent Inspector General for the Bureau.

**Q.4.b.** Why or why not?

**A.4.b.** As I explained in the semi-annual Report issued in April 2018, the Bureau is far too powerful, and with precious little oversight of its activities. Per the statute, in the normal course the Bureau's Director simultaneously serves in three roles: as a one-man legislature empowered to write rules to bind parties in new ways; as an executive officer subject to limited control by the President; and as an appellate judge presiding over the Bureau's in-house court-like adjudications. By structuring the Bureau the way it has, Congress established an agency primed to ignore due process and abandon the rule of law in favor bureaucratic fiat and administrative absolutism.

**Q.5.** Judge Kavanaugh's PHH dissent argued that Dodd-Frank's restriction on the president's power to remove the CFPB's Director violated Article II of the constitution and that the president has the constitutional authority to remove the director at will. Do you agree?

**A.5.** I have sought legislation that would ensure that the Bureau's Director serves at the pleasure of the President.

**Q.6.** In 2012, the CFPB set up "Project Catalyst," an initiative that was meant to "support the creation and growth of innovative consumer financial products and services." Some have argued that Project Catalyst has been so muddled as to be unhelpful for companies.

**Q.6.a.** Do you agree?

**A.6.a.** Yes.

**Q.6.b.** Why or why not? If you agree, how is the CFPB addressing this problem?

**A.6.b.** I have created the Bureau's Office of Innovation, which is working to revise Bureau policies where appropriate and coordinate with State, Federal, and international agencies to promote innovation for the benefit of consumers.

**Q.7.** As an example of how the CFPB could improve Project Catalyst, in your recent hearing in front of the House Financial Services Committee, you said that the CFPB "continue[s] to look at [no action letters] as a potential tool."

**Q.7.a.** Can you elaborate? As you know the CFPB's first no action letter was not issued until September 14, 2017. Is the CFPB considering issuing more no action letters? Would issuing more no ac-

tion letters require easing the regulatory standards for a no action letter, or adjusting the legal import of such letters?

**A.7.a.** Yes, the Bureau would like to issue more no action letters, and is considering what adjustments should be made to the Bureau's current policy to achieve such result and what other types of relief beyond traditional no-action letter programs might be provided.

**Q.7.b.** How could the increased use of no action letters encourage innovation?

**A.7.b.** By providing increased assurance to market participants that the Bureau will work collaboratively with them to bring products to market for the benefit of consumers.

**Q.8.** As you know, Arizona recently launched a State-level FinTech sandbox. As a part of revamping Project Catalyst, would the CFPB considering exempting State-level sandboxes from Federal regulations using its section 1022 exemption authority?

**A.8.** This is an interesting idea and the Office of Innovation will explore it. The Bureau's ability to effectively coordinate with State partners in this area will be an important factor in assessing the success of the Office of Innovation.

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#### **RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN FROM MICK MULVANEY**

**Q.1.** Last week, you testified that "regulation by enforcement is done, we're not doing it anymore." What does that mean?

**A.1.** That means that I have departed from the practice of my predecessor, which was to use consent orders to signal market participants new Bureau of Consumer Financial Protection (Bureau) expectations and requirements, rather than first issuing example guidance or engaging in Administrative Procedures Act compliant rulemakings. This practice not only deprived regulated entities of the advance opportunity to conform their behavior to the requirements of the law, it starved Bureau enforcement resources.

**Q.2.** Will CFPB open new investigations under its Unfair, Deceptive, Abusive Acts and Practices enforcement authority? If so, what criteria will CFPB use to determine whether to open these investigations?

**A.2.** Yes, where appropriate. The Bureau is tasked with enforcing Federal consumer financial law, which includes the prohibition on covered persons engaging in unfair, deceptive, or abusive acts or practices. The Bureau will look to the language of the Consumer Financial Protection Act (CFPA) and existing case law, including the unfairness and deceptive cases brought by the Federal Trade Commission (FTC) under the Federal Trade Commission Act, when evaluating whether a given practice is unfair or deceptive.

**Q.3.** Will CFPB continue to negotiate settlements or file lawsuits under its Unfair, Deceptive, Abusive Acts and Practices enforcement authority? If so, what criteria will CFPB use to determine whether to negotiate settlements or file lawsuits?

**A.3.** Yes, where appropriate, as noted in the previous response.



**Q.4.** Will CFPB continue to prosecute lawsuits already brought under its Unfair, Deceptive, Abusive Acts and Practices enforcement authority? If so, what criteria will CFPB use to determine whether to prosecute lawsuits?

**A.4.** Yes, where appropriate, as noted in previous response.

**Q.5.** In either the supervisory or enforcement contexts, will CFPB take action against regulated entities whose neutral policies have a disparate impact on a certain protected classes of consumers?

**A.5.** Whether or not the Bureau will take any action against a regulated entity depends upon the facts and circumstances specific to that case.

**Q.6.** Is your review of enforcement cases still ongoing? When is it projected to end?

**A.6.** The Bureau's review is ongoing.

**Q.7.** Please provide a list enforcement cases currently active in Federal Court, including the court, the docket number, and the judge.

**A.7.** See attached.

Case Name	Court/File Numbers
Cashcall Inc., WS Funding, and Delbert Services	U.S. District Court, District of Massachusetts Case No. 1:13-cv-13167 U.S. District Court C.D. Cal. 15-cv-07522
ITT Educational Services, Inc.	U.S. District Court Southern District of Indiana Case No. 3:14-cv-292
The Mortgage Law Group and Consumer First Legal Group d/b/a Law Firm of Macey, Aleman & Seams, Consumer First Legal Group LLC, Thomas G. Macey, Jeffrey J. Aleman, Jason Seams, Harold E. Stafford	W.D. Wisc. No. 3:14-cv-00513
URS Litigation Services (Universal Debt & Payment Solutions)	U.S. District Court Northern District of Georgia Case No. 1:15-cv-0859
Nationwide Biweekly Administration	U.S. District Court for the Northern District of California Case No. 3:15-cv-2106
Northway Financial Corporation, NDC Enterprise, Northway Broker, E-Care Contract Centers, Blizard Interactive, Sigewood Holdings, New World Consolidated Lending, New World Lenders, Payroll Loans First Lenders, New World RRSP, Knightsbridge Holdings, D562732 B.C., Emerald Willow Holdings, Red River Holdings, William Wilken, Twillingate Holdings	U.S. District Court for the Southern District of New York 1:15-cv-05211-CM
Student Financial Resource Center (College Financial Advisory, Global Financial Support, Armond Aria a/k/a Armond Amir Aria, individually and as owner and CEO of Global Financial Support, Inc.)	U.S. District Court Southern District Of California Case No. 3:15-cv-02440
D and D Marketing, Inc., d/b/a T3Leads, Grigor Demirchyan, and Marina Demirchyan	United States District Court Central District of California File No. 2015-CF78-0032
Dmitry Fomichev (related to D and D Marketing, Inc., d/b/a T3Leads)	U.S. District Court Central District of California Western Division Case No. 2:16-cv-2725
All American Check Cashing, Inc.	U.S. District Court Southern District of Mississippi 3:16-cv-00356-WHB-JCG
Northern Resolution Group (and Douglas MacKinnon, Mark Gray, Enhanced Acquisitions, and Delray Capital)	U.S. District Court Western District of New York 1:16-cv-00880
Access Funding, LLC, Access Holding, LLC, Reliance Funding, LLC, Lee Jundarian, Raffi Boghosian, Michael Borkowski, and Charles Smith	U.S. District Court District of Maryland 1:16-cv-03759
Navient Corporation, Navient Solutions, Inc. and Pioneer Credit Recovery, Inc.	U.S. District Court Middle District of Pennsylvania Case No. 3:17-cv-00101
Vincent Howard, Lawrence W. Williamson, Howard Law, P.C., The Williamson Law Firm, LLC, and Williamson & Howard, LLP	U.S. District Court C.D. Cal. 8:17-cv-30161
RD Legal Funding, LLC, RD Legal Finance, LLC, and RD Legal Funding Partners, LP, and Roni Dersovitz	U.S. District Court for the Southern District of New York 1:17-cv-30890
Owen Financial Corporation, Owen Mortgage Servicing, Inc., and Owen Loan Servicing, LLC	U.S. District Court Southern District of Florida Case No. 17-cv-90495
Future Income Payments	United States District Court, Central District of California, Southern Division Case No. 8:18-cv-01664
National Collegiate Student Loan Trusts	U.S. District Court District of Delaware Case No. 1:17-cv-01323-UNA
Freedom Debt Relief, LLC and Andrew Houser	U.S. District Court for the Northern District of California Case No. 3:17-cv-6484
Think Finance, LLC, formerly known as Think Finance, Inc.	U.S. District Court for the District of Montana Case No. 4:17-cv-00127-BVM

**Q.8.** How many enforcement actions were filed from November 25, 2016–November 24, 2017?

**A.8.** Forty-three public enforcement actions, including consent orders and lawsuits, were filed between November 25, 2016 and November 24, 2017.

**Q.9.** How many of those were fair lending cases brought with the Justice Department in the same period?

**A.9.** Zero.

**Q.10.** On average, how much does CFPB spend on enforcement investigations where it does not subsequently file a lawsuit?

**A.10.** The Bureau does not maintain this type of information.

**Q.11.** On average, how much does CFPB spend on those enforcement cases that are settled?

**A.11.** The Bureau does not maintain this type of information.

**Q.12.** On average, how much does CFPB spend on enforcement cases that are filed in Federal court or on the administrative docket?

**A.12.** The Bureau does not maintain this type of information.

**Q.13.** How much in relief did consumers obtain from CFPB enforcement actions last year?

**A.13.** In calendar year 2017, \$335 million in consumer relief was ordered in Bureau enforcement actions. The corresponding number for FY 2017 is \$354 million.

**Q.14.** How many exams did CFPB do from November 25, 2016–November 24, 2017?

**A.14.** The Bureau does not generally publicly disclose this kind of confidential supervisory information beyond that disclosed in its annual performance plan and report.

**Q.15.** How many of those were fair lending examinations?

**A.15.** The Bureau does not generally publicly disclose this kind of confidential supervisory information beyond that disclosed in its annual performance plan and report.

**Q.16.** How much, on average, did examinations cost from November 25, 2016–November 24, 2017?

**A.16.** The Bureau does not maintain this type of information.

**Q.17.** How long, on average did these examinations take from November 25, 2016–November 24, 2017?

**A.17.** For exams with onsite start dates from November 25, 2016 to November 24, 2017 that were completed at the time of this response, exams took, on average, 174 days from onsite start until exam report was mailed.

**Q.18.** How much in relief did consumers get from violations discovered during exams from November 25, 2016–November 24, 2017?

**A.18.** In Issue #15 of Supervisory Highlights,<sup>1</sup> the Bureau reported that institutions provided \$6,694,289 of consumer redress in response to supervisory activity. The Bureau reported \$14,006,695 of consumer redress in Issue #16.<sup>2</sup>

**Q.19.** How many new enforcement investigations have been initiated during your time at the CFPB?

**A.19.** The Bureau does not generally comment publicly on confidential enforcement investigations.

**Q.20.** How many open cases have been dropped?

**A.20.** The Bureau does not generally comment publicly on confidential enforcement investigations.

**Q.21.** In how many cases has CFPB asked for a continuance? Please provide a list of all such cases, the continuance asked for by CFPB, and the current status.

**A.21.** We interpret continuances to mean tolling agreements during our investigations. The Bureau does not generally comment publicly on confidential enforcement investigations.

**Q.22.** How many examinations have been completed since you took over?

**A.22.** The Bureau does not publicly disclose this kind of confidential supervisory information beyond that disclosed in its annual performance plan and report.

**Q.23.** How many of those were fair lending examinations?

**A.23.** The Bureau does not publicly disclose this kind of confidential supervisory information beyond that disclosed in its annual performance plan and report.

**Q.24.** How much on average did those examinations cost?

**A.24.** The Bureau does not maintain this type of information.

**Q.25.** How long on average did they take?

**A.25.** On average, examinations that were completed between November 27, 2017 and April 30, 2018 took 204 days to complete.

**Q.26.** How much in relief has been given to consumers from violations discovered in examinations?

**A.26.** As of September 24, 2018, entities have reported to the Bureau that \$540,195,754 in restitution was made to 4,100,745 consumers. This amount does not include amounts obtained via enforcement action, and includes self-reported restitutions.

**Q.27.** How many exams are currently in progress?

**A.27.** The Bureau does not publicly disclose this kind of confidential supervisory information beyond that disclosed in its annual performance plan and report.

**Q.28.** How many of those are fair lending examinations?

<sup>1</sup>[https://www.consumerfinance.gov/documents/4608/201704\\_cfpb\\_Supervisory-Highlights\\_Issue-15.pdf](https://www.consumerfinance.gov/documents/4608/201704_cfpb_Supervisory-Highlights_Issue-15.pdf).

<sup>2</sup>[https://www.consumerfinance.gov/documents/5386/201709\\_cfpb\\_Supervisory-Highlights\\_Issue-16.pdf](https://www.consumerfinance.gov/documents/5386/201709_cfpb_Supervisory-Highlights_Issue-16.pdf).

**A.28.** The Bureau does not publicly disclose this kind of confidential supervisory information beyond that disclosed in its annual performance plan and report.

**Q.29.** How many exams are planned for the rest of 2018?

**A.29.** The Bureau does not publicly disclose this kind of confidential supervisory information beyond that disclosed in its annual performance plan and report.

**Q.30.** How many of those are fair lending examinations?

**A.30.** The Bureau does not publicly disclose this kind of confidential supervisory information beyond that disclosed in its annual performance plan and report.

**Q.31.** You previously committed to this Committee that you intended to preserve the practice of delegating decisions on the opening of new investigations to career Enforcement staff at CFPB.

**Q.31.a.** Can you confirm that CFPB's current process is free from interference by your new political appointees, including any decisionmaking about whether illegal practices identified via Supervision should result in the opening of a new Enforcement matter?

**A.31.a.** Bureau policy delegates the decisions of whether to open an investigation to the Enforcement Director, a career official. 12 C.F.R. § 1080.4 ("The Assistant Director of the Office of Enforcement and the Deputy Assistant Directors of the Office of Enforcement have the nondelegable authority to initiate investigations."). Decisions by career staff to open an investigation are reviewed by the Policy Associate Director of the Division of Supervision, Enforcement, and Fair Lending.

**Q.31.b.** Specifically, have there been cases where career Enforcement staff have recommended opening a new enforcement matter, but have been prevented from doing so by you, your immediate staff, or other political appointees at CFPB?

**Q.31.c.** If so, how many times has this occurred since November 25, 2017?

**Q.31.d.** Why were career Enforcement staff not allowed to proceed with their recommendation in these cases?

**A.31.b.-d.** The Bureau does not generally comment publicly on confidential enforcement investigations.

**Q.32.** Did the CFPB perform a legal or other analysis to determine whether stripping the OFLEO of its enforcement authority would hinder the CFPB's ability to carry out its statutory mandate to provide oversight and enforcement of Federal fair lending laws? If so, please provide the analysis.

**A.32.** I note that this question is identical to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical to a question I received from Ranking Member Sherrod Brown (OH) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am

providing you the same response I will provide to the Ranking Member.

Under the Dodd-Frank Act, the Office of Fair Lending and Equal Opportunity (OFLEO) “shall have such powers and duties as the Director may delegate to the Office.” I have been working to ensure that the Bureau’s operations are conducted in a way that best enables the Bureau to fulfill all of the Bureau’s statutory requirements while reducing redundancy and maximizing efficiency. Changes to the structure and operations of OFLEO are being implemented in furtherance of these priorities. The existing OFLEO performs different functions, including oversight and enforcement of fair lending laws on one hand, and promotion of fair lending compliance and education on the other.

The reorganization will separate the supervision and enforcement functions previously performed by OFLEO from its promotion and education functions. The supervision and enforcement functions will remain in the division that is responsible for supervision and enforcement generally. OFLEO’s remaining functions will be elevated to the Director’s Office to become part of an Office of Equal Opportunity and Fairness with a focus on advocacy and education, coordination, and reporting.

The changes are designed to create efficiency and consistency in the Bureau’s supervision and enforcement functions, and allow OFLEO to focus on promoting advocacy and education, coordination, and reporting. These changes should improve the Bureau’s operations and our interactions with consumers and industry, in fulfillment of our mission, and in full compliance with the Bureau’s statutory mandate.

**Q.32.a.** How will bringing the OFLEO under the control of the Office of the Director modify the Bureau’s decisionmaking process with regard to enforcement and other actions to protect consumers from unfair discrimination?

**Q.32.b.** What, if any, continuing role will the OFLEO play in supporting the Bureau’s enforcement of fair lending laws?

**A.32.a.–b.** I note that these questions are identical to questions I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau’s Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, these questions are identical questions I received from Ranking Member Sherrod Brown (OH) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau’s Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Ranking Member.

The reorganization will not hamper the Bureau’s fair lending enforcement and supervisory activity; indeed, the reorganization should help the Bureau operate more efficiently and effectively. In consultation with Bureau stakeholders and the National Treasury Employees Union (NTEU) and in accordance with the Bureau’s collective bargaining agreement, the Bureau and NTEU have signed a memorandum of understanding (MOU) on the implementation plan for the reorganization. Full implementation of the

reorganization is expected to take a few more months to complete. While the Bureau works through the processes required to fully implement such a change, OFLEO will continue to operate as it has previously. The reorganization of OFLEO will elevate OFLEO to the Director's Office to become part of the Office of Equal Opportunity and Fairness. OFLEO will continue to support the enforcement of fair lending laws through the use of advocacy and education, coordination, and reporting.

**Q.32.c.** How will the reorganization affect the reporting duties for OFLEO employees, including the OFLEO Assistant Director?

**A.32.c.** I note that this question is identical to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical to a question I received from Ranking Member Sherrod Brown (OH) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Ranking Member.

In consultation with Bureau stakeholders and the NTEU, and in accordance with the Bureau's collective bargaining agreement, the Bureau and NTEU have signed a MOU on the implementation plan for the reorganization. While staff will not experience changes in employment status, employees may experience changes in jobs and duties. Some OFLEO employees will remain in the OFLEO while others will take positions throughout the Supervision and Enforcement Division. The OFLEO Assistant Director's duties will change insofar as the role will focus on advocacy and education, coordination, and reporting. We are working diligently to effect these changes while minimizing disruption to operations and employees.

**Q.32.d.** After the reorganization, which officials in the Office of the Director will be consulted about OFLEO activities?

**Q.32.e.** Which of these officials have been hired, politically appointed, or detailed to the CFPB since November 24, 2017?

**Q.32.f.** After the reorganization, which political appointees and temporarily detailed employees will be granted veto power over OFLEO activities and decisions?

**Q.32.g.** What criteria will political appointees and temporarily detailed employees in the Office of the Director use to determine whether the Bureau will follow the recommendations of career policy experts in the OFLEO?

**Q.32.h.** What actions will the Bureau take to ensure that OFLEO decisions continue to be based on the best advice of independent, expert, career policy staff?

**A.32.d.-h.** I note that these questions are identical or substantially similar to questions I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, these questions are identical or

substantially similar to questions I received from Ranking Member Sherrod Brown (OH) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Ranking Member.

In consultation with Bureau stakeholders and the NTEU and in accordance with the Bureau's collective bargaining agreement, the Bureau and NTEU have signed a MOU on the implementation plan for the reorganization. Full implementation of the reorganization is expected to take a few more months to complete. While the Bureau works through the processes required to fully implement such a change, OFLEO will continue to operate as it has previously.

**Q.32.i.** How will the new requirements that the OFLEO report to the Office of the Director enhance the CFPB's ability to protect consumers from unfair discrimination?

**A.32.i.** I note that this question is identical to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical to a question I received from Ranking Member Sherrod Brown (OH) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Ranking Member.

The Bureau intends to continue fulfilling its statutory obligation to enforce Federal consumer financial laws, which include the Equal Credit Opportunity Act (ECOA) and the Home Mortgage Disclosure Act (HMDA). The reorganization should improve the Bureau's operations and our interactions with consumers and industry, in fulfillment of our mission, and in full compliance with the Bureau's statutory mandate. The Bureau's supervision and enforcement of fair lending laws will continue uninterrupted in the existing supervision and enforcement divisions. This will allow remaining OFLEO personnel to focus on education, outreach, and compliance efforts. OFLEO's previous organizational structure placed primary emphasis on "back-end" supervision and enforcement of fair lending laws, resulting in a focus on corrective measures, rather than "front-end" promotion of education, and coordination of, fair lending efforts.

**Q.32.j.** Please describe any independent analyses, such as third-party studies, that informed the decision to bring OFLEO under the Office of the Director and strip OFLEO of its enforcement and supervisory authority.

**A.32.j.** I note that this question is identical to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical to a question I received from Senator Ranking Member Sherrod Brown (OH) following my testimony



before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's semiannual report. For that reason, I am providing you the same response I will provide to the Ranking Member.

Under the Dodd-Frank Act, the OFLEO "shall have such powers and duties as the Director may delegate to the Office." I have been working to ensure that the Bureau's operations are conducted in a way that best enables the Bureau to fulfill all of the Bureau's statutory requirements while reducing redundancy and maximizing efficiency. Changes to the structure and operations of OFLEO are being implemented in furtherance of these priorities.

**Q.32.k.** Did you or any other CFPB employee consult with or discuss this reorganization with any outside entities—including lobbyists or representatives of the banking or financial services industry—prior to announcing the reorganization?

**A.32.k.** I note that this question is identical or substantially similar to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical to a question I received from Ranking Member Sherrod Brown (OH) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's semiannual report. For that reason, I am providing you the same response I will provide to the Ranking Member.

No, I did not consult, nor am I aware of any Bureau employee discussing, the reorganization outside of the Bureau.

**Q.32.l.** Did you consult with other officials, employees, or political appointees at OMB or the White House about the OFLEO reorganization prior to its announcement?

**A.32.l.** I note that this question is identical to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical to a question I received from Ranking Member Sherrod Brown (OH) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Ranking Member.

Office of Management and Budget (OMB) detailees to the Bureau were, as a matter of course, part of the discussion, but no other employees at OMB or the White House were consulted.

**Q.32.m.** Is the CFPB considering any substantive changes to its approach to the enforcement of fair lending laws, including changes to the CFPB's interpretation of these laws?

**A.32.m.** I note that this question is identical or substantially similar to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For

that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is identical substantially similar to a question I received from Ranking Member Sherrod Brown (OH) following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs. For that reason, I am providing you the same response I will provide to the Ranking Member. The Bureau intends to continue fulfilling its statutory obligation to enforce Federal consumer financial laws, which include the Equal Credit Opportunity Act (ECOA) and the Home Mortgage Disclosure Act (HMDA). As you may be aware, the Bureau issued a statement on the passage of the Congressional Review Act resolution disapproving a bulletin titled “Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act,” which had provided guidance about the ECOA and its implementing regulation, Regulation B. Consistent with the joint resolution, the guidance has no force or effect. The ECOA and Regulation B are unchanged and remain in force and effect. As I noted in that statement, I want to make it abundantly clear that the Bureau will continue to fight unlawful discrimination at every turn. We will vigorously enforce fair lending laws in our jurisdiction, and will stand on guard against unlawful discrimination in credit. However, given this recent Congressional action, the Bureau will be reexamining the requirements of ECOA in light of relevant Supreme Court precedents.

In addition, on August 31, 2018, the Bureau issued an interpretive and procedural rule<sup>3</sup> to implement and clarify the requirements of section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (the Act), which amended the HMDA. The Bureau also released updates to the Filing Instructions Guide (FIG) for HMDA data collected in 2018 to incorporate the Act as implemented and clarified by the rule issued that day.

The Act contains provisions that are intended to decrease the burden smaller depository institutions face in complying with HMDA and its implementing regulation, Regulation C. Some such institutions have raised questions about the application of the Act, and the rule issued in August seeks to provide clarification. At a later date, the Bureau anticipates that it will initiate a notice-and-comment rulemaking to incorporate these interpretations and procedures into Regulation C and further implement the Act.

**Q.33.** Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act establishes the CFPB to administer and interpret Dodd-Frank’s prohibition on unfair, deceptive and abusive acts or practices. The Act instructs the Bureau to supervise nonbanks that are large participants of a market for consumer financial products or services, which includes Federal student loan servicers and debt collectors.<sup>4</sup>

Will the CFPB continue to supervise Federal student loan servicers and debt collectors?

**A.33.** To the extent that a Federal student loan servicer or debt collector meets the criteria contained in the Bureau’s larger partici-

<sup>3</sup> [https://files.consumerfinance.gov/f/documents/bcfp\\_hmda\\_interpretive-procedural-rule\\_2018-08.pdf](https://files.consumerfinance.gov/f/documents/bcfp_hmda_interpretive-procedural-rule_2018-08.pdf).

<sup>4</sup> 12 U.S.C. § 5481(5); 15 U.S.C. § 5514(a)(1)(B); 12 C.F.R. § 1090.106; 12 C.F.R. § 1090.105.

pant rules, the entity should be included in the Bureau's supervision prioritization process. Whether any given entity is subject to a supervision event in any given time period is based on a number of factors, including the potential for consumer harm related to a particular market, the size of the product market, the supervised entity's market share, and the risks inherent to the supervised entity's operations and offering of financial consumer products within that market.

**Q.34.** The U.S. Department of Education does not have the statutory authority to enforce the Dodd-Frank Act's prohibition on unfair, deceptive and abusive acts or practices. Do you believe CFPB has the statutory authority to enforce the Dodd-Frank Act's prohibition on unfair, deceptive and abusive acts or practices if the violations are committed by Federal student loan servicers, debt collectors, or other Department of Education contractors?

**A.34.** The Bureau has taken the position that Federal student loan servicers and debt collectors meet the definition of covered person under the CFPB. Whether other Department of Education contractors also meet the definition will depend on the activity in which each contractor engages.

**Q.35.** Earlier this year, you informed the National Association of Attorneys General that you will be relying on the State law enforcement community to perform much of the routine investigation and oversight over participants in the markets you regulate. Specifically, you said, "We're going to be looking to the State regulators and the States' attorneys general for a lot more leadership when it comes to enforcement."<sup>5</sup>

Does this principle extend to State-level oversight of student loan companies, including student loan servicers?

**A.35.** My remarks were an expression of my eagerness to coordinate the Bureau's efforts with the State attorneys general. One example of this coordination is the joint town hall I held on June 8, 2019, with Kansas Attorney General Derek Schmidt on fighting elder financial exploitation. The Bureau held a second town hall on October 18, 2018, with Louisiana Attorney General Jeff Landry. I am also eager to coordinate the Bureau's efforts with Federal departments and agencies, including the Department of Education.

**Q.36.** CFPB's proposed Student Loan Market Monitoring initiative, published in the Federal Register on September 8, 2017 (F.R. 2017-18776) pursuant to the Bureau's authority under Section 1022(c)(4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, proposes "quarterly data collection on aggregated student loan servicing metrics and borrower outcomes from student loan servicers."

Please provide an update on the status of this initiative.

**A.36.** In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau published two notices in the Federal Register soliciting comment on a new proposed information collection—the "Student Loan Servicing Market Monitoring" project. The collection was submitted to the Office of Management and Budget (OMB) and

<sup>5</sup> <https://www.americanbanker.com/news/ags-not-cfpb-should-take-greater-role-on-enforcement-mulvaney>.

the second notice was published in the Federal Register on September 6, 2017. The comment period for this notice closed on October 6, 2017.

As of October 6, 2017, OMB had received six comments. As of October 19, 2018, the information and collection request is still pending at OMB.

**Q.37.a.** CFPB's proposed Student Loan Market Monitoring initiative requires approval from the Office of Management and Budget in order to precede.

Given your role as the head OMB, please provide a detailed explanation as to why this data collection has yet to be implemented.

**A.37.a.** The Bureau of Consumer Financial Protection submitted an information collection request to OMB on "Student Loan Servicing Market Monitoring" under the Paperwork Reduction Act on September 6, 2017. The request is still under review by OIRA.

**Q.37.b.** Please provide any memoranda, reports, analysis, or correspondence prepared by any of the following parties related to proposed Student Loan Market Monitoring following the closing of the public comment period on October 8, 2017:

- The Office of Management and Budget,
- The U.S. Department of Education, and
- The Consumer Financial Protection Bureau.

**A.37.b.** The requested documents, if any exist, would include the confidential information of the Bureau or other Federal agencies, and therefore would not be appropriate to submit into the public record. I urge you to work with the Committee Chairman when submitting requests for confidential Bureau information.

**Q.38.** Earlier this year, you provided CFPB staff with a memorandum indicating that you intend to use data, including data on consumer complaints, to inform Bureau priorities, including rule-making, supervision, and enforcement.<sup>6</sup> The Bureau has received more than 60,000 student loan complaints since 2012 and student loan companies are routinely among the most complained about financial services companies you regulate. Navient was also the subject of more CFPB complaints than any other company in the country during the first quarter of 2017, including Wells Fargo, Equifax, and other national banks and credit unions.

**Q.38.a.** As student loan defaults continue to set new records each year, what steps is CFPB taking to address unfair, deceptive, or abusive acts or practices in Federal and private student lending that exacerbate the default crisis?

**A.38.a.** The Bureau continues to assess compliance with Federal consumer financial law with respect to student loan servicers, including the prohibition against unfair, deceptive, and abusive acts or practices, and can bring enforcement actions where appropriate.

**Q.38.b.** How will complaints from borrowers inform this work?

<sup>6</sup><https://www.consumerfinancemonitor.com/wp-content/uploads/sites/14/2018/01/Mulvaney-memo.pdf>.

**A.38.b.** The Bureau uses complaints from borrowers to, among other things, prioritize exam work, scope exams, and to determine whether to open investigations.

**Q.39.** As Director of OMB, you're responsible for overseeing and managing the costs associated with the U.S. Department of Education's student loan servicing and collections contracts, while the Bureau is simultaneously responsible for independently policing the companies contracted to perform these servicing and collections functions when they violate Federal consumer protection law. These separate responsibilities are in conflict.

**Q.39.a.** What steps have you taken to insulate the Bureau's oversight of student loan companies from the Administration's political or policy direction on the administration of the Education Department's contracts?

**A.39.a.** There is no conflict in my responsibilities. The Bureau coordinated with the Education Department in the prior Administration and we will continue to collaborate going forward. The Bureau will act consistently with its obligation to enforce the law.

**Q.39.b.** How do you plan to ensure that your duty as OMB Director to protect taxpayers' investment in Federal loan servicing contractors does not compromise your obligation at CFPB to fairly and independently administer Federal consumer protection laws with respect to these companies?

**A.39.b.** As I noted above, there is no conflict in my responsibilities.

**Q.40.** Dodd-Frank Act Section 1035(c) establishes the functions of the student loan ombudsman and states that the ombudsman shall resolve complaints "in collaboration with the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education loan programs." Dodd-Frank Act Section 1035(c) also requires the ombudsman to establish a memorandum of understanding with the Department of Education's student loan ombudsman "to ensure coordination in providing assistance to and serving borrowers seeking to resolve complaints related to their private education or Federal student loans."<sup>7</sup>

**Q.40.a.** Given the U.S. Department of Education's August 2017 decision to terminate existing memoranda of understanding between the CFPB and the Education Department, how does the CFPB plan to collaborate with the Education Department to resolve student complaints related to Federal student loans?

**A.40.a.** The Department of Education continues to have access to the Bureau's public complaint database. Bureau staff also continues to analyze complaint data and provide that analysis as technical assistance when requested by the Department of Education.

**Q.40.b.** Will CFPB comply with Dodd-Frank Act Section 1035(c) and establish a new memorandum of understanding with the Education Department?

**A.40.b.** The Bureau continues to pursue options for entering into a new MOU with the Department of Education. The statutory func-

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<sup>7</sup> 12 U.S.C. § 5535.

tion you described formally rests with the Private Education Loan Ombudsman.

**Q.40.c.** In accordance with Dodd-Frank Act Section 1035(c) requirement to “ensure coordination” with the Department of Education “in providing assistance to and serving borrowers seeking to resolve complaints related to their private education or Federal student loans,” how will the CFPB work with the Department of Education to resolve complaints related to borrowers’ Federal student loans?

**A.40.c.** As noted in a previous response, the Bureau continues to pursue options for entering into a new MOU with the Department of Education. In the absence of an MOU, the Department of Education continues to have access to the Bureau’s public complaint database. Bureau staff also continues to analyze complaint data and provide that analysis as technical assistance when requested by the Department of Education.

**Q.40.d.** If CFPB plans to refer complaints to the Education Department, how will CFPB ensure that such complaints are fully resolved after referral?

**A.40.d.** Bureau staff directs consumers with student loan origination complaints to contact the Department of Education and relies on the Department of Education to appropriately resolve the complaint. The Department of Education also has access to the Bureau’s public complaint database. If the Bureau’s Private Education Loan Ombudsman is able to enter into a new MOU with the Department of Education permitting complaint referral, the Bureau will rely on the Department of Education to appropriately resolve any referred complaints.

**Q.40.e.** If CFPB plans to refer complaints to the Education Department, how will complaint substance and volume inform the Bureau’s student loan enforcement and supervision as it relates to Federal student loan contractors?

**A.40.e.** The Bureau’s Office of Consumer Response (Consumer Response) analyzes consumer complaints, company responses, and consumer feedback to accomplish two primary goals. First, these analyses enable Consumer Response to assess the accuracy, completeness, and timeliness of company responses. Second, these analyses ensure that the Bureau, other regulators, consumers, and the marketplace have reliable and useful information about consumer financial products and services. Consumer Response uses a variety of approaches to analyze consumer complaints, including cohort and text analytics, to identify trends and possible consumer harm. The Bureau also shares consumer complaint information with prudential regulators, the Federal Trade Commission, other Federal agencies, and State agencies.<sup>8</sup>

**Q.40.f.** Will CFPB continue to produce its monthly complaint snapshot highlighting consumer complaints about student loans, including Federal student loans?

**A.40.f.** One of the primary functions of the Bureau is collecting, investigating, and responding to consumer complaints. Consumer Response hears directly from consumers about the challenges they

<sup>8</sup>*Id.* § 5493 (b)(3)(D).

face in the marketplace, brings their concerns to the attention of companies, and assists in addressing their complaints. On May 31, 2018, the Bureau published a Complaint Snapshot that provides a high-level overview of trends in consumer complaints and supplements the Consumer Response Annual Report with more recent information about monthly changes in complaint volume and a spotlight on debt collection. On October 23, 2018, the Bureau published a complaint snapshot that provides a high-level overview of trends in consumer complaints and supplements the Consumer Response Annual Report with more recent information on complaints about consumer financial products and services by State.<sup>9</sup>

**Q.40.g.** Will CFPB continue to include Federal student loan complaints in its consumer complaint database?

**A.40.g.** The Bureau published a Request for Information (RFI) in March 2018 seeking comments and information from interested parties to assist the Bureau in assessing potential changes that can be implemented to the Bureau's public reporting practices of consumer complaint information.<sup>10</sup> The comment period closed June 4, 2018. The Bureau is evaluating comments received before determining whether any changes to the reporting or publication practices would be appropriate.

**Q.41.a.** How much does the CFPB intend to request in transfers from the Federal Reserve for the remaining two quarters of the fiscal year?

**A.41.a.** The Bureau requested \$98.5 million for the third quarter, and \$65.7 million for the fourth quarter of fiscal year (FY) 2018.

**Q.41.b.** How much of the reserve remains?

**A.41.b.** The Bureau ended Fiscal Year (FY) 2018 with \$56 million in unobligated balances in the Bureau Fund.

**Q.41.c.** The Office of Management and Budget's FY 2019 budget request asks for \$545 million for the CFPB. Does CFPB intend to request transfers from the Fed consistent with the budget request in the coming fiscal year?

**A.41.c.** The transfer cap for FY 2019 is \$678.9 million. However, the Bureau plans to request no more than \$533 million in FY 2019 to support the FY 2019 budget that I approved. A summary of the Bureau's FY 2019 budget was included with the transfer request letter sent to the Federal Reserve Board for funding for the first quarter of 2019, which is available on the Bureau's website at <https://www.consumerfinance.gov/about-us/budget-strategy/funds-transfer-requests/>.

**Q.41.d.** Please list any multi-year contracts or projects that were started prior to FY 2018 for which payment will be due in subsequent fiscal years and the amount and timing of those payments.

**A.41.d.** As defined by the Federal Acquisition Regulation (FAR 17.103), the Bureau has not awarded any multi-year contracts. The

<sup>9</sup>[https://www.consumerfinance.gov/documents/6568/bcfp\\_complaint-snapshot\\_debt-collection\\_052018.pdf](https://www.consumerfinance.gov/documents/6568/bcfp_complaint-snapshot_debt-collection_052018.pdf).

<sup>10</sup><https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/open-notices/request-information-regarding-bureau-public-reporting-practices-consumer-complaint-information/>.

FAR's definition of a multi-year contract is “. . . a contract for the purchase of supplies or services for more than 1, but not more than 5, program years.”

**Q.41.e.** How much does CFPB pay annually in rent for its headquarters and for each regional office?

**A.41.e.** The FY 2018 rental payments for the Bureau's space are in the below table. Several spaces were terminated in FY 2018 as a result of the completion of the renovations to the Bureau's headquarters.

Location	Annual Rent \$ amount
1275 Ist Street NE, Washington, DC (rent terminated)	\$822,412
1990 K Street NW, Washington, DC	\$2,156,284
1801 F Street NW, Washington, DC (Temporary space for child care; rent terminated in FY 2018)	\$358,959
230 S. Dearborn St., Chicago, IL	\$492,598
140 East 45th St., New York, NY	\$1,190,940
30 I Howard St., San Francisco, CA	\$1,376,681
1700 G Street NW, Washington, DC	\$13,094,110
Total Fiscal Year 2018 Rent Payments	\$19,491,984

**Q.42.a.** You have said repeatedly that you intend to cut CFPB's budget by 30 percent.

Please describe the process the Bureau intends to use to develop its budget and make spending decisions for the next year,

**A.42.a.** In May 2018, the Bureau began the process of revising its budget estimates for FY 2019 and developing estimates for FY 2020. Each Division had an opportunity to request and justify funds to help the Bureau meet its priorities.

**Q.42.b.** Who will make the final decisions?

**A.42.b.** The Bureau's Director approves the Bureau's budget.

**Q.42.c.** What role will political appointees at the agency play in the budget process, particularly the so-called “PADs,” the Chief of Staff, and Senior Adviser Brian Johnson?

**A.42.c.** Through the budget process, the Policy Associate Directors and Associate Directors identified amounts necessary to carry out the Bureau's authorities and to meet the Bureau's priorities for FY 2019–2020.

**Q.42.d.** What role will CFO Eli Reilly and the rest of the career staff in her office play in the budget process?

**A.42.d.** The budget process is led by the Office of the Chief Financial Officer (OCFO).

**Q.42.e.** What role will CSO Dave Uejio and the rest of the career staff in his office play in the budget process?



**A.42.e.** The budget reflects the Bureau's priorities, as identified in the Bureau's Strategic Plan, which is developed under the guidance of the Office of Strategy.

**Q.42.f.** What role will the career Associate Directors play in making budget recommendations for their divisions?

**A.42.f.** Through the budget process, the Policy Associate Directors and Associate Directors identified amounts necessary to carry out the Bureau authorities and to meet the Bureau's priorities for FY 2019–2020.

**Q.43.a.** Employee compensation and benefits are CFPB's biggest budget line item.

Will CFPB initiate a reduction in force under its collective bargaining agreement and lay off employees to meet its aggressive budget targets?

**A.43.a.** If the Bureau were to initiate a reduction in force, it would do so consistent with applicable law, regulation, and the Collective Bargaining Agreement (CBA).

**Q.43.b.** Will CFPB seek to renegotiate the compensation and benefits chapters of its collective bargaining agreement?

**A.43.b.** If the Bureau were to seek to renegotiate these chapters, it would do so consistent with the CBA. The current Compensation article of the CBA with the National Treasury Employees Union (NTEU) does not expire until December 31, 2019. This agreement generally covers employee salaries and benefits. The Bureau and NTEU will begin negotiating any changes to the Compensation article in June 2019.

**Q.44.** In early December, you announced a freeze in CFPB's collection of personally identifiable information (PII). Is that freeze still ongoing?

**A.44.** On May 31, 2018, after an exhaustive review by outside experts, including a comprehensive "white-hat hacking" effort, I lifted that hold. The independent review concluded that "externally facing Bureau systems appear to be well-secured." The assessors identified no "Critical" findings and made only three technical recommendations, all of which the Bureau has completed remediating.

**Q.45.** Prior to November 24, what were CFPB's plans to address the recommendations provided by its Inspector General in its FISMA report?

**A.45.** The Bureau's original plans to address the recommendations made in the 2017 Office of the Inspector General's Federal Information Security Modernization Act Audit report are described in that final report under "Appendix B: Management's Response" dated October 27, 2017. These actions include defining organizational risk tolerance levels, enhancements to multifactor authentication, validation of contractors' background checks, conducting periodic phishing exercises, continued log collection for new systems, development of additional incident containment strategies, and integrating contingency plan tests with those of incident response and continuity of operations. Since the report, the Bureau has closed the recommendations related to validation of contractors' background checks, development of additional incident

containment strategies, and integrating contingency plan tests with those of incident response and continuity of operations.

**Q.45.a.** Why did you make additional changes to these plans?

**A.45.a.** These plans were not changed, they are still active efforts that the Bureau is undertaking. I bolstered the Bureau's cybersecurity efforts with additional protective measures appropriate to the sensitivity of data with which the Bureau works.

**Q.45.b.** Why did you believe these measures were insufficient?

**A.45.b.** The Bureau works with consumer and financial data that deserve our best efforts to protect and use in a manner consistent with applicable laws, regulations, and Federal security guidelines. This additional effort is intended to protect these resources by effectively managing risk and operational capability.

**Q.45.c.** What steps did you take to evaluate additional options?

**A.45.c.** On my first day at the Bureau, I met with the Chief Information Officer (CIO) and Chief Information Security Officer (CISO) to discuss the topic of cybersecurity. That initial discussion and follow-on planning identified an opportunity to leverage an independent party to assess the Bureau's cybersecurity posture. Since that time, the Bureau has entered into an Inter-Agency Agreement with the Department of Defense to leverage "Risk and Vulnerability Assessment (RVA)" services as a mechanism to identify potential gaps in cybersecurity controls. This Assessment has completed and the Bureau has remediated all recommendations identified in the final report.

**Q.45.d.** What specific changes in examination or enforcement procedures related to cybersecurity were implemented in the Division of Supervision, Enforcement, and Fair Lending program in the aftermath of the December 4th announcement, and what were the impacts of these changes?

**A.45.d.** After December 4, 2017, the Division of Supervision, Enforcement, and Fair Lending (SEFL) ceased intaking certain sensitive information, such as data with direct personal identifiers. Enforcement attorneys were conducting review of most investigative materials by storing those materials on a system used by the U.S. Department of Justice (DOJ). Supervision did not take data with direct personal identifiers onto the Bureau's systems, and instead reviewed it onsite.

**Q.45.e.** Please provide copies of any guidance given to supervision or enforcement staff about changes in examination procedures.

**A.45.e.** The attached guidelines on collections of information through supervision available to examiners was used during the data hold. This guidance has since been rescinded.

Sensitive and Pre-Decisional  
Not for External Distribution

*Updated:* April 30, 2018

<b>TO</b>	OSE, OSP, OFLEO, All Regions
<b>FROM</b>	Paul Sanford, Patrice Ficklin, and Peggy Twohig
<b>SUBJECT</b>	Guidance on Collection of Information through Supervision

### Overview and Purpose

On December 4, 2017, OSE Assistant Director Paul Sanford communicated by email to all supervision staff regarding an immediate temporary pause in the collection of new information through supervision, and a medium-term adjustment in our processes for collecting certain types of information. This was the first step to implement the Acting Director's direction to adjust our processes to provide the Acting Director time to review the Bureau's data security protocols.

This document provides more specific guidance about adjusting our processes for requesting and reviewing certain categories of information. This document supersedes the guidance provided on December 7, 2017. In general, this document describes an implementation plan that will allow us to continue our supervisory work without taking custody of any information containing Direct Personal Identifiers (DPI).<sup>1</sup> Instead, we will review the information containing DPI on-site on the institution's servers or in hard copy. The guidance also covers the implementation plan regarding notifying supervised institutions about their ability to request on-site review for other types of information requested.

### Covered Information and General Guidelines

This guidance applies to all consumer-level or account-level data and files that contain DPI. This includes the DPI that could appear in consumer loan or application files, dispute files, internal company complaints, and other consumer or account-level data such as those stored in the institutions' systems of records.

Any other DPI is also covered to the extent it is not included in the above. For purposes of this guidance personally identifiable information (PII) means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual. DPI means data fields that either individually or in combination could directly identify a consumer. It is a subset of PII.<sup>2</sup> Please refer to the CFPB's Privacy Primer on the intranet, or send questions to [cfpb\\_supervisionpii.guidance@cfpb.gov](mailto:cfpb_supervisionpii.guidance@cfpb.gov).

<sup>1</sup> Including, for example, names, addresses, email addresses, social security numbers, account numbers, etc.

<sup>2</sup> The OMB definition of PII includes not only direct personal identifiers such as social security number, name, and email address but also includes any other information that when combined with other data could facilitate re-identification such as zip code, date of birth (MM/YY), and gender.

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*General Restriction on DPI Moving Forward*

You should not take custody of DPI from any non-public source outside the CFPB in any form directly or indirectly. Common methods of disseminating information electronically include use of the Extranet, CDs, thumb drives, electronic mail, text, etc. Examples of potential sources of DPI are federal or state regulators, regulated entities, and other similar sources. Further, you should not record in electronic form any DPI that you obtain in an otherwise acceptable way (e.g., hard copy, visual observation of original documents, information obtained via institution-owned terminal, etc.). Examples of practices to avoid are entering DPI from a loan file into Compliance Tool, recording DPI in a spreadsheet, or saving other documents on your computer. In other words, DPI should not touch a Bureau computer in any way.

*Data Containing DPI Already in Bureau Possession*

Supervision teams are authorized to continue to review materials already in the Bureau's custody, including materials that contain DPI. Supervision teams will continue to handle such materials in accordance with the Bureau's data security policies and procedures, as applicable. The revisions and clarifications within this guidance pertain solely to new information requests on a go-forward basis as well as information requests that are outstanding and for which responses have not yet been received. Note, however, that any follow up requests based on previously provided DPI should be consistent with this guidance in that they should not seek new DPI or any duplicative production of previously provided DPI.

**Duration**

This guidance is effective immediately and is in place until further notice. Effective immediately, exam teams can begin requesting information from institutions in a manner consistent with this guidance.

**Information Request Communications**

This section includes Information Request (IR)-related steps supervision teams must take so the Bureau can continue collecting and reviewing information in support of its supervisory work while ensuring adherence to the Acting Director's direction on collection of information through supervision. Any request for information will contain standard language that will request institutions to continue to collect information containing DPI and prepare it for production to the Bureau, but will instruct institutions to hold that information, rather than producing it to the Bureau. This will be the case regardless of the type of the request, form of the request, or procedural status of the relevant exam.

*New Information Requests*

**1) IR cover letter template language**

To provide an appropriate level of emphasis and help ensure that institutions refrain from transmitting DPI electronically, the following language must be added to IR cover letters:

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- “Please refrain from transmitting electronically any materials to the Bureau in response to the information request that may contain data fields that either individually or in combination could directly identify a consumer. If any documents requested contain such information, unless redacted, please hold such information for examiners to review on site. You may choose to designate other types of information requested to be provided in advance over which you may wish to retain custody. Please contact me if you would prefer to hold any information that does not contain such information for on-site review, and we will work with you to try to accommodate your request.”

2) IR items requesting lists of accounts or loans

Most of the Bureau’s inventory of Institution Product Line (IPL) IRs intersperse loan level data requests with the rest of the IR items, while some IPL IRs (mortgage servicing, fair lending, and short-term, small-dollar lending) segregate out data requests that would typically include DPI. Revise all data request items as follows:

- Exclude from data requests any data field that may result in the submission of DPI. It should suffice to request account level data that does not contain DPI. For example, we can request data that focuses on loan features that presents limited re-identification risk such as loan amount, APR, fees, product type, a unique account identifier without requesting borrower name, address, or account number, and still be able to select a sample.
- Request that the institution create a “unique identifier” for each loan or account. This will facilitate review and note taking once on-site.
- Add language to each item requesting lists of accounts or loans instructing institutions to “Please ensure that any documents transmitted electronically do not include any data fields that either individually or in combination could directly identify a consumer. If the documents contain such data, please hold such information for examiners to review on site.”
- Consider segregating out the data request items to facilitate the exclusion from the data requests of any data field that would result in the submission of DPI.

3) IR items requesting disclosure samples or exemplars

In numerous request items within each IR, we request samples or exemplars of disclosures, forms, and other communications provided by the institutions to consumers. Institutions often respond to these items with documents that may include DPI. Add the following language to each of these request items:

- “Please ensure that any documents transmitted electronically do not include any data fields that either individually or in combination could directly identify a consumer.”

4) IR items requesting complaint information

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Several IRs include a request that the institution provide all consumer complaints received during a specific period. Such requests typically result in responses that include DPI. Revise such requests to align with the following:

- Add language to each item that requests complaint information instructing institutions to “Please ensure that any documents transmitted electronically do not include any data fields that either individually or in combination could directly identify a consumer.”
- Instruct institutions to hold such information for examiners to review on-site if it contains DPI.

*Questions from Institutions*

We anticipate questions from individual institutions after exam teams follow up to revise outstanding requests consistent with this guidance. Some institutions might even express concerns about the overall data security of our system and question whether previously provided data is secure. We are working with the SEFL Front Office to provide talking points to reiterate that these measures are intended to allow the Acting Director time to review the Bureau’s data security protocols. Likewise, institutions may ask any number of logistical questions. The working group has created a question and answer document that provides answers to various anticipated questions. Please reach out to the relevant FM (if applicable) and the email box of [cfpb\\_supervisionpii.guidance@cfpb.gov](mailto:cfpb_supervisionpii.guidance@cfpb.gov) with additional, specific questions.

**Receiving Information Provided by Institutions Electronically**

Upon receipt of electronic files from institutions, exam teams will perform an initial screen of the files to assess whether any files may potentially include DPI. If examiners suspect that any file may contain DPI, either upon initial screening or later review, they will alert their FM, who will perform a full review of the file to determine whether DPI was transmitted. If an FM determines that an institution has transmitted DPI to the Bureau in error (through the Extranet, email transmission, or otherwise) he/she will send an email to the email box [cfpb\\_supervisionpii.guidance@cfpb.gov](mailto:cfpb_supervisionpii.guidance@cfpb.gov) so appropriate measures can be taken. The email should indicate that DPI was transmitted in error, and state the location of the DPI. The FM will also communicate to the institution the need to “hold” the same file for on-site review. Supervision will maintain a log of DPI transmitted to the Bureau in error so it can report that information to the Director’s office, as appropriate.

**Assessing Institutions’ Requests that Examiners Review “Other” Documentation On-Site**

If an institution requests to retain custody of files that do not contain DPI, the FM will direct the institution to provide a brief description of the file and hold the information for on-site review. If examiners are not on-site, the FM will assess the level of need of the relevant information and discuss this with SEFL stakeholders on biweekly or ad hoc calls. Depending on the status and potential findings of a given exam, additional on-site activity may not be necessary. Situations where on-site activity is more likely to be necessary are when the requested information is

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needed to determine a sample or complete transaction testing. After these discussions, the FM should create a plan for assigning examiners to perform the review and for gaining examiner access to the file(s) that ensures that the institution retains custody of the information. FMs will communicate that plan to the examiners tasked with reviewing the information at the institution. FMs will also relay each institutional request to retain custody of non-DPI information to the email box [cfpb\\_supervisionpii.guidance@cfpb.gov](mailto:cfpb_supervisionpii.guidance@cfpb.gov) so that Supervision can maintain an ongoing list of such requests.

#### **On-Site Review of Information Containing DPI**

There are two permitted means to review materials on-site: through direct access via the institution's computer terminals or by review of paper copies. Material presented on thumb drives and/or CDs may not be used in conjunction with CFPB laptops. There are concerns that doing so may result in a breach if the user views this information while on the CFPB network, and that the CFPB laptop may save backup copies of documents that are opened for long periods of time. Likewise, we are not permitted to access data remotely using institutions' portals, Sharepoint sites, "data rooms," or equivalent channels through a virtual private network.

Please use professional judgment and common sense when reviewing paper copies. Decide what is necessary for your work papers and take notes accordingly, omitting any DPI. Because the institution will have already provided unique identifiers for examiner use, use that identifier in your notes to reference specific loan files or accounts. Do not make copies unless DPI is redacted. Copies should not be made of materials that the institution has elected to have reviewed on-site. Once redacted, final supporting documentation for your work papers may be scanned and saved to the appropriate file location – likely the Q drive or SES. Please return any remaining paper copies to the entity.

Similarly, please use professional judgment and common sense when accessing institution terminals. Decide what is necessary for your work papers and take notes accordingly, omitting any DPI. Because the institution will have already provided unique identifiers for examiner use, use that identifier in your notes to reference specific loan files or accounts. For information containing DPI, you may print (if feasible), redact all DPI, then scan and save to the appropriate file location.

CFPB management recognizes that this may create logistical changes to executing exam work. Regional management will work through any changes that may become necessary to on-site work on an ongoing basis. Please recognize that this may require additional on-site time prior to and/or after examinations typically transition offsite.

#### **Coordination with Other Regulators**

For the most part, our ongoing collaboration with other regulators may continue under our usual processes. We can continue to provide these regulators with information, as provided by the relevant Memoranda of Understanding (MOUs).

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In particular, we should continue to exchange supervisory letters and reports of examination, including drafts, with both state and federal regulators via our existing processes. Conversations and meetings supporting the exchange of information or ideas should continue with these valued partners.

For exams coordinated with multi-state teams, the CFPB will utilize separate Information Requests (IRs) to ensure that the CFPB IR contains the language required by this guidance. We understand that state coordinated examinations significantly benefit from the free exchange of information between exam teams. These exchanges can continue in the normal course, provided that the states participating in the coordinated exam agree to not transmit any documents containing DPI to the CFPB. We are engaging with the Conference of State Bank Supervisors (CSBS) to inform them of our directive to not take custody of DPI and will work through CSBS to address any questions about the guidance from state regulatory agencies. Until CSBS provides further guidance to better implement this directive, please share (via email) the following guidance with the state EIC/SPOC on your coordinated exam:

- “Please refrain from transmitting electronically any materials to the Bureau that may contain data fields that either individually or in combination could directly identify a consumer. If any documents requested contain such data, unless redacted, please hold such data to share with examiners to review on-site only (if possible).”<sup>3</sup>

In the case DPI is inadvertently transferred to the Bureau, please follow the process outlined on page four above. For information that does not contain DPI, you may continue to use any pre-approved means of transmittal (IronKey, secure email, SFTP server, etc.) This includes any information uploaded into the joint-access Extranet and Box systems soon to be piloted by a select number of exam teams to promote efficiency in coordination with state regulators.

### Conclusion

This document provides specific guidance, effective immediately, to adjust our processes related to the collection of DPI in order to provide the Acting Director time to review the Bureau’s data security protocols. Given that the changes to our processes set forth in this document are significant, the document does not address all possible factual scenarios potentially impacted by the change. As a result, the execution of the guidance will require flexibility, collaboration, and engagement to ensure successful implementation. Any additional questions or concerns regarding the guidance should be directed to the relevant FM or direct supervisor.

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<sup>3</sup> Please see guidance for reviewing information that contains DPI while on-site (*see supra* page 5).



**Q.45.f.** Please describe any changes to procedures for obtaining and reviewing records in discovery precipitated by your December 4th announcement.

**A.45.f.** No procedures have been formally amended. Where possible, information subject to the data security policy was hosted on a system used by the DOJ.

**Q.45.g.** Please provide copies of any communications with regulated entities related to providing personally identifiable information to bank examiners and enforcement lawyers.

**A.45.g.** Communications between supervised entities and examination staff are generally considered confidential supervisory information, and communications between entities and enforcement staff in connection with an investigation are generally considered confidential investigative information. The Bureau typically does not make public this type of confidential information. For our guidance to examiners, including on communicating with entities, see response to subpart (E) above.

**Q.45.h.** Please provide copies of all emails sent or received by you, Brian Johnson, Eric Blankenstein, Christopher D'Angelo, Patrice Ficklin, Paul Sanford, Peggy Twohig, Kristen Donoghue, Sartaj Alag, or Jerry Horton about policies related to the acquisition of personally identifiable information from November 24 to present.

**A.45.h.** The requested documents would include documents that contain confidential Bureau information and it would not be appropriate to submit into the public record. I urge you to work with the Committee Chairman when submitting requests for confidential Bureau information.

**Q.45.i.** Did you evaluate the impact of the new procedures on CFPB supervision and enforcement activities prior to ordering and implementing them? If so, what did this evaluation show?

**A.45.i.** I determined that the benefits of protecting consumers' privacy outweighed the cost of potentially slowing enforcement and supervisory activities.

**Q.45.j.** Were any Bureau functions outside the Division of Supervision, Enforcement and Fair Lending impacted?

**A.45.j.** Yes.

**Q.45.k.** Are there any plans to alter the consumer complaint process?

**A.45.k.** In April, the Bureau issued a Request for Information (RFI) on its handling of consumer complaints and inquiries.<sup>11</sup> We sought comments and information from interested parties to assist the Bureau in assessing its handling of consumer complaints and consumer inquiries and, consistent with law, considering whether changes to its processes would be appropriate. The opportunity to submit comments on this RFI closed on July 16, 2018. Bureau staff is in the process of reviewing the more than 1,000 comments received.

<sup>11</sup> <https://www.federalregister.gov/documents/2018/04/17/2018-07943/request-for-information-regarding-the-bureaus-consumer-complaint-and-consumer-inquiry-handling>.

**Q.45.l.** Are there any plans to alter how the Research, Markets, and Regulation division obtains or uses consumer data?

**A.45.l.** The Bureau is reviewing how all divisions obtain and use data. In September, the Bureau released a report on the Bureau's data governance program, what data the Bureau collects, where the data come from, how data are used, and how data are reused within the Bureau.

**Q.45.m.** Are there any plans to alter internal operations in the CFPB with respect to how the agency uses or deploys employees' personally identifiable information?

**A.45.m.** There are no plans to alter internal BCFP operations regarding how the agency uses or deploys employees' personally identifiable information.

**Q.45.n.** Did you consult with the CFPB Inspector General before instituting your PII freeze?

**A.45.n.** No.

**Q.45.o.** Did CFPB consult any other agency before instituting the PII freeze?

**A.45.o.** No.

**Q.45.p.** Did you consult any other cyber security expert before instituting the PII freeze?

**A.45.p.** No.

**Q.45.q.** Did CFPB consult with any lobbyist or other individual representing any financial services firm or other regulated entity before instituting the PII freeze?

**A.45.q.** No.

**Q.46.a.** You testified that the CFPB is in the process of completing an analysis of the agency's cybersecurity vulnerabilities.

Please describe the scope of the review and how it is being conducted.

**A.46.a.** In January of 2018, the Bureau signed an Inter-Agency Agreement with the U.S. Department of Defense to leverage "Risk and Vulnerability Assessment (RVA)" services as a mechanism to identify potential gaps in cybersecurity controls. This service is the same service the U.S. Department of Homeland Security (DHS) provides to other Federal agencies to assess vulnerabilities beyond those identified in their Cyber Hygiene program (in which the Bureau also participates).

**Q.46.b.** What is the specific goal of the review?

**A.46.b.** This technical assessment had two primary dimensions, to determine the susceptibility of the Bureau's systems from an external threat and also an assessment of vulnerability within the Bureau's network. Four specific scenarios were tested:

- External testing of Cloud Service providers and publicly accessible servers;
- User susceptibility to phishing attacks from external sources;
- Testing of security controls applied to a mobile device (laptops, mobile devices, and standard-issue encrypted USB storage devices); and

- Determining the potential impact of an attacker with access to the internal network, to include Wi-Fi testing.

**Q.46.c.** Which CFPB personnel are involved?

**A.46.c.** The Office of Technology and Innovation, headed by the Chief Information Officer (CIO), coordinated execution of the testing. The Acting Chief Information Security Officer performed the role of Technical Point of Contact for the testing team.

**Q.46.d.** Which other agencies are involved?

**A.46.d.** This service is provided under an interagency agreement (IAA) with the U.S. Department of Defense under a contract administered by the Air Force with the Software Engineering Institute at Carnegie Mellon University, which is a federally Funded Research and Development Center (FFRDC).

**Q.46.e.** Which private companies or individuals representing private companies are involved?

**A.46.e.** This service is performed by personnel from the Software Engineering Institute at Carnegie Mellon University.

**Q.46.f.** How much is the review expected to cost?

**A.46.f.** The cost to execute the interagency agreement was \$448,580.

**Q.46.g.** How long is it projected to last?

**A.46.g.** The independent review has concluded.

**Q.46.h.** How much has CFPB spent each year on cybersecurity measures in each of the last 5 years?

**A.46.h.**

- FY 2014: \$4,158,893
- FY 2015: \$6,240,950
- FY 2016: \$7,303,500
- FY 2017: \$8,521,892
- FY 2018: \$7,778,994

**Q.47.a.** Shortly after arriving at the CFPB, you announced that you intended to hire political appointees “now,” because career staff that were hired before your arrival were “political anyway.”

How did you know the political affiliations of CFPB career staff?

**A.47.a.** I do not know the party affiliations of individual employees.

**Q.47.b.** Did you ask CFPB staff for their political affiliation?

**A.47.b.** No.

**Q.47.c.** In hiring civil servants and making decisions about individuals’ responsibilities, do you or your designees employ a political or ideological litmus test?

**A.47.c.** No.

**Q.47.d.** Before bringing political appointees to the CFPB, did anybody at the agency analyze whether any other independent agency have a similar structure where a political appointee oversees each division?

**A.47.d.** The Bureau hired individuals under Schedule C of the excepted service, which is authorized by governmentwide Office of

Personnel Management (OPM) regulations, including independent regulatory agencies.

**Q.47.e.** Please provide the justifications sent to OPM in support of each request CFPB made for authority to hire political staff.

**A.47.e.** The Bureau followed the Schedule C appointment approval process established by the Office of Personnel Management, which requires agencies to submit a completed 1019 Form. The Bureau's 1019 Forms are attached.

### Request for Schedule C Appointing Authority

Agency Name: Consumer Financial Protection Bureau Date: 01/19/18  
 POC: Kerri Dunham Phone: 202-435-7597 Email:  
 Request No.: Request Type: Appointment Position: REG Schedule C  
 Candidate: Eric Blankenstein Grade/Step: CN-90 Salary: \$259,500  
 Position No.: CPOT1800 Title: Policy Associate Director  
 Series: 0905 Desc: General Attorney  
 Date PD certified as Schedule C per 5 CFR 213.3301(a):  
 Organization ID: 100 Org. Name: Office of the Director  
 Supervisor No: 202-435-5147 Supv. Title: Director, Consumer Financial Protection Bureau  
 Supervisor Name: J. Michael Mulvaney Supv. Position Type: Presidential Appointee  
 GEO Location: Washington DC

#### Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee:

Signature: [Signature] Date Signed: 1-29-18

#### Agency White House Liaison

Name: [Signature] Phone: 202-435-7597  
 Signature: [Signature] Date Signed: \_\_\_\_\_

#### OPM USE ONLY

☒ Approved ☐ Disapproved ☐ Returned without Action

OPM Approving Official: [Signature] Date Signed: 2/13/18

Email to: Senior Executive Resource Services at SERS@OPM.GOV

Source: Office of Personnel Management

Report 1019, Version November 2008

## Request for Schedule C Appointing Authority

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**Agency Name:** Consumer Financial Protection Bureau **Date:** 12/15/17  
**POC:** Kerri Dunham **Phone:** 202-435-7597 **Email:** *kerri.dunham@cftpb.gov*  
**Request No.:** **Request Type:** Appointment **Position:** REG Schedule C  
**Candidate:** Ann Conant **Grade/Step:** CN-43 **Salary:** \$75,000  
**Position No.:** 180410 **Title:** Executive Assistant to the Director  
**Series:** 0303 **Desc:** Miscellaneous Clerk and Assistant Series  
**Date PD certified as Schedule C per 5 CFR 213.3301(a):** *12/15/17*  
**Organization ID:** 100 **Org. Name:** Office of the Director  
**Supervisor No:** 202-435-5147 **Supv. Title:** Director, Consumer Financial Protection Bureau  
**Supervisor Name:** J. Michael Mulvaney **Supv. Position Type:** Presidential Appointee  
**GEO Location:** Washington DC

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### Schedule C Certification Statement

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Department/ Agency Head or Designee:

Signature: 

Date Signed: *12-21-17*

### Agency White House Liaison

Name:

Phone: 202-435-7597

Signature:

Date Signed:

### OPM USE ONLY

 Approved

Disapproved

Returned without Action

OPM Approving Official: 

Date Signed: *12/22/17*

Email to: Senior Executive Resource Services at [SERS@OPM.GOV](mailto:SERS@OPM.GOV)

Source: Office of Personnel Management

Report 1019, Version November 2008

### Request for Schedule C Appointing Authority

Agency Name: Consumer Financial Protection Bureau Date: 03/19/18  
POC: Kerri Dunham Phone: 202-435-7597 Email:  
Request No.: Request Type: Appointment Position: REG Schedule C  
Candidate John Czwartacki Grade/Step: CN-82 Salary: \$239,595  
Position No.: CPOT1801 Title: Chief Communications Officer and Spokesperson  
Series: 1025 Desc: Public Affairs  
Date PD certified as Schedule C per 5 CFR 213.3301(a):  
Organization ID: 100 Org. Name: Office of the Director  
Supervisor No: 202-435-5147 Supv. Title: Director, Consumer Financial Protection Bureau  
Supervisor Name: J. Michael Mulvaney Supv. Position Type: Presidential Appointee  
GEO Location: Washington DC

#### Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee:

Signature: 

Date Signed: 3-22-18

#### Agency White House Liaison

Name: \_\_\_\_\_

Phone: 202-435-7597

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

#### OPM USE ONLY

☒ Approved

☐ Disapproved

☐ Returned without Action

OPM Approving Official: 

Date Signed: 4/13/18

Email to: Senior Executive Resource Services at SERS@OPM.GOV

Source: Office of Personnel Management

Report 1019, Version November 2008

## Request for Schedule C Appointing Authority

**Agency Name:** Consumer Financial Protection Bureau **Date:** 01/12/18  
**POC:** Kerri Dunham **Phone:** 202-435-7597 **Email:**  
**Request No.:** **Request Type:** Appointment **Position:** Reg C  
**Candidate:** Evan Gillissie **Grade/Step:** CN-41 **Salary:** \$59,000  
**Position No.:** CPOT1800 **Title:** Executive Assistant to the Chief of Staff  
**Series:** 0303 **Desc:** Misc Clerk and Assistant Series  
**Date PD certified as Schedule C per 5 CFR 213.3301(a):**  
**Organization ID:** 100 **Org. Name:** Office of the Director  
**Supervisor No:** 202-435-5147 **Supv. Title:** Director, Consumer Financial Protection Bureau  
**Supervisor Name:** J. Michael Mulvaney **Supv. Position Type:** Presidential Appointee  
**GEO Location:** Washington DC

### Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee:

Signature: 

Date Signed: 1-16-18

### Agency White House Liaison

Name: \_\_\_\_\_

Phone: 202-435-7597

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

### OPM USE ONLY

☒ Approved

☐ Disapproved

☐ Returned without Action

OPM Approving Official: 

Date Signed: 1/18/18

Email to: Senior Executive Resource Services at [SERS@OPM.GOV](mailto:SERS@OPM.GOV)

Source: Office of Personnel Management

Report 1019, Version November 2008

### Request for Schedule C Appointing Authority

Agency Name: Consumer Financial Protection Bureau Date: 02/12/18  
 POC: Kerri Dunham Phone: 202-435-7597 Email:  
 Request No.: Request Type: Appointment Position: REG Schedule C  
 Candidate: Sheila Greenwood Grade/Step: CN-90 Salary: \$259,500  
 Position No.: CPOT1800 Title: Policy Associate Director CEE  
 Series: 0301 Desc: Miscellaneous Administration Series  
 Date PD certified as Schedule C per 5 CFR 213.3301(a):  
 Organization ID: 100 Org. Name: Office of the Director  
 Supervisor No: 202-435-5147 Supv. Title: Director, Consumer Financial Protection Bureau  
 Supervisor Name: J. Michael Mulvaney Supv. Position Type: Presidential Appointee  
 GEO Location: Washington DC

#### Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee:

Signature: 

Date Signed: 2-12-18

#### Agency White House Liaison

Name:

Phone: 202-435-7567

Signature:

Date Signed:

#### OPM USE ONLY

☒ Approved

☐ Disapproved

☐ Returned without Action

OPM Approving Official: 

Date Signed: 2/28/18

Email to: Senior Executive Resource Services at [SEERS@OPM.GOV](mailto:SEERS@OPM.GOV)

Source: Office of Personnel Management

Report 1915, Version November 2004



### Request for Schedule C Appointing Authority

Agency Name: Consumer Financial Protection Bureau Date: 03/19/18  
 POC: Kerri Dunham Phone: 202-435-7597 Email:  
 Request No.: Request Type: Appointment Position: REG Schedule C  
 Candidate: Brian Johnson Grade/Step: CN-90 Salary: \$259,500  
 Position No.: CPOT1801 Title: Principal Policy Director  
 Series: 0301 Desc: Miscellaneous Administration Series  
 Date PD certified as Schedule C per 5 CFR 213.3301(a):  
 Organization ID: 100 Org. Name: Office of the Director  
 Supervisor No: 202-435-5147 Supv. Title: Director, Consumer Financial Protection Bureau  
 Supervisor Name: J. Michael Mulvaney Supv. Position Type: Presidential Appointee  
 GEO Location: Washington DC

#### Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee:

Signature: 

Date Signed: 3-19-18

#### Agency White House Liaison

Name: Phone: 202-435-7597

Signature: Date Signed:

#### OPM USE ONLY

☒ Approved

☐ Disapproved

☐ Returned without Action

OPM Approving Official: 

Date Signed: 4/13/18

Email to: Senior Executive Resource Services at SERS@OPM.GOV

Source: Office of Personnel Management

Report 1019, Version November 2008

## Request for Schedule C Appointing Authority

**Agency Name:** Consumer Financial Protection Bureau **Date:** 01/12/18  
**POC:** Kerri Dunham **Phone:** 202-435-7597 **Email:**  
**Request No.:** **Request Type:** Appointment **Position:** Reg C  
**Candidate:** Hallee Morgan **Grade/Step:** CN-60 **Salary:** \$124,654  
**Position No.:** CPOT1800 **Title:** Attorney Advisor  
**Series:** 0905 **Desc:** General Attorney  
**Date PD certified as Schedule C per 5 CFR 213.3301(a):**  
**Organization ID:** 100 **Org. Name:** Office of the Director  
**Supervisor No:** 202-435-5147 **Supv. Title:** Director, Consumer Financial Protection Bureau  
**Supervisor Name:** J. Michael Mulvaney **Supv. Position Type:** Presidential Appointee  
**GEO Location:** Washington DC

### Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee:

Signature: 

Date Signed: 1-16-18

### Agency White House Liaison

Name: \_\_\_\_\_

Phone: 202-435-7597

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

### OPM USE ONLY

☒ Approved

☐ Disapproved

☐ Returned without Action

OPM Approving Official: 

Date Signed: 1/18/18

Email to: Senior Executive Resource Services at [SERS@OPM.GOV](mailto:SERS@OPM.GOV)

Source: Office of Personnel Management

Report 1019, Version November 2008

### Request for Schedule C Appointing Authority

Agency Name: Consumer Financial Protection Bureau Date: 03/15/18  
 POC: Kerri Dunham Phone: 202-435-7597 Email:  
 Request No.: Request Type: Appointment Position: REG Schedule C  
 Candidate: Thomas Pahl Grade/Step: CN-90 Salary: \$259,500  
 Position No.: CPOT1801 Title: Policy Associate Director Research, Markets & Regulations  
 Series: 0301 Desc: Miscellaneous Administration Series  
 Date PD certified as Schedule C per 5 CFR 213.3301(a):  
 Organization ID: 100 Org. Name: Office of the Director  
 Supervisor No: 202-435-5147 Supv. Title: Director, Consumer Financial Protection Bureau  
 Supervisor Name: J. Michael Mulvaney Supv. Position Type: Presidential Appointee  
 GEO Location: Washington DC

#### Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee:

Signature: 

Date Signed: 3-15-18

#### Agency White House Liaison

Name:

Phone: 202-435-7597

Signature:

Date Signed:

#### OPM USE ONLY

☒ Approved

☐ Disapproved

☐ Returned without Action

OPM Approving Official: 

Date Signed: 4/13/18

Email to: Senior Executive Resource Services at SERS@OPM.GOV

Source: Office of Personnel Management

Report 1019, Version November 2008

## Request for Schedule C Appointing Authority

**Agency Name:** Consumer Financial Protection Bureau **Date:** 12/22/17  
**POC:** Kerri Dunham **Phone:** 202-435-7597 **Email:**  
**Request No.:** **Request Type:** Appointment **Position:** REG Schedule C  
**Candidate:** Kirsten Mork **Grade/Step:** CN-90 **Salary:** \$259,500  
**Position No.:** 180180 **Title:** Chief of Staff and Special Assistant to the Director  
**Series:** 0301 **Desc:** Miscellaneous Administration Series  
**Date PD certified as Schedule C per 5 CFR 213.3301(a):**  
**Organization ID:** 100 **Org. Name:** Office of the Director  
**Supervisor No:** 202-435-5147 **Supv. Title:** Director, Consumer Financial Protection Bureau  
**Supervisor Name:** J. Michael Mulvaney **Supv. Position Type:** Presidential Appointee  
**GEO Location:** Washington DC

### Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee:

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

1-5-18

### Agency White House Liaison

Name: \_\_\_\_\_

Phone: 202-435-7597

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

### OPM USE ONLY

☒ Approved

☐ Disapproved

☐ Returned without Action

OPM Approving Official: \_\_\_\_\_

Date Signed: \_\_\_\_\_

1/19/18

Email to: Senior Executive Resource Services at [SERS@OPM.GOV](mailto:SERS@OPM.GOV)

Source: Office of Personnel Management

Report 1019, Version November 2008

## Request for Schedule C Appointing Authority

**Agency Name:** Consumer Financial Protection Bureau **Date:** 12/22/17  
**POC:** Kerri Dunham **Phone:** 202-435-7597 **Email:**  
**Request No.:** **Request Type:** Appointment **Position:** REG Schedule C  
**Candidate:** Anthony Welcher **Grade/Step:** CN-90 **Salary:** \$259,500  
**Position No.:** 180150 **Title:** Policy Associate Director  
**Series:** 0301 **Desc:** Miscellaneous Administration Series  
**Date PD certified as Schedule C per 5 CFR 213.3301(a):**  
**Organization ID:** 100 **Org. Name:** Office of the Director  
**Supervisor No:** 202-435-5147 **Supv. Title:** Director, Consumer Financial Protection Bureau  
**Supervisor Name:** J. Michael Mulvaney **Supv. Position Type:** Presidential Appointee  
**GEO Location:** Washington DC

### Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee:

Signature: 

Date Signed: 12-22-17

### Agency White House Liaison

Name:

Phone: 202-435-7597

Signature:

Date Signed:

### OPM USE ONLY

☒ Approved

☐ Disapproved

☐ Returned without Action

OPM Approving Official: 

Date Signed: 1/2/18

Email to: Senior Executive Resource Services at [SERS@OPM.GOV](mailto:SERS@OPM.GOV)

Source: Office of Personnel Management

Report 1019, Version November 2008

### Request for Schedule C Appointing Authority

**Agency Name:** Consumer Financial Protection Bureau **Date:** 04/16/18  
**POC:** Kerri Dunham **Phone:** 202-435-7597 **Email:**  
**Request No.:** **Request Type:** Appointment **Position:** REG Schedule C  
**Candidate:** Althea Kireills **Grade/Step:** CN-90 **Salary:** \$259,500  
**Position No.:** CPOT1801 **Title:** Associate Director, Office of Equal Opportunity and Fairness  
**Series:** 0301 **Desc:** Miscellaneous Administration Series  
**Date PD certified as Schedule C per 5 CFR 213.3301(a):**  
**Organization ID:** 100 **Org. Name:** Office of the Director  
**Supervisor No:** 202-435-5147 **Supv. Title:** Director, Consumer Financial Protection Bureau  
**Supervisor Name:** J. Michael Mulvaney **Supv. Position Type:** Presidential Appointee  
**GEO Location:** Washington DC

#### Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee:

Signature: 

Date Signed: 4-16-18

#### Agency White House Liaison

Name:

Phone: 202-435-7597

Signature:

Date Signed:

#### OPM USE ONLY

☒ Approved

☐ Disapproved

☐ Returned without Action

OPM Approving Official: 

Date Signed: 5/8/18

Email to: Senior Executive Resource Services at [SERS@OPM.GOV](mailto:SERS@OPM.GOV)

Source: Office of Personnel Management

Report 1019, Version November 2008

## Request for Schedule C Appointing Authority

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**Agency Name:** Bureau of Consumer Financial Protection **Date:** 05/17/18  
**POC:** Kerri Dunham **Phone:** 202-435-7597 **Email:**  
**Request No.:** **Request Type:** Appointment **Position:** REG Schedule C  
**Candidate:** Paul Watkins **Grade/Step:** CN-81 **Salary:** \$219,042  
**Position No.:** CPOT1801 **Title:** Assistant Director Office of Innovation  
**Series:** 301 **Desc:** Misc. Administration Series  
**Date PD certified as Schedule C per 5 CFR 213.3301(a):**  
**Organization ID:** 100 **Org. Name:** Office of the Director  
**Supervisor No:** 202-435-5153 **Supv. Title:** Principal Policy Director  
**Supervisor Name:** Brian Johnson **Supv. Position Type:** Reg Schedule C  
**GEO Location:** Washington DC

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### Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee:

Signature: 

Date Signed: 5-22-18

### Agency White House Liaison

Name: 

Phone: 202-435-7597

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

### OPM USE ONLY

☒ Approved

☐ Disapproved

☐ Returned without Action

OPM Approving Official: 

Date Signed: 6/22/18

Email to: Senior Executive Resource Services at [SERS@OPM.GOV](mailto:SERS@OPM.GOV)

Source: Office of Personnel Management

Report 1019, Version November 2008

**Q.47.f.** In a recent letter, the CFPB told me that the agency currently employs eight political appointees, excluding you and several political detailees from other agencies.

**A.47.f.** As of October 23, 2018, the Bureau employs or has employed 12 Schedule C political appointees and 7 detailees on political appointments from other agencies (including the Acting Director). Three of the 12 Schedule C political appointees held a detail position at the Bureau prior to their Schedule C appointment (noted in the table below).

Table A below provides the names, types of appointment, and position titles for each appointee.

Table A—List of Bureau Schedule C Political Appointees and Detailees as of October 23, 2018

Employee	Appointment Type	Position and Office
Eric Blankenstein	Schedule C*	Policy Associate Director, Supervision, Enforcement, and Fair Lending
Ann Conant	Schedule C	Executive Assistant, Office of the Director (separated 8/24/2018)
John Czwartacki	Schedule C*	Chief Communications Officer, Office of the Director
Evan Gillissie	Schedule C	Executive Assistant, Office of the Director
Sheila Greenwood	Schedule C*	Policy Associate Director, Consumer Education and Engagement
Brian Johnson	Schedule C	Principal Policy Director, Office of the Director
Hallee Morgan	Schedule C	Attorney Advisor, Office of the Director
Thomas Pahl	Schedule C	Policy Associate Director, Research, Markets, and Regulations
Kirsten Sutton	Schedule C	Chief of Staff
Anthony Welcher	Schedule C	Policy Associate Director, External Affairs
Althea Kireilis	Schedule C	Associate Director of Office of Equal Opportunity & Fairness
Paul Watkins	Schedule C	Assistant Director, Office of Innovation
Reilly Dolan	Detailee – FTC	Special Advisor to the Director (detail ended 2/23/18)
Emma Doyle	Detailee – OMB	Special Advisor to the Director (detail ended 8/17/2018)
James Galkowski	Detailee – OMB	Special Assistant to the Director
Mick Mulvaney	Detailee – OMB	Acting Director
Jonathan Slemrod	Detailee – OMB	Special Assistant to the Director (detail ended 10/3/2018)
Mark Paoletta	Detailee – OMB	Special Assistant to the Director
Michael Williams	Detailee – OMB	Special Assistant to the Director

\*indicates detailee prior to Schedule C appointment

**Q.47.g.** Are there plans to hire more political appointees?

**A.47.g.** Yes.

**Q.47.h.** Please provide the position descriptions and salary bands for the all political appointees and most senior career staffer they supervise, where applicable, including for political positions that have not yet been filled.

**A.47.h.** Table B—Political appointees as of October 23, 2018:



Employee	Type of Appointment	Position, Pay Band and Position Description (PD)
Eric Blankenstein	Schedule C	Policy Associate Director, Supervision, Enforcement, and Fair Lending CN-905-90 PD 18006
Ann Conant	Schedule C	Executive Assistant, Office of the Director CN-303-43 PD 180140 (separated 8/24/2018)
John Czwartacki	Schedule C	Chief Communications Officer, Office of the Director CN-1035-82 PD 18010
Evan Gillissie	Schedule C	Executive Assistant, Office of the Director CN-303-41 PD 180230
Sheila Greenwood	Schedule C	Policy Associate Director, Consumer Education and Engagement CN-301-90 PD 18008
Brian Johnson	Schedule C	Principal Policy Director, Office of the Director CN-301-90 PD 18012
Althea Kireilis	Schedule C	Associate Director, Office of Equal Opportunity and Fairness CN-301-90 PD 18016
Hallee Morgan	Schedule C	Attorney Advisor, Office of the Director CN-905-60 PD 180190
Kirsten Sutton	Schedule C	Chief of Staff CN-301-90 PD 180180
Thomas Pahl	Schedule C	Policy Associate Director, Research, Markets, and Regulations CN-301-90 PD 18011
Paul Watkins	Schedule C	Assistant Director, Office of Innovation CN-301-81 PD 18019
Anthony Welcher	Schedule C	Policy Associate Director, External Affairs CN-301-90 PD 180150

Table C—Career staff supervised by political appointees as of October 23, 2018: Career

Career Employee	Title and Pay Band	PD Number	Supervised by
Christopher D' Angelo	Associate Director Supervision, Enforcement, and Fair Lending CN-301-90	122650	Eric Blankenstein
Gail Hillebrand	Associate Director Consumer Education and Engagement CN-301-90	111430	Sheila Greenwood
Wendy Kamenshine	Ombudsman CN-301-71	114030	Brian Johnson
Melissa Brand	Assistant Director, Office of Civil Rights CN-905-81 (temporary promotion)	151370	Althea Kireilis
Daphne Felten-Green	Deputy Assistant Director, Office of Minority and Women Inclusion CN-905-71	141360	Althea Kireilis
Cassandra McConnell - Tatum	Senior Advisor to the Director of the Office of Equal Opportunity and Fairness CN-301-71	180070	Althea Kireilis
Nykea Bolton	Disability Compliance Program Manager CN-301-60	180020	Althea Kireilis
Daisy Patterson	Executive Assistant, Office of Equal Opportunity and Fairness CN-303-42	151570	Althea Kireilis
Katherine Fulton	Deputy Chief Of Staff CN-905-82	180410	Kirsten Sutton
Mary McLeod	General Counsel CN-905-90	110570	Kirsten Sutton
David Silberman	Associate Director, Research, Markets & Regulations CN-301-90	110560	Thomas Pahl
Zixta Martinez	Associate Director, External Affairs CN-301-90	121930	Anthony Welcher

The remaining Schedule C Political appointees do not have supervisory responsibilities.

Attached are the following position descriptions:

1. Principal Policy Director
2. Chief of Staff
3. Policy Associate Director (Supervision, Enforcement, and Fair Lending)
4. Policy Associate Director (Consumer Education and Engagement)
5. Policy Associate Director (Research, Markets, and Regulations)
6. Policy Associate Director (External Affairs)
7. Chief Communications Officer
8. Attorney-Advisor
9. Executive Assistant
10. Executive Assistant
11. Associate Director, Supervision, Enforcement and Fair Lending
12. Associate Director, Consumer Education and Engagement
13. Associate Director, Research, Markets, and Regulations
14. Associate Director, External Affairs
15. Associate Director, Legal Division (General Counsel)
16. Associate Director, Office of Equal Opportunity and Fairness
17. Assistant Director, Office of Innovation
18. Ombudsman
19. Assistant Director, Office of Civil Rights
20. Disability Compliance Program Manager

**Official Title, Series, Pay Band:** Principal Policy Director, CN-301-90  
**PD#** CPOT18012

**Organizational Location:**  
 Consumer Financial Protection Bureau (CFPB)

**Introduction:**

This position is located in the Office of the Director in the Consumer Financial Protection Bureau (CFPB). This position is policy determining and reports to the Director. The incumbent acts for the Director and Deputy Director in executing on policy priorities, resolving major program issues, and in the integration of the various programs in their area. The incumbent is the Director's and Deputy Director's primary advisor on policy issues on a wide variety of issues that impact the CFPB mission including enforcement and supervision of consumer finance laws and regulations. The incumbent is the principal advisor on policy, and makes decisions on many of the issues which are brought to the Director and Deputy Director for resolution.

CFPB was established in July 2010 as part of the Dodd-Frank financial reform legislation. CFPB absorbs mission tasking currently assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. CFPB is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, money services, and related consumer financial products.

**Major Duties and Responsibilities:**

The incumbent serves as a key member of the Director's executive team and advises the Director on all aspects of CFPB policy. The incumbent:

Serves as a primary advisor on all policy matters that cut across CFPB Divisions and Offices. Leads the development of policies, determination of priorities and establishment of agency goals and objectives. Participates in discussions on policy and program developments, conducts complex legal analysis of policy and program goals and objectives for the Director to identify and formulate specific policy and program options. Interprets, analyzes and explains technical and complex materials including laws, regulations, policies, standards or studies of specific issues.

Develops and reviews the Director's strategies, policies and goals, works through subordinate Executives and with key staff to ensure that supporting policies and programs are effectively implemented and attain established priorities.

Discusses CFPB policies and explores needed changes to policy in high-level situations involving members of Congress, Executives of other Federal agencies, state and local officials, private sector officials and members of various public interest groups. Provides advice to the Director on legislative and regulatory issues that are of interest to and affect CFPB.

Works as a senior advisor to the Director, representing him or her at meetings, conferences, and within the policy and regulatory community; assists in the preparation of Congressional testimony and other high profile communications; and performs other special assignments of a critical, urgent and confidential nature.

**Official Title, Series, Pay Band:** Chief of Staff and Special Assistant to the Director  
CN-301-90  
**PD#** 180180

**Organizational Location:**  
Consumer Financial Protection Bureau (CFPB)

**INTRODUCTION:**

This position is located in the Director's Office in the Consumer Financial Protection Bureau (CFPB). This position is policy determining and reports to the Director. The incumbent acts for the Director and Deputy Director in executing on policy priorities, resolving major program issues, and in the integration of various programs across the Bureau. The incumbent is the Director's and Deputy Director's principal advisor on cross-Bureau program areas and initiatives, and makes decisions on many of the program issues which are brought to the Director and Deputy Director for resolution. In carrying out these responsibilities, the incumbent works in close coordination with the Policy Associate Directors and their staffs.

CFPB was established in July 2010 as part of the Dodd-Frank financial reform legislation. CFPB absorbed mission tasking formerly assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. CFPB is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, and related consumer financial products.

**DUTIES AND RESPONSIBILITIES:**

The incumbent serves as a member of the Director's executive team and advises the Director on programs, practices, and operations across the Bureau. The incumbent:

Serves as a primary advisor to and representative of the Director. Participates in discussions on policy and program developments, conducts complex analysis of policy and program goals and objectives for the Director to identify and formulate specific policy and program options. Interprets, analyzes and explains technical and complex materials including laws, regulations, policies, standards or studies of specific issues. Furnishes the Director with recommendations for action, including fully documented alternatives and conclusions.

Develops and reviews the Director's strategies, policies and goals, works with Policy Associate Directors and with key staff to ensure that supporting policies and programs are effectively implemented and attain established priorities.

Discusses CFPB policies and explores needed changes to policy in high-level situations involving members of Congress, Executives of other Federal agencies, state and local

officials, private sector officials and members of various public interest groups. Provides advice to the Director on legislative and regulatory issues that are of interest to and affect CFPB.

Works as a senior advisor to the Director, representing him or her at meetings, conferences, and within the policy and regulatory community; assists in the preparation of Congressional testimony and other high profile communications.

Conducts and evaluates a wide range of critical, urgent, and confidential studies and reports for the Director designed to assist in the interpretation of a wide array of information. Advises the Director on the implementation of legislation, and obtains full and accurate facts and expert opinions on legal issues of interest to the Director. Furnishes the Director with advice and recommendations for action, utilizing and analyzing informed interpretations.

Manages a subordinate workforce directly or through subordinate supervisors. Establishes strategic, multi-year plans for the accomplishment of assigned responsibilities. Ensures work is accomplished in accordance with established and emerging policy and practice. Leads, motivates, and develops employees, establishing performance objectives, initiates performance based actions and awards, and ensures all mandatory training has been accomplished by assigned staff.

Implements a team vision, with goals, and objectives that are communicated to staff and aligned to CFPB strategic objectives.

Sets organizational tone and direction. Creates and models an environment that fosters and sustains diversity, knowledge sharing, and consensus building.

Demonstrates compliance and support of established equal employment opportunity, special emphasis, and diversity policies, regulations, and programs.

Performs other duties as assigned.

**Official Title, Series, Pay Band:** Policy Associate Director (Supervision, Enforcement and Fair Lending) CN-905-90  
**PD#** CPOT 18006

**Organizational Location:**  
 Consumer Financial Protection Bureau (CFPB)

**Introduction:**

This position is located in the Supervision, Enforcement and Fair Lending Division in the Consumer Financial Protection Bureau (CFPB). This position is policy determining and reports to the Director. The incumbent acts for the Director in executing on policy priorities, resolving major program issues, and in the integration of the various programs in their area. The incumbent is the Director's primary legal advisor within the Division on enforcement and supervision of consumer finance laws and regulations. The incumbent is the principal advisor on program areas within the Division, and makes decisions on many of the program issues which are brought to the Director and Deputy Director for resolution.

CFPB was established in July 2010 as part of the Dodd-Frank financial reform legislation. CFPB absorbs mission tasking previously assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. CFPB is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, money services, and related consumer financial products.

**Major Duties and Responsibilities:**

The incumbent serves as a member of the Director's executive team and advises the Director on all aspects of programs, practices, and operations for the Supervision, Enforcement and Fair Lending Division. The incumbent:

Serves as a primary legal advisor within the Division on supervision and enforcement of consumer finance laws and regulations to the Director. Leads and manages all aspects of the management of the Supervision, Enforcement and Fair Lending Division including the development of policies, determination of priorities and establishment of agency goals and objectives. Participates in discussions on policy and program developments, and conducts complex legal analysis of policy and program goals and objectives for the Director to identify and formulate specific policy and program options. Interprets, analyzes and explains technical and complex materials including laws, regulations, policies, standards or studies of specific issues related to supervision and enforcement of consumer finance laws and regulations on behalf of the Division.

Develops and reviews the Director's strategies, policies and goals, and works through subordinate Executives and with key staff to ensure that supporting policies and programs are effectively implemented and attain established priorities.

Discusses CFPB policies and explores needed changes to policy in high-level situations involving members of Congress, Executives of other Federal agencies, state and local officials, private sector officials and members of various public interest groups. Provides advice to the Director on legislative and regulatory issues that are of interest to and affect CFPB.

Works as a senior advisor to the Director, representing him or her at meetings, conferences, and within the policy and regulatory community; assists in the preparation of Congressional testimony and other high profile communications; and performs other special assignments of a critical, urgent and confidential nature.

Performs other duties as assigned.



**Official Title, Series, Pay Band:** Policy Associate Director (Consumer Education and Engagement) CN-301-90  
**PD#** CPOT18008

**Organizational Location:**  
 Consumer Financial Protection Bureau (CFPB)

**Introduction:**

This position is located in the Consumer Education and Engagement Division in the Consumer Financial Protection Bureau (CFPB). This position is policy determining and reports to the Director. The incumbent acts for the Director and Deputy Director in executing on policy priorities, resolving major program issues, and in the integration of the various programs in their area. The incumbent is the Director's and Deputy Director's principal advisor on program areas, and makes decisions on many of the program issues which are brought to the Director and Deputy Director for resolution.

CFPB was established in July 2010 as part of the Dodd-Frank financial reform legislation. CFPB absorbs mission tasking currently assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. CFPB is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, money services, and related consumer financial products.

**Major Duties and Responsibilities:**

The incumbent serves as a member of the Director's executive team and advises the Director on all aspects of programs, practices, and operations for the Consumer Education and Engagement (CEE) division. The incumbent:

Serves as a primary advisor to and representative of the Director. Leads and manages all aspects of the management of the CEE Division including the development of policies, determination of priorities and establishment of agency goals and objectives. Participates in discussions on policy and program developments, conducts complex analysis of policy and program goals and objectives for the Director to identify and formulate specific policy and program options. Interprets, analyzes and explains technical and complex materials including laws, regulations, policies, standards or studies of specific issues.

Develops and reviews the Director's strategies, policies and goals, works through subordinate Executives and with key staff to ensure that supporting policies and programs are effectively implemented and attain established priorities.

Discusses CFPB policies and explores needed changes to policy in high-level situations involving members of Congress, Executives of other Federal agencies, state and local officials, private sector officials and members of various public interest groups. Provides advice to the Director on legislative and regulatory issues that are of interest to and affect CFPB.

Works as a senior advisor to the Director, representing him or her at meetings, conferences, and within the policy and regulatory community; assists in the preparation of Congressional testimony and other high profile communications; and performs other special assignments of a critical, urgent and confidential nature.

**Official Title, Series, Pay Band:** Policy Associate Director (Research, Markets & Regulations),  
CN-301-90  
**PD#** CPOT18011

**Organizational Location:**  
Consumer Financial Protection Bureau (CFPB)

**Introduction:**

This position is located in the Research, Markets & Regulations Division in the Consumer Financial Protection Bureau (CFPB). This position is policy determining and reports to the Director. The incumbent acts for the Director and Deputy Director in executing on policy priorities, resolving major program issues, and in the integration of the various programs in their area. The incumbent is the Director's and Deputy Director's principal advisor on program areas, and makes decisions on many of the program issues which are brought to the Director and Deputy Director for resolution.

CFPB was established in July 2010 as part of the Dodd-Frank financial reform legislation. CFPB absorbs mission tasking currently assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. CFPB is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, money services, and related consumer financial products.

**Major Duties and Responsibilities:**

The incumbent serves as a member of the Director's executive team and advises the Director on all aspects of programs, practices, and operations for the Research, Markets & Regulations Division. The incumbent:

Serves as a primary advisor to and representative of the Director. Leads and manages all aspects of the management of the Research, Markets & Regulation Division including the development of policies, determination of priorities and establishment of agency goals and objectives. Participates in discussions on policy and program developments, conducts complex analysis of policy and program goals and objectives for the Director to identify and formulate specific policy and program options. Interprets, analyzes and explains technical and complex materials including laws, regulations, policies, standards or studies of specific issues.

Develops and reviews the Director's strategies, policies and goals, works through subordinate Executives and with key staff to ensure that supporting policies and programs are effectively implemented and attain established priorities.

Discusses CFPB policies and explores needed changes to policy in high-level situations involving members of Congress, Executives of other Federal agencies, state and local officials, private sector officials and members of various public interest groups. Provides advice to the Director on legislative and regulatory issues that are of interest to and affect CFPB.

Works as a senior advisor to the Director, representing him or her at meetings, conferences, and within the policy and regulatory community; assists in the preparation of Congressional testimony and other high profile communications; and performs other special assignments of a critical, urgent and confidential nature.

**Official Title, Series, Pay Band:** Policy Associate Director (External Affairs) CN-301-90  
**PD# 180150**

**Organizational Location:**  
 Consumer Financial Protection Bureau (CFPB)

**Introduction:**

This position is located in the External Affairs Division in the Consumer Financial Protection Bureau (CFPB). This position is policy determining and reports to the Director. The incumbent acts for the Director and Deputy Director in executing on policy priorities, resolving major program issues, and in the integration of the various programs in their area. The incumbent is the Director's and Deputy Director's principal advisor on program areas, and makes decisions on many of the program issues which are brought to the Director and Deputy Director for resolution.

CFPB was established in July 2010 as part of the Dodd-Frank financial reform legislation. CFPB absorbs mission tasking currently assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. CFPB is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, money services, and related consumer financial products.

**Major Duties and Responsibilities:**

The incumbent serves as a member of the Director's executive team and advises the Director on all aspects of programs, practices, and operations for the External Affairs division. The incumbent:

Serves as a primary advisor to and representative of the Director. Leads and manages all aspects of the management of the External Affairs Division including the development of policies, determination of priorities and establishment of agency goals and objectives. Participates in discussions on policy and program developments, conducts complex analysis of policy and program goals and objectives for the Director to identify and formulate specific policy and program options. Interprets, analyzes and explains technical and complex materials including laws, regulations, policies, standards or studies of specific issues.

Develops and reviews the Director's strategies, policies and goals, works through subordinate Executives and with key staff to ensure that supporting policies and programs are effectively implemented and attain established priorities.

Discusses CFPB policies and explores needed changes to policy in high-level situations involving members of Congress, Executives of other Federal agencies, state and local officials, private sector officials and members of various public interest groups. Provides advice to the Director on legislative and regulatory issues that are of interest to and affect CFPB.

Works as a senior advisor to the Director, representing him or her at meetings, conferences, and within the policy and regulatory community; assists in the preparation of Congressional testimony and other high profile communications; and performs other special assignments of a critical, urgent and confidential nature.

**Official Title, Series, Pay Band:** Chief Communications Officer CN-1025-82  
**PD#** CPOT18010

**Organizational Location:**  
 Consumer Financial Protection Bureau (CFPB)  
 Office of the Director

**Introduction:**

This position is located in the Office of Director in the Consumer Financial Protection Bureau (CFPB). This position is policy determining and reports to the Director. The person in this role is tasked with advising on the creation of communications policies and implementing the Director's policies and directives that impact the internal and external official communications on behalf of the Director.

CFPB was established in July 2010 as part of the Dodd-Frank financial reform legislation. CFPB absorbs mission tasking currently assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. CFPB is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, money services, and related consumer financial products.

**Major Duties and Responsibilities:**

1. Works as a senior advisor to the Director, representing him or her at meetings, conferences, and within the policy and regulatory community; and performs special assignments of a critical, urgent and confidential nature.
2. Formulates and develops needed policies, procedures and guidelines which conforms to the Director's strategy for conducting external media relations functions effectively and efficiently.
3. Works with the Director, Deputy Director, and Policy Associate Director of External Affairs to plan, establish, implement, evaluate and manage short- and long-range official external communications objectives and strategies.
4. Serves as primary CFPB Spokesperson to Congress, the news media and the general public in formulating, preparing and delivering information related to CFPB mission and operations.
5. Performs special projects related to communications' strategies for the Director that require initiative, tact, and resourcefulness; these may relate to programs or issues of current or potential significance to the CFPB and require the personal consideration or decision of the Director. In carrying out assignments, the incumbent directs the collection and development

of interpretive and factual data from a wide variety of sources; analyzes and evaluates the information obtained and compiles final reports that serve as the basis for action by the Director.

6. Plays a significant role in the preparation of Congressional testimony and briefings of senior leadership, and serves as a primary contact for Congressional committees.
7. Provides public affairs advice and guidance to the Director, Deputy Director, Policy Associate Director and other senior level leaders as needed.
8. Manages relationships with major stakeholders within and/or outside of government, and builds coalitions where appropriate to achieve goals. Sets and executes policy and strategy to most effectively achieve Bureau's communication goals.
9. Follows all Federal and Bureau requirements regarding Records Management, Privacy, FOIA, Transparency, Ethics, and Procurement. Attends and participates in all mandatory training or bureau events.
10. Performs other duties as assigned.

#### **SUPERVISION AND GUIDANCE:**

Incumbent reports to the Director of Consumer Financial Protection Bureau, and works under general administrative supervision with wide latitude for establishing programs, defining program requirements, identifying infrastructure needs, and defining funding and staff requirements.

#### **SCOPE & ACCOUNTABILITY**

Incumbent is responsible for developing policy and advising on strategy and strategy definition to ensure successful implementation of the Bureau's goals and objectives.

#### **IMPACT & RISK**

Incumbent is a member of the Executive team, in collaboration with peers, is regularly engaged and accountable for Bureau-wide decision-making and goal setting covering key strategies, operational plans and priorities.



**Official Title/Series/Pay Band:** Attorney-Adviser (General), CN-905-60  
**CFPB PD#:** 180190

**Organizational Location:**  
 Consumer Financial Protection Bureau  
 Office of the Director

### **Introduction**

This position is located in the Consumer Financial Protection Bureau, Office of the Director. The CFPB's mission is to help consumer financial markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. CFPB is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, money services, and related consumer financial products. The incumbent serves as an expert Attorney –Adviser and provides legal advice and guidance to the Senior Advisor to the Director and other members of the Director's executive team.

### **Major Duties and Responsibilities**

1. Provides professional legal expertise to the Senior Advisor to the Director on strategic policy issues having highly complex legal implications to CFPB. Exercises independent judgment with wide latitude to provide substantive guidance on policy, strategy, legal, and management decisions in the short- and medium-term. This advisory role involves more than rendering opinions for legal sufficiency but also includes making recommendations of alternative courses of action to accomplish the Bureau's mission and goals.
2. Advises on questions and concerns raised by the Senior Advisor to the Director regarding policy, strategy, legal, and management decisions. Establishes and maintains collaborative working relationships with Policy Associate and Associate Directors to help troubleshoot policy, strategy, legal, and management problems as they arise and before they reach the Director.
3. Analyzes and seeks to resolve competing points of view on legal issues while considering the long term legal interests of the Bureau. Provides legal advice that is supported by rigorous, well-reasoned legal analysis, in which salient legal issues and legal authorities are identified and considered. Decisions made may form the basis for Bureau policy, justification for a course of action, or development of preventive measures to avoid serious ramifications.
4. Develops written work products and provides legal advice that must be sensitive to wide public interest which may have political implications and which addresses the needs and requests of clients, effectively represents the Bureau's interests, and exemplifies high quality legal writing that is understandable by clients, and correctly cites legal authorities.

5. Provides leadership on a broad portfolio of policy initiatives providing legal expertise and support to several cross-Bureau working groups evaluating policy solutions and Bureau priorities.
6. Provides professional research on legal and policy issues of interest to the Director and performs additional legal research and policy coordination support to particular teams as requested by the Director.
7. Follows all Federal and Bureau requirements regarding Records Management, Privacy, FOIA, Transparency, Ethics, and Procurement. Attends and participates in all mandatory training or Bureau events.
8. Performs other duties as assigned.

**FLSA Determination:** This position is Exempt under FLSA based on Professional exemption criteria.

This position may require a security clearance.

**Official Title/Series/Pay Band:** Executive Assistant to the Chief of Staff CN-303-41

**CFPB PD#: 180230**

**Organizational Title:** Executive Assistant

**Organizational Location:**

Consumer Financial Protection Bureau

Office of the Director

**Introduction:**

This position is located in the Office of the Director in the Consumer Financial Protection Bureau (CFPB). This position provides administrative support to the Chief of Staff and other senior level leaders in the Office of the Director and is responsible for working with other administrative support professionals on all administrative processes and requirements for the Front Office. The incumbent has a close and confidential working relationship with the Chief of Staff.

CFPB was established in July 2010 as part of the Dodd-Frank financial reform legislation. CFPB absorbs mission tasking currently assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. CFPB is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, money services, and related consumer financial products.

**Major Duties and Responsibilities:**

1. As a confidential personal assistant to the Chief of Staff, manages, expedites and/or personally performs all administrative work associated with the day-to-day management of the immediate office. Coordinates all administrative workflow between the Office of the Director and other offices within the agency. Relieves the Chief of Staff of administrative details by diverting matters that can be handled personally or referred to subordinates. Creates weekly reports of activities, accomplishments and outstanding commitments or actions.

2. Performs a wide range of administrative and programmatic activities in support of senior level staff in the Office of the Director. Based on knowledge of the office functions and policies provides accurate and timely advice on procedures, reports, requirements, and other matters necessary to implement the office policies, directives, and instructions. Facilitates the performance of the work of the office by relaying information and requests to officials within and outside the organization.
3. Manages calendars, makes meeting and travel commitments for the Chief of Staff, and other senior staff members as requested. Uses electronic calendar software to control staffs' calendars and determines priorities based on an understanding of the Chief of Staff's priorities and commitments. Arranges meetings, including space, time, and staff. Locates, compiles and assembles background material for agenda items. Informs participants of topics to be discussed. Attends meetings in order to note topics discussed, assignments issued or accepted by the Chief of Staff, and commitments made on behalf of the Chief of Staff.
4. Receives and screens visitors and telephone calls. Exercises tact and diplomacy in dealing with persons from all organizational levels and maintains the upmost discretion in handling confidential or sensitive information.
5. Manages the Chief of Staff's public email accounts screening all emails for action by the Chief of Staff and/or forwarding messages to appropriate staff members. Personally prepares non-technical email.
6. In support of senior level staff, plans and organizes meetings, conferences, and workshops. Prepares agenda items; notifies participants; arranges luncheons and other social activities; develops background information; arranges for meeting space, speakers, clerical support, and a myriad of related logistical details that are vital to the accomplishment of conference objectives. Attends and records the minutes at meetings, summarizes points and issues discussed, distributes the minutes, and follows up on commitments.
7. Makes necessary domestic and foreign travel arrangements for senior level staff, including preparation of travel orders, making transportation and hotel reservations, obtaining necessary security clearances, notifying people and organizations.
8. Performs a wide variety of clerical and administrative support tasks for senior level staff. Organizes and maintains the office filing system, procures supplies, and equipment, and performs other tasks necessary to meet office support needs.
9. Utilizes a wide variety of desktop software such as spreadsheet, database, word processing, project management, desktop publishing, and graphics applications, to produce a variety of material such as case files, conference papers, plans, procedures, correspondence, action documents and other documents in suitable format for transmittal

to other government agencies, private industry, public interest groups, the media, and academia.

10. Follows all Federal and Bureau requirements regarding Records Management, Privacy, FOIA, Transparency, Ethics, and Procurement. Attends and participates in all mandatory training or bureau events.

11. Performs other duties as assigned.

**FLSA Determination:** This position is nonexempt.

**Bargaining Unit Determination:** 8888 (may not be covered under the bargaining unit)

**Position Designation:** Moderate Risk

**This position may require a security clearance.**

**Factor 1, Knowledge, Skill and Ability, Level 1-5, 300 pts.**

Knowledge of administrative regulations, operating procedures and practices related to administrative functions in order to support administrative activities associated with the day-to-day management of the office.

Knowledge of the duties, priorities, commitments, program goals, and objectives of the office to contribute to the efficient operations of administrative programs, coordinate the clerical workload, and act as a liaison, as necessary.

Familiarity with administrative regulations, practices, and procedures relating to personnel, payroll, procurement and property, travel and records management to support office processes and activities in these functional areas.

Knowledge of a wide variety of desk top software including project management and tracking systems, spreadsheet, database, word processing, desktop publishing, and graphics applications and the potential application of new computer technologies. Familiarity with automated administrative systems specifically records management, reporting and database searches and software programs that support the design and preparation of reports and other written products. Ability to provide guidance and instruction to other staff members in their use.

Knowledge of bureau procedures and special policies in preparing and distributing reports and correspondence.

Knowledge of procedures necessary to prepare, edit, review, and distribute communications requiring thorough knowledge of grammar, spelling, punctuation, and required formats.

Effective skill in both oral and written communication to carry out various assignments such as preparing reports and correspondence, reviewing documents for sufficiency, coordinating work efforts with other offices, etc.

Skill in diplomacy, tact, and discretion

**Factor 2, Supervision, Level 2-3, 110pts.**

The supervisor makes assignments by defining objectives, priorities, and deadlines and assists the employee with unusual situations that do not have clear precedents. The employee plans and carries out the successive steps and handles problems and deviations in the work assignment in accordance with instructions, policies, previous training, or accepted practices in the occupation.

Completed work is usually evaluated for technical soundness, appropriateness, and conformity to policy and requirements. The methods used in arriving at the end results are not usually reviewed in detail.

**Factor 3, Guides and Judgment, Level 3-3, 110 pts.**

Guidelines consist of dictionaries, style manuals, and a wide variety of agency instructions, standing policies, instructions, and the incumbent's experience in the position to know what needs to be done and how to do it. The incumbent interprets and adapts these guidelines to the specific situations as they arise. Analyzes results, recognizes the need for changes and recommends and promulgates such changes when approved.

**Factor 4, Difficulty and Originality, Level 4-3, 60 pts.**

The work consists of various duties involving different and unrelated processes and methods specifically to support the efficient and effective operation of the Office of External Affairs.

The decision regarding what needs to be done in the execution of administrative support tasks depends upon the analysis of the subject, phase, or issues involved in each assignment, and the chosen course of action may have to be selected from many alternatives. The work involves conditions and elements that must be identified and analyzed to discern interrelationships.

**Factor 5, Scope and Effect, Level 5-3, 60 pts.**

The purpose of the position is to manage, coordinate, and support the operational programs and administrative needs of the Office of External Affairs. Work involves performing a variety of support functions to track projects, design and prepare recurring and specialized reports, analyze and recommend improved internal workflow and operations, and provide routine support services such as maintaining calendars, managing travel arrangements, serving as the timekeeper and preparing briefing materials. The work product or service affects the efficient operation and adequacy of business systems and processes within the work unit.

**Factor 6, Contacts, Level 6-2, 50 pts.**

Personal contacts are with other CFPB staff, members of the general public, and representatives of external public and private sector organizations. People contacted are engaged in different functions, missions, and kinds of work.

Contacts are made to plan, coordinate, or advise on work efforts or to resolve operating problems. To do so, the employee must influence or motivate individuals or groups who are working toward mutual goals and are basically cooperative.

**Total Points: 690**

**Conversion:** 665-755, CN-41

**Confidential Employee**—An employee is confidential, as defined in section 7103(a)(13) of the Statute when (1) there is evidence of a confidential working relationship between an employee and the employee's supervisor; and (2) the supervisor is significantly involved in labor-management relations. An employee is not confidential in the absence of either of these requirements. (Department of Labor, 37 FLRA No. 112 (1990)). Thus, employees who attend regular management meetings, where labor-management relations matters are discussed, are ineligible for bargaining unit representation.

**Bargaining Unit Determination:** 8888 (may not be covered under the bargaining unit)



**Official Title/Series/Pay Band:** Executive Assistant to the Director CN-303-43

**CFPB PD#:** 180140

**Organizational Title:** Special Assistant to the Director

**Organizational Location:**

Consumer Financial Protection Bureau

Office of the Director

**Introduction:**

This position is located in the Office of Director in the Consumer Financial Protection Bureau (CFPB). This position is the Special Assistant to the Director and has a close and confidential working relationship with the Director. The incumbent is responsible for managing all administrative processes and requirements for the Office of the Director's Front Office.

CFPB was established in July 2010 as part of the Dodd-Frank financial reform legislation. CFPB absorbs mission tasking currently assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. CFPB is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, money services, and related consumer financial products.

**Major Duties and Responsibilities:**

1. As a confidential personal assistant to the Director, manages, expedites and/or personally performs all administrative work associated with the day-to-day management of the immediate office. Coordinates all administrative workflow between the Office of the Director and other offices within the agency. Relieves the Director of administrative details by diverting matters that can be handled personally or referred to subordinates. Manages the tasking process for the Office of the Director. Creates weekly reports of activities, accomplishments and outstanding commitments or actions.
2. Personally or in coordination with others, arranges for the development of briefing materials, talking points and executive summaries. Based on knowledge of the Director's priorities and

interests, assesses available information, determines adequacy, and gathers pertinent background information. Conducts independent research to collect, compile, analyze and present information or works with staff members to develop such materials that meet standards for clarity and conciseness.

3. Monitors all office administrative functions and transactions; tracks status of projects, program operations, and responses to correspondence and other requests. Advises the Director of any potential shortfalls; and recommends solutions to deal with office and administrative concerns.
4. Manages calendars, makes meeting and travel commitments for the Director, and other staff members based on an understanding of programs and priorities. Uses electronic calendar software to control staffs' calendars and determines priorities based on an understanding of the Director's priorities and commitments. Arranges meetings, including space, time, and staff. Locates, compiles and assembles background material for agenda items. Informs participants of topics to be discussed. Attends meetings in order to note topics discussed, assignments issued or accepted by the Director, and commitments made on behalf of the Director. Manages and oversees arrangements for agency sponsored public and social events.
5. Receives and screens all visitors and telephone calls for the Director. Contacts include a wide range of individuals such as Congressional members and committee staffs, high level representatives of other Federal agencies, State organizations, financial service industry representatives and the public at large. Exercises tact and diplomacy in dealing with persons from all organizational levels and maintains the upmost discretion in handling confidential or sensitive information.
6. Manages the Director's public email accounts screening all emails for action by the Director and/or forwarding messages to appropriate staff members. Personally prepares non-technical email responses and/or monitors responses prepared by others on behalf of the Director.
7. Receives, reviews, and establishes priorities for all incoming correspondence and ensures that deadlines are met. Reviews all outgoing correspondence for accuracy in conformance with Bureau policies and procedures and clarity, consistency, completeness, and compliance to organizational policy. Discusses unsatisfactory correspondence directly with the originator and arranges for rewriting. As necessary, returns correspondence for correction. Establishes a sophisticated correspondence tracking system to ensure that deadlines are met and follows up to ensure that actions are completed. Recognizes and determines the need for setting up and maintaining files and associated records covering the activities of the office in accordance with Bureau policy and procedures as required to meet the individual needs of the staff and to facilitate expeditious handling of the work of the office. Contacts top-level officials to develop information and assemble data not readily available for use by the Director in replying to correspondence.

8. Makes necessary domestic and foreign travel arrangements, including preparation of travel orders, making transportation and hotel reservations, obtaining necessary security clearances, notifying people and organizations.
9. Oversees and manages the day- to-day administrative and clerical activities within the office. Provides guidance and direction on administrative and clerical procedures. Assesses the quality of work performed by other support staff within the office, and assures that it meets required standards.
10. Utilizes a wide variety of desktop software such as spreadsheet, database, word processing, project management, desktop publishing, and graphics applications, to produce a variety of material such as case files, conference papers, plans, procedures, correspondence, action documents and other documents in suitable format for transmittal to other government agencies, private industry, public interest groups, the media, and academia.
11. Follows all Federal and Bureau requirements regarding Records Management, Privacy, FOIA, Transparency, Ethics, and Procurement. Attends and participates in all mandatory training or bureau events.
12. Performs other duties as assigned.

**FLSA Determination:** This position is nonexempt.

**Bargaining Unit Determination:** 8888 (may not be covered under the bargaining unit)

**Position Designation:** Moderate Risk

**This position may require a security clearance.**

Knowledge of management concepts, policies, principles, administrative regulations, operating procedures and skill in applying fact finding techniques (e.g. review of regulations, work procedures, records, files, and reports, and employee/supervisor interviews) to gather appropriate data to review and improve administrative procedures and recommend new guidance and policies, as well as to insure compliance with current rules, regulations and procedures. (140 points)

Extensive knowledge of supervisor's policies, views, and special interests sufficient to perform assignments such as preparing read-ahead papers and other materials needed prior to important scheduled events. (110 points)

Ability to establish and maintain effective relationships with and gain the cooperation of employees at all levels of the organization, as well as with outside stakeholders, to best represent the organization. (180 points)

Ability to advise other administrative personnel in the office of appropriate procedures. (260 points) (180 points)

Skill in written and oral communications required to prepare detailed read-ahead papers and to brief the Director and Executive Officer on appropriate topics. (60 points)

930 points CN-43 = 860 – 1015 points

**Official Title, Series and Pay Band:** Associate Director, Supervision, Enforcement, and Fair Lending, CN-0301-90

**CFPB PD #:** 122650

**Organizational Location:**  
Consumer Financial Protection Bureau  
Supervision, Enforcement, and Fair Lending

**Introduction:**

This position serves as the Associate Director, Supervision, Enforcement and Fair Lending and reports to the Director, Consumer Financial Protection Board (CFPB). The Associate Director establishes and leads highly complex supervision, examination and fair lending programs that enable a proactive and decisive response to consumer issues and level the playing field across markets.

**Major Duties and Responsibilities:**

Under the direction of the Associate Director, the Supervision, Enforcement and Fair Lending Division is responsible for conducting examinations of large bank and non-depository financial services companies to assess compliance with the requirements of Federal consumer financial law; obtain information about the activities and compliance systems or procedures of these entities; and detect and assess risks to consumers and to markets for consumer financial products and services.

The Division is also responsible for enforcing federal consumer financial laws, and ensuring fair, equitable, and nondiscriminatory access to credit.

Program duties include:

1. Providing key strategic leadership over the Offices of Fair Lending, Supervision Examination, Supervision Policy, and Enforcement.
2. Ensuring the oversight and enforcement of consumer financial regulation and fair lending laws intended to ensure fair, equitable and nondiscriminatory access to credit for both individuals and communities.
3. Providing leadership and direction to the establishment of supervision, examination and monitoring of depository institutions over \$10 billion in assets and their affiliates
4. Providing leadership and direction to the establishment of a risk-based supervision program for non-depository financial services companies, ensuring the same level of oversight as applied to depository institutions that pose similar risks to consumers.
5. Establishing organizational direction, performance metrics and accountability measures to assure organizational success.

6. Developing networks and broad alliances, collaborating across both internal and external boundaries, stakeholders and positions to build strategic relationships; prioritize supervision, examination, enforcement and fair lending activities; and achieve overall goals.

**Managerial and Supervisory Duties:**

1. Implementing a team vision, with goals and objectives that are communicated to staff and aligned to CFPB strategic objectives.
2. Setting organizational tone and direction. Creating and modeling an environment that fosters and sustains diversity, knowledge sharing, and consensus building.
3. Aligning all needed policies, procedures, and guidelines for conducting assigned programs to ensure effective decision-making and efficient research operations.
4. Ensuring that programs are planned and managed in alignment with established and emerging CFPB strategic objectives.
5. Translating program objectives into organizational structures, budgets, and staffing requirements for current and out years. Defending resource requirements to CFPB staff advisors, identifying and providing metrics for measuring the effectiveness of program execution.
6. Supervising a substantial subordinate workforce through multiple subordinate supervisors. Planning work assignments through subordinate supervisors on a strategic, multi-year basis. Ensuring work is evenly distributed and accomplished in accordance with established and emerging policy and practice. Leading, motivating, and developing employees, establishing performance objectives, initiating performance based actions and awards, and ensuring all mandatory training has been accomplished by assigned staff. Working closely with the human resources staff to develop human resources plans for establishing optimal organizations, recruitment strategies (particularly for positions identified as mission-critical occupations), career-ladders, development programs, and performance plans.
7. Demonstrating compliance and support of established equal employment opportunity, special emphasis, and diversity policies, regulations, and programs.
8. Modeling the highest levels of integrity, stewardship of appropriated and non-appropriated funds, and ethical behavior.
9. Recruiting, leading, motivating and developing staff, and articulating performance and accountability expectations resulting in timely feedback to staff members and evaluation of staff performance.

10. Embracing and actively promoting a broad commitment to equal employment opportunity, diversity and inclusion.
11. Following all Federal and Bureau requirements regarding Records Management, Privacy, FOIA, Transparency, Ethics, and Procurement. Attending and participating in all mandatory training or bureau events.
12. Performing other duties as assigned.

**Supervision and Guidance Received:**

Incumbent reports administratively to the Director, CFPB. Works under general administrative supervision with wide latitude for establishing programs, defining program requirements, identifying infrastructure needs, and defining funding and staff requirements.

**FLSA Determination:** This position is Exempt under FLSA based on Executive exemption criteria.

This position may require a security clearance.

**Official Title, Series and Pay Band:** Associate Director, Consumer Education and Engagement  
CN-301-90

**Organizational Title:** Associate Director, Consumer Education and Engagement  
**CFPB PD #:** 111430

**Organizational Location:**  
Consumer Financial Protection Bureau  
Office of the Consumer Education and Engagement

#### **INTRODUCTION:**

This position serves as the Associate Director, Consumer Education and Engagement, and reports to the Director, Consumer Financial Protection Bureau. The Office of Consumer Education and Enforcement is responsible for creating a robust and consumer-focused organization dedicated to the education, engagement and empowerment of all American citizens, with particular emphasis on more vulnerable populations such as Servicemembers, Older Americans, and Students.

CFPB was established in July 2010 as part of the Dodd-Frank financial reform legislation. CFPB absorbed mission tasks formerly assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. CFPB is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, and related consumer financial products.

#### **DUTIES AND RESPONSIBILITIES**

Work requires establishment of highly innovative and visible programs aligned to a unique CFPB program vision and focused on the needs of the American consumer and, in particular, those in vulnerable populations. The Associate Director will also lead an effort to establish highly accessible portals and methodologies to obtain information from and share information with the American public. The areas of responsibility for this position include developing, implementing, and managing programs, systems, and resources that provide the necessary resources for conducting the office's mission. Duties include:

- Providing key strategic leadership over the Offices of Financial Education, Community Affairs, Consumer Engagement, Servicemember Affairs, Financial Education, Older Americans, and Students.
- Establishing organizational direction, performance metrics, and accountability measures to assure organizational success.
- Developing and implementing strategies to improve the financial literacy of consumers that include measurable goals and objectives.



- Providing leadership and direction to the establishment of a highly interactive, highly visible consumer engagement presence focused on ensuring meaningful, ongoing interactions with and feedback to the American consumer.
- Developing and implementing initiatives for service members and their families intended to empower them to make better informed decisions regarding consumer financial products and services.
- Developing and implementing strategies designed to facilitate the financial literacy of older Americans against unfair, deceptive and abusive practices.
- Establishing strategies and practices to assure timely assistance to borrowers of private education loans.
- Developing networks and broad alliances, collaborating across both internal and external boundaries, stakeholders, and positions to build strategic relationships and achieve overall goals.

Managerial and supervisory responsibilities include:

- Implementing a team vision, with goals and objectives that are communicated to staff and aligned to CFPB strategic objectives.
- Setting organizational tone and direction. Creating and modeling an environment that fosters and sustains diversity, knowledge sharing and consensus building.
- Aligning all needed policies, procedures, and guidelines for conducting assigned programs to ensure effective decision making and efficient operations.
- Translating program objectives into organizational structures, budgets, and staffing requirements for current and out years. Defends resource requirements to CFPB leadership and staff, identifying and providing metrics for measuring the effectiveness of program execution.
- Through a subordinate management structure, providing leadership to a substantial employee staff. Plans work assignments through the CEE leadership team on a strategic, multi-year basis. Ensures work is appropriately and effectively distributed and accomplished in accordance with established and emerging policy and practice. Leads, motivates, and develops employees, establishing performance objectives, initiates performance based actions and awards, and ensures all mandatory training has been accomplished by assigned staff. Works closely with the human resources staff to develop human resources plans for establishing optimal organizations, recruitment strategies (particularly for positions identified as mission-critical occupations), career-ladders, development programs, and performance plans
- Modeling the highest levels of integrity, stewardship of appropriated and non-appropriated funds, and ethical behavior
- Recruiting, leading, motivating and developing staff, and articulating performance and accountability expectations resulting in timely feedback to staff members and evaluation of staff performance.
- Embracing and actively promoting a broad commitment to equal employment opportunity, diversity and inclusion.

- Following all Federal and Bureau requirements regarding Records Management, Privacy, FOIA, Transparency, Ethics, and Procurement. Attends and participates in all mandatory training or bureau events.

**SUPERVISION AND GUIDANCE:**

Incumbent reports to the Director, CFPB and works under general administrative supervision with wide latitude for establishing programs, defining program requirements, identifying infrastructure needs, and defining funding and staff requirements.

**Official Title, Series and Pay Band:** Associate Director, Research Markets and Regulations CN-301-90

**Organizational Title:** Associate Director, Research Markets and Regulations  
**CFPB PD #:** 110560

**Organizational Location:**  
 Consumer Financial Protection Bureau  
 Research Markets and Regulations

#### **INTRODUCTION:**

This position serves as the Associate Director, Research, Markets and Rules, and reports to the Director, Consumer Financial Protection Board (CFPB). The Office of Research, Market and Rules is responsible for articulating a fact-based perspective on current and potential future consumer finance market dynamics; developing a view on the CFPB's regulatory priorities in each market; sharing and refining that market-based perspective with the Division of Supervision and Enforcement and the Division of Education and Engagement; and translating those market perspective into concrete actions -- from encouraging voluntary changes to undertaking formal rule-making.

CFPB was established in July 2010 as part of the Dodd-Frank financial reform legislation. CFPB absorbed mission tasking formerly assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. CFPB is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, and related consumer financial products.

#### **DUTIES AND RESPONSIBILITIES:**

Work requires establishment of highly complex research programs aligned to a unique CFPB program vision while concurrently ensuring the seamless integration of existing regulatory guidance, and disparate organizational cultures. The areas of responsibility for this position include developing, implementing, and managing systems that provide the necessary resources for conducting the office's mission. Program duties include:

- Creating a level of integration between research, business analysis, and rule-making that, in large measure, does not exist at existing agencies;
- Recruiting world-class leaders for each of the Market functions, the Research function, and the Rule-Making function;
- Shaping priorities for near-term research programs, and lay the groundwork for potential longer-term rule-making;

- Recruiting and developing leadership in the Research, Markets, and Rule-Writing teams;
- Working with Director to create cross-market analytical perspective to prioritize research & analysis activities;
- Allocating direct-controlled and indirect resources across Research & Markets priorities;
- Setting expectations for frequency and content of analytical end products, and methods of communication;
- Bringing a markets-based perspective to the CFPB senior executive leadership team.

Managerial and supervisory duties include:

- Implementing a team vision, with goals and objectives that are communicated to staff and aligned to CFPB strategic objectives.
- Setting organizational tone and direction. Creates and models an environment that fosters and sustains diversity, knowledge sharing, and consensus building.
- Aligning all needed policies, procedures, and guidelines for conducting assigned programs to ensure effective decision-making and efficient research operations.
- Ensuring that programs are planned and managed in alignment with established and emerging CFPB strategic objectives.
- Translating program objectives into organizational structures, budgets, and staffing requirements for current and out years. Defends resource requirements to CFPB staff advisors, identifying and providing metrics for measuring the effectiveness of program execution.
- Supervising a substantial subordinate workforce through multiple subordinate supervisors. Plans work assignments through subordinate supervisors on a strategic, multi-year basis. Ensures work is evenly distributed and accomplished in accordance with established and emerging policy and practice. Leads, motivates, and develops employees, establishing performance objectives, initiates performance based actions and awards, and ensures all mandatory training has been accomplished by assigned staff. Works closely with the human resources staff to develop human resources plans for establishing optimal organizations, recruitment strategies (particularly for positions identified as mission-critical occupations), career-ladders, development programs, and performance plans.
- Demonstrating compliance and support of established equal employment opportunity, special emphasis, and diversity policies, regulations, and programs.

**SUPERVISION AND GUIDANCE:**

Incumbent reports to the Director, CFPB, and works under general administrative supervision with wide latitude for establishing programs, defining program requirements, identifying infrastructure needs, and defining funding and staff requirements.

**Official Title, Series and Pay Band:** Associate Director, External Affairs CN-301-90

**Organizational Title:** Associate Director, External Affairs

**CFPB PD #:** 121930

**Organizational Location:**

Consumer Financial Protection Bureau

External Affairs

This position serves as the Associate Director, External Affairs, and reports to the Director, Consumer Financial Protection Bureau (CFPB). The Office of External Affairs is responsible for coordination of all external communication, with a focus on raising awareness of consumer issues through activities, messages, and interactions through and with the media; communities and community-focused organizations; financial service industries; and legislative and intergovernmental stakeholders. Oversees the operation of the Consumer Advisory Board, which advises and consults with Bureau leaders in the exercise of CFPB functions, consumer laws, and provides information on emerging practices in the consumer financial products or services industry; and manages other advisory boards as necessary.

CFPB was established in July 2010 as part of the Dodd-Frank financial reform legislation. CFPB absorbed mission tasking formerly assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. CFPB is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, money services, and related consumer financial products.

**Major Duties and Responsibilities:**

- Oversees the development and review of all external agency communications, including the agency's annual and performance reports, speeches, testimony, press and news releases, and reports to Congress.
- Manages and directs CFPB communications and outreach programs in order to establish and maintain constructive external relationships.
- Acts as an agency spokesperson and leading agency expert on the agency's mission, activities, policies, and generally on all matters and federal programs relating to consumer protection. Ensures the development and implementation of a consistent, coherent program of bureau communication that clearly delineates bureau positions and effectively communicates those positions to all outside parties and internally to agency staff.
- Contributes to and shares responsibility for the development and implementation of all key strategic objectives, priorities, and policies. Participate fully in developing and coordinating the bureau's policy positions on legislative and regulatory matters, and on issues involving coordination with other federal or state regulatory bodies.

- Advises the Director and other bureau executives on areas of public interest and recommends policy positions and associated communication and outreach strategies.
- Monitors and reports on legislative activity of interest to the agency. Directs the development of legislative options in furtherance of the agency's goals and mission, and oversees a proactive congressional affairs program consistent with the bureau's mission, responsibilities, and policies.
- Ensures coordination with other divisions within CFPB to ensure policy recommendations support and inform CFPB's mission in the area of media relations. Coordinates closely with technology staff to ensure appropriate development and management of technology to support CFPB's media relations program.
- Approves courses of action and resolves problems and concerns of major significance. Ensures CFPB External Affairs operations and activities are in compliance with federal policies and guidelines.
- Manages relationships with major stakeholders within and/or outside of government, such as banks, non-bank consumer finance industry, credit unions, community banks, small businesses, community and civil rights groups. Builds coalitions where appropriate to achieve goals. Sets and executes negotiations strategy to most effectively achieve Bureau's goals.

**Managerial and Supervisory Duties:**

- Develops and implements a comprehensive strategic vision, with goals and objectives that are communicated to staff and aligned to CFPB strategic objectives.
- Sets organizational tone and direction. Creates and models an environment that fosters and sustains diversity, knowledge sharing, and consensus building.
- Aligns all needed policies, procedures, and guidance for conducting the program to ensure effective decision-making and efficient operations. Work requires review and integration of multiple current programs managed by independent Federal agencies and integration of new legislation into daily operations.
- Ensures that emerging programs are planned and managed consistently with short-term operational objectives supporting transition while remaining aligned with emerging CFPB strategic research objectives.
- Translates program objectives into organizational structures, budgets, and staffing requirements for current and out years. Defends resource requirements to CFPB staff advisors, identifying and providing metrics for measuring the effectiveness of program execution.

- Through a subordinate management structure, provides leadership to a substantial employee staff. Establishes strategic, multi-year plans for the accomplishment of assigned responsibilities. Ensures work is appropriately and effectively accomplished in accordance with established and emerging policy and practice. Leads, motivates, and develops employees, establishing performance objectives, initiates performance based actions and awards, and ensures all mandatory training has been accomplished by assigned staff. Works closely with the human resources staff to develop human resources plans for establishing optimal organizations, recruitment strategies (particularly for positions identified as mission-critical occupations), career-ladders, development programs, and performance plans.
- Develops networks and broad alliances, collaborates across both internal and external boundaries, stakeholders, and positions to build strategic relationships and achieve overall goals.
- Models the highest levels of integrity, stewardship of appropriated and non-appropriated funds, and ethical behavior.
- Embraces and actively promotes a broad commitment to equal employment opportunity, diversity and inclusion.

Follows all Federal and Bureau requirements regarding Records Management, Privacy, FOIA, Transparency, Ethics, and Procurement. Attends and participates in all mandatory training or bureau events.

Performs other duties as assigned.

**Supervision and Guidance Received:**

Incumbent reports administratively to the Director, CFPB, and works under general administrative supervision with wide latitude for establishing programs, defining program requirements, identifying infrastructure needs, and defining funding and staff requirements.



**Title, Series, Pay Band:** Supervisory Attorney-Advisor (Associate Director Legal Division), CN-0905-90  
**CFPB PD#** 110570  
**Organizational Title:** Chief General Counsel  
**Organizational Location:**  
 Consumer Financial Protection Bureau  
 Legal Division

**Introduction:**

This position is that of General Counsel and Associate Director of the Legal Division for the Consumer Financial Protection Bureau (CFPB). Incumbent serves as CFPB's principal legal advisor and supervises a subordinate staff. The Legal Division is responsible for providing the Director and senior officials with legal advice and policy recommendations including, without limitation, in connection with the CFPB's exercise of its authorities under the Consumer Financial Protection Act of 2010 and the enumerated consumer laws, such as in rulemaking, enforcement, supervisory, and consumer engagement activities, and in connection with the CFPB's compliance with statutory and regulatory requirements, agency operations, government ethics and oversight obligations; handling and overseeing all civil litigation defense; and serving as primary appellate counsel for CFPB.

**DUTIES AND RESPONSIBILITIES:**

Work requires establishment and management of highly complex legal programs aligned to CFPB mission including, without limitation, emerging policy, processes, and regulatory interpretations of consumer financial protection programs and CFPB operational programs. The areas of responsibility for this position include developing, implementing, and managing systems to conduct the Division's mission effectively and efficiently. Program duties include:

- Serving as principal legal advisor to the Director and other senior officials;
- Serving as a key member of the CFPB's governance structure and committees;
- Recruiting and developing leadership in defined areas;
- Setting goals and priorities for the Legal Division;

Managerial and supervisory duties include:

- Implementing a vision for the Legal Division, with goals and objectives that are communicated to staff and aligned to CFPB strategic objectives.

- Setting organizational tone and direction. Create and model an environment that fosters and sustains diversity, inclusion, professional development, knowledge sharing, and consensus building.
- Aligning all needed policies, procedures, and guidelines for conducting assigned programs to ensure effective decision-making and efficient operations.
- Ensuring that programs are planned and managed in alignment with established and emerging CFPB strategic objectives.
- Translating program objectives into organizational structures, budgets, and staffing requirements for current and out years. Identifies resource requirements and develops metrics for measuring the effectiveness of program execution.
- Supervising a subordinate workforce. Plans work assignments on a strategic, multi-year basis. Ensures work is evenly distributed and accomplished in accordance with established and emerging policy and practice. Leads, motivates, and develops employees, establishing performance objectives, initiates performance based actions and awards, and ensures all mandatory training has been accomplished by assigned staff. Works closely with the human resources staff to develop human resources plans for establishing optimal organizations, recruitment strategies (particularly for positions identified as mission-critical occupations), career-ladders, development programs, and performance plans.
- Demonstrating compliance and support of established equal employment opportunity, special emphasis, and diversity policies, regulations, and programs.

#### **SUPERVISION AND GUIDANCE:**

Incumbent reports to the Director, CFPB, and works under general administrative supervision with wide latitude for establishing programs, defining program requirements, identifying infrastructure needs, and defining funding and staff requirements.

**Official Title, Series, Pay Band:** Associate Director, Office of Equal Opportunity and Fairness, CN-301-90

**PD#** 18016

**Organizational Location:**  
Bureau Consumer Financial Protection (BCFP)

**Introduction:**

This position is located in the Office of Equal Opportunity and Fairness in the Bureau Consumer Financial Protection (BCFP). This office is part of the Office of the Director and the incumbent reports to the Director. This position is policy determining and reports to the Director. The incumbent acts for the Director and Deputy Director in executing on policy priorities, resolving major program issues, and in the integration of the various programs in their area. The incumbent operationally oversees the Office of Civil Rights; Office of Minorities and Women Inclusion; and Office of Fair Lending, and ensures coordination among the Offices in executing programs.

BCFP was established in July 2010 as part of the Dodd-Frank financial reform legislation. BCFP absorbs mission tasking previously assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. BCFP is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, money services, and related consumer financial products.

**Major Duties and Responsibilities:**

The incumbent serves as a member of the Director's executive team and advises the Director on all aspects of operations and coordination of programs for the Office of Equal Opportunity and Fairness (OEOF). The incumbent:

Serves as a primary advisor to and representative of the Director. Leads and manages all aspects of the management of OEOF including the development of policies, determination of priorities and establishment of agency goals and objectives. Participates in discussions on policy and program developments, conducts complex analysis of policy and program goals and objectives for the Director to identify and formulate specific policy and program options. Interprets, analyzes and explains technical and complex materials including laws, regulations, policies, standards or studies of specific issues.

Oversees the preparation and submission of reports required by the Dodd-Frank financial reform legislation with respect to OEOF issues.

Develops and reviews the Director's strategies, policies and goals, works through subordinate Executives and with key staff to ensure that supporting policies and programs are effectively implemented and attain established priorities.

In accordance with law and regulations, including those of the Equal Employment Opportunity Commission (EEOC), oversees the development of guidelines and metrics for equal employment opportunity and the racial, ethnic, and gender diversity of CFPB's workforce, including senior management.

In accordance with law and regulations, oversees the development and implementation of metrics to monitor and assess the progress and effectiveness of standards and procedures, including analyses of the impact of program changes for minority owned and women owned businesses. Assessments include proposals for new standards and procedures, as well as for new approaches for monitoring, managing, or evaluating critical programs.

Oversees an outreach, coordination, advocacy, and education plan for Fair Lending; establishes policies and protocols for effective outreach to the American people, other regulators, and private industry, fair lending, civil rights, and consumer and community advocates. Assures that any delegated responsibilities of Section 1013(c) of the Dodd-Frank legislation are fully met.

Works as a senior advisor to the Director, representing him or her at meetings, conferences, and within the policy and regulatory community; assists in the preparation of Congressional testimony and other high profile communications; and performs other special assignments of a critical, urgent and confidential nature.

Follows all Federal and Bureau requirements regarding Records Management, Privacy, FOIA, Transparency, Ethics, and Procurement. Attends and participates in all mandatory training or Bureau events.

Performs other duties as assigned.

#### **SUPERVISION AND GUIDANCE:**

Incumbent reports to the Director of Consumer Financial Protection Bureau, and works under general administrative supervision with wide latitude for establishing programs, defining program requirements, identifying infrastructure needs, and defining funding and staff requirements. In this capacity, the incumbent evaluates, and/or directs the evaluation of, Bureau processes and procedures.

#### **SCOPE & ACCOUNTABILITY**

Incumbent is responsible for evaluating or directing the evaluation of Bureau-wide programs particularly relating to procurement, budget and data. This work is necessary to ensure successful implementation of the Bureau's goals and objectives.

#### **IMPACT & RISK**

Incumbent is a member of the Executive team, in collaboration with peers, is regularly engaged and accountable for Bureau-wide decision-making and goal setting covering key strategies, operational plans and priorities.

**FLSA:** The position is designated as Exempt based on the Executive exemption criteria.

**Official Title, Series, Pay Band:** Assistant Director, Office of Innovation, CN-301-81

**PD#** CPOT18019

**Organizational Location:**

Bureau of Consumer Financial Protection (BCFP)  
Office of the Director  
Office of Innovation

**Introduction:**

This position is located in the Office of Innovation in the Bureau of Consumer Financial Protection (BCFP). This office is part of the Office of the Director and the incumbent reports to the Principal Policy Director, BCFP. The incumbent oversees the mission and operations of Office of Innovation providing executive direction to all matters relating to the Bureau's effort to encourage innovations in today's financial services markets. The incumbent defines the role of the Office of Innovation program and has latitude for establishing programs and contacts, and defining program requirements.

BCFP was established in July 2010 as part of the Dodd-Frank financial reform legislation. BCFP absorbs mission tasking currently assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. BCFP is delegated authority to write and enforce standards on such consumer financial products as mortgages, credit cards, payday loans, money services, and related consumer financial products.

**Major Duties and Responsibilities:**

Provides executive direction in the development and implementation of the Office of Innovation's mission to promote innovation and competition in the financial services market. Serves as the Bureau spokesperson for the Office of Innovation program.

Provides executive direction for the outreach about the Office of Innovation's program to targeted audiences in order to publicize the program, and solicits candidates for catalyst programs. Directs the development of the program's charter, conducts business needs assessment, manages staff members, and prepares, justifies, and administers the Office of Innovation's budget.

Directs the setup of a regulatory sandbox for financial services companies to propose new tools/products for the Bureau to review and give guidance concerning existing regulations. Establishes extensive interface with stakeholders in financial services companies including hosting annual innovation events.

In an executive capacity, engages with outside experts to obtain state-of-the-art thinking in business processes, innovation and information technology to build on and strengthen Bureau's policy, operational and outreach efforts. Brings business experts in-house to work alongside Bureau staff with the goal of more fully realizing the potential of current federal consumer financial laws. Seeks to optimize the range of existing legislation and rules to provide greater clarity, consistency, and alignment with business realities.

Seeks expert views from the public and private sectors to help ensure Bureau's policies and processes fully realize the Dodd-Frank Act's mandates.

Has delegated authority to represent the Director in meetings and conferences involving high level officials from other Federal agencies, business and industry executives, members of Congress, and high level representatives of private sector groups on issues within the Office's responsibility.

Promotes Bureau's agenda across the consumer financial services industry. Meets regularly with outside groups and members of the public, representing the Bureau and its plans and actions with regard to the full range of Bureau programs. Establishes and maintains strong working relationships with senior staff of key business units throughout the Bureau. Develops, executes, and maintains a viable, ongoing engagement strategy for both internal and external stakeholders, including domestic and international regulatory bodies. Manages relationships and keeps stakeholders and leadership accurately and regularly informed regarding status of projects.

Presents interim and final briefings to the Director and other senior management on the program's results, and makes recommendations for program improvements. Evaluates and documents project outcomes and results. Develops performance metrics to determine the current state and overall success of projects and programs, and make recommendations on the continuation of programs. Conducts project post mortems and creates a recommendations report in order to identify successful and unsuccessful project elements and engage in continuous improvement.

Follows all Federal and Bureau requirements regarding Records Management, Privacy, FOIA, Transparency, Ethics, and Procurement. Attends and participates in all mandatory training or bureau events.

Performs other duties as assigned.

**Supervision and Guidance:**

The incumbent will report to the Principal Policy Director, who provides general administrative direction with wide latitude for establishing programs, defining program requirements, identifying infrastructure needs, and defining funding and staff requirements. Performance is evaluated in terms of effectiveness in the attainment of objectives.

**FLSA:** The position is designated as Exempt based on the Executive exemption criteria.

**POSITION DESCRIPTION**  
**OMBUDSMAN, CN-0301-71**

SETID	CFPB1	JOB CODE	114030	DATE	12/01/2017	OPM CERT #			
PAY PLAN	CN	SERIES	0301	GRADE	71	PAY BASIS	Per Annum	FUNC CLASS	NA
WORK TITLE	Ombudsman								
SPVY LEVEL	Supv/Mgr	POSITION SENSITIVITY	Mod Risk	LEO POSITION	N/A	MEDICAL CHECK REQ	No	BUS CODE	8888
FLSA	Exempt	PATCOB	Admin	EXECUTIVE DISCLOSURE	No	EMPL IN INTEREST	No	FUND SOURCE	Approp Fnd
CYBER SEC CODE	000000000	DESCR							
CLASSIFIER									
CLASS STANDARD									
DATE CLASSIFIED	02/17/2012								
<p><b>MAJOR DUTIES</b>  Official Title, Series and Pay Band: Ombudsman, CN-301-71</p> <p>Organizational Location:  Consumer Financial Protection Bureau  Office of the Director</p> <p>This position serves as the Ombudsman for the Consumer Financial Protection Bureau (CFPB). The Ombudsman reports to the Director. The incumbent leads the Ombudsman's Office, which serves as the liaison between CFPB and any affected person regarding problems resulting from CFPB's regulatory activities. The Ombudsman ensures that there are safeguards to preserve confidentiality to ensure that individuals are encouraged to seek the Ombudsman's assistance.</p> <p>Major Duties and Responsibilities:</p> <ol style="list-style-type: none"> <li>1. Manages CFPB's Ombudsman Office, which serves as liaison between CFPB and consumers, financial product providers, or financial service providers regarding issues of interest regarding problems these groups encounter resulting from CFPB's regulatory activities. Develops, implements and applies conflict resolution and problem-solving skills to address individual and systemic issues. Conducts independent and impartial investigations into these matters. Issues subpoenas for testimony and evidence with respect to investigating allegations.</li> <li>2. Establishes and maintains the necessary office systems, structures and safeguards in accordance with Federal laws and regulations to ensure confidential access to the Ombudsman's Office.</li> <li>3. Develops strategies to carry out the Ombudsman's responsibilities in the most efficient and effective manner. Establishes policies and procedures for the execution of the Ombudsman function that ensure that the ombudsman tenets of independence, impartiality, and confidentiality are upheld, and demonstrate confidence and trust, both within CFPB and with the public. Ensures that Ombudsman Office staff upholds the ombudsman tenets in advocating for a fair process to address individual and systemic issues.</li> <li>4. Oversees the analysis of data and other information for patterns or trends resulting from the regulatory activities of CFPB. Oversees the preparation of recurring reports to inform the CFPB and the public about activities of the Ombudsman's Office, trends, and recommendations for systemic change. Provides periodic reports to CFPB's leadership, serving as an early warning system, highlighting systemic issues, and suggesting recommendations for systemic change in the CFPB's regulatory activities.</li> <li>5. Communicates to CFPB staff, and business and public stakeholders, through briefings, speaking engagements, and other creative forums to promote the role of the Ombudsman's Office and gain understanding of new industry developments.</li> </ol>									



**OMBUDSMAN, CN-0301-71**

6. Provides administrative direction and supervision to the Ombudsman's Office staff. Ensures work is accomplished in accordance with established and emerging policy and practice. Leads, motivates, and develops employees, establishing performance objectives, initiates performance based actions and awards, and ensures all mandatory training has been accomplished by assigned staff.

7. Follows all Federal and Bureau requirements regarding Records Management, Privacy, FOIA, Transparency, Ethics, and Procurement. Attends and participates in all mandatory training or bureau events.

8. Performs other duties as assigned.

**Pay and Performance Descriptors Applicable to Band CN-71**

**Functional Knowledge:** Recognized as guru or external expert in assigned program area(s). Requires broad and comprehensive expertise in leading-edge theories, techniques and or technologies within own field.

**Program Expertise:** Influences agency policy guidance and establishes program infrastructure. Represents CFPB on highly complex program or external liaison issues that have an impact on the agency.

**Leadership:** Leads highly visible multidisciplinary interagency, inter-government, or equivalent teams on highly complex projects or initiatives; provides thought leadership.

**Problem Solving:** Proactively identifies and solves the most complex problems; uses ground-breaking methods to think beyond existing solutions.

**Impact:** Impacts direction of CFPB program initiatives through the development of innovative services or products.

**Interpersonal Skills:** Negotiates with senior management, customers, regulators or vendors to influence decisions.

**FLSA:** This position is Exempt from FLSA based on the Executive exemption criteria.

**JOB COMPETENCIES** (The full range of competencies for the occupational series is provided for information and development purposes; not every competency displayed is required at the individual position level.)

**EVALUATION STATEMENT**

**POSITION DESCRIPTION****SUPERVISORY ATTORNEY ADVISOR, CN-0905-81**

SETID	CFPB1	JOB CODE	151370	DATE	12/01/2017	OPM CERT #			
PAY PLAN	CN	SERIES	0905	GRADE	81	PAY BASIS	Per Annum	FUNC CLASS	NA
WORK TITLE	Assistant Director, Office of Civil Rights								
SPVY LEVEL	Supv/Mgr	POSITION SENSITIVITY	Mod Risk	LEO POSITION		MEDICAL CHECK REQ	No	BUS CODE	8888
FLSA	Exempt	PATCOB	Professnl	EXECUTIVE DISCLOSURE	No	EMPL IN INTEREST	No	FUND SOURCE	Approp Fnd
CYBER SEC CODE	000000000	DESCR							
CLASSIFIER									
CLASS STANDARD									
DATE CLASSIFIED	08/06/2015								

**MAJOR DUTIES**

Official Title, Series, Pay Band: Supervisory Attorney-Advisor, CN-905-81  
Organizational Title: Assistant Director, Office of Civil Rights  
CFPB PD #: 151370  
Organizational Location:  
Consumer Financial Protection Bureau (CFPB)  
Office of the Director  
Office of Equal Opportunity & Fairness

**INTRODUCTION**

This position is located in the Office of Equal Opportunity & Fairness, Office of Civil Rights. Incumbent directs the Bureau's Equal Employment Opportunity (EEO) program and develops, implements, and manages comprehensive, broad-scope CFPB EEO policies, programs and services. The incumbent also serves as the principal technical advisor to the Director and to Bureau leadership on EEO and Civil Rights issues and policies.

CFPB was established in July 2010 as part of the Dodd-Frank financial reform legislation. CFPB absorbed consumer protection mission tasks formerly assigned to multiple financial regulatory agencies including the Federal Reserve, the Federal Trade Commission, the Federal Deposit Insurance Corporation and the Department of Housing and Urban Development. CFPB is the delegated authority to write and enforce standards on consumer financial products such as mortgages, credit cards, payday loans, money services, and other related consumer financial products.

**MAJOR DUTIES AND RESPONSIBILITIES:**

1. Provides direction and leadership over the Bureau's Equal Employment Opportunity Program assuring that policies and services fully comply with the letter and intent of law, regulations and directives. Serves as the authoritative expert for CFPB EEO, and spearheads agency-wide EEO programs and initiatives.
2. Serves as the key advisor to CFPB personnel on a broad range of EEO and civil rights compliance matters. Provides legal advice to Bureau management in recommending changes to policies, practices and programs to eliminate barriers to equal employment opportunity and ensure civil rights compliance. Develops strategies to accomplish goals and objectives. Provides direction, leads efforts and defines strategies, procedures and policies for EEO compliance reviews of CFPB offices, to include assessment of management policies, practices, and or procedures; analysis of statistical data relating to workplace concerns and or EEO complaints; preparing reports; and monitoring progress. Advises CFPB leadership with respect to EEO plans, policies, procedures, and reports; and provides data and analysis on EEO and workplace demographic issues, regulations, and policies, as needed.
3. Leads the management of the EEO complaint activity; manages and oversees various complaint

## SUPERVISORY ATTORNEY ADVISOR, CN-0905-81

processes and procedures, including but not limited to, pre-complaint counseling, investigation of formal complaints, the Bureau's alternative dispute resolution program (available for EEO complaints, administrative grievances, and workplace disputes issues). Conducts or supervises legal sufficiency reviews of reports of investigation, applying legal expertise to determine whether reports meet all statutory and regulatory requirements. Drafts or reviews proposed agency decisions as a recognized legal expert in the field of equal employment opportunity and civil rights, analyzing the records, including transcription of testimony and pleadings, and evaluating facts. Prepares correspondence and forms used in connection with each step of the administrative complaint process; coordinates the participation of required parties and witnesses for each step of the administrative process, as applicable; and ensures Bureau compliance with EEOC's required timeframes for each step of the administrative complaint process. Prepares and submits required annual reports (EEOC's Form 462 and the No FEAR Act) and any other report on EEO complaint activity, as required by the Bureau, Congress or other appropriate governmental entity. Provides data and reporting in response to, and in anticipation of, congressional inquiries and other requests.

4. Assures compliance with civil rights laws concerning applicants for financial assistance and federal conducted programs under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act concerning accessibility for members of the public, the Age Discrimination Act, and related Executive Orders and regulations. Provides proactive assistance to all divisions to ensure all CFPB programs, policies, practices, and procedures incorporate EEO and civil rights laws requirements and best practices.

5. Assures the availability and the delivery of equal employment opportunity counseling and investigation services, and other mandated or appropriate mechanisms, to address and resolve organizational and employee concerns.

6. Develops reports, delivers presentations, responds to Congressional and media inquiries, and prepares and presents briefings to senior agency management on complex controversial equal opportunity problems and issues.

7. In accordance with law and regulations, including those of the Equal Employment Opportunity Commission (EEOC) develops guidelines and metrics for equal employment opportunity and the racial, ethnic, and gender diversity of CFPB's workforce, including senior management. In conjunction with the Office of Minority and Women Inclusion, analyzes workforce data and conducts barrier analyses to assess the CFPB's compliance with all applicable EEO laws; if barriers to EEO exist at the Bureau, identifies, recommends, and or implements programs and or procedures to eliminate such barriers, including, but not limited to, development of additional programs to support the operation of the overall EEO program. As necessary, reassesses, redevelops, and redeploys programs, based on emerging workplace EEO matters at the Bureau as well as on complex analysis of current EEO case law and regulatory requirements.

8. Designs, develops and delivers training on EEO, conflict management, dispute resolution, and other applicable topics to diverse audiences. Collaborates closely with key stakeholders in OHC, LD, and other offices to source, acquire, and deliver off-the-shelf EEO-related training and materials, as needed. Responsible for the delivery of legally-required No FEAR Act training to Bureau employees.

9. On a frequent basis, conducts research on workplace and EEO trends in private and public work environments, in an effort to develop best practices and inform CFPB policy, practice and procedure. Keeps abreast of developments in EEO law, regulations, and requirements in both public and private environments.

10. Participates in Bureau or Federal workgroups, conferences, and meetings related to EEO issues as an agency representative for the CFPB. Identifies best practices of comparable federal agencies or employers and recommends operational improvements for the CFPB.

Managerial and supervisory duties include:

∫ Implementing a team vision, with goals, and objectives that are communicated to staff and aligned to CFPB strategic objectives.

∫ Setting organizational tone and direction. Creating and modeling an environment that fosters and sustains diversity, knowledge sharing, and consensus building.

**SUPERVISORY ATTORNEY ADVISOR, CN-0905-81**

- ¿ Aligning all needed policies, procedures, and guidelines for conducting the program to ensure effective decision-making and efficient operations.
- ¿ Ensuring that programs are planned and managed in alignment with established and emerging CFPB strategic objectives.
- ¿ Translating program objectives into organizational structures, budgets, and staffing requirements for current and out years. Defending resource requirements to CFPB staff advisors, identifying and providing metrics for measuring the effectiveness of program execution.
- ¿ Managing a substantial subordinate workforce through multiple subordinate supervisors. Establishing strategic, multi-year plans for the accomplishment of assigned responsibilities. Ensuring work is accomplished in accordance with established and emerging policy and practice. Leading, motivating, and developing employees, establishing performance objectives, initiating performance based actions and awards, and ensuring all mandatory training has been accomplished by assigned staff.
- ¿ Demonstrating compliance and support of established equal employment opportunity, special emphasis, and diversity policies, regulations, and programs.

**SUPERVISION AND GUIDANCE:**

The incumbent reports directly to the CFPB Director on EEO matters. Incumbent reports to the Assistant Director for the Office of Equal Opportunity and Fairness on all administrative matters. Incumbent works under general administrative supervision with wide latitude for establishing programs, defining program requirements, identifying infrastructure needs, and defining funding and staff requirements.

This position may require a security clearance  
 FLSA: Exempt  
 Bargaining Unit Status: Not represented  
 Performs other duties as assigned

**JOB COMPETENCIES** (The full range of competencies for the occupational series is provided for information and development purposes; not every competency displayed is required at the individual position level.)

**EVALUATION STATEMENT**

**POSITION DESCRIPTION****DISABILITY COMPLIANCE PROGRAM MANAGER, CN-0301-60**

SETID	CFPB1	JOB CODE	180020	DATE	03/29/2018	OPM CERT #										
PAY PLAN	CN	SERIES	0301	GRADE	60	PAY BASIS	Per Annum	FUNC CLASS	NA							
WORK TITLE	Disability Compliance Program Manager															
SPVY LEVEL	Supv/Mgr	POSITION SENSITIVITY	Mod Risk	LEO POSITION		MEDICAL CHECK REQ	No	BUS CODE	8888							
FLSA	Exempt	PATCOB	Admin	EXECUTIVE DISCLOSURE	No	EMPL INT	No	FUND SOURCE	Approp Fnd							
CYBER SEC CODE	000000000	DESCR														
CLASSIFIER																
CLASS STANDARD																
DATE CLASSIFIED	03/28/2018															
<p><b>MAJOR DUTIES</b></p> <p>Official Title Series Pay Band: Disability Compliance Program Manager, CN-301-60 CFPB PD#: 180020</p> <p>Organizational Location: Consumer Financial Protection Bureau (CFPB) Office of Equal Opportunity and Fairness (OEOF)</p> <p>Introduction:</p> <p>This position is located in the Office of Equal Opportunity and Fairness (OEOF) at the Consumer Financial Protection Bureau (CFPB or Bureau or Agency) as the Bureau's Disability Program. OEOF contains two office programs, the Office of Minority and Women Inclusion (OMWI) and the Office of Civil Rights (OCR). To ensure appropriate firewalls exist between the Agency's Disability Program and the equal employment opportunity (EEO) complaint processing work of OCR, the disability program is separate from and outside of OCR. At times, the position will work and consult with OCR as appropriate, but will remain a separate activity.</p> <p>The incumbent serves as the Disability Compliance Program Manager (DPM). The DPM serves as a program manager developing, coordinating and administering the Agency's disability program including the reasonable accommodation and 508 compliance programs and as an adviser and consultant to managers and employees. The incumbent serves as the Agency's senior technical advisor, providing interpretations on matters involving complex facts and no clear-cut precedent. The DPM works under the direct supervision of the OEOF Director, who reports directly to the Agency Head with respect to the Agency's Disability Program or OEOF Director's designee.</p> <p>Major Duties and Responsibilities:</p> <p>Serves as the Agency's Program Manager and senior adviser and consultant providing overall program management and supervision for the CFPB's disability compliance programs related to employees, applicants for employment, contractors, and members of the public with respect to all Bureau services and operations, Bureau outreach and recruiting, Bureau policies, and the provision of accommodations under Sections 501, 504, and 508 of the Rehabilitation Act. Develops and implements guidance and procedures for the Agency disability program for all CFPB buildings, including headquarters and regional offices. Takes specific steps to ensure that the Agency is in compliance with all regulations, laws, and policies in support of the hiring and employment of persons with disabilities and providing access and services to members of the public, including but not limited to, the Rehabilitation Act of 1973 (Rehabilitation Act), the Family and Medical leave Act of 1993 (FMLA), the Family Friendly Leave Act, the Telework Enhancement Act of 2010, Title 5 and CFPB leave programs, Title 5's Schedule A hiring authority for people with severe disabilities, Equal Employment Opportunity Commission (EEOC) Management Directive 715, Presidential Memoranda and Executive Orders related to persons with disabilities and workplace flexibilities, and related laws, regulations, and guidance.</p>																

**DISABILITY COMPLIANCE PROGRAM MANAGER, CN-0301-60**

Serves as the Agency's representative (along with other designees as necessary) in coordinating and consulting with other government agencies, educational institutions, and representatives of business and industry to discuss issues, develop strategies, and evaluate the impact of disability programs on the agency mission and operations.

Provides technical assistance and consulting services to Senior Leaders, managers, supervisors, and or employees on disability-related initiatives such as the recruitment, hiring, advancement, and retention of persons with disabilities; reasonable accommodations for applicants and staff; supervisory relations; mentorship, development, and inclusion programs; training; work-at-home options, and a wide range disability-support programs.

Develops and implements the Agency's Affirmative Action Plan for persons with disabilities. Develops and participates in agency training programs and special events on disability program and related initiatives. Reviews available program material to determine appropriateness and or revises or develops program literature, website information, and other material to educate employees, supervisors, managers, and job applicants on the disability program.

Serves as the primary resource to the Agency on disability recruitment and outreach issues and program goals. Collaborates with management and other stakeholders including the Office of Minority and Women Inclusion (OMWI), OCR (as appropriate), and the Office of Human Capital (OHC) on recruitment factors that impact present and future requirements.

Coordinates with OHC on disability recruitment job fairs, develops and maintains contact with disability recruiting organizations, responds to contacts from job applicants, meets with applicants and explains the application process, refers candidates, and arranges for accommodations as required.

Establishes program goals, scope and manages reasonable accommodation, accessibility, and personal assistance services recommendations for employees, contractors, applicants, and or members of the public based upon legal requirements, CFPB policy, needs assessment, evaluation of medical documentation, and or special circumstances or other requirements. Advises and consults with Employee Relations Labor Relations staff on accommodations for staff related to performance improvement and addressing conduct issues, including, but not limited to, counseling, leave restrictions, discipline, and removal.

Serves as the CFPB's Selective Placement Coordinator and collaborates with stakeholders including OHC, OMWI, and OCR (as appropriate); the EEOC; Senior Leadership; and management regarding recruitment factors that impact present and future requirements.

Coordinates with offices and entities responsible for planning office space, furnishings, and office moves (e.g., Facilities and Space Committees) to ensure that all CFPB facilities comply with applicable accessibility guidelines for the federal government and that employees with disabilities are accommodated when their needs exceed standard building code or lease requirements of the U.S. Access Board for compliance.

Researches, analyzes, and provides expert interpretation of literature, case studies, legal decisions, and findings in the scientific and academic community that address issues of employment, accommodation, and quality of life for persons with disabilities. Identifies and develops unique or alternative proposed solutions that could increase opportunities for persons with disabilities, and not limited to standard or accepted practices.

Advises and consults with OHC, OMWI, OCR (as appropriate), and Technology and Innovation (TI) staff regarding data needs and requirements and related recordkeeping requirements. Collaborates internally and externally on and develops a variety of special papers, reports, and briefings relative to the disability compliance program and accomplishments for internal and external use, including, for example, to comply with requirements of the Office of Personnel Management (OPM).

**DISABILITY COMPLIANCE PROGRAM MANAGER, CN-0301-60**

Presidential Executive Orders, the Equal Employment Opportunity Commission (EEOC), and or collective bargaining agreements, as applicable. Assists with data collection and analysis and in the preparation of relevant portions of agency reports (such as the annual MD-715 program status report and other EEOC regulatory requirements) on disability-related recruitment, hiring, advancement, and accommodation issues.

Provides input and advice for Agency budget projections for disability compliance services (including, for example, accommodations and Sections 504 508 of the Rehabilitation Act).

Provides guidance and program oversight for the CFPB's Reasonable Accommodation Program and supervises the Reasonable Accommodation Coordinator (RAC). Directs the RAC to work continuously with the requestor and supervisors managers to pursue creative and innovative workplace adjustments that may exceed minimal legal requirements. Issues decisions as a Deciding Official related to reasonable accommodation requests that are legally compliant as well as incorporate best practices and a proactive approach that exceeds minimal legal requirements as needed to further the Agency's interest in keeping persons with disabilities working and productive. Provides expert program-related consulting services, training, and advice to staff on, for example, accommodations for employees and others and safeguarding confidential medical information related to accommodation, telework, and leave in compliance with the Rehabilitation Act, Privacy Act, FMLA, and Genetic Information Nondiscrimination Act (GINA).

Works closely with the CFPB's Facilities Team and provides supervision and guidance to the Bureau 508 Program Manager to provide expert program-related consulting services, training, and advice to staff on compliance with requirements under Sections 504 and 508 of the Rehabilitation Act. This includes, for example, taking proactive steps to ensure that all CFPB events, both internal and external, are fully accessible with respect to space and technology.

Serves as liaison to any employee resource group and agency program focused on persons with disabilities, including veterans with disabilities.

Provides advice in connection with the assigned statutes, regulations, and guidance and programs to general management, to concerned management officials, and to staff.

Follows all Federal and Bureau requirements regarding Records Management, Privacy, FOIA, Transparency, Ethics, and Procurement. Attends and participates in all mandatory training or bureau events.

Stays up to date on legal developments, cutting edge issues, emerging and creative reasonable accommodations, and agency best practices, and ensures that CFPB is an innovative workplace that is always evolving to improve the workplace for individuals with disabilities.

Performs other duties as assigned.

FLSA Determination: This position is Exempt under FLSA based on the administrative exemption criteria.

This position may require a security clearance.

**CFPB FACTOR LEVEL DESCRIPTIONS**

Factor 1 - Knowledge, Skills and Abilities (1-8, 620 points)

Mastery of the principles and concepts of the field of federal equal employment opportunity including an extensive knowledge of all relevant laws, principals and guidelines related to disability law compliance.

**DISABILITY COMPLIANCE PROGRAM MANAGER, CN-0301-60**

Expert knowledge of administrative process on which the EEO program is based; and administrative skills in developing, implementing or materially redesigning broad and complex agency Programs.

Expert knowledge working with the Rehabilitation Act of 1973 and related statutes regulations guidance.

Expert analytical abilities to perform analyses and evaluations to determine the effectiveness of assigned areas.

Ability to apply the theory, practice, principles and dynamics of innovative disability compliance techniques to assist in the development of strategies for providing disability services.

Expert knowledge of workforce diversity, equal employment opportunity programs, and disability program systems.

Demonstrated experience providing policy and advice on complex administrative problems.

Ability to interact effectively with high-level officials in the Federal government, private organizations, industry groups and or the general public.

Effective communications skills in order to prepare explanations and guidance on the interpretation and application of the Bureau's regulations; and demonstrated ability to make presentations to high level senior management officials.

Factor 2 - Supervision Level 2-5, 260 points)

A manager within the Office of Equal Opportunity and Fairness provides direction with assignments in terms of broadly defined missions or functions.

The employee has responsibility for independently planning, designing, and carrying out programs, projects, studies, or other work.

Results of the work are considered technically authoritative and are normally accepted without significant change. If the work should be reviewed, the review concerns such matters as fulfillment of program objectives, effect of advice and influence on the overall program, or the contribution to the advancement of technology. Recommendations for new projects and alteration of objectives are usually evaluated for such considerations as availability of funds and other resources, broad program goals, or other agency-wide or OEOF-wide priorities.

Factor 3 - Guidelines (Level 3-5, 260 points)

Available guidelines include broad policy statements and directives as well as CFPB and Office of Equal Opportunity and Fairness general administrative policies, procedures, and regulations that require extensive interpretation.

The employee must use judgment and ingenuity in interpreting the intent of the guidelines that do exist and in developing applications to specific areas of work. The employee is generally recognized as an agency technical authority and subject matter expert in the development and interpretation of the guidelines that apply to the work.

Factor 4 - Difficulty and Originality (Level 4-5, 130 Points)

The incumbent provides comprehensive technical direction and expert consulting services to the Office of Equal Opportunity and Fairness on program activities and functions. The work involves the application of advanced processes and methods to a broad range of activities or requires substantial depth of analysis, typically for an administrative or professional field.



**DISABILITY COMPLIANCE PROGRAM MANAGER, CN-0301-60**

The work is often complicated by the need to consider and evaluate the impact of changes in legislation, regulatory requirements, long-range program goals and objectives, political, economic, or social consequences, technological advances, and or the changing nature of the program's clients.

The work requires originating new techniques, critical and creative thinking, establishing criteria, or developing new information.

**Factor 5 - Scope and Effect (Level 5-5, 130 points)**

The Disability Program Manager has full responsibility for management and direction of all administrative matters and for providing or obtaining a variety of management services essential to the operation of the program. The work involves isolating and defining unknown conditions, resolving critical problems, or developing new theories.

The work product or service affects the work of other experts, the development of major aspects of administrative or scientific programs or missions, or the well being of substantial numbers of people.

**Factor 6 - Contacts (Level 6-3, 120 points)**

Personal contacts are with staff in the Office of Equal Opportunity and Fairness and other CFPB Offices, as well as staff in other Federal agencies, private organizations, the public, etc., in moderately unstructured settings. The personal contacts are with individuals or groups from outside CFPB in a moderately unstructured setting. Contacts are not established on a routine basis; the purpose and extent of each contact is different; and the role and authority of each party is identified and developed during the course of the contact. Typical contacts at this level are those with people in their capacity as attorneys, contractors, or representatives of professional organizations, the news media, or public action groups.

The purpose of the contacts is to influence, motivate, interrogate, or control persons or groups. At this level the persons contacted may be fearful, skeptical, and or uncooperative. Therefore, the employee must be skillful in approaching the individual or group in order to obtain the desired effect, such as gaining compliance with established policies and regulations by persuasion or negotiation.

Total points: 1520

Classification: CN-60 (1505-1735 points)

**JOB COMPETENCIES** (The full range of competencies for the occupational series is provided for information and development purposes; not every competency displayed is required at the individual position level.)

**EVALUATION STATEMENT**

**Q.47.i.** Please indicate who was performing the duties included in their position description before political appointee was hired.

**A.47.i.** The table below shows the Schedule C political positions that were previously performed by career employees. The remaining Schedule C political appointees are on newly created position descriptions.

Schedule C Position Title	Career Position Title
Chief of Staff	Chief of Staff
Associate Director, Office of Equal Opportunity and Fairness	Assistant Director, Office of Equal Opportunity and Fairness
Executive Assistant	Administrative Specialist
Executive Assistant	Administrative Specialist
Attorney-Advisor	Attorney-Advisor

**Q.47.j.** In a recent letter, the CFPB told me that the agency has employed five political appointees from other agencies as reimbursable detailees.

**A.47.j.** There are currently four active political appointees from the Office of Management and Budget, on reimbursable details, including the Acting Director (see Table A above). The terms and conditions of the details for James Galkowski, Mark Paoletta, and Michael Williams, are covered by Memoranda of Understanding (MOU) entered into by the participating agencies.

**Q.47.k.** Please provide position descriptions for each of these detailees.

**A.47.k.** The attached MOUs are for James Galkowski, Mark Paoletta, and Michael Williams. The MOUs include a brief description of the type of work for each detailee at the Bureau.

Executive Office of the President  
Office of Management and Budget



### Memorandum of Understanding

#### PURPOSE

This Memorandum of Understanding (MOU) outlines the agreement for JAMES GALKOWSKI (Participant) to participate in a part-time, reimbursable detail to the CONSUMER FINANCIAL PROTECTION BUREAU (CFPB) from the OFFICE OF MANAGEMENT AND BUDGET (OMB). The parties have authority to detail personnel to each other pursuant to Section 601 of the Economy Act of 1932, as amended (31 U.S.C. § 1535), and Section 1012 of the Consumer Financial Protection Act (12 U.S.C. § 5492).

#### PERIOD OF AGREEMENT; MODIFICATION; TERMINATION

The terms and conditions of this MOU are effective for six months from the commencement of the detail, during which period the Participant will serve as a detailee to CFPB for an estimated 1 day (or 8 hours) per week. This MOU may be extended for an additional period of time by written agreement of appropriate officials of both parties to this MOU. This MOU may be terminated by either party upon written notice to the other party.

#### SCOPE OF WORK/ASSIGNMENT:

During this detail, the Participant will:

- Facilitate the smooth transition of CFPB leadership;
- Advise and assist the Acting Director as requested; and
- Perform other duties as required.

#### LOCATION

The detail location shall be at CFPB Headquarters: 1700 G Street, NW, Washington, D.C.

#### ROLES & RESPONSIBILITIES

##### OMB will:

- Maintain records for the Participant, including official time and attendance, formal annual and mid-year performance evaluations, and related discussions per OMB's policy.
- Coordinate with CFPB regarding performance appraisals, approvals of leave, and specific OMB requirements.
- Support the return of the Participant to OMB.

##### CFPB will:

- Provide office space (and reasonable accommodation, as appropriate) including all necessary identification to ease building access and communications, to include badges, phones and computers.
- Reimburse OMB at a daily rate determined using the salary of the Participant at OMB. Reimbursement will be initiated by the Servicing Agency (OMB) and payments will be made through the Interagency Payment and Collection System.
- Cover any travel or training expenses specifically required to achieve assignment objectives (unless otherwise negotiated between OMB and CFPB).
- Determine work schedule with the Participant.

- Extend telework privileges to the Participant, consistent with CFPB policies.
- Advise Participant on CFPB ethics and confidentiality regulations.

**Participant will:**

- Complete work identified in the Scope of Work/Assignment.
- Maintain coverage under federal retirement, group health benefits, and life insurance during the period of assignment. Participant's shares of costs for such coverage will continue to be withheld from Participant's OMB salary.
- Continue to accrue annual and sick leave.
- Advise the OMB timekeeper of the number of hours each week that the Participant performed work for CFPB.
- Advise the OMB timekeeper of any leave taken during the rotation.
- Comply with CFPB's confidentiality regulations, including 12 CFR Part 1070 *et seq.*, and CFPB's ethics regulations at 5 CFR Part 9401 *et seq.*

**SECURITY CLEARANCE (IF APPLICABLE)**

This agreement is contingent upon the Participant's successful adjudication and receipt of any necessary security clearances required by CFPB.

**CONTACT INFORMATION**

OMB		CFPB	
<b>Name</b>	Sarah Whittle Spooner	<b>Name</b>	Kathleen Horan Lead Personnel Security Specialist
<b>Address</b>	725 17 <sup>th</sup> Street, NW Washington, DC 20503	<b>Address</b>	1700 G Street, NW Washington, DC 20552
<b>Email</b>	<a href="mailto:Sarah.w.spooner@omb.eop.gov">Sarah.w.spooner@omb.eop.gov</a>	<b>Email</b>	<a href="mailto:Kathleen.Horan@cfpb.gov">Kathleen.Horan@cfpb.gov</a>
<b>Phone</b>	202-395-4665	<b>Phone</b>	202-435-7512

**SIGNATURES**

The following individuals approve the intergovernmental detail assignment:

11/27/2017  
Date**CFPB**Digitally signed by SARAH SPOONER  
DN: cn=US, o=U.S. Government, ou=Executive Office of the President,  
ou=SARAH SPOONER, o=92342 19200000, ou=1 to 11001001463213  
Date: 2017.11.29 10:10:08 -0500

Date

11/29/17

**OMB**

Date

Executive Office of the President  
Office of Management and Budget



### Memorandum of Understanding

#### PURPOSE

This Memorandum of Understanding (MOU) outlines the agreement for MARK PAOLETTA (Participant) to participate in a part-time, reimbursable detail to the CONSUMER FINANCIAL PROTECTION BUREAU (CFPB) from the OFFICE OF MANAGEMENT AND BUDGET (OMB). The parties have authority to detail personnel to each other pursuant to Section 601 of the Economy Act of 1932, as amended (31 U.S.C. § 1535), and Section 1012 of the Consumer Financial Protection Act (12 U.S.C. § 5492).

#### PERIOD OF AGREEMENT; MODIFICATION; TERMINATION

The terms and conditions of this MOU are effective for 31 days from the commencement of the detail, during which period the Participant will serve as a detailee to CFPB for an estimated 10 hours per week. This MOU may be extended for an additional period of time by written agreement of appropriate officials of both parties to this MOU. This MOU may be terminated by either party upon written notice to the other party.

#### SCOPE OF WORK/ASSIGNMENT:

During this detail, the Participant will:

- Facilitate the smooth transition of CFPB leadership;
- Advise and assist the Acting Director as requested; and
- Perform other duties as required.

#### LOCATION

The detail location shall be at CFPB Headquarters: 1700 G Street, NW, Washington, D.C.

#### ROLES & RESPONSIBILITIES

OMB will:

- Maintain records for the Participant, including official time and attendance, formal annual and mid-year performance evaluations, and related discussions per OMB's policy.
- Coordinate with CFPB regarding performance appraisals, approvals of leave, and specific OMB requirements.
- Support the return of the Participant to OMB.

CFPB will:

- Provide office space (and reasonable accommodation, as appropriate) including all necessary identification to ease building access and communications, to include badges, phones and computers.
- Reimburse OMB at a daily rate determined using the salary of the Participant at OMB. Reimbursement will be initiated by the Servicing Agency (OMB) and payments will be made through the Interagency Payment and Collection System.
- Cover any travel or training expenses specifically required to achieve assignment objectives (unless otherwise negotiated between OMB and CFPB).
- Determine work schedule with the Participant.

- Extend telework privileges to the Participant, consistent with CFPB policies.
- Advise Participant on CFPB ethics and confidentiality regulations.

**Participant will:**

- Complete work identified in the Scope of Work/Assignment.
- Maintain coverage under federal retirement, group health benefits, and life insurance during the period of assignment. Participant's shares of costs for such coverage will continue to be withheld from Participant's OMB salary.
- Continue to accrue annual and sick leave.
- Advise the OMB timekeeper of the number of hours each week that the Participant performed work for CFPB.
- Advise the OMB timekeeper of any leave taken during the rotation.
- Comply with CFPB's confidentiality regulations, including 12 CFR Part 1070 *et seq.*, and CFPB's ethics regulations at 5 CFR Part 9401 *et seq.*

**SECURITY CLEARANCE (IF APPLICABLE)**

This agreement is contingent upon the Participant's successful adjudication and receipt of any necessary security clearances required by CFPB.

**CONTACT INFORMATION**

OMB		CFPB	
<b>Name</b>	Sarah Whittle Spooner	<b>Name</b>	Robyn Pettiford
<b>Address</b>	725 17 <sup>th</sup> Street, NW Washington, DC 20503	<b>Address</b>	1700 G Street, NW Washington, DC 20552
<b>Email</b>	Sarah.w.spooner@omb.eop.gov	<b>Email</b>	Robyn.Pettiford@cfpb.gov
<b>Phone</b>	202-395-4665	<b>Phone</b>	202-435-9774

**SIGNATURES**

The following individuals approve the intergovernmental detail assignment:

**Jeffrey  
Sumberg**Digitally signed by  
Jeffrey Sumberg  
Date: 2018.10.17  
10:12:43 -04'00'\_\_\_\_\_  
CFPB\_\_\_\_\_  
Date\_\_\_\_\_  
OMB*SW*\_\_\_\_\_  
10/2/18  
Date



Executive Office of the President  
Office of Management and Budget



### Memorandum of Understanding

#### PURPOSE

This Memorandum of Understanding (MOU) outlines the agreement for MICHAEL WILLIAMS (Participant) to participate in a part-time, reimbursable detail to the CONSUMER FINANCIAL PROTECTION BUREAU (CFPB) from the OFFICE OF MANAGEMENT AND BUDGET (OMB). The parties have authority to detail personnel to each other pursuant to Section 601 of the Economy Act of 1932, as amended (31 U.S.C. § 1535), and Section 1012 of the Consumer Financial Protection Act (12 U.S.C. § 5492).

#### PERIOD OF AGREEMENT; MODIFICATION; TERMINATION

The terms and conditions of this MOU are effective for 31 days from the commencement of the detail, during which period the Participant will serve as a detailee to CFPB for an estimated 20 hours per week. This MOU may be extended for an additional period of time by written agreement of appropriate officials of both parties to this MOU. This MOU may be terminated by either party upon written notice to the other party.

#### SCOPE OF WORK/ASSIGNMENT:

During this detail, the Participant will:

- Facilitate the smooth transition of CFPB leadership;
- Advise and assist the Acting Director as requested; and
- Perform other duties as required.

#### LOCATION

The detail location shall be at CFPB Headquarters: 1700 G Street, NW, Washington, D.C.

#### ROLES & RESPONSIBILITIES

OMB will:

- Maintain records for the Participant, including official time and attendance, formal annual and mid-year performance evaluations, and related discussions per OMB's policy.
- Coordinate with CFPB regarding performance appraisals, approvals of leave, and specific OMB requirements.
- Support the return of the Participant to OMB.

CFPB will:

- Provide office space (and reasonable accommodation, as appropriate) including all necessary identification to ease building access and communications, to include badges, phones and computers.
- Reimburse OMB at a daily rate determined using the salary of the Participant at OMB. Reimbursement will be initiated by the Servicing Agency (OMB) and payments will be made through the Interagency Payment and Collection System.
- Cover any travel or training expenses specifically required to achieve assignment objectives (unless otherwise negotiated between OMB and CFPB).
- Determine work schedule with the Participant.

- Extend telework privileges to the Participant, consistent with CFPB policies.
- Advise Participant on CFPB ethics and confidentiality regulations.

**Participant will:**

- Complete work identified in the Scope of Work/Assignment.
- Maintain coverage under federal retirement, group health benefits, and life insurance during the period of assignment. Participant's shares of costs for such coverage will continue to be withheld from Participant's OMB salary.
- Continue to accrue annual and sick leave.
- Advise the OMB timekeeper of the number of hours each week that the Participant performed work for CFPB.
- Advise the OMB timekeeper of any leave taken during the rotation.
- Comply with CFPB's confidentiality regulations, including 12 CFR Part 1070 *et seq.*, and CFPB's ethics regulations at 5 CFR Part 9401 *et seq.*

**SECURITY CLEARANCE (IF APPLICABLE)**

This agreement is contingent upon the Participant's successful adjudication and receipt of any necessary security clearances required by CFPB.

**CONTACT INFORMATION**

OMB		CFPB	
<b>Name</b>	Sarah Whittle Spooner	<b>Name</b>	Robyn Pettiford
<b>Address</b>	725 17 <sup>th</sup> Street, NW Washington, DC 20503	<b>Address</b>	1700 G Street, NW Washington, DC 20552
<b>Email</b>	Sarah.w.spooner@omb.eop.gov	<b>Email</b>	Robyn.Pettiford@cfpb.gov
<b>Phone</b>	202-395-4665	<b>Phone</b>	202-435-9774

**SIGNATURES**

The following individuals approve the intergovernmental detail assignment:

**Jeffrey  
Sumberg**Digitally signed by  
Jeffrey Sumberg  
Date: 2018.10.17  
10:14:18 -04'00'

CFPB

Date

OMB

*SWS*10/2/18  
Date

**Q.47.l.** Please indicate who was performing the duties included in their position description before the detailee was hired at the bureau.

**A.47.l.** Detailees are not placed on position descriptions. The duties being performed by the detailees are described in the applicable MOU.

**Q.47.m.** Please list how much CFPB is paying to each of these detailees' salary.

**A.47.m.** The Bureau has agreed to reimburse each political appointee detailee's home agency for a proportional share of their salary according to each detailee's expected schedule of work at the Bureau. The specific amounts reimbursed to each agency for the expected duration of the detail are as follows:

Detailee Name	Duration of Detail	Salary reimbursed by the Bureau	Salary reimbursed to
James Galkowski	11/29/2017 - 12/29/2018	\$8,092.00	Office of Management and Budget
Mick Mulvaney	11/25/2017 - 12/29/18	\$102,869.00	Office of Management and Budget
Mark Paoletta	10/1/2018 - 12/29/18	\$5,011.00	Office of Management and Budget
Michael Williams	10/1/2018 - 12/29/2018	\$7,106.00	Office of Management and Budget

**Q.47.n.** What is your salary?

**A.47.n.** My salary is \$199,700.

**Q.47.o.** How much is paid by the CFPB?

**A.47.o.** The Bureau reimburses the Office of Budget and Management for a proportional share of my salary and benefits. The specific amount to be reimbursed based on my expected schedule of work through September 30, 2018, is \$102,869.

**Q.48.a.** Other than the CFPB, there are four other Federal banking regulatory agencies: the OCC, the Federal Reserve, the FDIC, and the NCUA.

Are any of these other banking regulatory agencies funded through the congressional appropriations process?

**A.48.a.** No, these agencies are prudential regulators. As you know, the Bureau is not a prudential regulator. Congress specifically conceived of the Bureau as a product regulator, like the Consumer Product Safety Commission (CPSC). Product regulators, like the CPSC, FTC, SEC, and CFTC are all appropriated.

**Q.48.b.** Are "major" rules issued by any of these other banking regulatory agencies subject to congressional approval before they take effect?

**A.48.b.** No. The Bureau is uniquely unaccountable by design, and therefore requires additional statutory mechanisms to ensure the responsible exercise of its considerable power. I am puzzled by Members of Congress who have no apparent interest in overseeing the exercise of their delegated legislative authority.

**Q.49.** Since the CFPB was created by Congress, how many reports relating to the CFPB has the Federal Reserve's Inspector General issued?

**A.49.** As of November 13, 2018, the Office of the Inspector General has issued 66 reports on the Bureau containing 246 recommendations. I believe the Bureau would be well served by an independent inspector general, specifically focused on the Bureau's operations.

**Q.50.** The CFPB Director must testify before Congress four times a year. Are the heads of the OCC, FDIC, and NUCA subject to a similar requirement?

**A.50.** In point of fact, the Dodd-Frank Act requires the Bureau Director to appear before Congress, but not specifically to testify. I made this observation when I voluntarily testified. Perhaps we can agree that this is one provision of Title X of the Dodd-Frank Act in need of amendment.

**Q.51.** The CFPB's rules may be vetoed by the Financial Stability Oversight Council (FSOC). Are rules issued by any of the other banking regulators subject to an FSOC veto?

**A.51.** No, however, the threshold for a set-aside of a Bureau rule under Section 1023 is so high that it provides no meaningful restriction on the Bureau's rulemaking discretion.

**Q.52.** What caused you to reverse your prior position that only Congress has the ability to delay or reverse the CFPB Payday Rule?

**A.52.** I did not reverse my position. Congress may disapprove a Bureau rule under the Congressional Review Act, as it did with the Bureau's arbitration rule. I support Congressional oversight of the exercise of its delegated legislative authority. The Bureau may also amend or repeal its rules, consistent with applicable law.

**Q.52.a.** Please provide a list of CFPB personnel and OMB personnel who provided legal advice with respect to the Payday Rule prior to December 4, 2017, and a summary of the advice they provided.

**A.52.a.** In light of the contemplated rulemaking, it would not be appropriate to disclose legal advice received related to the Payday Rule. The requested information would include confidential Bureau information that would not be appropriate to submit into the public record. I urge you to work with the Committee Chairman when submitting requests for confidential Bureau information.

**Q.52.b.** Please provide a list of all the meetings where you, Kirsten Mork, Emma Doyle, Eric Blankenstein or Brian Johnson were present and the Payday Rule was discussed, including the date, time, and other attendees at the meeting, and a summary of the content of those meetings.

**A.52.b.** The requested information would include confidential Bureau information that would not be appropriate to submit into the public record. I urge you to work with the Committee Chairman when submitting requests for confidential Bureau information. My calendar is available for review on the Bureau's website.

**Q.52.c.** What analysis did the CFPB undertake before deciding to halt the Payday Rule on January 16?

**Q.52.d.** What did these analyses conclude about the impact of the decision on lenders and borrowers?

**A.52.c.–d.** The Bureau did not “halt” the Payday Rule. As noted in a previous response, the Bureau announced its intention to engage in a rulemaking process so that the Bureau may reconsider, as appropriate, its final rule. Any final rule the Bureau adopts will describe the basis and purpose of any changes to the rule.

**Q.52.e.** Did you or other officials meet with or communicate with representatives of the payday loan industry prior to the January 18 decision to dismiss the case against Golden Valley Lending, Inc., Silver Cloud Financial, Inc., Mountain Summit Financial, Inc., and Majestic Lake Financial? If so, please provide a list of all such meetings, and a brief discussion of their content.

**A.52.e.** Neither I nor any other Bureau official consulted with any groups or individuals outside of the Bureau, including any representatives of the payday loan industry, in connection with my decision to dismiss the case against those lenders without prejudice.

**Q.52.f.** Did you or other officials meet with or communicate with representatives of World Acceptance Corporation or the installment loan industry prior to the January 22 decision to drop the investigation into the case? If so, please provide a list of all such meetings, and a brief discussion of their content.

**A.52.f.** As a general policy, the Bureau does not confirm the existence of an investigation or its disposition, but is aware of the public statement made by World Acceptance Corporation.

**Q.52.g.** Please provide all communications related to the discussion of the Payday rule, the dismissal of the Kansas case, and the halting of the investigation into World Acceptance Corporation, including email on personal or official accounts from custodians Mulvaney, Mork, Doyle, Blankenstein or Johnson that contain the words “payday,” “Small dollar,” “installment,” “auto,” “vehicle,” “Golden Valley,” “Silver Cloud,” “Mountain Summit,” “Majestic Lake,” or “World Acceptance.”

**A.52.g.** The requested documents would include documents that contain confidential Bureau information and it would not be appropriate to submit into the public record. I urge you to work with the Committee Chairman when submitting requests for confidential Bureau information.

**Q.53.** You claim you were lawfully appointed by President Donald Trump to be Acting Director of the CFPB pursuant to the Vacancy Reform Act. Will you comply with the time limitations of 5 U.S.C. § 3346?

**Q.53.a.** How do you interpret the word “days” in this statute? Calendar days? Business days?

**Q.53.b.** Days that you actually work at the CFPB?

**A.53.a.–b.** Yes, I will comply with the Federal Vacancies Reform Act’s (FVRA) time limits. I interpret the word “days” to refer to calendar days.

**Q.53.c.** What is your legal basis for this interpretation? Please cite any relevant legal precedent.

**A.53.c.** This interpretation has been the consistent interpretation that executive agencies and the Comptroller General have applied. For example, under the FVRA, the Comptroller General must notify certain congressional committees and others if he determines that an officer is serving longer than the permitted 210-day period. The Comptroller General's reports about such violations of the FVRA's time limits count calendar days when determining the end of the 210-day period.<sup>12</sup>

**Q.53.d.** As of April 20, 2018, how many "days" have you served in your role at the CFPB? Please provide the exact number of days in response to this question.

**A.53.d.** 147 days.

**Q.54.a.** On April 9, 2018, the Community Financial Services Association of America (CFSA) and the Consumer Service Alliance of Texas today filed a Federal lawsuit against CFPB.

Have you or any member of your staffs at either the OMB or CFPB met with CFSA?

**A.54.a.** Yes.

**Q.54.b.** If so, please provide the date(s), attendees of the meeting(s), and topics or agenda, including whether litigation against the Bureau or its small dollar lending rule discussed.

**A.54.b.** On February 15, 2017, Community Financial Services Association of America (CFSA) attended a roundtable meeting of nonbank trade associations. Dennis Shaul, Chief Executive Officer, represented CFSA. Topics included: the rulemaking process; regulatory guidance; supervision and enforcement; and the consumer complaint database. I participated in the meeting. Other Bureau participants included: Brian Johnson, Acting Deputy Director; Kirsten Sutton, Chief of Staff; Emma Doyle, Detailee; Anthony Welcher, Policy Associate Director; Zixta Martinez, Associate Director; Dan Smith, Assistant Director; Eric Blankenstein, Policy Associate Director; Chris D'Angelo, Associate Director; Sheila Greenwood, Policy Associate Director; Gail Hillebrand, Associate Director; David Silberman, Associate Director; and Mary McLeod, General Counsel.

On April 5, 2018, CFSA met with Brian Johnson, Dan Smith, and Emma Doyle. CFSA requested the meeting to discuss the status of the reconsideration of the rule. Dennis Shaul, Chief Executive Officer; Robert Batson, General Counsel; and Chris Vergonis represented CFSA at the meeting.

Since the lawsuit was initiated, attorneys of the Bureau have had communications with counsel for CFSA in the ordinary course of representing the Bureau in the lawsuit.

**Q.55.** Earlier this month, CFPB appealed a judge's decision that ordered CashCall, a payday loan company, to pay a \$10.3 million fine—a fine well below the \$287 million sought by CFPB.

<sup>12</sup>These violation letters are available at [https://www.gao.gov/legal/federal-vacancies-act/violation\\_letters](https://www.gao.gov/legal/federal-vacancies-act/violation_letters).

**Q.55.a.** Were you or your immediate staff involved in the decision to appeal this ruling?

**Q.55.b.** If so, please describe your involvement.

**A.55.a.–b.** Yes, I approved the decision to appeal.

**Q.55.c.** Prior to the April decision to appeal, did you have any contact with Paul Reddam, CEO of CashCall, or any other individual representing or affiliated with CashCall? If so, where and when did this contact occur, and what was the nature of any discussions you had with Mr. Reddam or any other individual representing or affiliated with CashCall?

**A.55.c.** Response No, to the best of my knowledge, I did not have any contact with any individual representing CashCall prior to the decision to appeal.

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**RESPONSE TO WRITTEN QUESTION OF SENATOR COTTON  
FROM MICK MULVANEY**

**Q.1.** Manufactured housing is an important and affordable homeownership option in Arkansas. However, several years ago, the CFPB implemented new rules on HOEPA rules and thresholds that have made it harder for lenders to originate lower dollar amount manufactured home loans—the category of homes that are the most affordable. This development is not just backed up by anecdotal evidence. HMDA data shows that in the 2 years after 2014 as the new HOEPA rules were put into place, that while the overall number of manufactured home loans increased, the number of loans below \$75,000 fell. The CFPB has indicated it is undergoing a thorough review of CFPB rules and policies. Moreover, the CFPB has the statutory authority to fix the problems with the HOEPA thresholds.

Will you commit to reviewing this data, exploring its relationship to the HOEPA thresholds, and adjusting the thresholds to the appropriate levels as appropriate?

**A.1.** The Bureau of Consumer Financial Protection (BCFP) understands that caps on points and fees under the Home Ownership and Equity Protection Act (HOEPA) or the Ability to Repay and Qualified Mortgage Act (ATR/QM) can disproportionately affect low dollar mortgage loans, including manufactured home loans. Yes, the Bureau will commit to studying market developments in this area, and will then decide whether to adjust the thresholds and by how much, as appropriate and authorized by law. Bureau staff have met with members of the manufactured home industry to better understand their perspective on how the Bureau's rules may be impacting consumer lending in this space.

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**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SCHATZ  
FROM MICK MULVANEY**

**Q.1.a.** I understand you cannot discuss an ongoing investigation or the supervision of a specific institution.

But can you describe generally how the CFPB is approaching the supervision of the big credit bureaus going forward?



**A.1.a.** The Bureau of Consumer Financial Protection (Bureau) supervises nonbanks for the purpose of “(A) [a]ssessing compliance with the requirements of Federal consumer financial law; (B) obtaining information about the activities and compliance systems or procedures of such persons; and (C) detecting and assessing risks to consumers and to markets for consumer financial products and services.”<sup>1</sup> The Bureau has authority to supervise larger participants of the consumer reporting market, pursuant to 12 U.S.C. § 5514(a)(1)(B) and 12 CFR § 1090.104. As you know, on July 12, 2018, Ms. Peggy L. Twohig, Assistant Director, Supervision Policy, Division of Supervision, Enforcement and Fair Lending, Bureau of Consumer Financial Protection testified before the Senate Banking, Housing, and Urban Affairs Committee during the hearing entitled “An Overview of the Credit Bureaus and the Fair Credit,” where she discussed the Bureau’s approach to supervision of the credit bureaus.

**Q.1.b.** What should the credit bureaus be doing to protect the data they collect on consumers?

**A.1.b.** The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) tasked the Bureau with enforcing Federal consumer financial laws. To the extent those laws impose duties on credit reporting agencies related to protection of consumer data, those institutions should ensure that they are fully complying with the law.

**Q.1.c.** How can they make it easy for consumers to protect their own data and guard against identity theft?

**A.1.c.** The Bureau believes that it is critical that consumers have the tools they need to protect their data and protect themselves against identity theft. The Fair Credit Reporting Act (FCRA) requires certain consumer reporting companies—including the nationwide credit reporting companies—to make a number of tools available to help consumers protect the information in their consumer reporting files.

The nationwide credit reporting companies must comply with a new Federal security freeze law. In May 2018, Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act (the Act),<sup>2</sup> which requires nationwide consumer reporting agencies to provide “national security freezes” free of charge to consumers. The “national security freeze” restricts prospective lenders from obtaining access to a consumer’s credit report, which makes it harder for identity thieves to open accounts in the consumer’s name.

The nationwide credit reporting companies can also assist consumers by facilitating consumers’ access and review of their own credit file information. Consumers have the right to obtain at least one free report from each of the nationwide credit reporting companies every 12 months. Consumers who regularly review their own credit files have the opportunity to identify unauthorized credit accounts opened in their name and can take corrective action, for example, by notifying the issuer of the fraudulent account and by disputing this information with credit reporting companies.

<sup>1</sup> 12 U.S.C. § 5514(b)(1)(A)–(C).

<sup>2</sup> P.L. 115–174.

Additionally, the FCRA provides a number of other tools that these companies must deploy to help consumers protect their credit file information. For example, the FCRA requires nationwide credit reporting companies to put fraud alerts and active duty alerts on consumers' credit files at the request of eligible consumers. The Act also extends from 90 days to 1 year the minimum time that nationwide consumer reporting agencies must include an initial fraud alert in a consumer's file. A fraud alert informs a prospective lender that a consumer may have been a victim of identity theft and requires that the lender take steps to verify the identity of anyone seeking credit in the consumer's name.

**Q.2.** Consumer complaints to the CFPB about credit reports are consistently high. They are among the top three products and services that consumers complain about. Three-quarters of those complaints appear to be about inaccurate credit reports and errors that credit bureaus do not fix.

**Q.2.a.** Do you think credit bureaus are doing enough to ensure the maximum possible accuracy of credit reports?

**Q.2.b.** Are they engaging in a meaningful reinvestigation when consumers find problems with their credit report?

**A.2.a.-b.** Federal law provides a framework to ensure the players in the consumer reporting system receive the benefits of our risk-based credit economy. The FCRA sets forth a dispute and investigation framework, as you note, to ensure errors are corrected promptly, as well as requirements around accuracy and maintaining reasonable policies and procedures.

The Bureau's oversight has focused on helping to ensure the consumer reporting system is one where furnishers provide accurate information and consumer reporting companies comply with the FCRA by maintaining and distributing data that are accurate, and having an effective and efficient dispute management and resolution process for consumers.

The Bureau published a special edition of *Supervisory Highlights* in March 2017.<sup>3</sup> The Bureau explained in that publication that, in the preceding 2 years, the Bureau identified failings in compliance management systems and violations of law both at consumer reporting companies and at furnishers.

The law requires both bank and nonbank furnishers to establish and implement reasonable written policies and procedures regarding accuracy of the information they furnish, and to take corrective action when they determine they have furnished inaccurate information. In addition, the Bureau took steps to ensure furnishers' dispute handling processes comply with the law in response to failures either to conduct investigations or to send results of dispute investigations to consumers.

**Q.3.** In December, you announced that CFPB would reexamine requirements to provide mortgage transaction data such as pricing and underwriting. Lenders already have that data and most, if not all, have systems in place to report it. This data gives us insight into the market, to identify risks, enforce fair lending laws, and

<sup>3</sup> [https://www.consumerfinance.gov/documents/2774/201703\\_cfpb\\_Supervisory-Highlights-Consumer-Reporting-Special-Edition.pdf](https://www.consumerfinance.gov/documents/2774/201703_cfpb_Supervisory-Highlights-Consumer-Reporting-Special-Edition.pdf).

better understand the market. You are about to enforce one of the largest penalties against a financial institution for persistent predatory practices in mortgage lending, and at the same time you are saying the Government should have less visibility into mortgage lending practices.

**Q.3.a.** Why is CFPB rejecting data that is available and ready to be reported?

**Q.3.b.** Why would CFPB want to create an information blind spot in mortgage lending when there are still so many abuses?

**A.3.a.-b.** The Bureau is not rejecting any data that is available and ready to report. Rather, the Bureau has announced that it will reconsider the decisions made by my predecessor in implementing the Dodd-Frank Act's amendments to the Home Mortgage Disclosure Act (HMDA), including decisions that were made to require lenders to report at least 14 new data points that the Dodd-Frank Act did not specify must be reported. I have not predetermined whether changes should be made in the data that is collected and, if so, what changes should be made. Any such decision will be made through the notice-and-comment rulemaking process provided for in the Administrative Procedure Act. Also note that the Economic Growth, Regulatory Relief, and Consumer Protection Act amended HMDA to exempt certain smaller-volume institutions from their obligations to collect and report for certain transactions many of the data points the Bureau implemented under the Dodd-Frank Act. The Bureau issued a rule on August 31, 2018, to implement and clarify the partial exemptions provided by the Act.

**Q.4.** Student loan debt is growing faster than all other categories of consumer debt, even credit cards. It is the highest category of consumer debt behind mortgages. According to the Federal Reserve Board of New York, the student loan debt is highly delinquent. At least 11 percent is seriously delinquent, and the true number is likely twice that high. In contrast, mortgage delinquency peaked at 5 percent during the recession.

Are you concerned about the levels of student loan debt?

**A.4.** Yes. As a father of three college-age children, I am concerned about the level of debt some students choose to take on, and whether they receive education worthy of their investment.

**Q.5.** Federal Reserve Chair Jerome Powell recently testified that he didn't understand why student loan debt is not dischargeable in bankruptcy. Do you think student loan debt should be dischargeable?

**A.5.** That would be a decision for Congress to make.

**Q.6.** In your role as Director of the Office of Management and Budget, have you requested that the Department of Housing and Urban Development make recommendations on recessions to specific accounts, projects, or functions funded in the Consolidated Appropriations Act of 2018 (P.L. 115-141)? If so, please provide the specific directions OMB gave to agencies for identifying these rescissions.

**A.6.** The Office of Management and Budget did not provide specific directions to agencies for identifying rescissions to specific accounts, projects, or functions funded in the Consolidated

Appropriations Act of 2018, but did more generally inform agencies that OMB would review any rescission proposals that agencies would like OMB to consider. OMB worked with the Department of Housing and Urban Development to identify viable candidates from among these proposals. In addition, OMB has asked Federal agencies to provide information concerning the obligational availability of funds appropriated to specific accounts, projects, or functions.

**Q.7.** In your role as Director of the Office of Management and Budget, have you requested that the Department of Transportation make recommendations on recessions to specific accounts, projects, or functions funded in the Consolidated Appropriations Act of 2018 (P.L. 115–141)? If so, please provide the specific directions OMB gave to agencies for identifying these rescissions.

**A.7.** The Office of Management and Budget did not provide specific directions to agencies for identifying rescissions to specific accounts, projects, or functions funded in the Consolidated Appropriations Act of 2018, but did more generally inform agencies that OMB would review any rescission proposals that agencies would like OMB to consider. OMB worked with the Department of Transportation to identify viable candidates from among these proposals. In addition, OMB has asked Federal agencies to provide information concerning the obligational availability of funds appropriated to specific accounts, projects, or functions.

**Q.8.** In your role as Director of the Office of Management and Budget, have you requested any other Federal agency make recommendations on recessions to specific accounts, projects, or functions funded in the Consolidated Appropriations Act of 2018 (P.L. 115–141)? If so, please provide the specific directions OMB gave to agencies for identifying these rescissions.

**A.8.** The Office of Management and Budget did not provide specific directions to agencies for identifying rescissions to specific accounts, projects, or functions funded in the Consolidated Appropriations Act of 2018, but did inform agencies that OMB would review any rescission proposals that agencies would like OMB to consider. In addition, OMB has asked Federal agencies to provide information concerning the obligational availability of funds appropriated to specific accounts, projects, or functions.

#### **RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM MICK MULVANEY**

**Q.1.** The Congressional Budget Office said that the tax bill that gave massive tax cuts to multinational corporations and the wealthiest families. All while raising taxes on 92 million middleclass families—leading to a Federal budget deficit of \$804 billion this year. The tax scam bill will lead to a deficit 43 percent higher than it had projected last summer, and exceed \$1 trillion a year starting in 2020. Last year, without the tax giveaway bill, the deficit was \$665 billion, next year, it will be \$804 billion. Debt held by the public will hit \$28.7 trillion at the end of fiscal year 2028, or 96.2 percent of gross domestic product, up from 78 percent of GDP in 2018. Those estimates assume current law will remain in effect, meaning Congress would allow some tax cuts to expire and

spending caps to take effect again in the coming years. If Congress extends the tax cuts, as many Republicans want to do, the CBO predicted higher deficits and publicly held debt totaling 105 percent of GDP by the end of 2028—a level exceeded only once in U.S. history, in the immediate aftermath of World War II.

- If you decide to reverse course and use this time of strong economic growth to reduce the deficit, who will bear the cost of deficit reduction? What investments do you plan to reduce or eliminate and which region, population, or industry will bear these costs?
- Will you seek to cut Social Security, Medicare, and Medicaid to offset the debt increase from the tax bill?
- Will you seek to reduce resources that help poor families afford safe homes and nutritious food? Or will you urge higher taxes on the powerful corporations and the 1 percent of families?

**A.1.** The CBO baseline confirms that deficits and debt will rise to alarming levels unless we take strong action to grow the economy and reduce spending, as proposed in the 2019 President's Budget. The Administration's ambitious deregulatory efforts, combined with tax reform and our pro-growth budget policies, are key components of returning to sustained economic growth. In addition, the Administration is committed to bringing Federal spending under control by eliminating wasteful spending and making Government programs more efficient, as detailed in the most recent Budget.

The Administration is committed to bringing Federal spending under control, while preserving economic and social programs for the most vulnerable by making them more efficient and sustainable. The 2019 President's Budget is consistent with the President's commitment to protect Social Security and Medicare, while also taking steps to extend the solvency of Medicare by reducing wasteful spending. The 2019 Budget also contains Medicaid reforms which will allow States to design State-based solutions that put the program on a sustainable fiscal path while ensuring Medicaid is preserved for the most vulnerable.

We plan to continue to protect these vital programs and to strive to make the programs more cost-effective and efficient.

The 2019 President's Budget demonstrated the Administration's dedication to helping needy families through smart reforms to affordable housing and food assistance programs. For example, the Budget included reforms to the SNAP program that are designed to ensure that participants who can work are expected to do so, that benefits are reserved for the neediest households, and that we reduce wasteful and improper spending.

We plan to maintain our commitment to needy families, while also striving to spend taxpayer dollars responsibly. It is imperative that we keep the tax cuts in place and pursue other policies to support economic growth and bring spending under control to ensure greater security for America's fiscal future.

**Q.2.** As the former Attorney General (AG) of Nevada during the financial crisis, my office oversaw foreclosure fraud, insurance fraud, Medicare and Medicaid fraud and many consumer protection issues. State attorneys general have a big job. When it comes to deceptive practices of financial firms, the CFPB has powers AGs do

not have—like Civil Investigative Demands. The CFPB can see problems nationwide—so they can see patterns that State AGs cannot. In addition, some financial firms can pre-empt State law so we could not stop them even if we wanted to. Only the Bureau can do that.

**Q.2.a.** How have State AGs responded to your suggestion that they pick up the slack from your lack of enforcement? Please name any AGs you have had communications—conversations, correspondence, *etc.*—and their comments and concerns about leading without the CFPB’s resources.

**A.2.a.** I do not believe that I have ever stated that State attorneys general would need to “pick up the slack from [the Bureau’s] lack of enforcement.” The Bureau of Consumer Financial Protection (Bureau) intends to enforce the law as written. But, as with every law enforcement agency, the Bureau has limited resources. To the extent an attorney general believes that there is a relevant legal violation not being addressed by the Bureau, that attorney general can bring suit pursuant to authority granted him or her by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). No State attorney general has commented to me on the Bureau’s level of enforcement activity.

**Q.2.b.** Why have there been no public enforcement actions announced in the past 5 months since you were illegally appointed to head the Bureau?

**A.2.b.** I reject your assertion that I was illegally appointed to head the Bureau. The President validly exercised his authority to designate me pursuant to the Federal Vacancies Reform Act. Further, the only court to review the validity of my appointment has agreed that the President acted within his statutory authority. The legal challenge to my authority was subsequently voluntarily dismissed by the plaintiff.

As for substance of your question, the Bureau has taken several enforcement actions. The list of enforcement actions taken has been updated as of November 1, 2018.

The Bureau entered into a consent order with Wells Fargo on April 20, 2018.<sup>1</sup>

The Bureau entered into a consent order with Security Group, Inc., Security Finance Corporation of Spartanburg, Professional Financial Service Corp., *et al.*, on June 13, 2018.<sup>2</sup>

The Bureau entered into a consent order with Citibank N.A. on June 29, 2018.<sup>3</sup>

The Bureau entered into a consent order with National Credit Adjusters, LLC and Bradley Hochstein on July 13, 2018.<sup>4</sup>

The Bureau entered into a consent order with Triton Management Group, Inc. on July 19, 2018.<sup>5</sup>

<sup>1</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/wells-fargo-bank-na-2018/>.

<sup>2</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/security-group-inc/>.

<sup>3</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/citibank-na-2018/>

<sup>4</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/national-credit-adjusters-llc-and-bradley-hochstein/>.

<sup>5</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/triton-management-group-inc/>.

The Bureau filed a lawsuit against Future Income Payments, LLC, Scott Kohn, and related entities on September 13, 2018.<sup>6</sup>

The Bureau entered into a consent order with Bluestem Brands on October 4, 2018.<sup>7</sup>

The Bureau entered into a consent order with Cash Express on October 24, 2018.<sup>8</sup>

**Q.2.c.** Why did you end the investigation into the marketing and lending practices of World Acceptance Corporation, a South Carolina lender? On what basis did you stop the investigation? It has been reported that you have taken campaign contributions from some of these lenders. Will you recuse yourself from deciding on enforcement and litigation actions from firms in which you received campaign contributions?

**A.2.c.** As a general policy, the Bureau of Consumer Financial Protection (Bureau) does not confirm the existence of an investigation or its disposition, but is aware of the public statement made by World Acceptance Corporation.

**Q.2.d.** Has the CFPB taken any public action against recent reports that African Americans are more likely to be denied a mortgage even with an adequate down payment and prime credit?

**A.2.d.** Redlining and discrimination in mortgage underwriting and pricing practices continue to be priority areas of focus in the Bureau's fair lending supervisory and enforcement activities.

**Q.2.e.** Has the CFPB taken any public action following an Urban Institute report showing that single women pay more for a mortgage than single men even though the women are actually better credit risks?

**A.2.e.** The Bureau continues to review reports, studies, consumer complaints, whistleblower tips, and other sources of leads in deciding where to conduct fair lending supervisory and enforcement activities. As part of its mortgage-related supervisory and enforcement activity, the Bureau routinely assesses data related to possible gender discrimination. The Bureau has not taken any public enforcement actions involving gender-based pricing in its history, even under the previous Director.

**Q.2.f.** Was it your decision to drop the lawsuit against Golden Valley Lending and three other payday lending companies which used faux partnerships with Native American tribes to charge excessive interest rates of up to 950 percent—a clear violation of State interest rate caps?

**A.2.f.** The decision to dismiss the case without prejudice was made by me. Dismissal of a case, which is one legal theory based on one set of facts, does not mean that a decision has been made on whether to pursue other legal theories based on different facts.

**Q.3.a.** When you arrived at the Bureau, you froze the Civil Penalty Fund. By freezing this fund, you prevented people from getting compensation due them. These are people who have already suf-

<sup>6</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/future-income-payments-llc/>.

<sup>7</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/bluestem-brands-inc/>.

<sup>8</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/cash-express-llc/>.

ferred. They paid late fees, missed paychecks, and lost earnings because of these overcharges.

How many people are still waiting for compensation from completed enforcement actions as of December 31, 2018?

**A.3.a.** I have not prevented people from getting compensation due to them. As of November 9, 2018, funds from the Civil Penalty Fund have been allocated to classes of consumers from 22 cases. Of those 22, funds have been distributed to consumers in all but three cases. Preparations for the remaining three distributions are continuing according to the Bureau's established procedures. In my time as Acting Director, the Bureau has released over \$110 million to nearly 30,000 harmed consumers from the Civil Penalty Fund.

**Q.3.b.** Why are you delaying people from getting compensation due them?

**A.3.b.** The Bureau is maintaining operation of the Civil Penalty Fund. We are not delaying payments from the Civil Penalty Fund.

**Q.3.c.** You testified before the House that since you arrived at the Bureau \$92 million has been returned to consumers. How does \$92 million compare with how much is owed?

**A.3.c.** As noted in a previous response, there are three cases for which funds have been allocated but not yet distributed. The allocations for those three cases total \$72 million.

**Q.4.a.** The Consumer Bureau fined Wells Fargo for opening 1.5 million fake accounts causing consumers to incur more than \$2 million in fees.

Has every Wells Fargo customer who had a fake account or unauthorized credit card been compensated?

**A.4.a.** The Bureau entered a consent order with Wells Fargo on September 8, 2016.<sup>9</sup> The order provided for remediation, which is ongoing.

**Q.4.b.** What about those who were illegally charged auto insurance or had unnecessary fees added to their mortgage? Will the Bureau take action against Wells Fargo for other fraudulent actions beyond the fake accounts and fake credit cards? If so, when?

**A.4.b.** Since the hearing, the Bureau has taken action relating to these matters in coordination with the Office of the Comptroller of the Currency (OCC). On April 20, 2018, the Bureau announced a public enforcement action against Wells Fargo regarding its mortgage origination and auto-loan servicing practices.<sup>10</sup>

**Q.4.c.** Have all the people who paid Equifax, Transunion, and Experian for credit scores that turned out to be useless—not their real scores but an “educational score”—received the tens of millions promised to them?

<sup>9</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/wells-fargo-bank-2016/>.

<sup>10</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/wells-fargo-bank-na-2018/>.



**A.4.c.** The Bureau entered consent orders with Equifax<sup>11</sup> and Transunion<sup>12</sup> on January 3, 2017, and with Experian<sup>13</sup> on March 23, 2017. Equifax has completed remediation to consumers. Transunion's remediation is ongoing. Experian was not directed to pay remediation.

**Q.4.d.** Navy Federal Credit Union illegally threatened to tell their customers—members of the military—that the Credit Union would tell their chain of command about their debts. Have all those customers received all of the \$23 million promised to them?

**A.4.d.** The Bureau entered a consent order with Navy Federal Credit Union on October 11, 2016.<sup>14</sup> The order provided for remediation, which is complete.

**Q.4.e.** Woodbridge Gold & Pawn deceived consumers about the actual annual cost of its loans by as much as half. Has Woodbridge provided the \$56,000 in restitution to all of the 1,000 people who were overcharged?

**A.4.e.** The Bureau, jointly with the Virginia Attorney General's office, filed an enforcement action against Woodbridge Gold & Pawn on February 2, 2017.<sup>15</sup> The district court entered the parties consent order providing for remediation on February 7, 2017, and that remediation is complete.

**Q.4.f.** When RushCard had a massive service breakdown, tens of thousands of people could not get their paychecks or pay bills. Have all the thousands of UniRush and Mastercard customers received their share of the \$10 million compensation owed them?

**A.4.f.** The Bureau entered a consent order with UniRush and Mastercard on February 1, 2017.<sup>16</sup> Under the order, payments by check and account credits were issued to consumers in March 2018. Certain reporting and other obligations related to remediation under the order remain outstanding.

**Q.4.g.** Planet Home Lending took illegal kickbacks for mortgage referrals. Have all people who were overcharged and cheated received the \$265,000 in redress?

**A.4.g.** The Bureau entered a consent order with Planet Home Lending on January 31, 2017.<sup>17</sup> The order provided for remediation, which is complete.

**Q.4.h.** Attorneys at the Williamson Law firm conspired to charge illegal fees to people seeking help with debt relief. Has the CFPB provided funds to all the people who were overcharged?

<sup>11</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/equifax-inc-and-equifax-consumer-services-llc/>.

<sup>12</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/transunion-inter-active-inc-transunionllc-and-transunion/>.

<sup>13</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/experian-holdings-inc-experian-information-solutions-inc-and-consumerinfo-com-inc-dba-experian-consumer-services/>.

<sup>14</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/navy-federal-credit-union/>.

<sup>15</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/woodbridge-coins-and-jewelry-exchange-inc-db-woodbridge-gold-pawn/>.

<sup>16</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/unirush-llc-and-mastercard-international-incorporated/>.

<sup>17</sup><https://www.consumerfinance.gov/policy-compliance/enforcement/actions/planet-home-lending-llc/>.

**A.4.h.** The Bureau filed a complaint against the Williamson Law Firm and related parties on January 30, 2017.<sup>18</sup> That case is ongoing.

**Q.4.i.** Have all the clients of Works & Lentz received compensation to offset the harm they suffered when this medical collection firm provided inaccurate credit information to the credit bureaus?

**A.4.i.** The Bureau entered a consent order with Works and Lentz on January 9, 2017.<sup>19</sup> The order provided for remediation, which is complete.

**Q.5.** Congress has made inadequate investment in IT and cyber security for Federal agencies. The leaders of SEC, HUD, and the CFTC have all told us recently that they need to upgrade their IT systems but Congress has not provided adequate resources. How many open IT security specialist positions have you chosen not to fill?

**A.5.** The Bureau has a Cyber Team comprised of 20 positions, which includes IT Specialists, Information Security Specialists, Supervisory IT Specialists, and Policy & Planning Specialists. There are six current vacancies among the team and the Bureau is finalizing hiring for the Chief Information Security Officer (CISO) position. Once this position is permanently filled, the Bureau will assess the remaining five positions to determine the need to proceed with filling the existing vacancies as is given there are current staff performing this same work or whether additional skillsets are needed within the team. As of November 13, 2018, the remaining five positions are:

- Cybersecurity Architecture & Engineering Team Lead (CN-60)
- Information System Security Manager (CN-52/53) positions (x2 vacancies)
- Cloud Security Engineer (CN 52/53) positions (x2 vacancies)

**Q.6.** In my State of Nevada, half of renters pay more than  $\frac{1}{3}$  of their income for rent. Other States also have a rental housing crisis with tens of millions of families whose low wages leave them struggling to pay rent and other bills. Yet, fewer than 6 million families receive Federal assistance with their rent. As OMB Director, you develop President Trump's budgets. The 2019 budget request proposes the most radical retrenchment of Federal aid for such families since the U.S. Housing Act was first enacted in 1937.

**Q.6.a.** Why did the Trump administration's budget ask Congress to cancel housing choice vouchers for 200,000 low-income families? What will happen to these people—low-income families, seniors, people with disabilities, veterans—if you strip away the housing benefits they are currently receiving?

**A.6.a.** The 2019 Budget requested \$20.5 billion for the Housing Choice Voucher program. This amount provides sufficient funding to continue to support all households currently assisted by the program, and enables housing authorities to reissue all vouchers currently in use to new families upon turnover.

<sup>18</sup> <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/vincent-howard-lawrence-w-williamson-howard-law-pc-williamson-law-firm-llc-and-williamson-howard-llp/>.

<sup>19</sup> <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/works-lentz-inc/>.

**Q.6.b.** About 2 million people live in public housing. It's a critical and deeply underfunded source of housing. Why does the Trump administration budget cut public housing funding by half?

**Q.6.c.** For people who are elderly, have a disability, or are children, what is the public health impact of not repairing broken elevators, replacing broken windows or removing lead-based paint in their homes?

**A.6.b.-c.** The current approach to supporting the Public Housing program is unsustainable and has resulted in units lost due to poor physical conditions. To address this problem, the 2019 President's Budget provides resources to shift Public Housing to the Section 8 funding platform (Housing Choice Vouchers, Project Based Rental Assistance) where it can leverage private financing to address capital repairs. The Budget also allows Public Housing Authorities (PHAs) to retain full control of properties while protecting residents from displacement, and facilitate demolition of uninhabitable units. Further, the Administration believes that State and local governments should more fully share in the responsibility of providing affordable housing.

The Budget continues to support the Department of Housing and Urban Development's (HUD) mission to provide decent, safe, and sanitary housing for assisted families, including addressing the health and safety conditions of Public Housing residents. The 2019 Budget requests \$10 million to address emergency capital needs in Public Housing, including safety and security measures, and \$145 million for the Lead Hazard Reduction program. Further, HUD has published a competitive notice to award \$25 million that was provided in 2017 to abate lead hazards in public housing.

**Q.6.d.** Local elected officials, housing developers, and others rely on the HOME Investment Partnerships, Community Development Block Grant (CDBG), and Choice Neighborhoods programs which give flexible aid to low-income rural, suburban, and urban communities.

Why does the Administration budget propose cutting more than \$4 billion a year to improve basic infrastructure like water and sewer lines, provide life-enriching services to youth and seniors, build and rehabilitate affordable housing for low-income residents, and promote economic development?

**A.6.d.** The 2019 President's Budget recognizes a greater role for State and local governments and the private sector to provide funding for community and economic development needs. The program objectives of HOME, CDBG, and Choice Neighborhoods could be met by non-Federal dollars. Many factors contribute to housing cost burden and the problem cannot be solved by the Federal Government through HOME or the subsidization of housing construction alone. For CDBG, it has been documented that the allocation formula poorly targets funds to the areas of greatest need, and many aspects of the program have become outdated. And finally, early reports suggest that many of the funds leveraged by Choice Neighborhood grantees were existing commitments and appear as if they would have occurred in the absence of a Choice grant.

**Q.7.** We desperately need more resources for affordable housing for families whose wages are too low to pay the rent and other expenses. The National Housing Trust Fund provided \$219 million last year nationwide. In Reno, we received a \$1.8 million investment that provided 20 homes to low-income families.

**Q.7.a.** Why did the Administration propose eliminating the National Housing Trust Fund even though these funds are NOT even taxpayer funds?

**A.7.a.** The Housing Trust Fund, managed by the Department of Housing and Urban Development, is a fee-funded Federal program that provides grants to States to increase and preserve the supply of affordable housing primarily for extremely low-income families. Housing for low-income families is also currently funded by multiple funding sources, including Federal, State, and local governments, as well as the private and nonprofit sectors. The result is a fragmented system with varying rules and regulations that create overlap and inefficiencies, as well as challenges to measuring collective performance. The Administration's proposal to eliminate the Housing Trust Fund, in concert with other proposals in the 2019 President's Budget, would devolve some affordable housing activities to State and local governments who are better positioned to comprehensively address the array of unique market challenges, local policies, and impediments that lead to housing affordability problems.

**Q.7.b.** Can I get your commitment that the Trump administration will not seek to rescind any of the 2018 HUD and USDA housing funds? That every dollar Congress provided to help veterans, people with disabilities, low-income seniors and families live in safe and affordable housing will be available?

**A.7.b.** Given the long-term fiscal constraints facing our Nation, the President is committed to using all available tools to put our fiscal house back in order. This includes his authority to propose rescissions under the Congressional Budget and Impoundment Control Act of 1974. I appreciate you sharing your views on these rescissions.

**Q.7.c.** Can I get your commitment to prioritize funding for affordable housing in your 2020 budget submission if you are still serving as Director of OMB?

**A.7.c.** The President's 2019 Budget delivers on key promises made to the American people by focusing on four main priorities: the safety and security of the American people, continuing to build an even stronger and robust American economy, an enhanced quality of life for hardworking Americans, and a commitment to a better future. As we begin work on President Trump's FY 2020 Budget, I appreciate you sharing your views on Federal affordable housing programs.

**Q.8.** More than 91,000 Nevadans have submitted complaints to the Consumer Complaint database. About  $\frac{1}{3}$  of the complaints in Nevada and nationwide are about debt collection. People said debt collectors illegally harass them for debts that were not theirs, try to collect the wrong amount or demand payment on outdated debts while they hold people's credit reports hostage. Was it your

decision to drop the lawsuit against Golden Valley Lending and three other payday lending companies which used faux partnerships with Native American tribes to charge excessive interest rates of up to 950 percent—a clear violation of State interest rate caps?

**A.8.** The decision to dismiss the case without prejudice was made by me. Dismissal of a case, which is one legal theory based on one set of facts, does not mean a decision has been made on whether to pursue other legal theories based on different facts.

**Q.9.** A Reuters’ report stated that “A CFPB investigation found [National Credit Adjusters] wrongly collected roughly \$50 million.” National Credit Adjusters, a notoriously abusive payday loan collector, announced that the Bureau investigations have ended.

**Q.9.a.** Was it your decision to drop this investigation? Did your senior staff participate in this decision? If so, who advised you to drop the investigation into NCA?

**Q.9.b.** Do you dispute the claim that National Credit Adjusters wrongfully collected millions of dollars from American consumers?

**Q.9.c.** If no, how can these consumers be made whole?

**Q.9.d.** If yes, would you provide in writing, the evidence you have for disputing this claim?

**Q.9.e.** Are you considering dropping cases against debt collection firms Security Finance, Cash Express, and Triton Management Group?

**A.9.a.–e.** As I mentioned in my response to Question 2, the Bureau entered into a consent order with National Credit Adjusters, LLC and Bradley Hochstein on July 13, 2018.<sup>20</sup> The Bureau also entered into a consent order with Security Group, Inc., Security Finance Corporation of Spartanburg, and Professional Services Corp. on June 13, 2018,<sup>21</sup> a consent order with Cash Express, LLC on October 24, 2018,<sup>22</sup> and a consent order with Triton Management Group, Inc. on July 19, 2018.<sup>23</sup>

**Q.10.** In your Wall Street Journal op-ed you said almost a third of consumer complaints received by the Bureau are associated with debt collection and said “data like that should, and will, guide our actions.”

**Q.10.a.** Why then did the Consumer Bureau, at your direction, cancel a survey of consumers about their experiences with debt collection?

**A.10.a.** I note that this question is identical to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau’s Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member. Additionally, this question is substantially similar to a question I received from

<sup>20</sup> <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/national-credit-adjusters-llc-and-bradley-hochstein/>.

<sup>21</sup> [https://www.consumerfinance.gov/policy-compliance/enforcement/actions/security-group-inc.](https://www.consumerfinance.gov/policy-compliance/enforcement/actions/security-group-inc/)

<sup>22</sup> <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/cash-express-llc/>.

<sup>23</sup> <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/triton-management-group-inc/>.

Ranking Member Brown following my testimony before the Senate Committee on Banking, Housing, and Urban Affairs, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I will provide to the Ranking Member.

The survey for which the Bureau sought Office of Management and Budget (OMB) approval under the Paperwork Reduction Act was tied to testing particular disclosures that were under consideration as part of a potential rulemaking with respect to debt collection. The request for comment on the Bureau's request appeared in the Federal Register on November 14, 2017, less than 2 weeks before I became the Acting Director. I decided that before proceeding with the survey I first wanted to review the proposals that were under consideration for the rulemaking so that any data collection would be tailored to what I determined to be the appropriate scope for the rulemaking rather than driven by decisions that may have been made by my predecessor. Prior to my tenure as Acting Director, the Bureau did conduct a survey of consumers about their experiences with debt collection.

**Q.10.b.** The debt collection industry and consumer groups both believe a rule is needed either to clarify which types of debt collection practices are acceptable or to protect consumers from abuse. Given this information, are you also in agreement that the Bureau should issue a debt collection rule?

**A.10.b.** I note that this question is identical to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member.

The Bureau has identified debt collection as part of its plans for upcoming proposed rules in the Fall 2018 Unified Agenda. Debt collection is one of the most complained-about financial products, and industry and consumer groups have encouraged the Bureau to engage in rulemaking regarding this over 40-year-old statute. The Bureau has engaged in research and pre-rulemaking activities regarding debt collection practices, including issuing an Advance Notice of Proposed Rulemaking in November 2013 and releasing an Outline of Proposals Under Consideration in preparation for a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel in July 2016. The Bureau expects to issue a Notice of Proposed Rulemaking addressing such issues as communication practices and consumer disclosures by spring 2019.

**Q.11.** The Pathways Program was designed to increase the number of highly skilled, well-trained minorities working at the Bureau.

**Q.11.a.** Why have you canceled hiring under the Pathways Program? How many full-time Federal staff members in the Pathways Program will not be eligible for a permanent position at the Bureau?

**A.11.a.** On November 28, 2017, I instituted a 30-day hiring freeze which was extended indefinitely on January 18, 2018. The freeze is designed to give the Bureau's leadership time to align the agency's budget, programs, and staffing plans with my priorities and evolving mission needs. The freeze prohibits the Bureau from hiring external candidates, posting and filling certain vacancies that

result in promotion, converting Pathways appointments, or extending temporary or term appointments. While the freeze prohibits converting Pathways program staff to permanent positions, on November 13, 2018, I signed an exception granting conversion to all remaining full-time Pathways employees currently onboard. As of November 21, 2018, I have granted exceptions to the freeze for 47 positions so far in 2018. The chart below indicates the type and number of exceptions made for each position.

Type of Exception	Number of Exceptions	Position Title
External Hire	1	Assistant Director, Office of Servicemember Affairs
External Hire	1	Section Chief, Students and Young Consumers
External Hire	2	Policy Analyst, Students and Young Consumers
External Hire	1	Office of Minority and Women Inclusion Director
Internal Hire	1	Disability Program Manager
Internal Hire	1	Deputy Executive Secretary and Counselor to Chief of Staff
External Hire	10	Director's Financial Analyst
External Hire	1	Assistant Director, Office of Cost-Benefit Analysis
External Hire	1	Spokesperson
External Hire	2	Paralegal
External Hire	2	Freedom of Information Act Analyst
External Hire	1	Chief Information Security Officer
External Hire	1	Senior Security Architecture and Engineering Lead
External Hire	1	West Regional Director, Office of Supervision Examinations
Internal Hire	1	Associate Executive Secretariat
Internal Hire	1	Deputy Associate Director, External Affairs
Conversion to permanent appointment	9	Pathways Program participants (individuals were eligible for conversion in 2018 and would have been separated in 2018 absent an exception to the hiring freeze)
Extension of term appointment	5	Financial Analyst (term appoints extended for one year)
Extension of term appointment	4	Research Analyst (term appoints extended for one year)
External Hire	1	Assistant Director Office of Civil Rights

**Q.11.b.** How many of the staff you hired are Latino? African American? Women?

**A.11.b.** From November 27, 2017 through October 23, 2018, 4 of the 25 externally hired staff identified in the personnel system as

Hispanic or African American/Black (these numbers do not include interns). Eleven of the new external hires are identified in the personnel system as female. Of the 12 Schedule C appointments, not included in the exceptions list above, made between November 27, 2017 and October 23, 2018, none of the appointees are identified in the personnel system as Hispanic and one appointee is identified as African American/Black. Five of the Schedule C appointees are identified in the personnel system as female.

**Q.11.c.** Do you have any Latinos or African Americans in your top policy positions at the Bureau? Please name them.

**A.11.c.** There are currently 63 executives at the Bureau (pay bands 81, 82, or 90). This includes Schedule C appointees. There are no Hispanic employees serving in Schedule C political appointments at the executive pay band levels and one African American/Black employee serving in a Schedule C appointment at the executive pay band level. For the rest of the executive corps, there are four career employees who are identified in the personnel system as Hispanic and seven career employees are identified in the personnel system as African American/Black.

**Q.12.** On December 21, 2017, the CFPB announced that it does not intend to assess penalties for errors in Home Mortgage Disclosure Act (HMDA) data collected in 2018, and that it plans to reconsider various aspects of its 2015 HMDA rule.

How can you enforce the law against racial discrimination without actual data about who gets what type of loan? Or without penalties for discrimination?

**A.12.** The Bureau issued its statement in recognition of the significant systems and operational challenges needed to adjust to the revised Regulation C, for Home Mortgage Disclosure Act (HMDA) data collected in 2018 and reported in 2019. The statement does not modify financial institutions' obligation to submit 2018 HMDA data. The statement regarding HMDA resubmission and penalties applies only to HMDA data collected in 2018 and submitted in 2019.

For data collected in 2018 and submitted in 2019, the new HMDA Platform, which allows financial institutions to upload HMDA files, perform validation on the data, review edits, submit HMDA data, and complete the HMDA filing process, will encourage and facilitate financial institutions' ability to file accurate and complete HMDA data. Further, under Regulation C (and effective for data submitted in 2019), an authorized representative of the financial institution with knowledge of the data submitted shall certify to the accuracy and completeness of data submitted.

**Q.13.** This year is the 50-year anniversary of the Fair Housing Act. Yet, we have the largest homeownership gap between whites and blacks as in 1968.

**Q.13.a.** How does your decision to suspend penalties for HMDA violations move us toward closing the racial homeownership and wealth gap?

**A.13.a.** The Bureau understands that financial institutions have devoted considerable resources to properly convert their systems, policies, procedures, and training to conform to the changes in Reg-



ulation C that took effect on January 1, 2018. The Bureau's decision along with the decision of the prudential regulators not to require financial institutions to pay penalties with respect to errors in data collected in 2018 and reported in 2019 will not undo their work or the ongoing work of institutions to get HMDA reporting right. Collection and submission of the 2018 HMDA data will provide financial institutions an opportunity to focus on identifying any gaps in their implementation of the additional requirements in Regulation C and making improvements in their HMDA compliance management systems for future years. The Bureau plans to conduct HMDA exams on 2018 data with the goal of helping financial institutions improve data quality going forward, and required HMDA reporting in future years will also provide an incentive for HMDA filers to address any compliance gaps as soon as possible.

**Q.13.b.** Director Mulvaney, would you please explain why you believed it was necessary to change the language of the Bureau's mission statement that focused on protecting consumers?

**A.13.b.** I note that this question is identical to a question I received from Ranking Member Maxine Waters (CA) following my testimony before the House Committee on Financial Services, regarding the Bureau's Semi-Annual Report. For that reason, I am providing you the same response I provided the Ranking Member.

You may recall that the language is drawn from one of the five statutory objectives of the Bureau, and is drawn directly from Section 1021(b)(3) of the Dodd-Frank Act.

**Q.14.** Director Mulvaney, it appears that you have begun to refer to the Consumer Financial Protection Bureau as the "Bureau of Consumer Financial Protection" and also changed the seal of the agency.

**Q.14.a.** If you persist in this confounding change, what are you doing to minimize confusion to consumers, the very people the Bureau was created to protect?

**A.14.a.** We are using the name expressly assigned to us by Congress in the Dodd-Frank Act. To the extent you believe the correction is confounding, the decision to use an improper name for the agency was made by prior leadership.

**Q.14.b.** The current name puts people—consumers—first. Why do you seek to change the name to minimize the responsibility that we need a banking system that serves people, not financial firms?

**A.14.b.** I am not sure why Congress decided in the Dodd-Frank Act to call our agency the Bureau of Consumer Financial Protection. We are using the name given to us in the law. You would have to ask the drafters for insight into the meaning they intended to convey by choosing this name.

**Q.15.** When I talk with banking regulators, they tell me that they support a robust Consumer Financial Protection Bureau that can focus 100 percent on consumer protection from unfair, deceptive, and abusive practices while bank examiners focus on safety and soundness.

**Q.15.a.** Are the banking regulators—the Federal Reserve, the OCC, NCUA, the FDIC—prepared to step up their consumer protection

efforts as you weaken yours? Please provide evidence that the banking regulators are planning to increase their oversight of consumer protection for their regulated banks.

**A.15.a.** We are not weakening efforts. I do not accept your premise. Requests for evidence about the planned future activities of other Federal agencies should be directed to those agencies.

**Q.15.b.** What about State attorneys general? Do they think they can manage to fill the consumer protection void you are leaving? Please provide evidence that AGs are ready to expand their consumer protection activities in the financial marketplace.

**A.15.b.** We are not leaving a void. I do not accept your premise. Requests for evidence about the planned future activities of State attorneys general should be directed to those offices.

**Q.15.c.** What entities will police payday lenders, the title insurance firms, the credit reporting agencies, money remitters if the Bureau limits its oversight? Please provide evidence that other regulators like the IRS and the FTC are planning to expand their oversight over firms the Bureau has chosen to weaken regulatory oversight.

**A.15.c.** We are not limiting oversight. I do not accept your premise. Requests for evidence about the planned future activities of other Federal agencies should be directed to those agencies. The Bureau will continue to enforce Federal consumer financial law as defined in the Consumer Financial Protection Act.

**Q.15.d.** Can you point to any other precedent in history where the head of the Office of Management and Budget had a second job?

**A.15.d.** I am not aware of any such precedent.

**Q.15.e.** Can you point to any other precedent in history where the head of a White House office also simultaneously headed an independent banking regulatory agency?

**A.15.e.** I am not aware of any such precedent.

**Q.15.f.** What policies and procedures are in place to ensure that your responsibilities at the Office of Management and Budget do not undermine the Bureau's independence?

**A.15.f.** Emails and records relating to the separate agencies are created and preserved on the respective agency's systems and in accordance with the agency's record schedules and retention policies. Funds of the respective agencies are used only to cover costs associated with the respective agency's duties. Personnel not detailed to the Bureau are not involved with specific party matters before the Bureau, except when specifically authorized and required by their normal OMB duties. OMB and Bureau ethics officials coordinate on the application of the ethics rules to ensure that OMB personnel detailed to the Bureau comply with the rules of both agencies.

**Q.15.g.** Has either the Consumer Bureau Board or the Office of Management and Budget Inspector General reviewed these potential conflicts and the appropriateness of holding two conflicting part-time jobs instead of focusing full-time on the position of which you were confirmed and sworn into? If so, what did they say? Please provide any correspondence or notes.

**A.15.g.** I note that this question is identical to a question I received from Ranking Member Maxine Waters following my testimony before the House Committee on Financial Services. For that reason, I am providing you the same response I will provide to the Ranking Member. There is no conflict and I am not aware of any such review by the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection. There is no Inspector General for the Office of Management and Budget.

**Q.15.h.** Please detail every meeting you attended at a Trump-branded property since the 2016 election. Please note any expenses you incurred at these properties including any lodging, meals or other expenses. If you attended such events, please list any staff who assisted in your attendance at events at Trump property. Please define the name of the staff member, that person(s) position(s) and the amount of time that they devoted to scheduling your attendance at events at a Trump-owned property.

**A.15.h.** On December 5, 2016, President-elect Trump interviewed me as a candidate for Office of Management and Budget Director at Trump Tower in New York. No executive branch staff assisted in my attendance at that interview, and I did not incur any expenses there. On February 19, 2017, I attended a meeting at Mar-a-Lago. I was accompanied by Russ Vought and Emma Doyle, who were both Senior Advisors at the Office of Management and Budget at the time. Ms. Doyle spent less than one half hour scheduling my attendance at this meeting. Neither Mr. Vought, Ms. Doyle, nor I incurred any expenses at Mar-a-Lago. Finally, on August 15, 2017, I attended a meeting at Trump Tower in New York. I was not accompanied by any staff, though Ms. Doyle, by then my Chief of Staff, spent less than 15 minutes scheduling my attendance at this meeting. I incurred no expenses at Trump Tower.

**Q.16.** During the hearing, you agreed with comments that manufactured home lending has fallen. However, the HMDA data (see below) finds that in 2016, 118,637 manufactured home loans were made. This is higher than any year since 2009 when 125,832 loans were made. This is consistent with Nevada data that finds that manufactured homes fell to 1,460 in 2009 and has since rebounded with 1,612 loans in 2016.

On what basis do you assert that loans to manufactured homeowners has fallen? Please share any information on lending for manufactured housing for both real property and chattel loans from 2008 to 2017, or the most recent available data.

**A.16.** At the hearing Senator Thom Tillis observed that because of regulatory overreach consumers are not getting the loans they need, including the kinds of loans his family relied upon to live in a mobile home back in the 1970s and 1980s. I expressed my agreement with the concern about the impact of overregulation on access to credit. I am particularly concerned about the impact that the Bureau's rules have had on the ability of consumers to obtain smaller mortgages. The Bureau is committed to understanding this important segment of the housing market, including loans for relatively low dollar amounts. In 2014, the Bureau issued a white paper entitled "Manufactured-housing Consumer Finance in the

United States,”<sup>24</sup> and in May, we released our report on 2017 Home Mortgage Disclosure Act (HMDA) data trends,<sup>25</sup> which includes a section on Home Ownership and Equity Protection Act (HOEPA) loans with a particular focus on manufactured housing. HMDA data indicates, for example, that the number of mortgages under \$50,000 made to purchase a manufactured home is below the level of such loans in 2013.<sup>26</sup> The Bureau is examining certain trends in mortgages for manufactured homes in its 5-year assessment of the ability-to-repay and qualified mortgage rule.

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<sup>24</sup> [http://files.consumerfinance.gov/f/201409\\_cfpb\\_report\\_manufactured-housing.pdf](http://files.consumerfinance.gov/f/201409_cfpb_report_manufactured-housing.pdf).

<sup>25</sup> <https://www.consumerfinance.gov/data-research/research-reports/cfpb-data-point-mortgage-market-activity-and-trends/>.

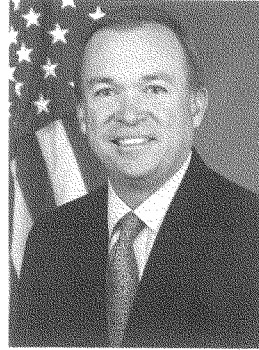
<sup>26</sup> Table 9b of the Data Point, [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/bcfp\\_hmda\\_2017-mortgage-market-activity-trends\\_report.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/bcfp_hmda_2017-mortgage-market-activity-trends_report.pdf).

April 2018

# Semi-annual report of the Bureau of Consumer Financial Protection



## Message from Mick Mulvaney



### Acting Director

I am pleased to present the Bureau of Consumer Financial Protection's (Bureau's) Semi-Annual Report to Congress for the period beginning April 1, 2017 and ending September 30, 2017. Shortly after President Trump appointed me as Acting Director, I made it clear that the Bureau will continue to execute the law, but will no longer go beyond its statutory mandate. In enacting Section 1016(c) of the Dodd-Frank Act, Congress enumerated nine elements for inclusion in the Bureau's semi-annual reports to Congress. This semi-annual report precisely meets this mandate.

Moreover, Section 1012(c)(4) of the Dodd-Frank Act contemplates that the Director will submit independent legislative recommendations to Congress. It is appropriate to include legislative recommendations in this semi-annual report, since doing so will afford Members of Congress a timely opportunity to ask me questions about my recommendations in the hearings at which I will testify.

As has been evident since the enactment of the Dodd-Frank Act, the Bureau is far too powerful, and with precious little oversight of its activities. Per the statute, in the normal course the Bureau's Director simultaneously serves in three roles: as a one-man legislature empowered to write rules to bind parties in new ways; as an executive officer subject to limited control by the President; and as an appellate judge presiding over the Bureau's in-house court-like adjudications. In Federalist No. 47, James Madison famously wrote that "[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands ... may justly be pronounced the very definition of tyranny." Constitutional separation of powers and related checks and balances protect us from government overreach. And while Congress may not have transgressed any constraints established by the Supreme Court, the structure and powers of this agency are not something the Founders and Framers would recognize. By structuring the Bureau the way it

has, Congress established an agency primed to ignore due process and abandon the rule of law in favor of bureaucratic fiat and administrative absolutism.

The best that any Bureau Director can do on his own is to fulfill his responsibilities with humility and prudence, and to temper his decisions with the knowledge that the power he wields could all too easily be used to harm consumers, destroy businesses, or arbitrarily remake American financial markets. But all human beings are imperfect, and history shows that the temptation of power is strong. Our laws should be written to restrain that human weakness, not empower it.

I have no doubt that many Members of Congress disagree with my actions as the Acting Director of the Bureau, just as many Members disagreed with the actions of my predecessor. Such continued frustration with the Bureau's lack of accountability to any representative branch of government should be a warning sign that a lapse in democratic structure and republican principles has occurred. This cycle will repeat *ad infinitum* unless Congress acts to make it accountable to the American people.

Accordingly, I request that Congress make four changes to the law to establish meaningful accountability for the Bureau<sup>1</sup>:

1. Fund the Bureau through Congressional appropriations;
2. Require legislative approval of major Bureau rules;
3. Ensure that the Director answers to the President in the exercise of executive authority; and
4. Create an independent Inspector General for the Bureau.

I look forward to discussing these recommendations with all interested Members, and to testifying regarding this semi-annual Report to Congress.

Sincerely,



Mick Mulvaney

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<sup>1</sup> Other than the Bureau's Acting Director, no other officer or agency of the United States approved these legislative recommendations prior to submission. The views contained herein are those of the Acting Director and do not necessarily reflect the views of the Board of Governors of the Federal Reserve System or the President.

# Table of Contents

<b>Message from Mick Mulvaney .....</b>	<b>1</b>
<b>Table of Contents .....</b>	<b>3</b>
<b>1. Significant problems faced by consumers in shopping for or obtaining consumer financial products or services .....</b>	<b>5</b>
1.1 Credit invisibles.....	5
1.2 Financial education .....	6
<b>2. Justification of the budget request of the previous year.....</b>	<b>7</b>
<b>3. List of the significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period.....</b>	<b>10</b>
3.1 Significant rules .....	11
3.2 Less significant rules .....	11
3.3 Significant initiatives .....	12
3.4 Plan for upcoming initiatives.....	17
3.5 Plan for upcoming rules .....	19
<b>4. Analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year.....</b>	<b>20</b>



<b>5. List, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year .....</b>	<b>23</b>
5.1 Supervisory activities .....	23
5.2 Enforcement activities .....	23
<b>6. Actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions .....</b>	<b>44</b>
<b>7. Assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law.....</b>	<b>45</b>
<b>8. Analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau .....</b>	<b>47</b>
8.1 Fair lending supervision.....	48
8.2 Fair lending enforcement.....	49
8.3 Fair lending outreach.....	50
8.4 Interagency coordination.....	50
<b>9. Analysis of the efforts of the Bureau to increase workforce and contracting diversity consistent with the procedures established by the Office of Minority and Women Inclusion. ....</b>	<b>52</b>
9.1 Increasing workforce diversity .....	53
9.2 Increasing contracting diversity .....	54
9.3 Diversity within the Bureau contractors' workforces.....	55

# 1. Significant problems faced by consumers in shopping for or obtaining consumer financial products or services

## 1.1 Credit invisibles

“Credit invisibles” refers to consumers who lack a credit record at one of the nationwide credit reporting companies. As a result, these consumers can face substantially reduced access to credit. The Bureau released the [Data Point: Credit Invisibles](#) in 2015 that estimated the demographic characteristics and number of credit invisible consumers. In June 2017, the Bureau released the [Data Point: Becoming Credit Visible](#) that explored the means by which consumers transitioned out of credit invisibility. The Data Point found that most people who made this transition did so by age 25. However, consumers in low- and moderate-income neighborhoods made this transition at older ages than those in middle- or upper-income neighborhoods. Across all age groups and income levels, credit cards triggered the creation of consumer credit records more frequently than any other product. About 1-in-4 consumers first acquired their credit histories from an account for which others were also responsible (i.e., jointly held accounts or authorized user accounts), but the use of this method was notably less common in lower-income neighborhoods.

Of the consumers who transition out of credit invisibility, about 65 percent appear to have transitioned by opening an account by themselves despite their lack of a credit history. Understanding what characteristics lenders are using to make loans to some credit invisible

consumers but not others may have important implications for efforts to promote credit visibility. Additional research on the processes being used to underwrite loans for credit invisible consumers may help illuminate potential approaches to reducing credit invisibility. Following transition to credit visibility, a consumer's access to credit may also depend on whether the consumer is categorized as a "good" or "bad" credit risk. There is room for future research to delve deeper into the characteristics of credit records as they make the transition out of credit invisibility and thereafter.

## 1.2 Financial education

The Consumer Financial Protection Act of 2010 directs the Bureau to ensure that "consumers are provided with timely and understandable information to make responsible decisions about financial transactions"<sup>2</sup> by "conducting financial education programs."<sup>3</sup> The Bureau works to educate consumers in order to prepare and empower them with the knowledge and skills to make choices about money to achieve their own life goals. The Consumer Financial Protection Act directs the Bureau to report annually on our financial education activities and strategy to improve financial literacy.<sup>4</sup> The 2017 Financial Literacy Annual Report is available at [www.consumerfinance.gov/data-research/research-reports/2017-financial-literacy-annual-report](http://www.consumerfinance.gov/data-research/research-reports/2017-financial-literacy-annual-report).

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<sup>2</sup> 12 U.S.C. 5511(b)(1).

<sup>3</sup> 12 U.S.C. 5511(c)(1).

<sup>4</sup> 12 U.S.C. 5493(d)(4).

## 2. Justification of the budget request of the previous year

The FY 2017 Strategic Plan, Budget, and Performance Plan and Report includes estimates of the resources needed for the Bureau to carry out its mission and describes the Bureau's performance goals and accomplishments, which align with the larger long-term Strategic Plan for FY 2013 to FY 2017. The justification of the FY 2017 budget request is available online at <https://www.consumerfinance.gov/about-us/budget-strategy/budget-and-performance/>.

Fiscal year 2017 spending through the end of the fourth quarter of FY 2017

### BUREAU FUND

As of September 30, 2017, the end of the fourth quarter of FY 2017, the Bureau incurred approximately \$593.5 million in obligations<sup>5</sup> during the fiscal year to carry out the authorities of the Bureau under Federal financial consumer law. Approximately \$316.9 million was spent on employee compensation and benefits for the 1,645 Bureau employees who were on-board by the end of the fourth quarter.

**TABLE 1:** FY 2017 SPENDING BY EXPENSE CATEGORY

Expense category	FY 2017
Personnel compensation	228,442,000
Benefit compensation	88,425,000

<sup>5</sup> An obligation is a transaction or agreement that creates a legal liability and obligates the government to pay for goods and services ordered or received.

Expense category	FY 2017
Travel	17,260,000
Transportation of things	143,000
Rents, communications, utilities & misc.	19,090,000
Printing and reproduction	4,530,000
Other contractual services	177,510,000
Supplies & materials	5,726,000
Equipment	37,946,000
Land and structures	14,453,000
Interest & dividends	1,000
Total (as of September 30, 2017)	\$ 593,526,000

### FY 2017 funds transfers received from the Federal Reserve

The Bureau is funded principally by transfers from the Federal Reserve System, up to the limits set forth in the Dodd-Frank Act. Funding from the Federal Reserve System for FY 2017 was capped at \$646.2 million. As of September 30, 2017, the Bureau had received the following transfers for FY 2017. The amounts and dates of the transfers are shown below.

**TABLE 2:** FUNDS TRANSFERRED FROM THE FEDERAL RESERVE

Amount	Date
\$246.1M	October 24, 2016
\$145.7M	January 23, 2017
\$125.6M	April 19, 2017
\$84.6M	August 1, 2017
<b>\$602.0M</b>	<b>Total</b>

Additional information about the Bureau's finances, including information about the Bureau's Civil Penalty Fund and Bureau-Administered Redress programs, is available in the annual financial reports and the CFO quarterly updates published online at

<https://www.consumerfinance.gov/about-us/budget-strategy/financial-reports/>. Copies of the Bureau's quarterly funds transfer requests are available online at <https://www.consumerfinance.gov/about-us/budget-strategy/funds-transfer-requests/>.

3. List of the significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period<sup>6</sup>

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<sup>6</sup> Separate from the Bureau's obligation to include in this report "a list of the significant rules and orders adopted by the Bureau . . . during the preceding year," 12 U.S.C. 5496(b)(3), the Bureau is required to "conduct an assessment of each significant rule or order adopted by the Bureau" under Federal consumer financial law "not later than 5 years after the effective date of the subject rule or order," 12 U.S.C. 5512(d). The Bureau will issue separate notices as appropriate identifying rules and orders that qualify as significant for assessment purposes.

### 3.1 Significant rules

- Final Rule: Arbitration Agreements (note, however, that this rule will not go into effect because Congress subsequently adopted a joint resolution of disapproval which the President signed pursuant to the Congressional Review Act)<sup>7</sup>
- Final Rule: Payday, Vehicle Title, and Certain High-Cost Installment Loans<sup>8</sup>

### 3.2 Less significant rules<sup>9</sup>

- Final Rule: Prepaid Accounts under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z)<sup>10</sup>
- Final Rule: Equal Credit Opportunity Act (Regulation B) Ethnicity and Race Information Collection<sup>11</sup>
- Final Rule: Home Mortgage Disclosure Act (Regulation C)<sup>12</sup>
- Final Rule: Amendments to Federal Mortgage Disclosure Requirements Under the Truth in Lending Act (Regulation Z)<sup>13</sup>

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<sup>7</sup> <https://www.federalregister.gov/documents/2017/07/19/2017-14225/arbitration-agreements>.

<sup>8</sup> <https://www.federalregister.gov/documents/2017/11/17/2017-21808/payday-vehicle-title-and-certain-high-cost-installment-loans>.

<sup>9</sup> This list excludes proposed rules, procedural rules, and other miscellaneous routine rules. More information about the Bureau's rulemaking activities is available in the Unified Agenda, at [www.reginfo.gov](http://www.reginfo.gov), and on the Bureau's public website, at <https://www.consumerfinance.gov/policy-compliance/rulemaking>.

<sup>10</sup> <https://www.federalregister.gov/documents/2016/11/22/2016-24503/prepaid-accounts-under-the-electronic-fund-transfer-act-regulation-e-and-the-truth-in-lending-act>.

<sup>11</sup> <https://www.federalregister.gov/documents/2017/10/02/2017-20417/equal-credit-opportunity-act-regulation-b-ethnicity-and-race-information-collection>.

<sup>12</sup> <https://www.federalregister.gov/documents/2017/09/13/2017-18284/home-mortgage-disclosure-regulation-c>.



- Final Rule: Amendments to the 2013 Mortgage Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)<sup>14</sup>
- Interim Final Rule: Mortgage Servicing Rules under the Real Estate Settlement Procedures Act (Regulation X)<sup>15</sup>
- Final Rule: Mortgage Servicing Rules under the Truth in Lending Act (Regulation Z)<sup>16</sup>

### 3.3 Significant initiatives

- Requests for Information on Assessment of Significant Rules under section 1022(d)
  - Request for Information Regarding 2013 Real Estate Settlement Procedures Act Servicing Rule Assessment<sup>17</sup>
  - Request for Information Regarding Remittance Rule Assessment<sup>18</sup>
  - Request for Information Regarding Ability-to-Repay/Qualified Mortgage Rule Assessment<sup>19</sup>

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<sup>13</sup> <https://www.federalregister.gov/documents/2017/08/11/2017-15764/amendments-to-federal-mortgage-disclosure-requirements-under-the-truth-in-lending-act-regulation-z>.

<sup>14</sup> <https://www.federalregister.gov/documents/2016/10/19/2016-18901/amendments-to-the-2013-mortgage-rules-under-the-real-estate-settlement-procedures-act-regulation-x>.

<sup>15</sup> <https://www.federalregister.gov/documents/2017/10/16/2017-21912/mortgage-servicing-rules-under-the-real-estate-settlement-procedures-act-regulation-x>.

<sup>16</sup> <https://www.federalregister.gov/documents/2018/03/12/2018-04823/mortgage-servicing-rules-under-the-truth-in-lending-act-regulation-z>.

<sup>17</sup> <https://www.federalregister.gov/documents/2017/05/11/2017-09361/request-for-information-regarding-2013-real-estate-settlement-procedures-act-servicing-rule>.

<sup>18</sup> <https://www.federalregister.gov/documents/2017/03/24/2017-05681/request-for-information-regarding-remittance-rule-assessment>.

<sup>19</sup> <https://www.federalregister.gov/documents/2017/06/01/2017-11218/request-for-information-regarding-ability-to-repayqualified-mortgage-rule-assessment>.

- Other Requests for Information:
  - Request for Information Regarding the Small Business Lending Market<sup>20</sup>
  - Request for Information Regarding Consumer Access to Financial Records<sup>21</sup>
  - Request for Information Regarding Use of Alternative Data and Modeling Techniques in the Credit Process<sup>22</sup>
  - Request for Information Regarding Consumer Credit Card Market<sup>23</sup>
- **No Action Letter:** On September 14, 2017, Bureau staff issued its first no-action letter to Upstart Network, Inc., a company that uses alternative data in making credit and pricing decisions.<sup>24</sup> The Bureau's no-action letter signified that Bureau staff had no present intention to recommend initiation of an enforcement or supervisory action against Upstart with regard to application of the ECOA and its implementing regulation, Regulation B. The letter applies to Upstart's automated model for underwriting applicants for unsecured non revolving credit, as that model is described in the company's application materials. The letter is specific to the facts and circumstances of Upstart and does not serve as an endorsement of the use of any particular variables or modeling techniques in credit underwriting.
- **Explored Regulatory Burden:** The Bureau established a Task Force to coordinate and deepen the agency's focus on concerns about regulatory burdens and projects to

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<sup>20</sup> <https://www.federalregister.gov/documents/2017/05/15/2017-09732/request-for-information-regarding-the-small-business-lending-market>.

<sup>21</sup> <https://www.federalregister.gov/documents/2016/11/22/2016-24503/prepaid-accounts-under-the-electronic-fund-transfer-act-regulation-e-and-the-truth-in-lending-act>.

<sup>22</sup> <https://www.federalregister.gov/documents/2017/02/21/2017-03361/request-for-information-regarding-use-of-alternative-data-and-modeling-techniques-in-the-credit>.

<sup>23</sup> <https://www.federalregister.gov/documents/2017/03/10/2017-04797/request-for-information-regarding-consumer-credit-card-market>.

<sup>24</sup> *CFPB Announces First No-Action Letter to Upstart Network*, Consumer Financial Protection Bureau (Sept. 14, 2017), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-first-no-action-letter-upstart-network>.

identify and reduce unwarranted regulatory burdens consistent with the Bureau purposes and objectives under section 1021 of the Dodd-Frank Act.

- **Issued Guidance Documents:** The Bureau issued the following bulletins and guidance documents over the past year:<sup>25</sup>
  - Statement on Supervisory Practices regarding Financial Institutions and Consumers Affected by Hurricane Maria;<sup>26</sup>
  - Summer 2017 Supervisory Highlights;<sup>27</sup>
  - Statement on Supervisory Practices regarding Financial Institutions and Consumers Affected by Hurricanes Harvey and Irma;<sup>28</sup>
  - Memorandum on Financial Institution and Law Enforcement Efforts to Combat Elder Financial Exploitation;<sup>29</sup>
  - Fair Lending Report;<sup>30</sup>
  - FFIEC HMDA Examiner Transaction Testing Guidelines;<sup>31</sup>
  - Compliance Management Systems Examination Procedures;<sup>32</sup>

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<sup>25</sup> The Bureau posts many documents relating to compliance and guidance on its website, at <http://www.consumerfinance.gov/guidance>.

<sup>26</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709\\_cfpb\\_statement-on-supervisory-practice\\_hurricane-maria.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_statement-on-supervisory-practice_hurricane-maria.pdf).

<sup>27</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709\\_cfpb\\_Supervisory-Highlights\\_Issue-16.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_Supervisory-Highlights_Issue-16.pdf).

<sup>28</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709\\_cfpb\\_statement-on-supervisory-practice\\_hurricanes-harvey-and-irma.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_statement-on-supervisory-practice_hurricanes-harvey-and-irma.pdf).

<sup>29</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb-treasury-fincen\\_memo\\_elder-financial-exploitation.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb-treasury-fincen_memo_elder-financial-exploitation.pdf).

<sup>30</sup> <https://www.federalregister.gov/documents/2017/06/01/2017-11318/fair-lending-report-of-the-consumer-financial-protection-bureau-april-2017>.

<sup>31</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb\\_ffiec-hmda-examiner-transaction-testing-guidelines.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_ffiec-hmda-examiner-transaction-testing-guidelines.pdf).

- Examination Report Template;<sup>33</sup>
- Supervisory Letter Template;<sup>34</sup>
- Semiannual Regulatory Agenda;<sup>35</sup>
- Compliance Bulletin No. 2017-01: Phone Pay Fee;<sup>36</sup>
- Policy Guidance on Supervisory and Enforcement Priorities Regarding Early Compliance With the 2016 Amendments to the 2013 Mortgage Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z);<sup>37</sup>
- Policy on Ex Parte Presentations in Rulemaking Proceedings;<sup>38</sup>
- Education Loan Examination Procedures;<sup>39</sup>
- Spring 2017 Supervisory Highlights;<sup>40</sup>

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<sup>32</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb\\_compliance-management-review\\_supervision-and-examination-manual.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_compliance-management-review_supervision-and-examination-manual.pdf).

<sup>33</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb\\_Examination-Report-Template.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_Examination-Report-Template.pdf).

<sup>34</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb\\_Supervisory-Letter-Template.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_Supervisory-Letter-Template.pdf).

<sup>35</sup> <https://www.federalregister.gov/documents/2017/08/24/2017-16984/semiannual-regulatory-agenda>.

<sup>36</sup> <https://www.federalregister.gov/documents/2017/08/02/2017-16188/compliance-bulletin-2017-01-phone-pay-fees>.

<sup>37</sup> <https://www.federalregister.gov/documents/2017/06/30/2017-13799/policy-guidance-on-supervisory-and-enforcement-priorities-regarding-early-compliance-with-the-2016>.

<sup>38</sup> <https://www.federalregister.gov/documents/2017/04/21/2017-08096/policy-on-ex-parte-presentations-in-rulemaking-proceedings>.

<sup>39</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201706\\_cfpb\\_Education-Loan-Servicing-Exam-Manual.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201706_cfpb_Education-Loan-Servicing-Exam-Manual.pdf).

<sup>40</sup> <https://www.federalregister.gov/documents/2017/05/12/2017-09658/supervisory-highlights-spring-2017>.

- Supervisory Highlights Consumer Reporting Special Edition;<sup>41</sup>
- Supervision and Examination Process Overview;<sup>42</sup>
- Supervision and Examination Process;<sup>43</sup>
- Semi-annual Regulatory Agenda;<sup>44</sup>
- Fair Credit Reporting Act Disclosures;<sup>45</sup>
- Safe Harbors From Liability Under the Fair Debt Collection Practices Act for Certain Actions Taken in Compliance With Mortgage Servicing Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z);<sup>46</sup>
- Compliance Bulletin 2016-03: Detecting and Preventing Consumer Harm from Production Incentives;<sup>47</sup>
- Fall 2016 Supervisory Highlights;<sup>48</sup>
- Education Loan Examination Procedures;<sup>49</sup>

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<sup>41</sup> <https://www.federalregister.gov/documents/2017/04/06/2017-06904/supervisory-highlights-consumer-reporting-special-edition>.

<sup>42</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/032017\\_cfpb\\_examination-process-overview\\_supervision-and-examination-manual.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/032017_cfpb_examination-process-overview_supervision-and-examination-manual.pdf).

<sup>43</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/032017\\_cfpb\\_examination-process\\_supervision-and-examination-manual.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/032017_cfpb_examination-process_supervision-and-examination-manual.pdf).

<sup>44</sup> <https://www.federalregister.gov/documents/2016/12/23/2016-29921/semiannual-regulatory-agenda>.

<sup>45</sup> <https://www.federalregister.gov/documents/2016/11/18/2016-27735/fair-credit-reporting-act-disclosures>.

<sup>46</sup> <https://www.federalregister.gov/documents/2016/10/19/2016-18902/safe-harbors-from-liability-under-the-fair-debt-collection-practices-act-for-certain-actions-taken>.

<sup>47</sup> [http://www.consumerfinance.gov/documents/1537/201611\\_cfpb\\_Production\\_Incentives\\_Bulletin.pdf](http://www.consumerfinance.gov/documents/1537/201611_cfpb_Production_Incentives_Bulletin.pdf).

<sup>48</sup> <https://www.federalregister.gov/documents/2016/11/22/2016-28094/supervisory-highlights-fall-2016>.

- Compliance Bulletin and Policy Guidance No. 2016-02, Service Providers;<sup>50</sup>
- Reverse Mortgage Servicing Examination Procedures;<sup>51</sup> and
- Gramm-Leach-Bliley Act (GLBA) Examination Procedures.<sup>52</sup>

### 3.4 Plan for upcoming initiatives

- Call for Evidence<sup>53</sup>
  - Request for Information Regarding Bureau Civil Investigative Demands and Associated Processes<sup>54</sup>
  - Request for Information Regarding Bureau Rules of Practice for Adjudication Proceedings<sup>55</sup>
  - Request for Information Regarding Bureau Enforcement Processes<sup>56</sup>
  - Request for Information Regarding the Bureau's Supervision Program<sup>57</sup>

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<sup>49</sup>[http://www.consumerfinance.gov/documents/1383/102016\\_cfpb\\_EducationLoanServicingExamManualUpdate.pdf](http://www.consumerfinance.gov/documents/1383/102016_cfpb_EducationLoanServicingExamManualUpdate.pdf).

<sup>50</sup> <https://www.federalregister.gov/documents/2016/10/26/2016-25856/compliance-bulletin-and-policy-guidance-2016-02-service-providers>.

<sup>51</sup>[http://www.consumerfinance.gov/documents/1387/102016\\_cfpb\\_ReverseMortgageServicingExaminationProcedures.pdf](http://www.consumerfinance.gov/documents/1387/102016_cfpb_ReverseMortgageServicingExaminationProcedures.pdf).

<sup>52</sup> [http://www.consumerfinance.gov/documents/1381/102016\\_cfpb\\_GLBAExamManualUpdate.pdf](http://www.consumerfinance.gov/documents/1381/102016_cfpb_GLBAExamManualUpdate.pdf).

<sup>53</sup> <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/open-notices/call-for-evidence>.

<sup>54</sup> <https://www.federalregister.gov/documents/2018/01/26/2018-01435/request-for-information-regarding-bureau-civil-investigative-demands-and-associated-processes>.

<sup>55</sup> <https://www.federalregister.gov/documents/2018/02/05/2018-02208/request-for-information-regarding-bureau-rules-of-practice-for-adjudication-proceedings>.

<sup>56</sup> <https://www.federalregister.gov/documents/2018/02/12/2018-02710/request-for-information-regarding-bureau-enforcement-processes>.

- Request for Information Regarding Bureau External Engagements<sup>58</sup>
- Request for Information Regarding Bureau Public Reporting Practices of Consumer Complaint Information<sup>59</sup>
- Request for Information Regarding Bureau Rulemaking Processes<sup>60</sup>
- Request for Information Regarding the Bureau's Adopted Regulations and New Rulemaking Authorities<sup>61</sup>
- Request for Information Regarding the Bureau's Inherited Regulations and Inherited Rulemaking Authorities<sup>62</sup>
- Request for Information Regarding Bureau Guidance and Implementation Support<sup>63</sup>
- Request for Information Regarding Bureau Financial Education Programs<sup>64</sup>
- Request for Information Regarding Bureau Responses to Consumer Inquiries<sup>65</sup>

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<sup>57</sup> <https://www.federalregister.gov/documents/2018/02/20/2018-03358/request-for-information-regarding-the-bureaus-supervision-program>.

<sup>58</sup> <https://www.federalregister.gov/documents/2018/02/26/2018-03788/request-for-information-regarding-bureau-external-engagements>.

<sup>59</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb\\_rfi\\_complaint-reporting\\_032018.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_rfi_complaint-reporting_032018.pdf).

<sup>60</sup> <https://www.regulations.gov/document?D=CFPB-2018-0009-0001>

<sup>61</sup> <https://www.regulations.gov/document?D=CFPB-2018-0011-0001>

<sup>62</sup> <https://www.regulations.gov/document?D=CFPB-2018-0012-0001>

<sup>63</sup> <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-request-information-guidance-implementation-support/>.

<sup>64</sup> Forthcoming

<sup>65</sup> Forthcoming

### 3.5 Plan for upcoming rules

- Upcoming proposed rules:
  - Payday, Vehicle title, and Certain High-Cost Installment Loans: the Bureau announced in January 2018 that it intends to open a rulemaking to reconsider its 2017 rule titled Payday, Vehicle Title, and Certain High-Cost Installment Loans. Lenders would not need to comply with most provisions of the 2017 rule until August 2019.
  - The Expedited Funds Availability Act (Regulation CC): the Bureau will work with the Board of Governors of the Federal Reserve System to issue jointly a rule that includes provisions within the Bureau's authority.
  - Debt Collection Rule: the Bureau will work towards releasing a proposed rule concerning FDCPA collectors' communications practices and consumer disclosures.
  - Home Mortgage Disclosure (Regulation C): the Bureau announced in December 2017 that it intends to open a rulemaking to reconsider various aspects of the Bureau's 2015 rule titled Home Mortgage Disclosure Act (Regulation C), which could involve issues such as the institutional and transactional coverage tests and the rule's discretionary data points.
- Upcoming final rules
  - Gramm-Leach-Bliley Act (GLBA) (Regulation P): the Bureau is working towards finalizing an amendment to Regulation P concerning annual notice requirements.
  - Amendments Relating to Disclosure of Records and Information: This rule will include procedures used by the public to obtain information from the Bureau under the Freedom of Information Act, the Privacy Act of 1974, and in legal proceedings. It will also address the protection and disclosure of confidential information that the Bureau obtains in connection with the exercise of its authorities under Federal consumer financial law.
  - Amendment to the Federal Mortgage Disclosure Requirements under the Truth in Lending Act (Regulation Z): the Bureau intends to finalize a proposed amendment related to the use of Closing Disclosures to determine good faith disclosure of estimated closing cost.



## 4. Analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year

During the period October 1, 2016, through September 30, 2017, the Bureau handled approximately 317,200 consumer complaints.<sup>66</sup> Approximately 80% of all consumer complaints were submitted through the Bureau's website, 8% via referrals, and 5% via telephone calls with the remainder submitted by mail, email, and fax. The Bureau does not verify all the facts alleged in complaints, but takes steps to confirm a commercial relationship between the consumer and the company. Approximately 235,400 (or 74%) of all complaints handled were sent by the Bureau to companies for review and response.<sup>67</sup> Companies have responded to approximately

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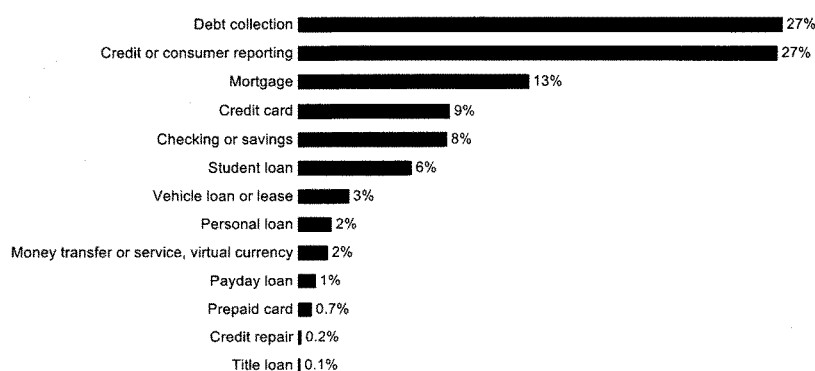
<sup>66</sup> All data are current through September 30, 2017. This analysis excludes multiple complaints submitted by a given consumer on the same issue and whistleblower tips. The Bureau does not verify all the facts alleged in complaints, but takes steps to confirm a commercial relationship between the consumer and the company. For more information on our complaint process refer to our website, <https://www.consumerfinance.gov/complaint/process>.

<sup>67</sup> The remaining complaints were referred to other regulatory agencies (15%), found to be incomplete (4%), or are pending with the consumer or the Bureau (3% and 4%, respectively). After the Bureau forwards complaints to

93% of complaints sent to them for response during the period. Company responses must include descriptions of steps taken or that will be taken, communications received from the consumer, any follow-up actions or planned follow-up actions, and a categorization of the response. Companies' responses describe a range of relief such as refunding a fee, providing mortgage foreclosure alternatives that help consumers keep their home, stopping unwanted calls from debt collectors, cleaning up consumers' credit reports by correcting submissions sent to or reported by consumer reporting agencies, restoring or removing a credit line, correcting account information, and addressing formerly unmet customer service issues. Consumers did not receive a timely response from the company in 3% of complaints.

The chart below shows the distribution complaints by the product category designated by the consumer when submitting the complaint. There is a certain degree of unavoidable overlap between these categories. For example, a consumer whose grievance arises from the collection of a credit card debt may designate the complaint as a "debt collection" complaint or a "credit card" complaint.

**FIGURE 1: CONSUMER COMPLAINTS BY PRODUCT<sup>68</sup>**



companies, the company has 15 days to respond to the consumer and the Bureau. In some cases, the company provides a partial response within 15 days and a final response in 60 days. Company responses provided outside of the 15-day or 60-day response windows are deemed untimely.

<sup>68</sup> Percentages may not sum to 100% due to rounding.

Consumer Response analyzes consumer complaints, including completeness, and timeliness of a company's responses as well as consumers' feedback about that company's responses. Consumer feedback about company responses – both positive and negative – provides helpful insight into which issues are being addressed and how companies are addressing the concerns consumers raise in their complaints.

Consumer Response shares complaint data and analyses, and offers insights to other offices to help the Bureau understand problems consumers are experiencing in the marketplace and the impact of those experiences on their lives, develop tools to educate and empower people to know their rights and protect themselves, scope and prioritize examinations and ask targeted questions when examining companies' records and practices, and inform enforcement investigations to help stop unfair practices as the Bureau identifies them. Consumer Response also publishes complaint data and reports to ensure other regulators, consumers, and the marketplace have the complaint information needed to improve the functioning of the consumer financial markets for such products and services.<sup>69</sup>

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<sup>69</sup> During the reporting period, the Bureau published seven complaint reports on the following financial products (each covering a different geographic location): about prepaid card, other financial service, debt collection, mortgage, credit reporting, credit cards, and student loans complaints, and four special topic complaint reports on these special topics: about older consumers, consumer feedback, servicemembers, and the 50-state report. The Bureau also publishes the Consumer Response Annual Report, which provides a more detailed analysis of complaints. These reports can be viewed at <https://www.consumerfinance.gov/data-research/research-reports>.

## 5. List, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year

### 5.1 Supervisory activities

The Bureau's supervisory activities with respect to individual institutions are non-public. The Bureau has, however, issued numerous supervisory guidance documents and bulletins during the preceding year. These documents are listed under Section 3.3 as issued guidance documents undertaken within the preceding year.

### 5.2 Enforcement activities

The Bureau was a party in the following public enforcement actions from October 1, 2016, through September 30, 2017, detailed as follows. This section also identifies those actions involving Office of Administrative Adjudication Orders with respect to covered persons which are not credit unions or depository institutions.

***In the Matter of PHH Corp. et al.*** (File No. 2014-CFPB-0002). On January 29, 2014, the Bureau filed a notice of charges alleging PHH and its affiliates violated the Real Estate

Settlement Procedures Act's ("RESPA") prohibition on giving or receiving anything of value pursuant to an agreement to refer real estate settlement services. The Bureau alleges that when PHH originated mortgages, it referred real estate transactions for which mortgage insurance was required to certain mortgage insurance companies. In exchange for these referrals, the Bureau alleges these insurers purchased "reinsurance" from PHH's subsidiary, Atrium. The Bureau alleges that the reinsurance premiums were kickbacks paid for referrals in violation of RESPA. PHH denied the charges. A hearing before an administrative law judge was conducted starting on March 24, 2014. The administrative law judge issued a recommended decision on November 25, 2014. Both parties cross-appealed to the Director. The Director issued a final order on June 4, 2015, and PHH petitioned for review before the D.C. Circuit. On October 11, 2016, a three-judge panel of the D.C. Circuit vacated the Director's order on constitutional and statutory grounds. On January 31, 2018, having in the interim vacated the panel decision, the en banc D.C. Circuit reversed the panel's constitutional holding against the Bureau, reinstated the panel's statutory holdings against the Bureau, and remanded the matter to the Bureau for further proceedings.

***Consumer Financial Protection Bureau v. Golden Valley Lending, Inc., Silver Cloud Financial, Inc., Mountain Summit Financial, Inc., and Majestic Lake Financial, Inc.*** (D. Kan. No. 17-cv-2521). On April 27, 2017, the Bureau filed a complaint against four online lenders—Golden Valley Lending, Inc., Silver Cloud Financial, Inc., Mountain Summit Financial, Inc., and Majestic Lake Financial, Inc.—alleging they deceived consumers by collecting debt the consumers did not legally owe. Specifically, the Bureau alleged that the four lenders could not legally collect on these debts because the loans were void under state laws governing interest rate caps or the licensing of lenders. The Bureau further alleged that the lenders made deceptive demands and illegally took money from consumer bank accounts for debts that consumers did not legally owe. On October 10, 2017, the defendants filed a motion to dismiss. On January 18, 2018, the Bureau voluntarily dismissed the action without prejudice.

***Consumer Financial Protection Bureau v. Nationwide Biweekly Administration, Inc., et al.*** (N.D. Cal. No. 3:15-cv-2106). On May 11, 2015, the Bureau filed a complaint against Nationwide Biweekly Administration, Inc., Loan Payment Administration LLC, and Daniel S. Lipsky alleging that they engaged in abusive and deceptive acts and practices in violation of the CFPA and the Telemarketing Sales Rules (TSR) regarding a mortgage payment product known as the "Interest Minimizer Program," or IM Program. The Bureau alleged that the defendants misrepresented their affiliation with consumers' mortgage lenders, the amount of interest savings consumers would realize and when consumers would achieve savings on the IM Program, consumers' ability to attain the touted savings on their own or through a low- or no-

cost option offered by the consumers' servicer, and fees for the program. The Bureau sought a permanent injunction, consumer redress, and civil penalties. A trial was held beginning on April 24, 2017, and on September 8, 2017, the Court issued an opinion and order finding that the defendants had engaged in deceptive and abusive conduct in violation of the CFPA and TSR. The Court imposed a \$7.93 million civil money penalty, but denied the Bureau's request for restitution and disgorgement. On November 9, 2017, the court reduced the previous order to a judgment that included a permanent injunction prohibiting defendants from engaging in specified acts or practices, and on March 12, 2018, the court denied defendants' motions to alter or amend that judgment. Defendants have appealed to the Ninth Circuit and the case remains pending.

***Consumer Financial Protection Bureau v. Navient Corporation, Navient Solutions, Inc. and Pioneer Credit Recovery, Inc.*** (M.D. Pa. No. 3:17-cv-101). On January 18, 2017, the Bureau filed a complaint against Navient Corporation and its subsidiaries, Navient Solutions, Inc. and Pioneer Credit Recovery, Inc. The Bureau alleges that Navient Solutions and Navient Corporation steered borrowers toward repayment plans that resulted in borrowers paying more than other options; improperly reported to credit reporting agencies the payment status of disabled borrowers; deceived private student loan borrowers about requirements to release their co-signer from the loan; and repeatedly incorrectly applied or misallocated borrower payments to their accounts. The Bureau also alleges that Pioneer and Navient Corporation misled borrowers about the effect of rehabilitation on their credit reports and the amount of collection fees that would be forgiven in the federal loan rehabilitation program. Through its action, the Bureau seeks consumer redress and injunctive relief. On March 24, 2017, Navient moved to dismiss the complaint. On August 4, 2017, the court denied Navient's motion. The case remains pending.

***Consumer Financial Protection Bureau v. Ocwen Financial Corporation, Ocwen Mortgage Servicing, Inc., and Ocwen Loan Servicing, LLC*** (S.D. Fla. No. 17-cv-90495). On April 20, 2017, the Bureau filed a complaint against mortgage loan servicer Ocwen Financial Corporation and its subsidiaries alleging they used inaccurate and incomplete information to service loans, misrepresented to borrowers that their loans had certain amounts due, illegally foreclosed on homeowners that were performing on agreements on loss mitigation options, enrolled and charged consumers for add-on products without their consent, failed to adequately investigate and respond to borrower complaints, and engaged in other conduct in violation of the CFPA, TILA, FDCPA, RESPA, and HPA. On June 23, 2017, Ocwen moved to dismiss. That motion remains pending.

**Consumer Financial Protection Bureau v. TCF National Bank** (D. Minn. No. 0:17-cv-166). On January 19, 2017, the Bureau filed a complaint against TCF National Bank alleging TCF misled consumers into costly overdraft services in violation of Regulation E and the CFPA. Specifically, the Bureau alleges that TCF designed its application process to obscure the overdraft fees on one-time debt purchases and ATM withdrawals and make overdraft services seem mandatory for new customers to open an account. The Bureau's lawsuit seeks redress for consumers, an injunction to prevent future violations, and a civil money penalty. On September 8, 2017, the court granted TCF's motion to dismiss the Bureau's EFTA claims but denied the motion to dismiss the Bureau's UDAP claims. The case remains pending.

**In the Matter of Meridian Title Corporation** (File No. 2017-CFPB-0019) (not a credit union or depository institution). On September 27, 2017, the Bureau issued a consent order against real estate settlement services provider Meridian Title Corporation finding that it steered consumers to a title insurer owned in part by several of its executives without making disclosures about the businesses' affiliation. The Bureau found that Meridian failed to disclose its relationship with the title insurer and that Meridian illegally benefitted from the referrals for title insurance. The Bureau's consent order requires Meridian to ensure that it ceases the illegal practice, provides disclosures whenever it makes a covered referral, and pay up to \$1.25 million in redress.

**Consumer Financial Protection Bureau v. Top Notch Funding II, LLC, Rory Donadio, and John "Gene" Cavalli** (S.D.N.Y. No. 1:17-cv-7114). On September 19, 2017, the Bureau filed a complaint alleging that Top Notch Funding and two individuals associated with the company made misrepresentations in loan offerings to consumers who were awaiting payment from settlements in legal cases or from victim-compensation funds. On January 30, 2018, the court entered a stipulated final judgment and order. The order prohibits the defendants from offering or providing such products in the future and requires them to pay \$75,000 in civil money penalties.

**Consumer Financial Protection Bureau v. The National Collegiate Master Student Loan Trust, et al.** (D. Del. No. 1:17-cv-01323); **In the Matter of Transworld Systems, Inc.** (File No. 2017-CFPB-0018) (not a credit union or depository institution). On September 18, 2017, the Bureau filed a complaint and proposed consent judgment against several National Collegiate Student Loan Trusts (collectively, "NCSLT") alleging they brought debt collection lawsuits for private student loan debt that the companies couldn't prove was owed or was too old to sue over; that they filed false and misleading affidavits or provided false and misleading testimony; and that they falsely claimed that affidavits were sworn before a notary. The

proposed consent judgment against the NCSLT would require an independent audit of all 800,000 student loans in the NCSLT portfolio. It would also prohibit the NCSLT, and any company it hires, from attempting to collect, reporting negative credit information, or filing lawsuits on any loan the audit shows is unverified or invalid. In addition, it would require the NCSLT to pay at least \$19.1 million, which would include initial redress to harmed consumers, disgorgement, and a civil money penalty. Several entities have moved to intervene to object to the proposed consent judgment. The court has not yet ruled on these motions, and the case remains pending. On September 18, 2017, the Bureau issued a separate consent order against the NCSLT's debt collector, Transworld Systems (TSI), for filing false or misleading affidavits, providing false or misleading testimony, and filing debt collection lawsuits when the companies could not prove the debt was owed. The Bureau's order requires injunctive relief and for TSI to pay a \$2.5 million civil penalty.

***In the Matter of Zero Parallel, LLC*** (File No. 2017-CFPB-0017) (not a credit union or depository institution). On September 6, 2017, the Bureau issued a consent order against online lead aggregator Zero Parallel, LLC. The Bureau found that Zero Parallel steered consumers toward lenders who offered illegal or unlicensed loans that were void in the consumers' states. The Bureau also found Zero Parallel sold consumers' payday and installment loan applications to lenders it knew were likely to make void loans that the lenders had no legal right to collect. The Bureau's order requires that Zero Parallel end its illegal conduct and pay a \$100,000 civil penalty.

***In the Matter of American Express Centurion Bank and American Express Bank, FSB*** (File No. 2017-CFPB-0016). The Bureau issued a consent order against American Express Centurion Bank and American Express Bank, FSB (collectively, American Express) finding they violated the Equal Credit Opportunity Act (ECOA) by discriminating against consumers in Puerto Rico, the U.S. Virgin Islands, and other U.S. territories. The Bureau found that over the course of at least ten years, American Express provided these consumers credit and charge card terms that were inferior in many respects to those available in the 50 U.S. states. The Bureau also found that American Express discriminated against certain consumers with Spanish-language preferences. American Express paid approximately \$95 million in redress before the order was issued. The Bureau's order requires American Express to pay at least another \$1 million in compensation, and to develop and implement a comprehensive compliance plan to ensure that it provides credit and charge cards to affected consumers in a non-discriminatory manner. The violations of ECOA are further discussed in the Section 8.2 of this report.



***Consumer Financial Protection Bureau v. Aequitas Capital Management, Inc., Aequitas Management LLC, Aequitas Holdings, LLC, Aequitas Commercial Finance LLC, Campus Student Funding, LLC, CSF Leverage I LLC, Aequitas Income Opportunity Fund, and Aequitas Income Protection Fund*** (D. Or. No. 3:17-cv-01278). On August 17, 2017, the Bureau filed a complaint against Aequitas Capital Management, Inc. and related entities alleging they aided the Corinthian Colleges in misrepresenting compliance with federal student lending laws. The Bureau alleged that Aequitas enabled Corinthian to make high-cost private loans to Corinthian students so that it would seem as if the school was making enough outside revenue to meet the requirements for receiving federal student aid dollars. The Bureau also alleged that both Aequitas and Corinthian knew students could not afford these high-interest loans. On September 1, 2017, the court entered a final judgment and order that included approximately \$183.3 million in loan forgiveness and reduction.

***In the Matter of JPMorgan Chase Bank, N.A.*** (File No. 2017-CFPB-0015). On August 2, 2017, the Bureau issued a consent order against JPMorgan Chase Bank, N.A., for failures related to information it provided for checking account screening reports. Banks screen potential customers based on reports about prior checking account behavior created by consumer reporting companies. The Bureau found that JPMorgan Chase did not have proper processes in place for reporting accurate information for these reports and did not inform consumers about the results of their reporting disputes and key aspects of their checking account application denials. The Bureau's order requires the bank to pay a \$4.6 million penalty and implement necessary changes to its policies to ensure accurate information is reported, inform consumers of investigation outcomes, and provide consumers with the contact information of the consumer reporting company that supplied information that JPMorgan Chase used to deny an application for a deposit account.

***Consumer Financial Protection Bureau v. Park View Law (f.k.a. Prime Law Experts, Inc.) and Arthur Barens*** (C.D. Cal. 2:17-cv-04721); ***Consumer Financial Protection Bureau v. Commercial Credit Consultants (d.b.a. Accurise); IMC Capital L.L.C. (a.k.a. Imperial Meridian Capital L.L.C., Imperial Capital, and IMCA Capital L.L.C.); Prime Credit, L.L.C. (a.k.a. Prime Marketing, L.L.C.; d.b.a. Prime Credit Consultants); Blake Johnson; and Eric Schlegel***, (C.D. Cal. No. 2:17-cv-04720). On June 27, 2017, the Bureau filed complaints against four California-based credit repair companies and three individuals alleging they misled consumers and charged illegal fees. The Bureau alleged that the companies charged illegal advance fees for credit repair services and misrepresented their ability to repair consumers' credit scores. On June 30, 2017, the court

entered a stipulated final judgment and order against Prime Credit, L.L.C., IMC Capital, L.L.C., Commercial Credit Consultants, Blake Johnson, and Eric Schlegel, ordering them to pay a civil money penalty of more than \$1.5 million. On July 10, 2017, the court entered a second stipulated final judgment against Park View Law and its owner Arthur Barens ordering them to pay \$500,000 in disgorgement. The orders also prohibit all defendants from doing business within the credit repair industry for five years.

***In the Matter of Fay Servicing, LLC*** (File No. 2017-CFPB-0014) (not a credit union or depository institution). On June 7, 2017, the Bureau issued a consent order against mortgage servicer Fay Servicing finding that it failed to provide mortgage borrowers with the protections against foreclosure that are required by law. The Bureau found that Fay violated the Bureau's servicing rules by failing to send or timely send consumers critical information regarding the process to apply for foreclosure relief. The Bureau also found that in some instances Fay launched or moved forward with the foreclosure process while borrowers were actively seeking help to save their homes. The Bureau's order requires Fay to comply with mortgage servicing rules and pay up to \$1.15 million to harmed borrowers.

***In the Matter of Security National Automotive Acceptance Company, LLC*** (File No. 2017-CFPB-0013) (not a credit union or depository institution). On April 26, 2017, the Bureau issued a consent order against Security National Automotive Acceptance Company (SNAAC), an auto lender specializing in loans to servicemembers, finding that it violated a Bureau consent order. In 2015, the Bureau issued a consent order requiring SNAAC to pay both redress and a civil penalty for illegal debt collection tactics, including making threats to contact servicemembers' commanding officers about debts and misrepresenting the consequences of not paying. In the 2017 order, the Bureau found that SNAAC violated the 2015 order by failing to provide more than \$1 million in refunds and credits. The Bureau's 2017 consent order requires SNAAC to pay the redress it owes to affected consumers under the 2015 order and pay an additional \$1.25 million civil penalty.

***Consumer Financial Protection Bureau v. Weltman, Weinberg & Reis Co., L.P.A.*** (N.D. Ohio No. 1:17-cv-00817). On April 17, 2017, the Bureau filed a complaint against the debt collection law firm Weltman, Weinberg & Reis Co., L.P.A., alleging it misrepresented in collection letters to consumers that attorneys were involved in collecting the debt. Specifically, the Bureau alleges the law firm made statements on collection calls and sent collection letters that created the false impression that attorneys had meaningfully reviewed the consumers' files, when no such review had occurred. The complaint seeks injunctive relief, restitution, and the

imposition of a civil money penalty. On September 29, 2017, the court denied the law firm's motion for judgment on the pleadings. The case remains pending.

***In the Matter of Experian Holdings, Inc., Experian Information Solutions, Inc., and ConsumerInfo.com, Inc., d/b/a Experian Consumer Services*** (File No. 2017-CFPB-0012) (not a credit union or depository institution). On March 23, 2017, the Bureau issued a consent order action against Experian and its subsidiaries, finding they misrepresented the usefulness of credit scores they provided to consumers. The Bureau also found that Experian violated Regulation V, the implementing regulation of the Fair Credit Reporting Act (FCRA), through improper advertising practices. The Bureau's order requires Experian to accurately represent the value of the credit scores it provides and pay a \$3 million civil money penalty.

***In the Matter of Nationstar Mortgage LLC*** (File No. 2017-CFPB-0011) (not a credit union or depository institution). On March 15 2017, the Bureau issued a consent order against Nationstar Mortgage LLC finding it violated the Home Mortgage Disclosure Act (HMDA) by submitting mortgage loan data for 2012 through 2014 containing substantial errors. The Bureau found that Nationstar's HMDA compliance systems were deficient and not reasonably adapted to avoid such errors. The consent order requires Nationstar to pay a \$1.75 million civil penalty, develop and implement an effective compliance management system, and correct its HMDA reporting inaccuracies from 2012 to 2014. The violations of HMDA are further discussed in Section 8.2 of this report.

***Consumer Financial Protection Bureau v. RD Legal Funding, LLC, RD Legal Finance, LLC, and RD Legal Funding Partners, LP, and Roni Dersovitz*** (S.D.N.Y. No. 1:17-cv-890). On February 7, 2017, the Bureau and the New York Attorney General filed a complaint against RD Legal Funding, LLC, two related entities, and the companies' founder and owner, Roni Dersovitz, alleging that they made misrepresentations to 9/11 first responders and NFL concussion victims and engaged in abusive practices in connection with cash advances on settlement payouts from victim-compensation funds and lawsuit settlements. The lawsuit seeks monetary relief, disgorgement, and civil money penalties. On May 15, 2017, the defendants moved to dismiss the Bureau's complaint. The court has not yet ruled, and the case remains pending.

***Consumer Financial Protection Bureau v. Woodbridge Coins and Jewelry Exchange, Inc. d/b/a Woodbridge Gold & Pawn*** (E.D. Va. No. 1:17-cv-141). On February 2, 2017, the Bureau and the Attorney General of Virginia filed a complaint against Woodbridge Coins and Jewelry Exchange, Inc., alleging that it misstated the charges associated with pawn loans. Specifically, the complaint alleged that since at least May 2014, Woodbridge disclosed

deceptively low annual percentage rates (APR) that did not reflect the fees and charges associated with the loans. The Bureau further alleged that these inaccurate disclosures in many cases understated the true APR by as much as half the actual cost. On February 7, 2017, the court entered a stipulated final judgment and order against Woodbridge, which required it to pay over \$56,000 in restitution, \$17,000 in disgorgement, and a \$5,000 civil penalty, and to make accurate disclosures.

***In the Matter of UniRush LLC and Mastercard International Incorporated*** (File No. 2017-CFPB-0010) (not a credit union or depository institution). On February 1, 2017, the Bureau entered a consent order against Mastercard and UniRush finding that disruptions of UniRush's prepaid debit card system left tens of thousands of consumers unable to access their money. The Bureau found that preventable failures by Mastercard and UniRush before, during, and after UniRush's changeover to Mastercard as a new payment processor in 2015 meant that many customers could not use their RushCard to get their paycheck funds and other direct deposits, take out cash, make purchases, pay bills, or get accurate balance information. The Bureau further found that UniRush then failed to provide customer service to many consumers who reached out for help during the service disruption. The Bureau's order requires Mastercard and UniRush to pay an estimated \$10 million in restitution and a civil money penalty of \$3 million.

***In the Matter of Prospect Mortgage, LLC*** (File No. 2017-CFPB-0006); ***Planet Home Lending, LLC*** (File No. 2017-CFPB-0007); ***Willamette Legacy, LLC dba Keller Williams Mid-Willamette***, (File No. 2017-CFPB-0008); and ***RGC Services, Inc. dba Re/Max Gold Coast Realtors*** (File No. 2017-CFPB-0009) (not a credit union or depository institution). On January 31, 2017, the Bureau issued a consent order against Prospect Mortgage, LLC, a major mortgage lender, finding that it paid illegal kickbacks for mortgage business referrals. On the same day, the Bureau also issued consent orders against two real estate brokers – RGC Services, Inc., and Willamette Legacy, LLC – and a mortgage servicer, Planet Home Lending, LLC, finding they took illegal kickbacks from Prospect. The Bureau also found Planet violated the FCRA by improperly using credit reports to market Prospect to its customers. The Bureau's orders imposed injunctive relief, and required Prospect to pay a \$3.5 million civil penalty; ReMax Gold Coast to pay a \$50,000 civil penalty; Keller Williams Mid-Willamette to pay \$145,000 in disgorgement and a \$35,000 civil penalty; and Planet to pay \$265,000 in consumer redress.

***Consumer Financial Protection Bureau v. Vincent Howard, Lawrence W. Williamson, Howard Law, P.C., The Williamson Law Firm, LLC, and Williamson***

**& Howard, LLP** (C.D. Cal. No. 8:17-cv-161). On January 30, 2017, the Bureau filed a complaint against a number of law firms and attorneys alleging that they violated the Telemarketing Sales Rule by: (1) charging illegal fees to consumers seeking debt relief and providing substantial assistance to Morgan Drexen and Walter Ledda with knowledge that Morgan Drexen and Ledda were charging illegal debt relief fees; and (2) misrepresenting that consumers would not be charged advance fees for debt relief services when, in fact, they were. The Bureau alleges that Howard Law, P.C., the Williamson Law Firm, LLC, and Williamson & Howard, LLP, as well as attorneys Vincent Howard and Lawrence Williamson, ran this debt relief operation along with Morgan Drexen, Inc., which shut down in 2015 following the Bureau's lawsuit against that company. The complaint seeks injunctive relief, restitution, and the imposition of civil money penalties. The Bureau sought but was denied an ex parte application for asset freeze on February 13, 2017. The defendants filed a motion to dismiss, which the court denied on March 30, 2017. The defendants then asserted two counterclaims. The court dismissed those claims with prejudice on December 19, 2017. The case remains pending.

***In the Matter of CitiFinancial Servicing, LLC, CitiFinancial Company, CitiFinancial Services, Inc., and CitiFinancial, Inc.*** (File No. 2017-CFPB-0004). On January 23, 2017, the Bureau issued a consent order against four entities that made up the CitiFinancial Servicing business relating to their mortgage servicing practices. The Bureau found that CitiFinancial engaged in a number of acts or practices that violated RESPA, FCRA, and the CFPB's prohibition on deceptive acts or practices. Specifically, the Bureau found that these practices included failing to consider deferment requests as requests for foreclosure relief, misleading consumers about the impact of deferring a payment due date, improperly charging for credit insurance that should have been cancelled or prematurely cancelling credit insurance, inaccurately reporting consumer information to credit reporting companies, and failing to timely investigate credit reporting disputes. The Bureau's order requires CitiFinancial Services to refund approximately \$4.4 million in improper charges and pay a civil penalty of \$4.4 million.

***In the Matter of CitiMortgage, Inc.*** (File No. 2017-CFPB-0005). On January 23, 2017, the Bureau issued a consent order against CitiMortgage finding that it violated RESPA and the CFPB's prohibition against deceptive acts or practices. Under federal mortgage rules, if a borrower does not submit all the required documentation with the initial application for loss mitigation, servicers must let the borrowers know what additional documents are required. The Bureau found CitiMortgage sent some borrowers seeking assistance a letter demanding dozens of documents and forms that had no bearing on the application or that the consumer had

already provided, and that many of these documents had nothing to do with a borrower's financial circumstances and was not needed to complete the application. The Bureau's order requires CitiMortgage to pay an estimated \$17 million in restitution and pay a civil penalty of \$3 million.

***In the Matter of Works & Lentz, Inc.; Works & Lentz of Tulsa, Inc.; and Harry A. Lentz, Jr.*** (File No. 2017-CFPB-0003) (not a credit union or depository institution). On January 9, 2017, the Bureau issued a consent order against two medical debt collection law firms and their president finding that they misrepresented that their letters and calls were from attorneys attempting to collect on a debt when no attorney had yet reviewed the account. The Bureau also found that the law firms failed to ensure the accuracy of the consumer information they furnished to credit reporting companies and used improperly notarized affidavits in lawsuits filed against consumers. The Bureau's order requires defendants to provide \$577,135 in restitution, correct their business practices, and pay a \$78,800 penalty.

***In the Matter of TransUnion Interactive, Inc., TransUnion, LLC, and TransUnion*** (File No. 2017-CFPB-0002) (not a credit union or depository institution). On January 3, 2017, the Bureau issued a consent order against TransUnion and its subsidiaries finding that it deceived consumers about the usefulness and value of the credit scores it sold to consumers. The Bureau also found that the company deceived consumers into enrolling in costly subscription programs for credit-related products. The Bureau's order requires TransUnion to represent accurately the value of the credit scores it provides and the cost of obtaining those credit scores and other services, and to pay \$13.9 million in restitution and a \$3 million civil penalty.

***In the Matter of Equifax, Inc. and Equifax Consumer Services LLC*** (File No. 2017-CFPB-0001) (not a credit union or depository institution). On January 3, 2017, the Bureau issued a consent order against Equifax, Inc., and its subsidiaries finding that it deceived consumers about the value of the credit scores it sold to consumers. The Bureau also found that the company deceived consumers into enrolling in costly subscription programs for credit-related products and violated Regulation V by advertising on AnnualCreditReport.com before consumers had obtained their report. The Bureau's order requires Equifax to represent accurately the value of the credit scores it provides and the cost of obtaining those credit scores and other services, and to pay \$3.8 million in restitution and a \$2.5 million civil money penalty.

***In the Matter of Military Credit Services, LLC*** (File No. 2016-CFPB-0029) (not a credit union or depository institution). On December 20, 2016, the Bureau issued a consent order against Military Credit Services, LLC (MCS) finding that MCS entered into revolving-credit agreements with ACH pre-authorization provisions that were not clear and readily

understandable to consumers, in violation of EFTA and Regulation E, and made improper APR disclosures, in violation of TILA and Regulation Z. The Bureau's order requires the company to ensure that its contracts comply with the law. It also required the company to pay a \$200,000 civil penalty and hire an independent consultant to review its practices.

***Consumer Financial Protection Bureau v. Spotsylvania Gold & Pawn, Inc.*** (E.D. Va. No. 3:16-cv-988); ***Consumer Financial Protection Bureau v. Fredericksburg Gold & Pawn, Inc.*** (E.D. Va. No. 3:16-cv-987); ***Consumer Financial Protection Bureau v. Pawn U.S.A, Inc.*** (E.D. Va. No. 1:16-cv-01566); ***Consumer Financial Protection Bureau v. A to Z Pawn, Inc.*** (E.D. Va. No. 1:16-cv-1567). On December 19, 2016, the Bureau filed complaints against four Virginia pawnbrokers alleging that they deceived consumers about the actual annual costs of their loans. Specifically, the Bureau alleged that the four companies broke the law by misstating the APR associated with pawn loans. The court entered stipulated final judgments in all four proceedings between February 22, 2017 and July 18, 2017. Those orders permanently restrain Spotsylvania Gold & Pawn, Fredericksburg Gold & Pawn, Pawn U.S.A., and A to Z Pawn from disclosing an inaccurate APR or failing to provide required disclosures. Additionally, the orders required Spotsylvania Gold & Pawn to pay \$20,209 as disgorgement and a \$7,500 civil penalty; Fredericksburg Gold & Pawn to pay \$24,570 as disgorgement and a \$5,000 civil penalty; Pawn U.S.A. to pay \$36,367 as disgorgement and a \$10,000 civil penalty; and A to Z Pawn to pay a \$3,500 civil penalty.

***In the Matter of Moneytree, Inc.*** (File No. 2016-CFPB-0028) (not a credit union or depository institution). On December 16, 2016, the Bureau issued a consent order against Moneytree, Inc., a financial services company that offers payday loans and check-cashing services, finding that it misled consumers with deceptive online advertisements and collection letters. The Bureau also found that the company made unauthorized electronic transfers from consumers' bank accounts. The Bureau's order requires the company to cease its illegal conduct, provide \$255,000 in restitution, and pay a civil penalty of \$250,000.

***In the Matter of Reverse Mortgage Solutions, Inc. d/b/a Security 1 Lending*** (File No. 2016-CFPB-0027); ***In the Matter of American Advisors Group*** (File No. 2016-CFPB-0026); ***In the Matter of Aegean Financial d/b/a Aegean Financial, Inc., Reverse Mortgage Professionals, Jubilados Financial, Newport Lending Reverse Mortgage, Promise Land Lending, Reverse Financial Group, and Reverse Mortgage Information Center*** (File No. 2016-CFPB-0025) (not a credit union or depository institution). On December 7, 2016, the Bureau issued consent orders against three reverse mortgage companies finding that they made deceptive advertisements. The Bureau's

order requires American Advisors Group, Reverse Mortgage Solutions, and Aegean Financial to cease their deceptive advertising practices, make clear and prominent disclosures in their reverse mortgage advertisements and implement a system to ensure they are following all laws. The consent orders also require American Advisors Group to pay a civil penalty of \$400,000, Reverse Mortgage Solutions to pay a penalty of \$325,000, and Aegean Financial to pay a penalty of \$65,000.

***Consumer Financial Protection Bureau v. Access Funding, LLC, Access Holding, LLC, Reliance Funding, LLC, Lee Jundanian, Raffi Boghosian, Michael Borkowski, and Charles Smith*** (D. Md. No. 1:16-cv-03759). On November 21, 2016, the Bureau filed a complaint against Access Funding, LLC, Access Holding, LLC, Reliance Funding, LLC, three of the companies' principals—Lee Jundanian, Raffi Boghosian, and Michael Borkowski—and a Maryland attorney, Charles Smith, alleging that they deceptively induced individuals to enter into settlement funding agreements, in which the individuals agreed to receive an immediate lump sum payment in exchange for significantly higher future settlement payments. The Bureau also alleges that the companies and their principals steered victims to receive "independent advice" from Smith, who was paid directly by Access Funding and indicated to consumers that the transactions required very little scrutiny. The Bureau further alleges that Access Funding advanced money to some consumers and represented to those consumers that the advances obligated them to go forward with transactions even if they realized that the transactions were not in their best interests. On September 13, 2017, the court granted defendants' motions to dismiss counts I-IV, arising out of Smith's conduct, on the grounds that he had attorney-client relationships with the consumers in question. The court denied the defendants' motions to dismiss the Bureau's claim relating to the advances Access Funding offered consumers. The court granted the Bureau's motion to file an amended complaint alleging Smith did not have attorney-client relationships with the consumers in question. Defendants again moved to dismiss. The motion remains pending.

***Consumer Financial Protection Bureau v. B&B Pawnbrokers*** (E.D. Va. No. 3:16-cv-887). On November 3, 2016, the Bureau filed a complaint against B&B Pawnbrokers, Inc. alleging that it deceived consumers about the actual annual cost of its loans. Specifically, the Bureau alleged that B&B Pawnbrokers misstated the charges associated with pawn loans. On March 1, 2017, the court entered a stipulated final judgment and order. The order required the company to disgorge \$29,000, pay a \$5,000 civil penalty, and halt its illegal practices.

***Consumer Financial Protection Bureau v. Northern Resolution Group*** (W.D.N.Y. No. 1:16-cv-00880). On November 2, 2016, the Bureau, in partnership with the New York



Attorney General, filed a complaint alleging that Douglas MacKinnon and Mark Gray operate a network of companies that harass, threaten, and deceive consumers across the nation into paying inflated debts or amounts they may not owe. The complaint seeks injunctive relief, restitution, and the imposition of penalties against the companies and partners. The defendants asserted counterclaims against the Bureau and New York, which the court dismissed on January 8, 2018. The case remains pending.

***In the Matter of Navy Federal Credit Union*** (File No. 2016-CFPB-0024). On October 11, 2016, the Bureau issued a consent order against Navy Federal Credit Union (NFCU) finding that it made deceptive representations to its members in connection with its debt collection activities. Specifically, the Bureau found that the credit union, whose members include active duty military, retired servicemembers, and their families, made deceptive representations about its intention to take legal action against members with delinquent accounts, its intention to contact members' military chains of command about consumer debts, and the effect of delinquency or repayment on members' credit ratings. The Bureau also found that the credit union unfairly restricted account access when members had an overdrawn deposit account or delinquent credit account. The Bureau's order requires NFCU to stop: any misleading, false, or unsubstantiated threats to contact members' commanding officers; initiation of any improper legal action; misrepresentations about the credit consequences of falling behind on a credit union loan; and unfairly restricting members' access to all of their accounts if they are delinquent on one. The order also requires the credit union to pay roughly \$23 million in restitution and a civil penalty of \$5.5 million.

***Consumer Financial Protection Bureau v. Prime Marketing Holdings, LLC, d/b/a/ Park View Credit, National Credit Advisors, and Credit Experts*** (C.D. Cal. No. 2:16-cv-7111). On September 22, 2016, the Bureau filed a complaint against the credit repair company Prime Marketing Holdings, LLC (PMH), alleging it charged consumers illegal advance fees and misrepresented the cost and effectiveness of its services and the nature of its money-back guarantee. On August 31, 2017, the court entered a stipulated final judgment and order. The final judgment permanently bans PMH from doing business in the credit repair industry and orders it to pay a \$150,000 civil penalty.

***In the Matter of Auto Cash Leasing, LLC*** (File No. 2016-CFPB-0017); ***Interstate Lending, LLC*** (File No. 2016-CFPB-0018); ***Oasis Title Loans, LLC*** (File No. 2016-CFPB-0019); ***Phoenix Title Loans, LLC*** (File No. 2016-CFPB-0020); ***Presto Auto Loans, Inc.*** (File No. 2016-CFPB-0021) (not a credit union or depository institution). On September 20, 2016, the Bureau filed notices of charges against five title lenders operating in Arizona—Auto

Cash Leasing, LLC; Interstate Lending, LLC; Oasis Title Loans, LLC; Phoenix Title Loans, LLC; and Presto Auto Loans, Inc.—alleging they failed to disclose the APR in online advertisements about title loans. Specifically, the Bureau alleged that the companies advertised a periodic interest rate for their loans without listing the corresponding annual percentage rate. The Bureau issued consent orders against all five companies between November 1, 2016 and March 13, 2017. The orders prohibit Auto Cash Leasing, Interstate Lending, Oasis Title Loans, Presto Auto Loans, and Phoenix Title Loans from advertising a periodic rate of interest unless the advertisement also discloses the corresponding APR. The orders also require Auto Cash Leasing to pay a civil money penalty of \$10,000, Interstate Lending to pay a civil money penalty of \$4,000, Oasis Title Loans to pay a civil money penalty of \$20,000, Presto Auto Loans to pay a civil money penalty of \$125,000, and Phoenix Title Loans to pay a civil money penalty of \$40,000.

***Consumer Financial Protection Bureau v. Intercept Corporation, Bryan Smith, and Craig Dresser*** (D.N.D. No. 3:16-cv-144). On June 6, 2016, the Bureau filed a complaint against payment processor Intercept Corporation and two of its executives, Bryan Smith and Craig Dresser. The Bureau alleged that the defendants engaged in unfair acts or practices by continuing to electronically debit consumers' accounts despite warnings that the payment requests were illegal or fraudulent. On August 8, 2016, the defendants moved to dismiss. The court dismissed the Bureau's lawsuit without prejudice on March 17, 2017, holding the Bureau failed to plead sufficient detail in the complaint.

***Consumer Financial Protection Bureau v. All American Check Cashing, Inc., Mid-State Finance, Inc., and Michael E. Gray*** (S.D. Miss. No. 3:16-cv-356). On May 11, 2016, the Bureau filed a complaint against two companies, All American Check Cashing, Inc. and Mid-State Finance, Inc. that offer check-cashing services and payday loans, and their president and sole owner, Michael Gray. The Bureau alleges that All American tried to keep consumers from learning how much they would be charged to cash a check and used deceptive tactics to stop consumers from backing out of transactions. The Bureau also alleges that All American made deceptive statements about the benefits of its high-cost payday loans and failed to provide refunds after consumers made overpayments on their loans. The Bureau's lawsuit seeks injunctive relief, restitution, and the imposition of a civil money penalty. On July 15, 2016, the court denied defendants' motion for a more definite statement. The defendants moved for judgment on the pleadings on May 24, 2017, and the court denied that motion on March 21, 2018. The Bureau moved for summary judgment on August 4, 2017, and the court has not yet ruled on that motion. The case remains pending.

***Consumer Financial Protection Bureau v. D and D Marketing, Inc., d/b/a T3Leads, Grigor Demirchyan, and Marina Demirchyan*** (C.D. Cal. No. 2:15-cv-9692); ***Consumer Financial Protection Bureau v. Dmitry Fomichev*** (C.D. Cal. No. 2:16-cv-2724); and ***Consumer Financial Protection Bureau v. Davit Gasparyan aka David Gasparyan*** (C.D. Cal. No. 2:16-cv-2725). On December 17, 2015, the Bureau filed a complaint against T3Leads and its current executives, Grigor Demirchyan and Marina Demirchyan, alleging that T3 engaged in unfair and abusive acts and practices in the sale of consumer-loan applications to small-dollar lenders and others acting unlawfully, and in operating a loan-application network that prevented consumers from understanding the material risks, costs, or conditions of their loans, and further alleging that the Demirchyans substantially assisted those acts and practices. On April 21, 2016, the Bureau filed two separate but related complaints against the company's past executives—Dmitry Fomichev and Davit Gasparyan—alleging that they substantially assisted T3's violations. The complaints seek monetary relief, injunctive relief, and penalties. On November 17, 2016, the court denied the defendants' motions to dismiss but found the Bureau unconstitutionally structured. The Ninth Circuit granted interlocutory appeal on that issue. That issue has not been decided. On September 8, 2017, the district court entered a stipulated final judgment and order against one of the defendants, Davit Gasparyan. The order imposed injunctive relief and required Gasparyan to pay a \$250,000 penalty. The case remains pending in the district court against the remaining defendants.

***Consumer Financial Protection Bureau and Anthony J. Albanese, Acting Superintendent of Financial Services of the State of New York v. Pension Funding, LLC; Pension Income, LLC; Steven Covey; Edwin Lichtig; and Rex Hofelter*** (C.D. Cal. No. 8:15-cv-1329). On August 20, 2015, the Bureau and the New York Department of Financial Services (NYDFS) filed a complaint against two companies, Pension Funding, LLC and Pension Income, LLC, and three of the companies' individual managers, alleging that they deceived consumers about the costs and risks of their pension-advance loans. The Bureau and NYDFS alleged that from 2011 until about December 2014, Pension Funding and Pension Income offered consumers lump-sum loan payments in exchange for the consumers agreeing to redirect all or part of their pension payments to the companies for eight years. The Bureau and NYDFS also alleged that the individual defendants, Steven Covey, Edwin Lichtig, and Rex Hofelter, designed and marketed these loans and were responsible for the companies' operations. The Bureau and NYDFS alleged that all of the defendants violated the CFPA's prohibitions against unfair, deceptive, and abusive acts or practices. On January 8, 2016, the court appointed a receiver over defendants Pension Funding and Pension Income. The receiver's responsibilities include taking control of all funds and assets of the companies and completing an accounting of all pension-advance transactions that are the subject of the action.

On February 10, 2016, the court entered a stipulated final judgment and order as to two of the individual defendants, Lichtig and Hofelter. The order imposes bans on these individuals' participation in pension-advance transactions and requires them to pay money to the receivership estate. On July 11, 2016, the court granted a default judgment against the final individual defendant, Covey, who did not appear in the case. The court's order imposes a ban and requires Covey to pay disgorgement of approximately \$580,000. The court-appointed receiver's work with respect to the companies is ongoing.

***In the Matter of Integrity Advance, LLC and James R. Carnes*** (File No. 2015-CFPB-0029). On November 18, 2015, the Bureau filed a notice of charges against an online lender, Integrity Advance, LLC, and its CEO, James R. Carnes, alleging they deceived consumers about the cost of short-term loans. The Bureau alleges that the company's contracts did not disclose the costs consumers would pay under the default terms of the contracts. The Bureau also alleges that the company unfairly used remotely created checks to debit consumers' bank accounts even after the consumers' revoked authorization for automatic withdrawals. The Bureau is seeking injunctive relief, restitution, and the imposition of a civil money penalty. On September 27, 2016, the Administrative Law Judge issued a Recommended Decision finding liability and recommending injunctive and monetary relief. The Recommended Decision was appealed to the Director, but further activity on that appeal was held in abeyance pending a decision in *PHH Corp. v. CFPB*, No. 15-1177 (D.C. Cir.). The case remains pending.

***Consumer Financial Protection Bureau v. Global Financial Support, Inc., d/b/a Student Financial Resource Center, d/b/a College Financial Advisory; and Armond Aria a/k/a Armond Amir Aria, individually, and as owner and CEO of Global Financial Support, Inc.*** (S.D. Cal. No. 3:15-cv-2440). On October 29, 2015, the Bureau filed a complaint alleging that Global Financial Support, Inc., which operates under the names Student Financial Resource Center and College Financial Advisory, issued marketing letters instructing students to fill out a form and pay a fee in exchange for the company conducting extensive searches to target or match them with individualized financial aid opportunities. The Bureau alleges that consumers who paid the fee received nothing or a generic booklet that failed to provide individualized advice. The Bureau also alleges that the defendants misrepresented their affiliation with government and university financial aid offices and pressured consumers to enroll through deceptive statements. The complaint seeks injunctive relief, restitution, and the imposition of a civil money penalty. This matter has been stayed since May 17, 2016 based on an ongoing criminal prosecution of one of the defendants. The case remains pending.

***Consumer Financial Protection Bureau v. Orion Processing, LLC d/b/a World Law Processing, Wld Credit Repair, and World Law Debt; Family Capital Investment & Management, LLC a/k/a FCIAM Property Management, et al.*** (S.D. Fla. No. 1:15-cv-23070). On August 17, 2015, the Bureau filed a complaint against the World Law Group alleging it violated the Telemarketing Sales Rule (TSR), and the CFPA by running a debt relief operation that charged consumers illegal upfront fees, falsely promised a team of attorneys to help negotiate debt settlements with creditors, failed to provide legal representation, and rarely settled consumers' debts. The Bureau alleged that World Law collected fees from consumers before providing any debt-relief services. On August 1, 2016, the court entered a default judgment against the World Law corporate defendants and FCIAM, and a stipulated final judgment against two of the individuals, who admitted violations of the Telemarketing Sales Rule. The court entered a default judgment against Bradley Haskins on November 29, 2016, and a stipulated final judgment and order against Orion Processing, LLC on March 22, 2017. The orders permanently ban the defendants from participating in telemarketing of any consumer financial product or service, or from selling, advertising, or offering debt relief products. The court also ordered the defendants to pay nearly \$107 million in consumer redress, ordered Haskins, FCIAM, and the World Law corporate defendants to pay a civil money penalty of \$40 million, and ordered Orion to pay a \$20 million civil money penalty.

***Consumer Financial Protection Bureau v. Gordon, et al.*** (C.D. Cal. No. 12-cv-6147). On July 18, 2012, the Bureau filed a complaint against a nationwide mortgage relief operation alleging the defendants took advantage of financially distressed homeowners by falsely promising to help them obtain loan modifications and illegally charging them advance fees ranging from \$2,500 to \$4,500. On February 1, 2013, the court entered a stipulated final judgment and order for permanent injunction as to defendants Abraham Michael Pessar, Division One Investment and Loan, Inc., and Processing Division, LLC. On June 26, 2013, the court granted summary judgment in favor of the Bureau against defendants Chance Edward Gordon and the Gordon Law Firm, P.C., finding that those defendants violated the Dodd-Frank Act by falsely representing: (1) that consumers would obtain mortgage loan modifications that substantially reduced their mortgage payments or interest rates and (2) that defendants were affiliated with, endorsed by, or approved by the U.S. government, among other things. The court also found that Gordon violated Regulation O by charging up-front payments, failing to make required disclosures, wrongly directing consumers not to contact lenders, and misrepresenting material aspects of defendants' services. After the order entering summary judgment against Gordon was largely affirmed on appeal, the court awarded an \$8,606,280.86 judgment for equitable monetary relief against Gordon on December 19, 2016. Gordon's petition for certiorari in the U.S. Supreme Court was denied on June 26, 2017.

***Consumer Financial Protection Bureau v. Borders & Borders, PLC, et al.*** (W.D. Ky. No. 3:13-cv-1047). On October 24, 2013, the Bureau filed a complaint alleging that Borders & Borders, a law firm specializing in real estate closings, violated RESPA by paying kickbacks to local real estate and mortgage brokers in exchange for referrals of settlement service business to the defendants. The Bureau seeks injunctive and other equitable relief. On February 12, 2015, the court denied the defendants' motion for judgment on the pleading, but on July 13, 2017, granted defendants' motion for summary judgment, finding the arrangement qualified as an affiliated business relationship under section 8(c)(4) of RESPA, and that the arrangement was independently allowed under section 8(c)(2) of RESPA. On August 10, 2017, the Bureau moved for reconsideration, and the court has not yet ruled. The case remains pending.

***Consumer Financial Protection Bureau v. NDG Financial Corp., et al.*** (S.D.N.Y. No. 15-cv-5211). On July 6, 2015, the Bureau filed a complaint against the NDG Financial Corporation and nine of its affiliates alleging it engaged in unfair, deceptive, and abusive practices relating to its payday lending enterprise. The Bureau alleges that the enterprise, which has companies located in Canada and Malta, originated, serviced, and collected payday loans that were void under state law, represented that U.S. federal and state laws did not apply to the Defendants or the payday loans, and used unfair and deceptive tactics to secure repayment, all in violation of the CFPA. On December 2, 2016, the court denied the defendants' motions to dismiss. On December 6, 2017, the clerk entered default against the Maltese defendants. On February 5, 2018, the court voluntarily dismissed the former owners and their holding corporations as defendants and/or relief defendants. The Bureau has moved for terminating sanctions against the remaining defendants, and the case remains pending.

***Consumer Financial Protection Bureau v. Universal Debt & Payment Solutions, LLC, et al.*** (N.D. Ga. No. 1:15-cv-859). On March 26, 2015, the Bureau filed a complaint against a group of seven debt collection agencies, six individual debt collectors, four payment processors, and a telephone marketing service provider alleging unlawful conduct related to a phantom debt collection operation. Phantom debt is debt consumers do not actually owe or debt that is not payable to those attempting to collect it. The Bureau alleges that the individuals, acting through a network of corporate entities, used threats and harassment to collect "phantom" debt from consumers. The Bureau alleges the defendants violated the FDCPA and the CFPA's prohibition on unfair and deceptive acts and practices, and provided substantial assistance to unfair or deceptive conduct. The Bureau is seeking permanent injunctive relief, restitution, and the imposition of a civil money penalty. On April 7, 2015, the Bureau obtained a preliminary injunction against the debt collectors that froze their assets and enjoined their unlawful conduct. In September 1, 2015, the court denied the defendants' motion to dismiss. On

August 25, 2017, the court dismissed the Bureau's claims against the payment processors as a discovery sanction against the Bureau. On November 15, 2017, the Bureau, and remaining defendants both moved for summary judgment. The court has not yet ruled, and the case remains pending.

***Consumer Financial Protection Bureau v. Richard F. Moseley, Sr., et al.*** (W.D. Mo. No. 4:14-cv-789). On September 8, 2014, the Bureau filed a complaint against a confederation of online payday lenders known as the Hydra Group, its principals, and affiliates, alleging that they used a maze of interrelated entities to make unauthorized and otherwise illegal loans to consumers. The Bureau alleged that the defendants' practices violate the CFPA, TILA, and EFTA. On September 9, 2014, the court issued an ex parte temporary restraining order against the defendants, ordering them to halt lending operations. The court also placed the companies in temporary receivership, appointed a receiver, granted the Bureau immediate access to the defendants' business premises, and froze their assets. On October 3, 2014, the court entered a stipulated preliminary injunction against the defendants pending final judgment in the case. On March 4, 2016, the court stayed the Bureau's case until criminal proceedings against Moseley, Sr. are resolved. The case remains pending.

***Consumer Financial Protection Bureau v. The Mortgage Law Group, LLP, d/b/a The Law Firm of Macey, Aleman & Searns; Consumer First Legal Group, LLC; Thomas G. Macey; Jeffrey J. Aleman; Jason E. Searns; and Harold E. Stafford*** (W.D. Wis. No. 3:14-cv-513). On July 22, 2014, the Bureau filed a lawsuit in federal district court against The Mortgage Law Group, LLP (TMLG), the Consumer First Legal Group, LLC, and attorneys Thomas Macey, Jeffrey Aleman, Jason Searns, and Harold Stafford. The Bureau alleges that the defendants violated Regulation O, formerly known as the Mortgage Assistance Relief Services (MARS) Rule, by taking payments from consumers for mortgage modifications before the consumers signed a mortgage modification agreement from their lender, by failing to make required disclosures, by wrongly directing consumers not to contact lenders, and by making deceptive statements to consumers when providing mortgage assistance relief services. On June 21, 2017, the district court entered a stipulated judgment against the bankruptcy estate of TMLG, which sought Chapter 7 bankruptcy. The court enjoined TMLG from operating, and ordered TMLG to pay \$18,331,737 in redress and \$20,815,000 in civil money penalties. A trial was held with the remaining defendants on April 24, 2017 through April 28, 2017, and the court has not yet issued findings of fact or conclusions of law. The case against the remaining defendants is ongoing.

***Consumer Financial Protection Bureau v. ITT Educational Services, Inc.*** (S.D. Ind. No. 1:14-cv-292). On January 6, 2014, the Bureau filed a lawsuit in federal district court against for-profit college chain ITT Educational Services, Inc. The Bureau alleges that ITT encouraged new students to enroll by providing them funding for the tuition gap that was not covered by federal student loan programs with a zero-interest loan called “Temporary Credit.” This loan typically had to be paid in full at the end of the student’s first academic year. The Bureau alleges that ITT knew from the outset that many students would not be able to repay their Temporary Credit balances or fund their second-year tuition gap and that ITT illegally pushed its students into repaying their Temporary Credit and funding their second-year tuition gaps through high-cost private student loan programs, on which ITT knew students were likely to default. In September of 2016, ITT closed all of its schools and filed for bankruptcy. On September 8, 2017, the court entered an order administratively closing the case without prejudice to the right of either party to move to reopen it within sixty days of the approval of a settlement by the Bankruptcy Court overseeing ITT’s Chapter 7 case.

***Consumer Financial Protection Bureau v. CashCall, Inc., et al.*** (C.D. Cal. No. 15-cv-7522). On December 16, 2013, the Bureau filed a complaint against online loan servicer CashCall Inc., its owner, a subsidiary, and an affiliate, alleging that they violated the CFPA’s prohibition against unfair, deceptive, and abusive acts and practices by collecting and attempting to collect consumer-installment loans that were void or partially nullified because they violated either state caps on interest rates or state licensing requirements for lenders. The Bureau alleged that CashCall serviced loans it made in the name of an entity, Western Sky, which was located on the Cheyenne River Sioux Tribe’s land and which purported to make loans exempt from state and federal law. On August 31, 2016, the court granted the Bureau’s motion for partial summary judgment, concluding that CashCall was the true lender on the Western Sky loans, that the laws of consumers’ home states applied, and that the defendants engaged in deceptive acts or practices by demanding payment of amounts that consumers did not actually owe. A trial was held from October 17 to 18, 2017 on the issue of appropriate relief. On January 19, 2018, the court issued findings of fact and conclusions of law imposing a \$10.28 million civil penalty but denying the Bureau’s request for restitution and an injunction. On January 26, 2018, the court entered judgment ordering the defendants to pay the civil penalty.



## 6. Actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions

The Bureau's *Supervisory Highlights* publications provide general information about the Bureau's supervisory activities at banks and nonbanks without identifying specific companies. The Bureau published four issues of Supervisory Highlights between October 1, 2016 and September 30, 2017.<sup>70</sup>

All public enforcement actions are listed in Section 5. Those actions taken with respect to covered persons which are not credit unions or depository institutions are noted within the summary of the action.

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<sup>70</sup> Fall 2017, [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709\\_cfpb\\_Supervisory-Highlights\\_Issue-16.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_Supervisory-Highlights_Issue-16.pdf);  
 Spring 2017, [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201704\\_cfpb\\_Supervisory-Highlights\\_Issue-15.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201704_cfpb_Supervisory-Highlights_Issue-15.pdf);  
 Fall 2016, [http://files.consumerfinance.gov/f/documents/Supervisory\\_Highlights\\_Issue\\_13\\_Final\\_10.31.16.pdf](http://files.consumerfinance.gov/f/documents/Supervisory_Highlights_Issue_13_Final_10.31.16.pdf);  
 Consumer Reporting Special Edition,  
[https://www.consumerfinance.gov/documents/2774/201703\\_cfpb\\_Supervisory-Highlights-Consumer-Reporting-Special-Edition.pdf](https://www.consumerfinance.gov/documents/2774/201703_cfpb_Supervisory-Highlights-Consumer-Reporting-Special-Edition.pdf).

## 7. Assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law

For purposes of the section 1016(c)(7) reporting requirement, the Bureau determined that any actions asserting claims pursuant to section 1042 of the Dodd-Frank Act are “significant.” The Bureau is aware of the following State Attorney General actions that were initiated during the reporting period and that asserted Dodd-Frank Act claims. The reporting period for this information is April 1, 2017, through September 30, 2017.

***Commonwealth of Massachusetts v. Pennsylvania Higher Education Assistance Agency, d/b/a/ FedLoan Servicing***, No. 1784-cv-2682 (Mass. Super. Ct. Aug. 23, 2017).

On August 23, 2017, the Commonwealth of Massachusetts filed suit in the Massachusetts’ Superior Court against Pennsylvania Higher Education Assistance Agency (PHEAA), which also does business as FedLoan Servicing. Massachusetts alleged that PHEAA violated the Massachusetts Consumer Protection Law, M.G.L.A. c. 93A, § 2(a), by engaging in unfair and deceptive acts and practices and violating Massachusetts’ Debt Collection Regulations, 940 C.M.R. 7.07(16). In addition, Massachusetts alleged that PHEAA violated the Consumer Financial Protection Act, 12 U.S.C. 5531, by engaging in unfair acts and practices.

***Office of the Attorney General, the State of Florida, Department of Legal Affairs, and Office of Financial Regulation, the State of Florida, Division of Consumer Finance, v. Ocwen Financial Corporation, a Florida corporation, Ocwen Mortgage Servicing, Inc., a U.S. Virgin Islands corporation, and Ocwen Loan Servicing, LLC, a Delaware limited liability company***, No. 9:17-cv-80496 (S.D. Fla.

Apr. 20, 2017). On April 20, 2017, the Office of the Attorney General and the Office of Financial Regulation for Florida filed suit in the United States District Court for the Southern District of Florida against Ocwen Financial Corporation, Ocwen Mortgage Servicing, Inc., and Ocwen Loan Servicing, LLC (collectively referred to as “Ocwen”). Florida alleged that Ocwen violated the Consumer Financial Protection Act, 12 U.S.C. 5531, by violating section 6(g) of the Real Estate Settlement Procedures Act (“RESPA”), 12 U.S.C. 2605(g), and sections 1024.17, 1024.34, and 1024.41 of RESPA’s implementing regulation, Regulation X, 12 C.F.R. pt. 1024. In addition, the Florida Attorney General alleged that Ocwen violated the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. 501.204(1), by engaging in unfair and deceptive acts or practices. The Florida Office of Financial Regulation alleged that Ocwen Loan Servicing, LLC, violated sections 494.00255 and 494.0063 of the Florida Statutes.

## 8. Analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau

On April 14, 2017, the Bureau published its fifth report to Congress<sup>71</sup> on the fair lending work of the Bureau. The April report provided an overview of the Bureau's risk-based fair lending prioritization process; supervision tools; recent public enforcement actions; rulemaking and related guidance; interagency coordination efforts and reporting; and outreach activities during calendar year 2016.<sup>72</sup> This Semi-Annual Report update is focused on highlights from the Bureau's fair lending enforcement<sup>73</sup> and rulemaking<sup>74</sup> activities from October 1, 2016, through September 30, 2017, and continued efforts to fulfill the fair lending mission of the Bureau, through, for example, supervision, interagency coordination, and outreach from April 1, 2017, through September 30, 2017.<sup>75</sup>

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<sup>71</sup> Dodd-Frank Act section 1013(c)(2)(D).

<sup>72</sup> See Consumer Financial Protection Bureau, *Fair Lending Report of the Consumer Financial Protection Bureau* (Apr. 14, 2017), <https://www.consumerfinance.gov/data-research/research-reports/fair-lending-report-2016>.

<sup>73</sup> Dodd-Frank Act section 1016(c)(5).

<sup>74</sup> Dodd-Frank Act section 1016(c)(3).

<sup>75</sup> Dodd-Frank Act section 1016(c)(8).

## 8.1 Fair lending supervision

The Bureau's Fair Lending Supervision program assesses compliance with Federal fair lending consumer financial laws and regulations at banks and nonbanks over which the Bureau has supervisory authority. As a result of the Bureau's efforts to fulfill its fair lending mission in this reporting period, the Bureau's Fair Lending Supervision program initiated 11 supervisory events at financial services institutions under the Bureau's jurisdiction to determine compliance with Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities, including ECOA and HMDA.

For exam reports issued by Fair Lending Supervision during the reporting period, the most frequently cited violations of Regulation B were:

- Section 1002.9(a)(1); (a)(2); (b); and (g): Failure to timely notify an applicant when an application is denied; failure to provide sufficient information in an adverse action notification, including the specific reasons the application was denied; and failure to provide an adverse action notification when an application is made on behalf of an applicant through a third party to more than one creditor;
- Section 1002.12(b)(1): Failure to retain in original form or copy for 25 months (12 months for business credit) any application, monitoring information or other information used in evaluating an application; and
- Section 1002.14(a): Failure to routinely provide a copy of an appraisal report to an applicant for credit secured by a lien on a dwelling.

In the current reporting period, the Bureau issued a number of matters requiring attention (MRAs) or memoranda of understanding (MOU) items that was similar to the number issued in the prior reporting period. Those items were issued across a number of fair lending supervisory events that was similar to the number of fair lending supervisory events from the prior period. MRAs and MOUs direct entities to take corrective actions and are monitored by the Bureau through follow-up supervisory events. In the current period, however, the Bureau cleared a higher number of MRAs or MOU items from past supervisory events.

## 8.2 Fair lending enforcement<sup>76</sup>

The Bureau has the statutory authority to bring enforcement actions pursuant to HMDA and ECOA. In this regard, the Bureau has the authority to engage in research, conduct investigations, file administrative complaints, hold hearings, and adjudicate claims through the Bureau's administrative enforcement process. The Bureau also has independent litigating authority and can file cases in federal court alleging violations of fair lending laws under the Bureau's jurisdiction. Like other federal bank regulators, the Bureau is required to refer matters to DOJ when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.

Over the past year, the Bureau announced two fair lending public enforcement actions involving HMDA reporting and credit cards. First, as described in Section 5 of this Report, on March 15, 2017, the Bureau resolved an enforcement action against Nationstar Mortgage LLC for violating HMDA by consistently failing to report accurate data about mortgage transactions for 2012 through 2014. This matter was discussed in more detail in the Bureau's Spring 2017 Semi-Annual Report.<sup>77</sup>

Second, as described in Section 5 of this Report, on August 23, 2017, the Bureau took action against American Express Centurion Bank and American Express Bank, FSB (collectively referred to as American Express), for violating ECOA by discriminating against consumers in Puerto Rico, the U.S. Virgin Islands, and other U.S. territories by providing them with credit and charge card terms that were inferior to those available in the 50 U.S. states.

The Bureau also continues to administer prior fair lending enforcement actions. On December 19, 2013, working in close coordination with the DOJ, the Bureau ordered Ally Financial Inc. and Ally Bank (Ally) to pay \$80 million in damages to harmed African-American, Hispanic, and Asian and/or Pacific Islander borrowers. In addition, Ally paid approximately \$38.9 million in September 2015, \$51.5 million in May 2016, and an additional \$48.8 million in April 2017, the

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<sup>76</sup> Section 1016(c)(5) of the Dodd-Frank Act requires the Bureau to include in the semi-annual report public enforcement actions the Bureau was a party to during the preceding year, which is October 1, 2016, through September 30, 2017, for this report.

<sup>77</sup> Consumer Financial Protection Bureau, *Semi-Annual Report Spring 2017*, at 103–05 (June 2017), <https://www.consumerfinance.gov/data-research/research-reports/semi-annual-report-spring-2017>.

final year of the order, to consumers who Ally determined were both eligible and overcharged on auto loans issued during 2014, 2015, and 2016, respectively.

Finally, during this reporting period<sup>78</sup> and pursuant to section 706(g) of ECOA, the Bureau also referred five matters to the DOJ with regard to discrimination in mortgage lending on the basis of receipt of public assistance income; and discrimination in auto finance on the bases of national origin, race, and receipt of public assistance income. As a result of the Bureau's public enforcement actions enforcing Federal fair lending laws, including ECOA and HMDA, approximately \$97 million in monetary payments were made, consisting of remediation to harmed consumers and payments to the Bureau's Civil Penalty Fund.<sup>79</sup>

### 8.3 Fair lending outreach

The Bureau is committed to hearing from and communicating directly with stakeholders on compliance and education relating to fair lending.<sup>80</sup> Outreach is accomplished through issuance of Reports to Congress, Interagency Statements, *Supervisory Highlights*, Compliance Bulletins, letters and blog posts, as well as through the delivery of speeches, meetings, and presentations addressing fair lending and access to credit matters. During the reporting period, Fair Lending staff participated in more than 30 events where they worked directly with stakeholders to educate them about fair lending compliance and access to credit issues, heard stakeholder views on Fair Lending's work to inform the Bureau, or provided speeches on fair lending topics.

### 8.4 Interagency coordination

The Bureau's fair lending activity involves regular coordination with other federal and state

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<sup>78</sup> October 1, 2016, through September 30, 2017.

<sup>79</sup> Figure represent estimates of monetary relief for consumers ordered or required by the Bureau or a court as a result of enforcement actions on fair lending matters between October 1, 2016 and September 30, 2017, as well as other monetary payments such as civil money penalties.

<sup>80</sup> Dodd-Frank Act section 1013(c)(2)(C).

regulatory and enforcement partners.<sup>81</sup> During the reporting period, Fair Lending continued to lead the Bureau's fair lending interagency coordination and collaboration efforts by working with partners on the Interagency Task Force on Fair Lending, the Interagency Working Group on Fair Lending Enforcement, and the FFIEC HMDA Data Collection Subcommittee.

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<sup>81</sup> Dodd-Frank Act section 1013(c)(2)(B).



## 9. Analysis of the efforts of the Bureau to increase workforce and contracting diversity consistent with the procedures established by the Office of Minority and Women Inclusion.

The Bureau has developed an agency-wide strategic plan (Diversity Strategic Plan) to guide the Bureau in its efforts to manage its diversity and inclusion goals, and objectives.<sup>82</sup> The Bureau also publishes an Annual OMWI report in the spring of each year. The 2016 OMWI Annual report was published on March 31, 2017.<sup>83</sup>

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<sup>82</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201611\\_cfpb\\_diversity-and-inclusion-strategic-plan-2016-2020.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201611_cfpb_diversity-and-inclusion-strategic-plan-2016-2020.pdf).

<sup>83</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201703\\_cfpb\\_OMWI-2016-annual-report.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201703_cfpb_OMWI-2016-annual-report.pdf).

## 9.1 Increasing workforce diversity

As of September 30, 2017, an analysis of the Bureau's current workforce reveals the following key points:

- Women represent 49% of the Bureau's workforce in 2017 with no change from 2016.
- Minorities represent 39% of the Bureau workforce with a slight increase of the percentage of ethnic minority employees (Hispanic, Black, Asian, Native Hawaiian/Other Pacific Islander (NH/OPI), American Indian/Alaska Native (AI/AN) and employees of Two or More races) from 2016.

The Bureau engages in the following activities to increase workforce diversity:

### 9.1.1 Recruiting

The Bureau enhances diversity by recruiting and hiring highly qualified individuals from diverse backgrounds to fill positions at the Bureau. During the reporting period, the Bureau:

Participated in at least at six professional conferences and university events, with a focus on building relationships with diverse affinity organizations; and

Utilized intern and professional development programs to build a robust pipeline of talent to meet current and emerging workforce needs.

### 9.1.2 Workforce engagement

To promote an inclusive work environment, the Bureau focuses on strong engagement with employees and utilizes an integrated approach to education, training, and engagement programs that ensures diversity and inclusion and non-discrimination concepts are part of the learning curriculum and work environment.

## 9.2 Increasing contracting diversity

During FY 2017,<sup>84</sup> the Bureau awarded 30% of contract dollars to small businesses enterprises (SBEs), some of which are also minority-owned or woman-owned businesses (MWOBs). The Bureau's contracting rate to small businesses exceeds the Small Business Administration's recommended goal for each Federal agencies of 23%. Of the 30% of SBE contracts awarded at the Bureau in FY 2017, 10% went to small disadvantaged businesses (minority-owned). The total contract dollars awarded to woman-owned small businesses during this period was 11.9%.

In accord with the mandates in section 342(b)(2)(B), goal four in the Bureau's Diversity Strategic Plan describe the efforts the Bureau takes to increase contracting opportunities for MWOBs. The OMWI office and the Office of Procurement collectively work to increase opportunities for participation by MWOBs. Those activities include:

### 9.2.1 Outreach to contractors

The Bureau increases opportunities for participation of MWOBs and SBEs by:

- Creating and publishing a procurement forecast to assist contractors better understand upcoming business opportunities;
- Updating and distributing technical assistance guides for businesses including *A Guide to Doing Business with the Bureau*, in order to assist businesses understand the procurement process. These resources are also made available digitally on the Bureau website.<sup>85</sup>
- Publishing the Bureau's supplier diversity policy on the Bureau website;<sup>86</sup> and

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<sup>84</sup> Data source is from the Federal Procurement Data System (FPDS) for FY 2017 from October 1, 2016 through September 30, 2017. The data are current as of October 4, 2017. FPDS data is subject to an OMB annual validation each January for the previous fiscal year.

<sup>85</sup> <http://www.consumerfinance.gov/doing-business-with-us>.

<sup>86</sup> [http://files.consumerfinance.gov/f/201409\\_cfpb\\_supplier-diversity-statement.pdf](http://files.consumerfinance.gov/f/201409_cfpb_supplier-diversity-statement.pdf).

- Participating in four national supplier diversity conferences aimed at MWOBs, and SBEs and providing technical assistance meetings to businesses new to government contracting.

### 9.3 Diversity within the Bureau contractors' workforces

In accord with the mandates in section 342(c)(2) of the Dodd-Frank Act, goal six of the Bureau's Diversity and Inclusion Strategic Plan describes the efforts the Bureau takes to determine that a contractor will ensure, to the maximum extent possible, the fair inclusion of women and minorities in the contractor workforce, and as applicable, subcontractors workforce. To provide notice to contractors of this responsibility the Bureau developed a contract clause for any solicitation and contract exceeding the simple acquisition threshold, currently, \$150,000. The clause and implementing procedure fulfills the requirement of section 342(c)(3)(A) for the OMWI Director to make a determination about a contractor's (and, as applicable, a subcontractor's) good-faith efforts to include minorities and women in their workplaces.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

**Senate Committee on Banking, Housing, and Urban Affairs**  
**Hearing on the Consumer Financial Protection Bureau's Semi-Annual Report to Congress**  
**Senator Elizabeth Warren - April 12, 2018**

**Bills Cosponsored by Mick Mulvaney that Inhibit Federal Bank Regulators**

**1. Financial Institution Customer Protection Act of 2016. HR 766.**

HR 766 would amend the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) to—among other things—eliminate penalties for and investigative authority into unlawful conduct “affecting” federally insured financial institutions. Instead, agencies could penalize or investigate illegal conduct only “against” a financial institution or “by” the institution against a third party. This would hamper critical regulatory efforts to detect fraud, putting consumers and financial institutions at risk of serious financial loss

**2. Regulations from the Executive in Need of Scrutiny (REINS) Act. HR 427.**

This legislation would require economically significant regulations—including financial regulations—to be approved by both chambers of Congress before taking effect. This requirement would cover all major rules, including uncontroversial ones. Well-funded special interests would gain leverage to prevent the adoption of important consumer protection regulations they oppose.

**3. Financial Institutions Examination Fairness and Reform Act. HR 1941.**

This legislation imposes a cumbersome new appeals and review process on bank examiners, creating numerous opportunities for banks to delay or avoid making changes that supervisors require in order to protect consumers and the public. This process would be likely to greatly reduce the speed and effectiveness of bank supervision on the part of both prudential regulators and the Consumer Financial Protection Bureau.

**4. Federal Reserve Reform Act. HR 3189.**

The Federal Reserve is the single most significant regulator of U.S. financial institutions, including the large Wall Street banks that played a central role in the 2008 financial crisis. HR 3189 would dramatically reduce the Fed’s ability to effectively regulate these institutions by requiring the Fed to perform dozens of new “cost-benefit” analyses prior to any rulemaking, laying the basis for a flood of industry lawsuits and potentially slowing regulatory action to a crawl.

**5. Taking Account of Institutions with Low Operation Risk (TAILOR) Act of 2015.  
 HR 2896.**

HR 2896 requires financial regulators to determine the necessity, appropriateness, and impact of applying regulatory action to certain institutions or classes of institutions. Since an appropriately “tailored” approach to regulation is already in place, the main effect of HR

2896 would be to add numerous new “cost-benefit”-type requirements that would make it far more difficult to take regulatory action in the future. This bill also forces banking regulators to conduct a burdensome and time-consuming re-analysis of every consumer and financial protection adopted under the Dodd-Frank Act, the CARD Act, and other recent consumer protection and financial stability laws.

**6. Separation of Powers Restoration Act of 2016.** HR 4768.

HR 4768 would overturn *Chevron U.S.A., Inc., v. NRDC*, a 1984 Supreme Court case that established a well-understood framework for judicial review of statutory interpretation by agencies, including financial regulators, making it easier for interested financial (and other) industry players to overturn consumer protections in court.

**Votes by Mick Mulvaney to Inhibit Federal Bank Regulators**

**7. Regulatory Accountability Act.** HR 185. (Mulvaney voted Yes on passage)

Under the terms of this legislation, the agencies charged with oversight of the largest banks and most critical financial markets would have to comply with a host of new bureaucratic and procedural requirements. The ability of financial regulators to take effective action against deceptive, exploitative, and reckless industry practices would be sharply reduced.

**8. Small Business Regulatory Flexibility Improvements Act.** HR 527. (Mulvaney voted Yes on passage)

This legislation would make it much harder for regulatory agencies to issue rules or guidance documents by adding a series of new analytical requirements to the process whenever an initiative affects small business, either directly or indirectly. Because the bill defines “indirect effects” broadly, it would mandate wasteful new analyses that could be applied to virtually any action an agency attempts to undertake, no matter how tenuous the connection to small-business interests. HR 527 also ties the hands of agencies by forcing them to delay actions until new analyses are completed.

**9. Financial CHOICE Act of 2016.** HR 5983. (Mulvaney voted Yes in Committee.)

In addition to repealing major parts of the Dodd-Frank Act, HR 5983 would create numerous new analytic and legal requirements that financial regulatory agencies would have to meet before issuing any new rules that might protect consumers.

**Votes to Preempt State Enforcement**

**10. National Securities Exchange Regulatory Parity Act of 2016.** HR 5421. (Mulvaney voted Yes in Committee.)

This bill would dangerously expand Federal pre-emption from state securities laws designed to protect investors from fraud. Under current law, a national securities exchange needs to meet listing standards similar to those of a major national exchange—e.g., the New York Stock Exchange, NASDAQ—for its securities to be deemed “covered securities.” Under this

classification, securities enjoy the advantages of exemptions from state-level regulations. Under HR 4546, a security would be preempted as long as it is traded on a national exchange that is a member of the National Market System. This would mean that securities could be exempted from oversight by state securities regulators without meeting the strong standards that the SEC has laid out for individual securities to qualify for pre-emption under Section 18 of the Securities Act.

**11. Micro Offering Safe Harbor Act.** HR 4850. (Mulvaney voted Yes in Committee.)

This legislation would exempt so-called “micro-cap offerings” (valued at \$500,000 or less in a single year) from core provisions of the 1933 Securities Act, including registration, disclosure, and other safeguards against fraud. HR 2201 would permit such securities to be sold to unsophisticated and/or moderate-income investors, as long as they have an unspecified “pre-existing relationship” with an officer, director or major shareholder of the issuer. The bill requires no disclosures or even notification to regulators, and imposes no restrictions on secondary sales. It also preempts state regulatory authority, raising the possibility that there would be no meaningful regulatory oversight of these offerings at all.



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National Association of Federally-Insured Credit Unions

**Carrie R. Hunt**  
Executive Vice President of Government Affairs  
and General Counsel

April 11, 2018

The Honorable Michael D. Crapo  
Chairman  
Committee on Banking, Housing, &  
Urban Affairs  
United States Senate  
534 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Sherrod Brown  
Ranking Member  
Committee on Banking, Housing, &  
Urban Affairs  
United States Senate  
534 Dirksen Senate Office Building  
Washington, DC 20510

**Re: Tomorrow's hearing to receive the CFPB semi-annual report**

Dear Chairman Crapo and Ranking Member Brown:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only trade association exclusively representing the federal interests of our nation's federally-insured credit unions, I write today in conjunction with tomorrow's hearing to receive the Consumer Financial Protection Bureau's (CFPB) semi-annual report to Congress. NAFCU and its members are pleased to see Acting Director Mick Mulvaney's early efforts to bring some changes to the Bureau, including a focus on its statutory role, and we are hopeful that these changes can help lessen the growing regulatory burden on credit unions by focusing the Bureau's efforts on bad actors.

During the consideration of financial reform, NAFCU was concerned about the possibility of overregulation of good actors such as credit unions, and this is why NAFCU was the only trade association to oppose the CFPB having authority over credit unions. Unfortunately, many of our concerns about the increased regulatory burdens that credit unions would face under the CFPB have proven true over the last eight years.

While NAFCU has a number of concerns with several Bureau rules, the following is a summary of the most impactful on credit unions. We look forward to working with the Committee and the new leadership at the Bureau to address these issues and help provide credit unions real regulatory relief.

#### **Increased Use of Exemption Authority**

Since the enactment of the Dodd-Frank Act, over 1,500 federally-insured credit unions have been forced to close their doors or merge with other credit unions. That amount represents over 20 percent of the industry, and this rate of loss has only increased since the creation of the CFPB. A large majority of those credit unions that have closed or merged were small in asset size, and as such, could not afford to comply with all the rules promulgated by the CFPB. Therefore, it is incumbent upon the CFPB to provide some degree of regulatory relief for community institutions that cannot afford to comply with complex rules, and would otherwise be forced to stop offering services to members.



Although the Bureau already provides for some exemptions based on an entity's asset size, such as the QM rule, NAFCU strongly believes that the Bureau can do more, such as increase the exemption threshold, or consider exemptions based on an institution's characteristics and activities.

For example, on October 26, 2017, the Office of Financial Research (OFR), led by a Director that was appointed during the previous administration, published a report that supports NAFCU's long-held stance that size does not equal risk. The report, "Size Alone is not Sufficient to Identify Systemically Important Banks," found that the asset size of an institution is insufficient to determine riskiness. Rather, the report asserts that a multi-factor test that examines the nature and activities of the institution is a better indicator of risk.

We believe that the CFPB must do more to provide exemptions to credit unions under its authority in Section 1022 of the *Dodd-Frank Act* and we would ask the Committee to encourage Acting Director Mulvaney to do so.

#### **Unfair, Deceptive, or Abusive Acts and Practices**

Since the enactment of the *Dodd-Frank Act*, NAFCU has worked to seek clear, transparent guidance from CFPB on its expectations for credit unions under the law. Of special concern are those areas of the law, such as a call for a focus on unfair, deceptive, or abusive acts and practices (UDAAP), that provide few or no specific directives for implementation and for which neither CFPB nor the National Credit Union Administration (NCUA) has provided any specific guidance. Meanwhile, CFPB has traditionally regulated through enforcement action in this area. While we are pleased to see the new leadership of the Bureau moving away from approach, NAFCU believes that additional Dodd-Frank guidance—articulating clear supervisory expectations—is necessary to ensure credit unions have the information they need to ensure their operations are safe, sound, and reflective of the spirit and letter of the law governing them.

Further, UDAAP-based enforcement actions have created uncertainty regarding the operation of powers explicitly conferred on credit unions by the *Federal Credit Union Act*. These include federal credit unions' statutory lien authority, a power explicitly granted to federal credit unions by Congress in Section 107(11) of the *Federal Credit Union Act* and Section 701.39 of NCUA's Rules and Regulations, and federal credit unions' right to limit or suspend services, as explicitly permitted by NCUA's model bylaws. While the statutory lien in particular may be superseded by other federal or state law, the CFPB has not issued regulations or directives implementing its UDAAP authority, effectively curbing the powers granted to federal credit unions by the *Federal Credit Union Act* and as implemented by NCUA, without any scope or notice. Essentially, the CFPB has reserved the right to determine that operation of these powers in compliance with NCUA's regulations may still be considered unfair, deceptive or abusive according to the judgment of the CFPB.

#### **Debt Collection**

NAFCU remains concerned that the CFPB's potential rulemakings regarding both first- and third-party debt collection would be burdensome and onerous for credit unions. Credit unions are not debt collectors under the *Fair Debt Collection Practices Act* and should also be exempted from any

rulemaking on first-party debt collection practices made under the CFPB's UDAAP authority. Complicated and extensive regulatory requirements to change debt collection policies and procedures may force many credit unions to merge or even close up shop because they cannot afford to staff a team of compliance officers to navigate the regulations.

Credit unions, as member-owned, not-for-profit cooperatives, distinct from banks, serve a different purpose in the financial industry. As a result, credit unions should receive different treatment from the CFPB with respect to rulemakings about practices in which credit unions simply do not engage. Credit unions work with their members, not against them, to resolve delinquency matters. For example, NAFCU's June 2016 *Economic & CU Monitor* survey indicated that roughly 80 percent of credit union respondents have waived late fees, interest, or fines for their members and another 33 percent have forgiven debts to one or more members. Consequently, credit unions should be excluded from the CFPB's rulemaking regarding debt collection practices.

#### **Qualified Mortgages**

Many of NAFCU's members have decided to extend only mortgages that meet the definition of safe harbor "qualified mortgage" as they are concerned that they will not be able to sell non-qualified mortgages and are worried about the legal and regulatory risks associated with extending non-qualified mortgages. Due to the hesitance of lenders to extend non-qualified mortgages, NAFCU is concerned that many otherwise qualified borrowers will not be able to obtain mortgages.

NAFCU believes the definition of qualified mortgage must be revised in a number of ways to reduce the enormous negative impact the rule undoubtedly has on credit unions and their members, in particular the debt-to-income (DTI) threshold (43% of the total loan) and the inclusion of affiliate fees in the calculation of points and fees.

#### **Mortgage Servicing**

The CFPB's mortgage servicing rule has unnecessarily complicated mortgage servicing, greatly increased costs of servicing and jeopardized credit unions' established practices that center on relationships with members. NAFCU's concerns with the rule include the cost and burden related to the host of new or greatly revised periodic statement, policies, procedures and notices it requires, as well as the timing and inflexible procedural requirements related to how a credit union must deal with delinquent borrowers and take loss mitigation actions. Although the rule does exempt credit unions that service 5,000 or fewer mortgages, along with affiliates, from some of the requirements, mortgage servicing costs have nevertheless greatly increased for all credit unions.

#### **Reputation Risk**

The CFPB has encouraged consumers to utilize its public Consumer Complaint Database to disclose consumer complaints and narratives that the CFPB receives on most financial products, such as credit cards, mortgages, bank accounts and services, private student loans, other consumer loans, credit reporting, money transfers and debt collection.

NAFCU believes that the CFPB Consumer Complaint Database presents a very specific reputational risk concern for financial institutions. These complaints follow a pattern of unverified information that is given credibility by the mere fact that the CFPB is posting it on their website. There is no mechanism to ensure the complaints are fully vetted. Credit unions have unique relationships with their members and NAFCU supports resolution and investigation of valid and verified member complaints by the credit unions, but the reputation risk brought on by unverified complaints is significant and not easily mitigated. We are pleased to see Acting Director Mulvaney recently announce that the Bureau is seeking comments on the usefulness of the Database as part of an effort to seek public input on all functions of the CFPB.

#### **Remittances**

In July 2014, the CFPB finalized amendments to its Remittance Rule. Prior to these amendments, the Bureau released a series of final rules concerning remittances, all of which became effective on October 28, 2013. The regulatory burden that the Remittance Rule places on credit unions has led to a significant reduction in consumers' access to remittance transfer services. NAFCU has heard from a number of its members that, because of the rule's compliance burden, they have been forced to discontinue, or will be forced to discontinue, their remittance programs.

NAFCU members have also indicated that the compliance costs associated with the rule have had an impact on their ability to offer other services to their members. Accordingly, NAFCU continues to encourage the CFPB to expand the threshold for the safe harbor from the definition of "remittance transfer provider" in order to ensure that a meaningful safe harbor is established. Although the Bureau recently solicited comments as part of the rule's five-year review, the gravity of this rule's impact warrants greater precedence.

#### **Home Mortgage Disclosure Act Requirements**

The CFPB finalized amendments to Regulation C in October 2015 that made several substantive changes to the reporting requirements under the *Home Mortgage Disclosure Act* (HMDA). The final rule, among other things, expanded the data financial institutions are required to collect and report under Regulation C. Some of the expanded data collection and reporting is driven by Dodd-Frank, which amended HMDA to require collection of certain new data points. However, the CFPB also appears to have taken this opportunity to collect significantly more data than Dodd-Frank expressly requires. In addition to expanded data collection, the final rule changed the scope of Regulation C's coverage to include most closed-end loans, open-end lines of credit and reverse mortgages secured by dwellings. Under this expansion, reporting is required on all HELOCs.

NAFCU believes that the Bureau should limit the changes to the HMDA dataset to those mandated by Dodd-Frank. While credit unions support HMDA requirements that further the goal of ensuring fair lending and anti-discriminatory practices, NAFCU is concerned that some of the additional reporting requirements do not achieve these goals and only serve to impose significant additional compliance and reporting burdens.

Additionally, NAFCU urges an exemption from HMDA reporting for all home equity lines of credit or, in the alternative, higher reporting thresholds for close-end and open-end loans. Recently, the

Bureau finalized amendments to Regulation C that would increase the threshold for collecting and reporting data with respect to open-end lines of credit so that financial institutions originating fewer than 500 open-end lines of credit in either of the preceding two years would not be required to collect such data. However, this exemption is only in effect for a period of two years, until January 1, 2020. NAFCU strongly urges the Bureau to make this exemption permanent so that credit unions have long-term certainty.

#### **Overdraft**

NAFCU believes that any continued pursuit of data on overdraft programs by the CFPB constitutes extraordinary regulatory overreach. Credit unions are focused on providing value to their members by offering responsible overdraft protection. In fact, NAFCU's June 2015 *Economic & CU Monitor* survey found that every respondent offered an alternative to overdraft or courtesy pay programs, with overdraft lines of credit and linked savings or money market accounts being the most popular (84.4% each). Instead, NAFCU asks that the Bureau's reform agenda indicate its intentions to not promulgate overdraft regulations.

Finally, we believe that one way to improve the CFPB would be to change its leadership from a single director to a five-person bipartisan commission. NAFCU has long held the position that, given the broad authority and awesome responsibility vested in the CFPB, a five person commission has distinct consumer benefits over a single director. Regardless of how qualified one person may be, a commission would allow multiple perspectives and robust discussions of consumer protection issues throughout the decision making process. Credit unions and their 110 million members are greatly impacted by the actions of the CFPB and believe the operating structure of the CFPB should be as fair and transparent as possible.

NAFCU looks forward to working with the Committee and the new Bureau leadership to improve the CFPB and provide regulatory relief to credit unions. We hope that you will use this week's hearing to push the CFPB to take greater steps to provide relief to credit unions under its current authority. We thank you for the opportunity to share our thoughts with you today. If you have any questions, or if my colleagues or I can be of assistance in any way, please do not hesitate to contact me or NAFCU's Vice President of Legislative Affairs, Brad Thaler, at (703) 842-2204.

Sincerely,



Carrie R. Hunt  
Executive Vice President of Government Affairs and General Counsel

cc: Members of the House Financial Services Committee



April 6, 2018

The Honorable Mike Crapo  
Chairman  
Committee on Banking, Housing  
& Urban Affairs  
U.S. Senate  
534 Dirksen Office Building  
Washington, D.C. 20510

The Honorable Sherrod Brown  
Ranking Member  
Committee on Banking, Housing  
& Urban Affairs  
U.S. Senate  
534 Dirksen Office Building  
Washington, D.C. 20510

Dear Chairman Crapo and Ranking Member Brown:

The Consumer Bankers Association (CBA) appreciates the Senate Banking Committee's continued oversight of the Consumer Financial Protection Bureau (CFPB or Bureau) and its activities. We would like to take this opportunity to submit the following comments on the Semi-Annual Report of the Bureau of Consumer Financial Protection. CBA is the voice of the retail banking industry whose products and services provide access to credit to millions of consumers and small businesses. Our members operate in all 50 states, serve more than 150 million Americans and collectively hold two-thirds of the country's total depository assets.

In 2010, Congress created the CFPB and granted it rulemaking authority over a \$3 trillion consumer financial services industry. The CFPB has supervisory authority over more entities than all other Federal bank supervisors combined, totaling as many as 15,000 companies. In addition to supervisory authority over each depository institution with assets over \$10 billion, the CFPB has supervisory authority over all those in the business of origination, brokerage, or servicing of consumer loans secured by real estate, and related mortgage loan modification or foreclosure relief services; private education loans; and short term liquidity products. Additionally, the agency has the ability to define, by rulemaking, its own scope of supervisory authority, which it has so far defined to include authority over larger consumer reporting agencies, debt collectors, nonbank student loan servicers, and international money transmitters. Overall, the Bureau's vast jurisdiction includes an entire sector of American finance from banks and credit unions, to innumerable financial services companies of all sizes, including larger participants in the American financial system, ultimately touching all Americans.

Despite its vast jurisdiction, the Bureau was structured in a way to limit congressional and presidential oversight. A sole director, who is only removable for cause, is responsible for the management of the Bureau, which has access to a dedicated funding stream from the Federal Reserve outside of Congress's direct oversight.

CBA supports Acting Director Mick Mulvaney's goal of bringing greater accountability to the agency. It is crucial that appropriate checks and balances are in place given the scope and importance of this agency. It is also important to insulate the Bureau from future political shifts that could reduce its ability to act impartially to ensure a fair and competitive marketplace. Our

comments below will outline our views as to how the Bureau's structure and supervision, enforcement, and rulemaking activities, among others, can be improved to best serve consumers.

**Bipartisan Commission at the Consumer Financial Protection Bureau**

It is vital for a regulator to provide certainty to the industry it regulates, and ensure some constancy and predictability in leadership from one presidential administration to the next. At no agency is this more important than at the CFPB. The CFPB has such a wide reach, it impacts nearly every American consumer. That is why CBA strongly supports the Financial Product Safety Commission Act of 2018 (H.R. 5266) to transition the leadership structure at the CFPB from a sole director to a bipartisan, five-member commission. A bipartisan commission at the CFPB would help provide certainty, establish clear and consistent rules of the road, and best protect consumers for generations to come. We urge the committee to swiftly act on this bipartisan legislation to bring about this needed structural change.

A lack of certainty and long-term consistency in leadership at the Bureau adversely affects the banking industry, consumers, and our economy. As the past months have indicated, the CFPB's current governance structure is subject to dramatic political shifts with each change in presidential administration. This makes it incredibly difficult for the financial services industry to plan for the future. A bipartisan commission would bring more certainty to the highly regulated financial services space so that banks can properly plan for future investment in more technology, innovate new products, and better serve consumers.

A commission would also bring much-needed transparency to the CFPB as it would provide an open forum for dissenting voices and viewpoints from multiple stakeholders. From its inception, the CFPB has been the center of a political firestorm, which has only increased in strength in its nearly seven years of operation. A sole director can unilaterally make decisions, oftentimes behind closed doors and without public debate. Alternatively, a commission would allow debate on opposing ideas, viewpoints, and solutions, encouraging both sides to work together to come to moderated rulemakings that can better stand the test of time.

Furthermore, the concept of a commission has historically shared bipartisan support. Under President Obama, the Department of Treasury issued a report stating, "The CFPA [Consumer Financial Protection Agency] should be structured to promote its independence and accountability. The CFPA will have a Director and a Board. The Board should represent a diverse set of viewpoints and experiences."<sup>1</sup> Under the Trump Administration, Treasury Secretary Steve Mnuchin testified he does "support the concept of a board to oversee [the CFPB]" in a recent House Appropriations Subcommittee hearing.<sup>2</sup> In Congress, bipartisan legislation establishing a CFPB commission has passed the House Financial Services Committee six times and passed the House of Representatives four times, with Democrats and Republicans voting in favor. When Dodd-Frank passed the House in 2009, under the leadership of then-House Financial Services Committee Chairman Barney Frank (D-MA), it included a provision that would establish a five-member commission at the Bureau. And just last Congress, the

<sup>1</sup> Department of Treasury, *Financial Regulatory Reform: A New Foundation: Rebuilding Financial Supervision and Regulation*, p. 58.

<sup>2</sup> House Appropriations Subcommittee Hearing, FY19 Budget Hearing, Department of Treasury, March 6, 2018.

House Financial Services Committee passed on a bipartisan basis, legislation that would establish a bipartisan, five-member commission at the CFPB.

Importantly, the American people and industry are supportive of a bipartisan commission at the CFPB. A recent Morning Consult poll shows that by a margin of three to one, registered voters support a bipartisan commission over a sole director, with only 14 percent of those polled stating they prefer to keep the Bureau's current leadership structure.<sup>3</sup> Industry is also in lock step with two-dozen trade associations representing thousands of banks, credit unions, financial institutions, and businesses of all sizes supporting this needed change.

Both political parties must put aside the short-term gains and politicization of the CFPB in favor of the long-term best interest of America's consumers, businesses, and economy. Both Democrats and Republicans, at different times, have claimed it is to their benefit politically to keep the agency as a sole director, arguing it is better to have an autonomous director for a five year term to undo or redo the rules the previous director imposed or revised. However, this approach is short-sighted. Not only does it fail to truly take into consideration the best interest of consumers, but it provides a flawed form of regulatory leadership for a multi-trillion dollar industry.

A bipartisan commission would bring certainty, transparency, and clarity to an overly political agency. We urge the committee to continue its recent bipartisan effort to improve our financial regulatory system by passing legislation to improve the CFPB's governance.

#### **Renewing the Focus of the CFPB**

##### **Rethinking the "Push the Envelope" Mentality**

In February, the CFPB released a revised Strategic Plan that outlines its mission, strategic goals, and objectives. This plan revises the draft strategic plan former Director Richard Cordray released in October of 2017. Stated within the plan are the Bureau's long-term strategic goals, which include 1) ensure that all consumers have access to markets for consumer financial products and services; 2) implement and enforce the law consistently to ensure that markets for consumer financial products and services are fair, transparent, and competitive; and 3) foster operational excellence through efficient and effective processes, governance, and security of resources and information. In the opening statement, Acting Director Mick Mulvaney stated, "If there is one way to summarize the strategic changes occurring at the Bureau, it is this: we have committed to fulfill the Bureau's statutory responsibilities, but go no further." CBA strongly agrees with this reformed plan and believes the previous administration's practice of "pushing the envelope" was a gross misuse of its statutory authority that failed to properly serve the financial needs of the U.S. consumer.

##### **Requests for Information**

As part of its effort to evaluate the agency's prior actions and policies, the CFPB has initiated several requests for information (RFIs) on the Bureau's functions and past actions. CBA appreciates this opportunity for stakeholders to comment, and we will submit responses on the RFIs, sharing our members' perspectives as banks regulated and supervised by the CFPB. It is

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<sup>3</sup> Morning Consult Poll, May 3, 2017.

rare for a regulatory agency to take the time to assess its entire operations in a thorough fashion by reaching out to stakeholders. The CFPB is first and foremost a consumer protection agency, so it is important it answer to the consumers themselves. It is also a financial regulator for banks and nonbanks in the consumer financial services space, and we believe it is extremely valuable for the Bureau to learn how its actions affect the ability of these companies to serve consumers. CBA commends the CFPB for this effort and will be providing input to the RFIs.

Some of the comments we will be sharing with the Bureau during this comment period include the following:

*Enforcement and Supervision*

The CFPB has historically used the enforcement process as a regulatory tool. Former Director Richard Cordray stated on numerous occasions that companies should draw their understanding of the compliance and legal requirements of federal law by studying consent orders and other enforcement actions by the CFPB. The result is not in the best interest of either industry or consumers. This policy, which is often called “rulemaking by enforcement,” appealed to the CFPB because it was swifter and did not require as much substantiation. The rulemaking process, as mandated by the Administrative Procedures Act and the Dodd-Frank Act, is time consuming for a reason: it demands the CFPB to adhere to a strict process that invites those who are affected by a proposal to have a say in the creation of the rule. Enforcement actions do not; and if they are negotiated consent orders, they may not even be a very fair representation of the regulator’s compliance expectations of others. In order to attempt to know what the law is and how to comply, one has to hire a team of expensive lawyers to decipher the tea leaves. We believe this is simply bad public policy and leads to nothing more than excess legal cost and a lack of clear guidance.

Another concern we intend to raise in our response to the RFIs is the absence of good coordination by the regulatory agencies. CBA member banks are often supervised by multiple federal regulators (not to mention the state regulatory bodies that supervise state chartered banks). A single financial services company can be examined by the Federal Reserve, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the CFPB. In some cases, more than one agency is examining a bank for similar or related issues, each with a slightly different set of lenses. The same documents can be requested or variations can be sought, and similar inquiries can be made to the same people. Better coordination is needed to minimize the cost and burden to the financial institutions, permitting them to better serve their customers. In a similar vein, enforcement can be a multiple agency process, with each agency taking on the same issue, and imposing its own penalties for related violations. At times this appears to be driven by a desire to demonstrate its regulatory authority and not defer to any other regulatory body, but it is unnecessary to have redundancy, and it is a cost that ultimately reduces the effectiveness of the entire enforcement process. The Treasury Department, in its 2017 report on financial services, recommended a single entity act as a kind of traffic cop or coordinator. CBA would support this approach to increased regulatory coordination.



*Rulemaking*

The CFPB's record regarding discretionary rulemaking has been concerning. The arbitration rule is a prime example of this latter form of regulation. During this rule's multi-year journey, the CFPB had multiple opportunities to gather data and work with industry to ensure arbitration agreements received a fair and balanced review of their merits and shortcomings. Indeed, CBA and other stakeholders reached out to the Bureau on many occasions (often without invitation) to provide substantive input on the CFPB's arbitration study. However, these entreaties were rebuffed, and an incomplete study served as the basis for a flawed regulation. Were it not for Congress's swift action in repealing this regulation under the Congressional Review Act, consumers would have lost an important dispute resolution tool, while the banking industry would have faced heightened litigation risk from frivolous lawsuits.

We would also point to the CFPB's small-dollar rule. Here, the CFPB produced an overly restrictive, broadly-applied rule based on little data. Despite industry efforts to develop a workable solution to meet consumers' small-dollar needs, the Bureau instead implemented a rule that will make small-dollar lending impractical and near impossible. This drastic approach and implementation of preconceived policy positions will only leave consumers with fewer options. They will now be forced into unregulated and unsupervised markets that offer few, if any, protections or will simply have their needs unmet. Consequences of this type of pre-determined rulemaking could be drastic for consumers, leaving them unable to pay rent, buy gas or groceries or meet an unexpected medical expense.

CBA is strongly supportive of clear and rational regulations that promote the industry's ability to comply and provides consumers with access to credit. We believe these twin objectives would be best served by a robust public comment process, a firm adherence to the formal rulemaking process, and a flexible implementation process following the issuance of a final rule. Under this framework, we would stress the need to avoid policy-based rulemaking and to base new regulations on real-world data and rigorous economic cost-benefit analysis.

*Consumer Complaint Database*

CBA member companies have strong incentives to maintain deep, well-informed, mutually satisfactory relationships with customers. This is why our members have robust complaint management procedures outside of the CFPB's Consumer Complaint Database to ensure they are resolving disputes as quickly as possible.

The CFPB has gone far beyond its statutory authority of establishing the Database, by publishing the data, adding unverified narratives, and now proposing a subjective consumer survey on resolution satisfaction that has no proven benefit. In addition to an annual report required by Congress, the CFPB releases "Monthly Complaint Reports" including complaint data on company performance, complaint volume, state and local information, and product trends. The CFPB has never taken any steps to determine if consumers use these published reports or benefit from them in any way. Instead, these reports seem intended to tarnish banks and other financial institutions' reputation, without verification and regardless of actual legal wrongdoing. Such action puts into question the objectivity of the data and thus its usefulness to consumers and regulators.

With the CFPB's database exceeding 1 million complaints, the inclusion of potentially personally identifiable narrative information, and reports of insufficient data security protocols at the CFPB, CBA is strongly concerned about the potential for compromising consumer privacy. In addition, the database erodes consumer privacy by impairing the confidential nature of the exchange between customer and banker.

To ensure consumer privacy and prevent the dissemination of misleading information, the CFPB should refrain from publically releasing filed complaints, stop the monthly reports on "most complaints," and eliminate the new survey from the portal.

### **Rulemaking**

#### **Small-Dollar Bank Loans**

Millions of Americans live paycheck-to-paycheck, and need help making ends meet. Yet, regulators in Washington have chipped away at products and services that provide short-term, small-dollar credit, leaving consumers with very few and more expensive alternatives.

Historically, federal banking regulators have encouraged banks to help finance these small-dollar consumer loans. This is a preferable scenario: customers receive the services they want – and need – but remain in the well-regulated and supervised banking system. In response, some banks, working closely with regulators, developed a way to meet short-term lending needs with a tool known as deposit advance products. These loans were carefully designed to ensure strong safeguards, like an ability to repay analysis that took into account a customer's cash flow patterns and direct deposit history. Additionally, deposit advance products are cheaper than payday loans, offer greater transparency, require substantial disclosures and compliance with federal law, receive positive feedback from borrowers, and have low default rates.

Before the rule was proposed, CBA and many of our member banks worked in good faith with the Bureau to provide insight and counsel on how a rule could be crafted that would allow for banks to serve the small-dollar loan market, providing a well-regulated bank product to compete with payday loans. Unfortunately, the CFPB's final rule on small-dollar lending will only act as a disincentive for banks to enter this important market. Under the CFPB's rule, lenders will be required, among other things, to determine whether consumers have the ability to repay by applying overly complicated underwriting requirements similar to those for a home mortgage, which will make the product costly to consumers and unviable for depositories to offer. While the CFPB did provide for some very specific exceptions that would allow for lenders to make loans that are not subject to the rule, these exceptions offer little in the way of practical application and are so minimal they will fail to meet the incredible demand that exists for small dollar loans, forcing consumers to look to more expensive, less regulated options to fulfill their short term credit needs.

We are encouraged by the CFPB's announcement earlier this year that it will review the small-dollar rule for possible amendment. CBA urges the Bureau to revoke the rule; implement a structure that will not be overly prescriptive such that it will leave consumers with few, if any,

short-term liquidity options; and allow depository institutions to enter the small dollar lending market.

#### **Home Mortgage Disclosure Act**

Our members are dedicated to responsibly and fairly serving the housing needs of their communities and are committed to the purposes of the Home Mortgage Disclosure Act (HMDA). While the Dodd-Frank Act mandated the expansion of information collected under HMDA, the CFPB's final HMDA rule almost tripled the number of data fields and greatly increased the complexity of reporting. As a result, CBA member banks invested in new systems to collect the expanded dataset at the beginning of this year.

CBA has long been concerned about the sensitive HMDA data that the CFPB intends to collect, store, and publish. Consumers buying a home are forced to relinquish their most sensitive information, often without understanding this information is being handed over to a governmental agency. The new data fields are even more sensitive than many of those previously collected, with the addition of credit score, debt to income ratio, and property address, among other new fields. Attaching a borrower's name and property address to HMDA data can be achieved in over 80 percent of all cases. The addition of the new data fields raises the probability to virtually 100 percent.

Given the sensitive nature of the expanded HMDA data and the risk of re-identification, CBA strongly believes the new data fields should not be made public unless in aggregate form. In that same vein, CBA appreciates Acting Director Mulvaney's commitment to reconsider elements of the rule and pursue a non-punitive approach to the new collection efforts in the meantime.

#### **Debt Collection**

CBA fully recognizes the important role the collection of debt plays in the proper functioning of the consumer credit markets, as it reduces creditors' losses from non-repayment and promotes the availability and affordability of consumer credit. We support the CFPB's goals of updating the Fair Debt Collection Practices Act (FDCPA), modernizing its communication standards, and generally enhancing consumer protections.

As the Bureau has acknowledged, the FDCPA is limited to third-party debt collectors and does not provide a valid legal basis for regulating creditors enforcing their loan agreements with borrowers. Congress clearly enacted the FDCPA to establish ethical guidelines for the collection of consumer debt by third-party debt collectors, and it never intended nor designed the Act to cover the collection practices of creditors. In that same vein, CBA strongly opposes placing FDCPA-like restrictions and requirements on creditors. They are unwarranted and incongruent with the lender-borrower relationship, which is usually a long standing one motivated by strong business incentives on the part of creditors to help borrowers successfully repay their debt obligations.

CBA is also concerned by the overly restrictive communication standards set out in the Bureau's Outline of Proposals issued ahead of its small business panel hearing for third-party debt collections. We believe setting communication barriers too high between collectors and

borrowers has the potential to significantly harm consumers. Based on our members' experience, consumers facing financial hardship are best served if they are able to freely communicate with collectors and their creditors. Doing so helps consumers avoid late fees, minimize negative impacts to their credit report, avoid account closures, and allows them to take advantage of loss mitigation or other workout programs. As a result, we firmly believe it is essential that any new rules promote, not inhibit, consumer engagement with collectors and creditors.

As the CFPB has indicated it is moving forward with releasing a proposed rule under the FDCPA, we urge the CFPB to work with industry and Congress to establish debt collection regulations for third-party debt collectors that strike the right balance between consumer protection and consumer engagement.

#### **Section 1071 of Dodd-Frank Wall Street Reform and Consumer Protection Act**

Section 1071 of the Dodd-Frank Act amends the Equal Credit Opportunity Act to require data collection on business loan applications to help monitor compliance with fair lending laws. In brief, every financial institution must inquire of any business applying for credit whether the business is a small business, or a women- or minority-owned business, maintain a record of the information separate from the application, and report the information along with related information about the application (location of business, action taken, amount of credit provided, etc.), to the Bureau. The information must be made public on request in a manner to be established by regulation and will be made public annually by the Bureau.

Businesses both small and large can be complex entities with multiple owners and a wide variety of capital needs which only magnifies the difficulties in collecting the data needed to identify potential discrimination. The potential for overly burdensome data collection requirements could stifle small business lending, greatly increase compliance costs for small business lenders, open the door to costly litigation, and raises immense consumer privacy concerns. Lenders will also see increased compliance costs as they revamp lending systems and processes in order to collect the required data. The net result will limit the resources banks have to make loans and add greatly to compliance burdens and risks, a negative for small business lending.

CBA members anticipate a chilling of small business lending and compliance complications due to the complex new data collection requirements under Section 1071 of the Dodd-Frank Act. In order to prevent a reduction in small business lending and an increase in costly litigation that could occur from the misuse of the information collected, CBA recommends the repeal of Section 1071.

#### **Student Lending**

Through both its Student Loan Ombudsman and the Office of Students and Young Americans, the Bureau has paid considerable attention to the various repayment issues confronting student loan borrowers in America. Today, student loan debt stands at nearly \$1.5 trillion – second only to mortgage debt. Nearly 93 percent of this mountain of debt is federal loans, mostly held by the U.S. Department of Education. A recent report from the Federal Reserve Bank of New York estimates more than 20 percent of borrowers in repayment are more than 90 days delinquent or

have defaulted on their loans.<sup>4</sup> At the same time, 98 percent of private student borrowers are repaying their loans.

The CFPB's oversight of private student lending should reflect the market's strong performance. For example, the CFPB's proposal initiated last spring to require the reporting and collection of private student loan servicing data is unnecessary given market performance and duplicative of the considerable data that is already made publicly available on a regular basis. Furthermore, the CFPB's complaint reports should recognize there are stark differences between federal and private student loans and, therefore, should clearly delineate between them.

#### **Separation of Ombudsman and Office of Students Role**

For the past several years, the Student Loan Ombudsman has also led the Office of Students. These are incompatible roles as they create a conflict of interest. An ombudsman should be impartial and serve in a confidential capacity, while a division head at the agency is a policy maker, enacting rules or recommending enforcement by the agency. CBA strongly recommends the Bureau separate the positions.

#### **Know-Before-You-Owe for Federal Student Loans**

The CFPB should focus its resources on preventing federal loan repayment issues before they start by empowering student loan borrowers to make educated financial decisions and avoid too much debt. CBA supports a "know-before-you-owe" initiative – similar to the CFPB's work on mortgage disclosures – for federal student loans.

Access to information about the true cost of a loan is critical to making an informed decision about how much debt to take out. Unfortunately, federal borrowers must weed through more than a dozen pages of disclosures and squint to read fine print to unearth some of the key loan terms. Current disbursement disclosures fail to provide terms specific to individual borrowers, instead offering broad categories of interest rates and fees and ranges of estimated monthly payments, and lack information on the total expected cost of the loans.

Private lenders are required by the Truth in Lending Act to provide customers with clear and conspicuous disclosures of loan costs and terms before loans are disbursed. The interest rate, loan fees, annual percentage rate (APR), monthly payment amount, and total cost of the loan, among other important terms specific to the individual borrower are boldly displayed. This information allows borrowers to make informed decisions about the loans that are appropriate for their higher education needs. The CFPB should work with the Department of Education to provide federal student loan borrowers the same kind of concise, meaningful information about their future obligations before they owe as do private lenders.

#### **Conclusion**

The retail banking industry is best able to serve its customers when there is a stable and even-handed regulatory framework that produces clear and reasonable rules of the road. We encourage the CFPB to take a thoughtful approach to supervision, enforcement, and rulemaking

<sup>4</sup> [https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/pdf/HHDC\\_2017Q4.pdf](https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/pdf/HHDC_2017Q4.pdf)

and include industry input into their decision making process to prevent unintended effects on financial consumers. CBA stands ready to provide industry expertise to lawmakers and the Bureau in the pursuit of reasonable regulatory rules and guidance to improve the marketplace for financial products and services. On behalf of the members of CBA, we appreciate the opportunity to submit this statement for the record.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Hunt". The signature is fluid and cursive, with the first name "Richard" being more prominent than the last name "Hunt".

Richard Hunt  
President and CEO  
Consumer Bankers Association



**North Carolina**  
323 West Jones Street, Suite 200  
Raleigh, North Carolina 27603

**South Carolina**  
Post Office Box 1787  
Columbia, South Carolina 29202

July 19, 2017

The Honorable Tim Scott  
United States Senate  
717 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Scott:

I understand you are reviewing draft legislation that would clarify the role of the Consumer Financial Protection Bureau (CFPB) in regulating insurance products. As you consider that proposal, I wanted to share the perspective of the Carolinas Credit Union League.

As you know well, South Carolina has a strong and vibrant credit union community. In total there are 67 credit unions headquartered in the state of South Carolina that hold over \$10 billion in total deposits and serve nearly 1.5 million members. These credit unions are working to meet the borrowing and savings needs of their members, ultimately with the goal of creating financially stable and successful members. In meeting member needs, credit unions will partner with an insurance provider to offer various insurance products, particularly credit insurance on member loans.

We are concerned that the recent interest by the CFPB in regulating credit insurance products could result in additional regulatory burden that would adversely impact credit unions – particularly when credit unions and insurance providers already meet stringent state insurance laws and regulations.

We appreciate you looking more closely at this issue and support your efforts. Please don't hesitate to contact me at 336-601-2319 or [jradebaugh@carolinasleague.org](mailto:jradebaugh@carolinasleague.org) if we can provide additional information or assistance in any way.

Sincerely,

A handwritten signature in cursive script that reads "John F. Radebaugh".

John Radebaugh  
President/CEO

October 27, 2017

The Honorable Tim Scott, Chairman  
Subcommittee on Housing, Transportation, and Community Development  
Senate Committee on Banking, Housing, and Urban Affairs  
U.S. Senate  
Washington, DC 20510

VIA Electronic Mail

**RE: Support for Clarifying the Exemption of Business of Insurance from CFPB Regulation**

Dear Senator Scott:

We, the undersigned U.S. trade associations, write to express our support for legislation to amend the Consumer Financial Protection Act of 2010 to clarify the authority of the Bureau of Consumer Financial Protection with respect to the business of insurance. Collectively, we represent a majority of the U.S. companies and agents offering property-casualty, title, and life insurance and would appreciate the timely introduction of this legislation.

As you are aware, *Title X of the Dodd-Frank Act* exempted the business of insurance from the purview of the Bureau of Consumer Financial Protection (CFPB) and reiterated that the regulation of insurance had been delegated to the states. Yet, the CFPB continues to take actions that involve products and services that fall within the exclusive regulatory authority of the states. We believe that additional revisions to the Dodd-Frank Act are needed to underscore the broad scope of the business of insurance exemption and to place parameters around the CFPB's regulatory actions.

The state-based system of insurance regulation has been effective in promoting consumer protection. By further clarifying the limits of CFPB's regulatory authority and affirming the presumption of exclusive authority of a state insurance regulator, this key legislation will create certainty for insurers, agents, and consumers that there will not be duplicative or conflicting consumer protection regulations in the future.

Thank you for your leadership on this issue and for the opportunity to voice our support for your bill. We look forward to working with you and the committee to move the legislative process forward.

Respectfully submitted,

American Council of Life Insurers  
American Insurance Association  
American Land Title Association  
Council of Insurance Agents and Brokers  
Financial Services Roundtable  
Independent Insurance Agents and Brokers of America  
National Association of Mutual Insurance Companies  
Property Casualty Insurers Association of America  
U.S. Chamber of Commerce





October 18, 2017

The Honorable Tim Scott  
U.S. Senate  
717 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Scott:

On behalf of the NAIC (National Association of Insurance Commissioners)<sup>1</sup>, we would like to express our support for the Business of Insurance Regulatory Reform Act of 2017. Consumer protection is the hallmark of our national state-based insurance regulatory system. That is why Congress has repeatedly confirmed the states' role in overseeing the insurance sector, including, most recently in the Dodd-Frank Act. While the Dodd-Frank Act contains an exception to CFPB authority with respect to our regulated entities, this proposal would make this exception more explicit and further effectuate congressional intent to defer to the states with respect to insurance policyholder protection.

We are proud of our track record in uncovering abuses and wrongful behavior in the insurance sector. Given the interconnected nature of our financial sector and the relative newness of the CFPB, it is understandable that some unintended overlap or duplication of effort with other regulators can occur. For that reason, it is appropriate for Congress to assess the operationalization of a new agency like the CFPB to clarify the limits of its authority and minimize redundancies or confusion that add undue costs ultimately passed on to consumers. The Business of Insurance Regulatory Reform Act provides important clarifications to the existing statute and helps mitigate these concerns.

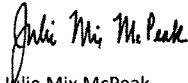
We would greatly appreciate your sponsorship of this legislation in confirming the authority of state insurance regulation. Thank you for your attention to this important issue.

<sup>1</sup> Founded in 1871, the NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

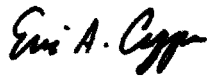
Sincerely,



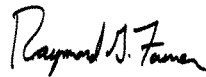
Theodore K. Nickel  
NAIC President  
Commissioner  
Wisconsin Office of the  
Commissioner of Insurance



Julie Mix McPeak  
NAIC President-Elect  
Commissioner  
Tennessee Department of  
Commerce & Insurance



Eric A. Cioppa  
NAIC Vice President  
Superintendent  
Maine Bureau of Insurance



Raymond G. Farmer  
NAIC Secretary-Treasurer  
Director  
South Carolina Department of Insurance



Michael F. Considine  
Chief Executive Officer  
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601 Pennsylvania Avenue NW  
South Building, Suite 600  
Washington, D.C. 20004-2601

April 11, 2018

The Honorable Mike Crapo  
Chairman  
Committee on Banking, Housing, and  
Urban Affairs  
United States Senate  
Washington, DC 20510

The Honorable Sherrod Brown  
Ranking Member  
Committee on Banking, Housing, and  
Urban Affairs  
United States Senate  
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

On behalf of America's credit unions, I am writing regarding Consumer Financial Protection Bureau (CFPB) Director Mick Mulvaney's testimony concerning "The 2018 Semi-Annual Report of the Bureau of Consumer Financial Protection." The Credit Union National Association (CUNA) represents America's credit unions and their 110 million members.

Credit unions are the original consumer financial protectors. With a mission to promote thrift and provide access to credit for provident purposes, credit unions were created to ensure that consumers had safe and affordable financial services. As member-owned, not-for-profit financial cooperatives, credit unions are financial intermediaries that operate exclusively in the interest of the consumers and small businesses they serve. Their existence has been positive for consumers because of the services they provide and the impact they have on the behaviors of for-profit entities. Credit unions are the best choice for Americans to conduct their financial services and they strive to be their best financial partner.

Credit unions' member-centric focus means that they approach consumer regulation differently than other market participants. Rather than impulsively rejecting the creation of the CFPB, credit unions acknowledged that consumers may need additional consumer protection targeted toward Wall Street banks and abusers of consumers, when Congress considered legislation that would become the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act.

One decade later, it is clear that the CFPB has let credit unions and consumers down. Rule after rule has impeded credit union service to their members. The direct impact of rules, like the remittance rule and various mortgage rules, have driven credit unions to leave markets or reduce their offerings. Even if overall industry volume increases, consumers lose when a credit union adjusts its offerings because of a rule that should have been targeted to abusers of consumers. Further the price tag for this one-size-fits-all regulation hits credit union member owners in the pocket book, costing them \$6.1 billion in 2016 alone. Credit unions are frustrated that they have been made to pay for the sins of Wall Street banks and other abusers of consumers. The message they want Congress to hear is: enough is enough.

Frankly, there is a great deal of shared responsibility for the CFPB's failures. Congress erred by creating a regulator with overly broad authority operating within a structure that is not supported by the democratic traditions of our Republic. This allowed the initial leadership to overreach its rulemaking, supervisory and enforcement authorities, and it set up the bureau as a partisan, political piñata rather than an agent of consumer protection. While Director Mulvaney has made some very positive initial steps to point the CFPB in the right direction, Congress must correct the Bureau's

structural defects and encourage the current and future Bureau leadership to act in the best interest of consumers and the financial entities that do right by them.

This letter outlines in greater detail how past actions by the CFPB have harmed credit unions' ability to serve their members, the immediate steps the Bureau should take under its present structure to reset its focus on abusers of consumers, and the statutory reforms necessary to ensure that consumers are well protected in the financial marketplace.

#### **Past CFPB Actions Have Harmed Credit Unions' Ability to Serve their Members**

America's credit unions value the CFPB's mission, "to make consumer financial markets work for consumers, responsible providers, and the economy as a whole." Unfortunately, credit unions' ability to provide their top quality and consumer-friendly financial products and services has been significantly impeded by rules implemented by the CFPB's initial leadership. The CFPB's overly broad rules that have imposed additional requirements on credit unions for the mistakes and irresponsible practices of other industry stakeholders.

In 2017, CUNA commissioned an update to its groundbreaking 2015 study of credit union regulatory burden. The new findings show that credit union regulatory burden costs have increased to an "elevated new normal," totaling an estimated \$6.1 billion in 2016. Overall, costs are up more than \$800 million compared with 2014. That is a 15.1 percent increase, which far exceeds the 2.8 percent inflation rate over the two-year period. In total, the credit union regulatory burden costs for 2016 translate to \$115 per credit union household.

While the initial CFPB leadership regularly cited minor accommodations in some mortgage rules and the remittances rule as proof that it considered the impact on credit unions and their members, there is substantial evidence to the contrary. Credit unions continue to tell us that the accommodations the CFPB made are not sufficient and they do not fully take into consideration the size, complexity, structure or mission of all credit unions.

Outlined below is the feedback credit unions have given about certain areas where the CFPB has provided modifications.

#### *Ability to Repay/Qualified Mortgage (ATR/QM)*

One of the accommodations the CFPB touts as evidence that it is trying to help credit unions continue to serve their members is the expanded qualified mortgage (QM) safe harbor for small creditors and small creditor exemption for those operating in rural and underserved areas. While we are grateful there was some consideration for the smallest financial institutions, the expanded exemption for smaller creditors was provided after the Ability to Repay / Qualified Mortgage (ATR/QM) rule was finalized, creating compliance burdens that were preventable.

In a survey of CUNA members, 43 percent cited the QM rule as most negatively impacting the ability to serve members with mortgage products.<sup>1</sup> Therefore, these exemptions while a step in the right direction, did not provide full relief for many credit unions, who in some instances were forced to change their product offerings. All credit unions, not just the very smallest, have a different

<sup>1</sup> Haller, Jon; Ledin, Paul; and Malla, Bandana, Credit Union National Association Impact of CFPB Rules Survey, available at [https://www.cuna.org/uploadedFiles/CUNA/Legislative\\_And\\_Regulatory\\_Advocacy/Removing\\_Barriers\\_Blog/Removing\\_Barriers\\_Blog/FINAL%20Report%20Summary%20only%20Impact%20of%20CFPB%20Survey%20Analysis.pdf](https://www.cuna.org/uploadedFiles/CUNA/Legislative_And_Regulatory_Advocacy/Removing_Barriers_Blog/Removing_Barriers_Blog/FINAL%20Report%20Summary%20only%20Impact%20of%20CFPB%20Survey%20Analysis.pdf) (February 2017).

operating structure than banks and for-profit lenders. The regulatory changes implemented by the CFPB should reflect this difference. Modifications in the ATR/QM rule for all credit unions would be appropriate to ensure they can continue to effectively serve their members.

When the Bureau has been unwilling to make changes on its own accord, Congress has had to step in to direct changes, as it did through the Helping Expand Lending Practices in Rural Communities Act of 2015. Further accommodations within the authority of the Bureau are contemplated in S. 2155 the Economic Growth, Regulatory Relief and Consumer Protection Act. These are the type of actions we would hope the CFPB would take on its own accord in the future.

#### *Mortgage Servicing*

The CFPB notes that it has tailored its servicing rules by making certain exemptions for small servicers that service 5,000 or fewer mortgage loans. However, significant requirements under these rules are excluded from the exemption and must be followed by large and small servicers alike. Small servicers remain subject to requirements related to successors-in-interest, force-placed insurance and, in certain circumstances, early intervention requirements for borrowers in bankruptcy.

We continue to hear the most concerns about CFPB rules from the smallest credit unions, whom the CFPB claims to have helped most through its thresholds. In the recent survey of CUNA members, more than four in 10 credit unions (44%) that have offered mortgages sometime during the past five years indicate they have either eliminated certain mortgage products and services (33%) or stopped offering them (11%), primarily due to burden from CFPB regulations. Thirty percent of credit unions specifically cited the Mortgage Servicing rule as having negatively impacted their ability to serve members. Credit unions with assets of less than \$100 million are the asset group most apt to have dropped their mortgage program altogether.

#### *Home Mortgage Disclosure Act*

The CFPB's HMDA rule is another example of a rule that was overly burdensome for credit unions. While the CFPB made an appearance of accommodating small mortgage lenders, the accommodations the original rule did not go nearly far enough. That is why we have long advocated for additional changes, including raising the threshold for reporting to 500 closed-end and open-end loans in a calendar year. We are grateful that the CFPB, under its new leadership, and the Senate, through the passage of S. 2155, have since acknowledged additional changes should be made to HMDA.

The changes policymakers are contemplating would provide much needed relief, particularly to smaller credit unions, which otherwise would undertake significant expense to bring their systems into compliance with a rule that does very little –if anything – to provide credit union members with additional protection and which may, depending on which additional data is ultimately made public, expose consumers to potential identity theft or fraud.

Unfortunately, when the CFPB gets it wrong the first time there is an immediate detrimental impact on credit union lending. The CFPB needs to do more cost benefit analysis and other research on the front end of rulemaking to ensure that its rules do not disproportionately impact smaller financial institutions and harm their consumers.

#### *Remittances*

Nowhere is the problem with the previous approach to rulemaking seen more clearly than in the impact of the Bureau's first major rulemaking on remittances. More than half of the credit unions that offered remittances prior to the rule have either stopped offering this service to their members

or have significantly reduced offering the service to stay below the low exemption threshold. Indeed, even former CFPB Director Richard Cordray himself noted at a hearing in the House Financial Services Committee that 96% of international remittances now run through large banks or nonbank providers, the very abusers from whom this rule was designed to protect consumers.<sup>2</sup> A rule that drives credit union from a market and drives consumers into the arms of the abusers is not consumer protection.

#### *Small Dollar Lending*

In its recently finalized rule related to payday and small dollar lending, the CFPB recognized that credit unions play an important role in meeting the credit needs of small dollar, short term borrowers. Thankfully, the final rule exempted the NCUA Payday Alternative Loans Program, as CUNA, the National Credit Union Administration (NCUA), and the Small Business Administration suggested. We were very pleased to see this program preserved because there is no question it has served as a valuable service for consumers.

While much of credit union lending in this market is not impacted by the CFPB's rule, certain consumer friendly credit union products may still be covered including loans under 45 days. As the CFPB continues its analysis of small dollar lending, we urge it to consider a full carve-out for credit unions and additional flexibility in this market, so that credit unions can continue to expand their exemplary work in this area. The strongest consumer protection the CFPB could put in place would be a rule that encourages credit unions and other community lenders to engage this market and make it more difficult for lenders with a history of abusing consumers from doing so.

#### **Credit Unions' Vision for the CFPB under New Leadership**

At CUNA's recent Governmental Affairs Conference, CFPB Director Mulvaney described his approach to regulating credit unions, making it clear that he understood that credit unions did not cause the financial crisis and should not be regulated like those who did. Director Mulvaney understands that one-size-fits-all regulation does not work and the CFPB should be tailoring rules to the size and complexity of institutions. He recognizes that credit unions are owned by their members, so every time a cost is put on the backs of credit unions it comes out of the pockets of member. And, he is committed to continuing swift enforcement of those operating in the marketplace who are harming consumers.

Credit union leaders and members welcome this perspective and are eager to see it put in action at the CFPB. To this end, we believe there are five initial steps the Bureau should take under its new leadership.

First, the Bureau should not propose or finalize any new regulatory requirements affecting credit unions, unless they are intended to provide relief from prior regulations. The CFPB should instead focus on enforcing current regulatory requirements, and ensuring Wall Street banks and other abusers of consumers pay a huge price for any harm to consumers.

Second, CFPB leadership and staff should take time to re-evaluate finalized rules to determine if changes, exemptions, or additional carve-outs would allow the credit union industry to more fully serve its members and provide more access to credit. We were encouraged by the process in which the Bureau has engaged to evaluate whether it is adequately protecting consumers. The Bureau has sought information on its enforcement, supervision, rulemaking, market monitoring, and education

<sup>2</sup> CFPB Director Richard Cordray in response to a question by Representative Nydia Velazquez (D-NY) at a hearing entitled, "Semi-Annual Report of the Bureau of Consumer Financial Protection." (April 5, 2017).

activities. We strongly support this approach of seeking feedback to improve outcomes for both consumers and covered entities and we are confident that this dialogue will help the CFPB better understand how credit unions serve consumers. A stronger understanding of the unique characteristics of credit unions, combined with a better approach that does not lump all financial services providers into one category, would improve the CFPB's work for consumers and increase access to safe and affordable credit. CUNA will be providing detailed suggestions in response to this effort.

Third, the CFPB should transfer examination and supervision for compliance with consumer protection regulation of all credit unions, including those over \$10 billion in assets, to the National Credit Union Administration (NCUA). This change will enable the Bureau to fully focus its examination and enforcement on Wall Street banks and other abusers of consumers, while ensuring that credit unions continue to be adequately supervised.

Fourth, we urge the CFPB to continue receiving feedback from credit unions through the Credit Union Advisory Council (CUAC). Although, the CUAC is not statutorily mandated, it is a valuable resource in helping policymakers understand how regulations impact credit union members, their communities, and the everyday operations of credit unions.

Finally, the CFPB must effectively use its statutory exemption authority. The Dodd-Frank Wall Street Reform and Consumer Protection Act gives the CFPB clear authority to exempt any class of covered entity from its rules. Congress provided this authority so rules are appropriately tailored to address problems in the industry and are not overly burdensome for smaller, less complex institutions. Since its inception, the Bureau has failed to fully use this authority, to the detriment of credit unions, other community lenders and consumers. We appreciate the support Congress has given to urge the CFPB to appropriately use this authority.<sup>3</sup> We strongly support the Director's position that the CFPB should not encumber credit union operations because of the predatory actions of Wall Street banks and other consumer abusers.

#### **CUNA Continues to Support a Commission, Rather than a Single Director Structure for CFPB Leadership**

While there are steps the Bureau must take, Congress also has a responsibility to act to ensure that the CFPB can be an agent of consumer protection. The current structure—with one powerful director—gives too much authority to one person and does not provide enough oversight and accountability. Congress should enact legislation that changes the leadership structure to a multi-member, bipartisan commission.

Over the years, significant questions and concerns regarding the Bureau's expansive power and the actions taken by both Directors have been raised by Members of Congress and other stakeholders. In the Bureau's recent semi-annual report, Director Mulvaney highlights concerns with the CFPB's structure, stating:

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<sup>3</sup> Letter from 329 U.S. Members of the House of Representatives to CFPB Director Richard Cordray, *available at* <http://www.cuna.org/Legislative-And-Regulatory-Advocacy/Legislative-Advocacy/Letters-and-Testimony/Letters/2016/Stivers-Schiff-Letter-w-signatures/> (Mar. 14, 2016) and Letter from 70 U.S. Senators to CFPB Director Richard Cordray, *available at* <http://www.cuna.org/Legislative-And-Regulatory-Advocacy/Legislative-Advocacy/Letters-and-Testimony/Letters/2016/160718-Letter-to-CFPB-on-Tailoring-Regulations/> (July 2016).

"As has been evident since the enactment of the Dodd-Frank Act, the Bureau is far too powerful, and with precious little oversight of its activities. Per the statute, in the normal course the Bureau's Director simultaneously serves in three roles: as a one-man legislature empowered to write rules to bind parties in new ways; as an executive officer subject to limited control by the President; and as an appellate judge presiding over the Bureau's in-house court-like adjudications."<sup>4</sup>

The pending legal dispute concerning the CFPB leadership provides a prime example of why the current structure is dangerous for the financial services marketplace. Confusion about the CFPB's leadership, creates uncertainty about the status of pending rules and rule effective dates, examination schedules, and the many other required credit union actions from the CFPB that impact their operations and ability to provide financial services on a daily basis to their members.

A multi-member commission, which was originally envisioned by the proponents of the Bureau, would enhance consumer protection by ensuring that diverse perspectives are included in final rules and prevents disruptions caused by personnel changes. Credit union members and other consumers would benefit from policymaking that includes more voices. This system would be much more consistent with the traditions of our democracy, and would provide certainty that is essential for consumers and the financial services industry, regardless of which political party is in the White House.

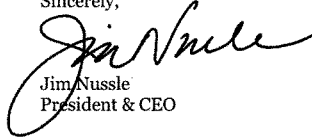
Perhaps the best evidence of the virtues of a CFPB commission is the fact that leaders of both parties have supported a multi-member commission only to back off that support when it was politically convenient to do so. This type of political approach is a disservice to the consumers the Bureau is entrusted to protect. Thankfully, legislation has been introduced in both the House and Senate to create a bipartisan, five-member commission to lead the CFPB. CUNA strongly supports these bills, and we encourage this Committee to consider this legislation as soon as possible.

#### **Conclusion**

As the original consumer financial protectors, credit unions are in the marketplace every day offering consumers access to safe and affordable financial services, and they stand ready to work with Congress and the CFPB to ensure that consumers have adequate protections in law and regulation. We look forward to working with the CFPB and Congress to improve upon the past work of the Bureau, while strongly supporting a continued focus on eliminating bad actors in the financial services marketplace.

On behalf of America's credit unions and their 110 million members, thank you for your consideration of these requests.

Sincerely,



Jim Nussle  
President & CEO

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<sup>4</sup> <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-semi-annual-report/>