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THE CONSUMER FINANCIAL PROTECTION BUREAU'S SEMIANNUAL REPORT TO CONGRESS

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

ON

A REVIEW OF THE CONSUMER FINANCIAL PROTECTION BUREAU'S SEMIANNUAL REPORT TO CONGRESS

OCTOBER 17, 2019

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C O N T E N T S

THURSDAY, OCTOBER 17, 2019

WITNESS

Additional Material Supplied for the Record

THE CONSUMER FINANCIAL PROTECTION BUREAU'S SEMIANNUAL REPORT TO CONGRESS

THURSDAY, OCTOBER 17, 2019

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

The Committee met 10 at 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. This hearing will come to order.

Today we will receive testimony from CFPB Director Kathy Kraninger on the CFPB's semiannual report.

On October 7, the CFPB issued its *Spring 2019 Semiannual Report*, which outlines the Bureau's significant work between October 2018 and March 2019, including rulemakings and supervisory and regulatory activities.

The report also provides insight into what the CFPB plans to undertake in the coming work period.

Since stepping into her role last December, Director Kraninger has demonstrated a commitment to ensuring that consumers have access to a wide range of financial products and services that meet their individual needs, fostering innovation and vigorously protecting consumers.

Reflecting this commitment to the CFPB's mission, Director Kraninger conducted an extensive cross-country listening tour with the full spectrum of CFPB stakeholders during her first months on the job.

Director Kraninger's conversations with consumers, industry, and fellow Federal and State regulators have improved CFPB engagement, informed their supervision and regulatory processes, and improved agency transparency.

In the Semiannual Report, Director Kraninger also highlighted that the CFPB has taken steps to "[strengthen] the consumer marketplace by providing financial institutions clear 'rules of the road' that allow them to offer consumers a range of high-quality, innovative financial services and products."

On September 10, the CFPB issued three new policies to promote innovation and reduce regulatory uncertainty. These policies include the Trial Disclosure Program Policy, the Compliance Assistance Sandbox Policy, and the No-Action Letter Policy.

Each of these policies are intended to contribute to an environment that allows innovation to flourish safely and ensure that consumer needs are met in increasingly efficient and effective ways.

Earlier this year, the CFPB announced a proposal to update the mandatory underwriting provisions of its 2017 small dollar lending rule.

Updating this rule is an important step toward ensuring the availability of credit that is essential to so many consumers who struggle to access or qualify for other options and basing rules on solid evidence and legal support.

As the CFPB continues to move forward on this rulemaking process, I encourage the CFPB to coordinate with the other financial regulators on an approach to small dollar lending to create a consistent framework across all institutions in order to promote and expand small dollar lending and credit options.

In July, the CFPB released an advance notice of proposed rulemaking seeking stakeholder comment on potential amendments to its Ability to Repay/Qualified Mortgage Rule.

FHFA Director Calabria and CFPB Director Kraninger noted the QM patch "exacerbates an unlevel playing field" and that "Fannie and Freddie should play by the same rules as everyone else."

The CFPB's actions are a positive step, and I continue to encourage the Bureau's efforts to find a permanent solution to the Qualified Mortgage standard that provides certainty to consumers, lenders, and investors alike.

Last week, the CFPB announced the formation of a task force that will be devoted to examining ways to modernize and harmonize Federal consumer financial laws, especially those pertaining to consumer credit.

The Banking Committee has spent significant time this Congress evaluating how the Fair Credit Reporting Act, or FCRA, should operate in an increasingly digital economy, and other firms who function similar to the original consumer reporting agencies.

I look forward to reviewing the CFPB's Task Force on Federal Consumer Financial Law's recommendations on how to update the FCRA so that it continues to function as originally intended in a digital world.

Though I am greatly encouraged by many of the changes and initiatives at the CFPB under Director Kraninger's leadership, it remains clear that the fundamental structure of the CFPB must be reconsidered to make it more transparent and accountable.

I continue to support transitioning the CFPB to a bipartisan commission from a single director, subjecting the CFPB to appropriations, and providing a safety and soundness check for prudential regulators.

On September 17, 2019, the CFPB and the Department of Justice filed a brief in the U.S. Supreme Court, urging the Court in the case of Seila Law v. CFPB to review the constitutionality of the Bureau's leadership structure.

I have long argued that the CFPB's current structure lacks sufficient accountability and look forward to the Supreme Court taking up a review of this case.

During this hearing, I look forward to hearing more about key initiatives at the CFPB in the last year, Director Kraninger's priorities for the CFPB in the upcoming work period, and additional legislative or regulatory opportunities to provide widespread access to financial products and services.

Director Kraninger, again I thank you for joining the Committee this morning to discuss the CFPB's activities and plans.

Senator Brown.

OPENING STATEMENT OF SENATOR SHERROD BROWN

Senator BROWN. Thank you, Mr. Chairman. Welcome, Director Kraninger. Nice to see you.

We created the Consumer Financial Protection Bureau to stand up for students, servicemembers, and hardworking Americans to protect them from big banks and crooked corporations that rob them of their homes and their jobs and their savings.

After 10 months on the job, it is clear why President Trump selected you to head the CFPB. We know he can count on you to protect Wall Street banks and payday lenders and shady debt collectors and other companies that prey on hardworking Americans.

Under your leadership, under President Trump's leadership, this agency has chosen corporations over workers over and over again, has chosen big banks over consumers over and over again.

Since you took over, you and your appointees have overruled the recommendations of consumer experts and allowed crooked companies to lie, to cheat, and to steal from hardworking Americans, and then you have let them get away with it.

The Consumer Protection Bureau is supposed to protect consumers. That is your entire job, to protect consumers from predatory loans, from predatory payday loans that lead to endless cycles of debt.

You instead chose to protect the interests of President Trump and his payday lending patrons.

Consumers pay the price. Since August, when the payday loan rule was scheduled to go into effect, Americans have paid more than $1 billion in fees to payday loan sharks. That is $1 billion out of the pockets of consumers, and it is consumers without a lot of money. They are using payday lending, obviously. A billion dollars out of the pockets of consumers because the agency that was supposed to look out for them decided to instead look out for payday lenders.

You also could have protected servicemembers and their families.

But instead the Trump administration betrayed them when you stopped making sure companies followed the protections for servicemembers and their families.

You also could have strengthened the Bureau's enforcement of fair lending laws that returned hundreds of millions of dollars to victims of discrimination in the agency's first 7 years.

Instead, you continued President Trump's attacks on fair lending laws. In fact, instead of protecting consumers, you have dismantled the Bureau's Office of Fair Lending; you put a Trump political appointee with a history of racist and sexist writings—and we have explored those in this Committee before—in charge of fair lending; you are now trying to repeal a 2015 rule that required lenders to report basic loan information to ensure they are not discriminating.

What are the results?

Since you took over, the Bureau has not brought a single case against a company for discriminatory lending practices. Not one single case against a company for discriminatory lending practices. Last that I checked, discrimination has not ended in this country in Trump's America.

Under the Trump administration, you have turned your backs on student loan borrowers.

The Bureau could have helped protect the 44 million Americans with student loans from the widespread mistakes, errors, and mismanagement by the companies that handle their loans and that have cost them thousands of dollars.

But, again, you betrayed the people the President promised to look out for. You are hearing that word "betrayed" these days used a lot, how the President has betrayed workers in the Midwest, auto workers in the Midwest, how the President has betrayed our allies in the Mideast, and day after day betrayed workers in this country. You sided with Education Secretary DeVos and refused to examine Federal student loan servicers to make sure they are not cheating people with student loans.

The GAO and the Department of Education's Inspector General reported that the company that manages Federal student loans wrongly denied tens of thousands of teachers, nurses, firefighters, servicemembers, and other dedicated public servants the loan forgiveness they earned. And this is not my opinion. This is GAO and the Department of Education's Inspector General.

You have protected those companies while hardworking American families paid the price.

I guess I should expect nothing less from an Administration that consistently looks like a retreat for Wall Street executives.

Under your leadership, crooked corporations have no real incentive to follow the law. If they get caught, they know the Bureau will hit them with nothing more than a slight slap on the wrist for ripping off consumers.

Director Kraninger, how in the world do you explain to these hardworking Americans why the Bureau is not protecting them?

To be sure, you have done the role asked of you by the President of the United States. You have protected companies, not workers, not consumers, and that is indefensible.

Thank you.

Chairman CRAPO. Thank you.

Director Kraninger, it is now your opportunity to make your initial statement. The floor is yours. Please proceed.

STATEMENT OF KATHY KRANINGER, DIRECTOR, CONSUMER FINANCIAL PROTECTION BUREAU

Ms. KRANINGER. Chairman Crapo, Ranking Member Brown, Members of the Committee thank you for the opportunity to provide an update on the Bureau's important work.

Preventing harm to consumers is the top priority of the CFPB. We prevent harm by educating consumers to protect themselves. We prevent harm by having clear rules of the road for regulated entities. We prevent harm by using supervision and enforcement to promote compliance with the law. And we prevent harm by supporting dynamic and competitive markets that provide for consumer choice.

While prevention is not always possible, it is the right goal, saving consumers from financial headaches, setbacks, and devastation. The Semiannual Report and my written testimony provide a rundown of our activities in the first half of fiscal year 2019 and a preview of more recent initiatives, some of which I will take the opportunity to highlight now.

First, our efforts to provide clear rules of the road so that companies and consumers know what is lawful and what is not.

Just last week, the Bureau finalized a rule that provides needed relief to smaller lenders from collecting and reporting data under the Home Mortgage Disclosure Act, or HMDA, and codifies a key provision of the Economic Growth, Regulatory Relief, and Consumer Protection Act.

Additionally, last month, the Bureau announced policies to facilitate innovation, reduce regulatory uncertainty, and enhance consumer choice. The Bureau also announced its first no-action letter under the new policies. It is designed to help keep funding streams open for our Nation's housing counselors who have assisted millions of Americans attain the dream of owning a home.

Second, where we cannot prevent harm to consumers, we use our enforcement tool to hold bad actors accountable. Every case is managed by Bureau attorneys seeking justice in the public interest. In fiscal year 2019, we announced 22 public enforcement actions and settled six previously filed lawsuits, including in a public fair lending enforcement action the Bureau settled with one of the Nation's largest HMDA reporters for violating HMDA and Regulation C. We took action against an individual who brokered contracts offering high-interest credit to veterans, and we took action against a student loan servicing company that engaged in unfair practices that violated the Consumer Financial Protection Act.

Further, the Bureau's actions in fiscal year 2019 resulted in orders requiring a total of over $777 million in consumer relief and nearly $186 million in civil money penalties. I note these figures not as a measure of accomplishment, but to underscore the fact that the Bureau continues to appropriately utilize its enforcement tool.

Third, we continue to promote a culture of compliance through our supervisory tool and empower consumers through education. Earlier this year, we launched an initiative—Start Small, Save Up—to help prepare Americans to handle an unexpected financial event. As part of this initiative, we released a new savings booklet to help individuals create their path to reach their savings goals. And we are looking at other innovative ways to move the needle on savings in America.

For example, the Bureau partnered with H&R Block to study savings of tax refunds. The study showed that encouragement through a simple email or a small incentive increased the consumer's likelihood of saving a portion of their tax refund. It also found that one in five consumers who took advantage of the specific savings feature continued to save 8 months later. We will continue to engage in research about what works to promote a habit of savings and overall financial well-being.

Fourth, I have a few recent announcements to demonstrate the Bureau is committed to using the tools Congress gave us as effectively and efficiently as possible. Just last week, the Bureau handled its 2 millionth consumer complaint. To ensure that the Bureau's work continues to be informed by this input, I announced last month that we will continue the publication of the Consumer Complaint Data base. In addition, we will be enhancing the data base by providing new tools and graphics to analyze consumer submissions and put that data into context.

Also last week, I announced the establishment of a task force to examine the existing legal and regulatory framework. The task force will make recommendations for improving consumer financial laws and regulations as well as enhancing consumer understanding of markets and products. We are currently accepting applications from individuals who are interested in serving on the task force and welcome recommendations from members of Congress.

Just 2 days ago, I was proud to announce that the new private education loan ombudsman met an important congressional mandate given specifically to that position by issuing his first annual report. The report covers 2 years and analyzes complaints submitted by consumers. The Bureau also sent a signed memorandum of understanding to the Department of Education consistent with its statutory responsibility to share consumer complaint information with the Department of Education.

Before I close, I would like to touch on one final issue: clarity around the constitutionality of the Bureau's structure. As you are aware, I joined the Government's recent brief in the Supreme Court to hear the case CFPB v. Seila Law. This matter is in litigation, so consistent with longstanding Bureau practice, I am not going to discuss it at length, but I do want to highlight a few key points.

From the Bureau's earliest days, the constitutionality of the Director's removal provision has been raised to challenge legal actions by the Bureau in pursuit of our mission. Litigation over this question continues to cause significant delays in some of our enforcement and regulatory actions. I believe this dynamic will not change until the constitutional question is resolved, either by Congress or by the Supreme Court. My position on this question will not stop the Bureau from fulfilling our statutory responsibilities. We will continue to defend the actions that the Bureau is taking now and has taken in the past.

Again, I thank you for this opportunity to discuss the Bureau's work and look forward to your questions.

Chairman CRAPO. Thank you, Director Kraninger.

My first question is related to access to credit, and I ask it in this context. It has already been expressed by Senator Brown, a concern about the level of enforcement activity, and I appreciated your reviewing that the agency is enforcing the law. It seems to me that, in addition to stopping bad actors from harming consumers, an important thing to do to protect and strengthen consumers is to increase their access to safe credit.

Could you discuss, first of all, whether that is one of the important objectives that you have and how you would seek to achieve that?

Ms. KRANINGER. Thank you, Senator. Access to credit is part of the mission of the Bureau. It comes into play in Dodd–Frank under innovation in particular, facilitating innovation and access. It is an important part of what we do. We do have to be thoughtful and judicious and deliberate in our rulemaking activities to consider the implications on access to credit of the actions that we take. There are certainly a number of areas where we are being thoughtful about that.

I would highlight the innovation policies because that clearly is an area where we are seeking more innovation from the industry, from financial technology companies, from others who have ideas about how we can reach those underbanked and unbanked individuals in our society and bring them into financial services that are going to help them build their financial well-being. And so that opportunity is something that we have held symposia on. We are engaged in some work on that, and we look forward to providers of products and services continuing to come forward to talk to us about how they can do that.

Chairman CRAPO. Well, thank you. And I guess we have already both discussed this a little bit, but I would just like you to highlight it again. One of the most important things we can do for those who are not banked and who find it difficult to access credit is to make sure that the credit system that they can participate in is safe and that it is strong and robust, available to them.

Could you just comment a little further on the importance of that?

Ms. KRANINGER. Yes, Senator. Certainly that is an important part of our job, that competitive, fair, transparent markets do promote that for consumers, and that is part of the mission that we are giving to more specifically.

I think one of the things that I can talk a little bit more about is alternative data and the opportunity to look at that in underwriting. The Bureau did issue one no-action letter under its prior policy to a company called "Upstart". We have since had a lot of information on how Upstart has used alternative data, both employment and education information, to make credit determinations and provide greater access to credit. We did issue a blog recently. Our head of Fair Lending and our head of Innovation talked about the opportunity that companies like Upstart are providing to individuals who are unbanked and underbanked to bring them in to safer products, and that is something that we will continue to do.

Chairman CRAPO. All right. Thank you.

The adoption of innovative technologies and processes by regulated financial entities has the clear potential to improve the ease, efficiency, and the cost of providing financial services to a wider spectrum of consumers, as we have been discussing. But a lack of regulatory certainty and clear guidance regarding the use of new financial technology and methods of consumer engagement can stifle the development and the integration of innovative practices by firms.

Can you describe how the CFPB's recent policy guidance regarding its Disclosure Sandbox Program and the compliance—the no-action letter, the Compliance Sandbox Program, can help our firms that do provide services get greater regulatory clarity and enhance financial innovation?

Ms. KRANINGER. Well, one of the premises of those policies is certainly encouraging some of these innovative companies and entities to come forward with their ideas. It is something that is challenging to do. A company entering this space does not have the same history of regulatory engagement as traditional institutions do, and so coming forward to ask questions, to look for ways to be compliant with consumer financial protection laws, that is what they are trying to do, and that is what we are trying to promote, that conversation with those entities.

There is a real opportunity with the trial disclosure policy, I believe, to get better information to consumers, simple information to consumers at the right time so that they have what they need to make the best decision for themselves, and I am really looking forward to even traditional financial institutions coming forward with some great ideas in that space. For the sandbox as well, there is going to be a lot of back and forth over how effective the products are and what the opportunities are that are beneficial to consumers.

Part of the application process is raising both the benefits and the risks to consumers, and that is what the applicants will have to articulate to us and go back and forth on.

Chairman CRAPO. Thank you.

Senator Brown.

Senator BROWN. Thank you, Mr. Chairman.

Is it reasonable to consider a payday loan rule that allows consumers who get into financial trouble to pay back as little as 1 percent of a loan?

Ms. KRANINGER. I am sorry. Are you asking about an interest rate on——

Senator BROWN. Well, I ask that because I think the answer is sort of self-evident. But this chart shows that you have let scammers and shady debt collectors pay just 1 percent or even less of the amounts they owe. CFLA paid 1.1 percent of the amount they owed to consumers. Howard Law paid 0.07 of a percent of the debt they owed, the scam they made. And McKinnon paid two-tenths of 1 percent. So you gave these corporations and these scammers a huge discount of what they owed to hardworking Americans whom they cheated. Why is it that you think scammers that take advantage of servicemembers or seniors or students deserve debt forgiveness but working families do not deserve the same treatment?

Ms. KRANINGER. Thank you for giving me a little more context on that question, Senator. As you know, every case is fact- and circumstance-specific. Cases are led by Bureau attorneys in terms of the opening decision of the case, the closing decision of the case, and the recommendation and the discourse that we have inside the agency over whether to sue or settle. There are certainly opportunity costs there with our decisions to sue, which we have taken in many cases under my leadership and prior leadership.

Senator BROWN. You can answer this for the next 5 minutes. But when the settlement is—when it is consumers who are hurt and scammers that benefit, the little bit of money they get, what message does this send? It is not only these consumers get nothing close to restitution. It is the message it sends to other scammers that they have a friend in the White House and they have a friend in the CFPB.

Let me move to another. During your confirmation, I raised concerns as Director you would side with 9/11 scammers and other corporations that argue that the CFPB is unconstitutional. Do you remember that conversation?

Ms. KRANINGER. I do, sir.

Senator BROWN. OK. Good. Thank you. When I asked you about the constitutionality of the CFPB, you testified as Director it was not your position to decide whether CFPB was constitutional. You said, and I am quoting, "I am aware of the constitutional questions, Senator. I think they are important. But they are not for me in this position to answer. The Director has the responsibility to carry out the law as it is written, run the agency that is established now, and that is my focus."

Based on this testimony, I was surprised when a few weeks ago you sent a letter to Congress stating, "I have decided that the Bureau should adopt the Department of Justice's view that the for-cause removal provision is unconstitutional."

So if someone comes to Congress, commits to do one thing, and then does another, is that just lying to Congress?

Ms. KRANINGER. Senator, I was aware, obviously, of the constitutional question from the moment of my nomination. We discussed it at the hearing during my confirmation process, and it certainly was not a decision that I had to take at that time. I still firmly believe that in terms of settling this question, as I said in my opening statement, it is for the Supreme Court and Congress to settle it.

At the same time, the executive branch and all of us as executive branch officials have a responsibility to uphold the Constitution. In the face of this cert petition to the Supreme Court in this particular case, it did come to me for a decision on my position and the position the Bureau would take, and that is the decision that is outlined in our——

Senator BROWN. I think it speaks to your credibility as a public official that came into this Committee and said that you would not speak on issues of constitutionality and then you did, which to me reflects on some other things you may have said over time.

I want to turn back to the public service loan forgiveness. Congress designed the program to help hardworking Americans who take jobs that we hope they take to serve this country and to serve their communities. It is clear the management of this program under the company PHEAA has been a complete train wreck. Fewer than 1 percent of workers have received the loan forgiveness they earned. The CFPB has done nothing for more than 2 years about it.

Will you commit to the public that you will open an enforcement investigation of PHEAA, the company that is supposed to manage these Americans' student loans?

Ms. KRANINGER. Senator, I can tell you I take very seriously the responsibilities we have to all consumers and particularly to students. We do have that responsibility. I hired, as I said I would, a private education loan ombudsman who has already issued his first annual report. We have engaged the Department of Education to work through what I think is hopefully going to be the best outcome for consumers, and that is to have the Federal Government agencies united in the understanding of our respective responsibilities and how we are going to move forward. So we are moving forward on the MOU that is statutorily required and moving forward in other areas including how we will carry out our responsibilities under the larger participant rule.

Senator BROWN. I hope so, but nothing fundamental has happened, that still 1 percent of workers receive the loan forgiveness they have earned, as they serve the public as we asked them to do. And keep in mind PHEAA is a Federal contractor using taxpayer dollars to manage Federal student loans. So I will just ask you again: Will you protect people trying to pay off their student loans, or are you going to protect Secretary DeVos and this company?

Ms. KRANINGER. I will carry out my statutory responsibilities to protect consumers.

Senator BROWN. Thanks, Mr. Chairman.

Senator SHELBY [presiding]. Senator Crapo had to go to the Judiciary Committee, so I will recognize myself.

Director Kraninger, since you were sworn in, I believe that the Bureau has done an impressive job of putting forward policies that not only provide important consumer protections, which is in the forefront here, but also certainty and clarity to regulated entities. We need both. I believe that under your leadership you have made a lot of significant strides in becoming more efficient and transparent, and I want to commend you for that.

Now, during your time as Director, in what areas of the Bureau's operations have you seen the most improvement? And what areas do you feel continue to be addressed? Along those lines, the CFPB has announced that it is looking at potential ways to modernize Federal consumer financial laws. And as more consumers—that is all of us—move to utilize digital technology, what are some of the challenges that you are facing? What road are you going down, and how do you get there?

Ms. KRANINGER. Thank you, Senator. I am particularly proud of, again, our commitment to transparency and to promote the discourse. Reasonable people will disagree over a number of topics, and trying to push forward advance notice of proposed rulemakings and requests for information to bring the public into the discussion as we are considering rulemaking actions has been important, as had holding symposia to talk through some of the more challenging topics. We had one on the definition of abusiveness. We had one on economic analysis factors. We have another one coming up actually on small business lending and our responsibilities under section 1071 of the Dodd–Frank Act.

Those are all things that I think we are doing very well, and we are going to continue to engage in that kind of discourse and work with all of the stakeholders in this area to move forward.

You mentioned the task force, and I am also excited about that opportunity to provide both the Bureau and the Congress perhaps some ideas from experts in this area as to where we should go to help modernize the laws and the regulations to address the digital age that we find ourselves in. That is also a positive thing, and I think in terms of our modernization efforts, we are looking at how this applies in a number of contexts, particularly to electronic disclosures.

The fall rulemaking agenda has not been released yet, but we are going to be looking at the credit card arena. We are tackling some of this in the debt collection rule, just thinking about how we can get simpler, clearer information to consumers in what is a complex set of laws. So that modernization——

Senator SHELBY. The more transparency you have, the better the consumer is going to be. Isn't that——

Ms. KRANINGER. Yes, Senator, I agree.

Senator SHELBY. How important is it for the financial regulators to create a regulatory environment that is conducive to innovation? And also what impact do you foresee through your job here proposed policies that would have on firms offering new products and services? That is very important to the marketplace.

Ms. KRANINGER. I am excited about the innovation policies, and as I just spoke a little bit about disclosures with the trial disclosure policy bringing information to consumers at the right time, having it be simple and clear, providing clear direction to industry, as you have noted, that is what we are trying to do both through the innovation policies and our other rulemaking efforts and guidance efforts.

With those clear rules everyone understands and can innovate and can grow and can provide the services that consumers need and want. That is something that we are going to continue to work our way through.

Senator SHELBY. Isn't it very important to have an informed consumer, in other words, that they understand what they are doing when they make a decision?

Ms. KRANINGER. Yes, Senator, and that is a key part of our responsibility as an agency. Education is part of our purview, and it is something that we are really working hard to build.

Senator SHELBY. I want to get into cost-benefit analysis. The last time you came before this Committee, we discussed right here the role of cost-benefit analysis at the Bureau and everywhere else. How can your organization utilize economists and economic analysis in its overall operations, including in the rulemaking process— in other words, weigh costs and benefits for any rule?

Ms. KRANINGER. Yes, Senator, as you know, that is something that is critically important to me, and I think part of this discussion with the public is to actually outline those costs and benefits and attempt to quantify them.

Senator SHELBY. But that should be important to everybody, shouldn't it?

Ms. KRANINGER. I agree, sir, and it is something we are committed to. I am excited that I have a new head of the Office of Research. They have the responsibility currently for doing that economic analysis to support our rulemaking. And cost-benefit analysis should be part of all of our processes and decisions, and that is something that I am working to weigh into the process. It does not mean that the hard dollar amount when we can quantify is the only basis for any decision, but talking about benefits and costs and weighing them and trying to quantify them is important.

Senator SHELBY. Thank you. My time is up.

Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

Director, last time you were here before the Committee, you and I discussed the severe problems in the Public Service Loan Forgiveness Program. This is a program that Congress put in place to allow public workers like teachers, firefighters, and military servicemembers to have their student loans forgiven if they make payments for 10 years. But 99 out of every 100 public servants who apply for debt forgiveness are rejected.

According to a recent NPR report, in 2018, the CFPB launched an effort to find out why the program is failing our public servants, but Secretary DeVos' Department of Education seems to have successfully stonewalled those efforts.

Is it true that in response to a letter from Senator Warren and myself you confessed that, "Since December 2017, student loans servicers have declined to produce information requested by the Bureau for supervisory examinations related to loans held by the Department based on the Department's guidance?

Ms. KRANINGER. Yes, Senator, that was in the letter.

Senator MENENDEZ. Is it also true that the Bureau submitted a supervisory examination request to the Department of Education in January of 2019, this year, and since then the Department of Education failed to respond to the CFPB's request as disclosed by the Department in a June letter to Senator Murray and Congresswoman DeLauro?

Ms. KRANINGER. Senator, yes, if I could give a little additional context——

Senator MENENDEZ. We will get to additional context in a moment.

Ms. KRANINGER. Thank you.

Senator MENENDEZ. But that is a true statement, correct?

Ms. KRANINGER. Yes, Senator.

Senator MENENDEZ. Now, Secretary DeVos, the Secretary of Education, has made it abundantly clear that she prioritizes loan servicers over teachers and public workers. But you do not have to follow her lead. In fact, your predecessor, Mick Mulvaney, was still able to examine Federal student loan servicers despite DeVos' opposition. When he faced similar obstruction by the Department, he followed the recommendation of career enforcement attorneys and sought a court order to compel some of the largest student loans servicers to turn over documents to the Bureau. These actions proved that the CFPB can still work to protect Federal student borrowers despite the irresponsible actions of Secretary DeVos.

Why has the Bureau under your leadership thus far failed to use all the tools at its disposal, including seeking court orders to conduct proper oversight?

Ms. KRANINGER. Senator, I believe that it behooves the Federal Government to act in a more united manner that is going to be better for consumers. It is certainly going to be more consistent. I have met with Secretary DeVos. I hired the private education loan ombudsman. We are moving forward with the MOU that is statutorily required to share complaint information. And we are already discussing how to move forward in an effective way to make sure that we are overseeing servicers.

Senator MENENDEZ. Well, I agree that if we can work in cooperation, that is great. But let me just read to you what the Department of Education said 48 hours ago, and I quote: "The Department of Education is charged with overseeing the Federal student aid portfolio. The CFPB is charged with oversight of the private student loan industry."

So if you are waiting for the Department of Education to give you permission to oversee the Public Service Loan Forgiveness Program, you are going to be disappointed, and our public servants are going to pay a price.

Why don't you do what your predecessor did? Why won't you commit to reinstating the oversight and enforcement of these loans?

Ms. KRANINGER. Senator, we are absolutely doing exams of private education loans, and we are working with the Department of Education on the Federal student loan portfolio to make sure that Federal consumer protection laws, which are the purview of this agency, are followed. And that is something that we are going to continue to work through——

Senator MENENDEZ. Well, it has not worked so far. They have not cooperated with you at all. They have stonewalled you every step of the way, and they have made it very clear in this statement 48 hours ago that they only believe that you have jurisdiction over the private student loan industry and not theirs. So who is going to get hurt here are public servants who deserve to have the opportunity to have loan forgiveness as a part of their service. And I would really urge you to do what your predecessor did and use the enforcement capabilities that you have.

Let me quickly ask you on the QM patch, which has provided over roughly 6 million residential mortgage loans originated in 2018, the Bureau estimates that roughly one-sixth or nearly 1 million loans benefited from the QM patch. I understand that you are all going to allow it to just lapse. How is it that you are going to ensure that if you do not take steps to offer the type of financing that is currently available, how can you describe the steps that the Bureau is going to take to prevent the patch's expiration without causing a major disruption to the housing market and our overall economy?

Ms. KRANINGER. Senator, a smooth transition is what I am committed to. I put that in the advance notice of proposed rulemaking and recognizing that the patch was set to expire and is set to expire in January 2021, we are starting this process very early. We sought comment on how long of an extension would be necessary to support a transition, and we are looking at the comments back on that now, and I will be making a decision in terms of a next step in a proposed rulemaking process to make that as smooth as possible.

Senator MENENDEZ. Well, let me close. I hope you can commit that your final rule will provide the same opportunity for folks to get into a home as currently available, particularly people of color have experienced the benefit on the patch and have shown that they are creditworthy borrowers. They should not be denied simply because we want to end the patch without the ability to keep that opportunity available.

Thank you, Mr. Chairman.

Senator SHELBY. Senator Toomey.

Senator TOOMEY. Thank you, Mr. Acting Chairman. And, Director Kraninger, thanks for joining us, and I want to commend you on some of the very constructive work that I think you have been doing at the CFPB.

I also want to pursue the line of questioning that Senator Menendez raised with respect to the QM patch. I always have been under the view that it has been inappropriate and unfair for the CFPB to outsource the definition of QM to the GSEs and their underwriting standards which occur mostly in a black box. As long as the ability-to-repay rule is on the books, it seems to me we need a qualified mortgage definition that is simple, fair, straightforward, and entirely unambiguous.

So one of the ways, it seems to me, we could move in that direction is to make it clear that a depository institution that keeps a mortgage on its books has every incentive to make sure that that is a loan that can be repaid. I am of the view that banks like to get their money back when they make a loan, and that aligns the interest of the lender with the interest of a borrower to have a loan that is affordable to the borrower.

We acknowledged that in the legislation that we passed, S. 2155, and declared that there would be an automatic QM safe harbor for any financial institution that keeps the loan on their books, provided that they are less than $10 billion in size. So I am of the view that an $11 billion bank would also like to be repaid when it makes a loan, would rather get its money back than not get its money back.

So my suggestion is one place to look—and I think you have the discretion and the authority to do this with your definition of QM—would be to allow the QM patch to apply to any size institution that keeps a mortgage on its books. And I am just wondering what your reaction is to that.

Ms. KRANINGER. Thank you, Senator, for raising it. In that advance notice of proposed rulemaking that we issued, we, in fact, raised this idea and sought comment on it, recognizing that S. 2155 did include that concept, and that the risk calculus of the entities that are intending to keep those loans in portfolio, you would anticipate, as you noted, would be doing that in a manner that they expect they are going to actually get their investment back. And so I am very interested in the comments we get back on that topic.

Senator TOOMEY. Yes, I would urge you to consider that very seriously.

You have also done some work on the payday rule, and I think you are pursuing some constructive changes. One that I am not sure you are focused on—and it is a question—is the scope of the rule, and specifically there are financial institutions that are concerned that the scope may capture products that were never intended to be captured, including, for instance, interest-only lines of credit that are backed by securities in a brokerage account—I do not think anybody really ever thought of that as a payday loan, but it might be captured under the old definition—or short-term bridge loans that assist customers in sequential real estate transactions. Again, I do not think anybody ever thought of that as a payday loan.

So as you evaluate reforming the payday rule, could you address the issue of the scope and whether you intend to tighten up that scope?

Ms. KRANINGER. Thank you, Senator. I am familiar with the concerns that you are raising here now. The Bureau has received a petition to reconsider or address issues with the payments provisions of the 2017 rule, in addition to our consideration of the 2017 underwriting requirements. So that is something that at least is on our radar. We have a responsibility to respond to that petition within a year of it being sent to us so it is on the plate. The priority was the reconsideration of the underwriting provisions, but we will have to look at and at least respond to these concerns.

Senator TOOMEY. Yes, I think that is important to look at that as well.

Very quickly, a quick compliment on your fiscal management of the department. There is a cap on spending as a function of Federal Reserve revenue, which in the past seemed to be viewed also as a floor, and you have clearly not taken that approach. I commend you for that.

Last point. Section 1031 of the Dodd–Frank Act gives the Bureau really unprecedented authority to take enforcement action against those it deems to be engaged in, and I quote, "unfair, deceptive, or abusive acts." As I am sure you are aware, "abusive" is not defined in the statute, nor am I aware of any precedent in related law that defines "abusive." And it strikes me as an inherently extremely subjective term.

Do you intend to take steps to provide a clearer definition of what would constitute "abusive"?

Ms. KRANINGER. Senator, thank you. The definition in the statute is precisely something that we have talked about. We had a symposium on this topic and brought experts together to talk about whether further definition is necessary or useful to the process. As you noted, the only place that we have really provided additional definition is in enforcement actions that have also been quite rare. So this is something that is a decision before me as to whether we should put more guidance out there or what next steps we should take. So there will be news on that in the not-too-distant future.

Senator TOOMEY. Thank you.

Senator SHELBY. Senator Tester.

Senator TESTER. Thank you, Senator Shelby. And I want to thank the Chairman and Ranking Member for this hearing, and I want to thank you for being here today, Ms. Kraninger.

Going back to the payday situation, are you doing oversight of payday lenders now? Or are you waiting for the rule to be rewritten? Where are you at in that process?

Ms. KRANINGER. We absolutely continue to engage in investigations as well as supervision of payday lenders.

Senator TESTER. So how many actions have you brought against payday lenders in the last year?

Ms. KRANINGER. There is at least one, Senator, but I do not remember off the top of my head. We can get it for the record.

Senator TESTER. OK.

CFPB.

January 25, 2019 - The Consumer Financial Protection Bureau (Bureau) announced a settlement with Enova International, Inc., an online lender that extends unsecured payday and installment loans, and lines of credit based in Chicago, Illinois.

February 5, 2019 - The Consumer Financial Protection Bureau (Bureau) announced a settlement with Cash Tyme, a payday retail lender with outlets in Alabama, Florida, Indiana, Kentucky, Louisiana, Mississippi, and Tennessee. Cash Tyme is the operating name for CMM, LLC, and its wholly owned subsidiaries in those states.

Senator TESTER. So do you think the agency is adequately doing its job as far as enforcement on payday lenders at this moment in time?

Ms. KRANINGER. I can assure you that we are vigorously enforcing the law in many areas, including this one.

Senator TESTER. OK. So tell me about the thought behind eliminating the Office of Students and Young Consumers?

Ms. KRANINGER. Senator, we do continue to have a section for students, and that now has four staff members in it. It is about to have five, and so we have a continued commitment to that activity.

Senator TESTER. So you still have that office?

Ms. KRANINGER. It is called a section. This gets into a little semantics, but, yes, there is still a group of people focused on that.

Senator TESTER. So it was renamed. Compare this to—how many people do you have in that office?

Ms. KRANINGER. There were five total under the——

Senator TESTER. Same number of staffing, basically.

Ms. KRANINGER. They were under the private education loan ombudsman, so right now we have six people actually doing this, between the ombudsman and the students office.

Senator TESTER. And what kind of action are you seeing in that area as far as protecting students?

Ms. KRANINGER. There are a lot of different activities, and I am getting into the organizational chart, but really the students office is focused on education activities.

Senator TESTER. OK.

Ms. KRANINGER. We do have examiners who are examining student lenders as well.

Senator TESTER. So the point is here that the name of your agency is the Consumer Financial Protection Bureau, and we have student debt coming out, unbelievable amounts. I still get credit card apps for my kids who are now middle-aged all the time. So there are people that are out there preying on them. There is no doubt about it. I just hope that you are very aggressive in protecting these folks because once they get into debt as a young person, a lot of them are going to be poor for the rest of their lives, whether they have a degree or not. So hopefully you are putting a focus on that. I hope you do.

I want to go back a little bit to Senator Menendez' question on the Public Service Loan Forgiveness Program. Secretary DeVos prohibited student loan servicers from sharing information with you. Correct?

Ms. KRANINGER. With respect to the Federal student loan portfolio.

Senator TESTER. And how about with respect to the Public Service Loan Forgiveness Program? Did she not say you could not get that information? She did not want the servicers to give you that information?

Ms. KRANINGER. Within that portfolio, yes.

Senator TESTER. OK.

Ms. KRANINGER. There is a question there that I very much would like to settle because we do have a rulemaking that gives the Bureau the ability to supervise larger participants in that space.

Senator TESTER. But if you do not have the information, it is really hard to do much, isn't it? If you do not have the information——

Ms. KRANINGER. It is hard to engage in our exams, which I think is really about promoting compliance.

Senator TESTER. So the point is—and you told Senator Menendez that you wanted to—you would rather work together than—use the carrot instead of the stick, so to speak. But the fact is if you do not have that information, you cannot do anything, right?

Ms. KRANINGER. There are other actions that we can take.

Senator TESTER. But the big one is the servicers. If you do not have that information from the services, you can take other action, but the truth is if you really want to get to the point, you have to have that information. Correct?

Ms. KRANINGER. To engage in what are productive examinations——

Senator TESTER. Right, you do.

Ms. KRANINGER. Yes.

Senator TESTER. So the question is: There are checks and balances in Government. This is one of those checks and balances. You are a law enforcement agency to enforce the law. We have a program here that, by the way, in rural America is critically important. It is probably just as important in urban America where we have public servants who spend 10 years of their life living up to this program, they make 120 on-time payments, and we have a Secretary who does not get what is going on because she has got more money than everybody in this room combined. So the point is if you do not get after it, these people sacrifice 10 years of their life, and it is a real—people will not go into public service. They will not go into Government service. They will not go into nonprofit service, which, by the way, plays a really important—I do not need to tell you this. You know this. So why not go after it and get it? When you have a situation where 1 percent get qualified, something out there does not smell right.

Ms. KRANINGER. One important distinction I should make, Senator, is that clearly when it applies to the Public Service Loan Forgiveness Program, the Bureau's responsibility is compliance with Federal consumer financial protection law. The Department of Education rightly is responsible for other program——

Senator TESTER. I got it. But you have the ability through your agency to put pressure.

One last thing, and then I will be quiet. I think it is rich for anybody in this Administration to talk about what is constitutional and what is unconstitutional when we have a President that publicly invites other countries to influence our elections.

Thank you.

Senator SHELBY. Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you, Senator Shelby.

Ms. Kraninger, thank you for being here. I do want to thank you for keeping the Consumer Complaint Data base public. I appreciate that, and I know it is important not just for us as policymakers but for what you do for the general public as well and for so many others out there.

I am looking at your report, and if you look at the consumer data base, at least the complaints that you identify here, it shows that in Figure 1, credit or consumer reporting, debt collection, and mortgages are the most complained about consumer financial products and services. And you show credit or consumer reporting 39 percent and debt collection at 24 percent. So I appreciate this because this tells us really, for purposes of enforcement, where we need to really focus our resources and efforts.

I do want to talk about one in particular, a debt collection company. It is known as "Asset Recovery Associates", and I bring that up because I noticed you have a press release dated August 28, 2019, that the Bureau settled with Asset Recovery Associates.

Now, let me just put this in perspective. In 2012, I was the Attorney General of the State of Nevada. In 2012, the State of Nevada barred this debt collection from operating in our State and collecting any more debts from Nevada because they were so egregious. And, in fact, in your settlement agreement, you highlight really the concerns that we had in Nevada, and you just Google them, you will see the number of complaints online. But since at least January 1, 2015, which you identify in your consent agreement, the company threatened consumers with legal action, including threats to file lawsuits against consumers, file liens on consumers' houses, garnish consumers' bank accounts or wages, and cause consumers to be arrested, all actions that respondent has no intention of taking. The company also represented to consumers that company employees are attorneys when, in fact, they do not even employ attorneys. And the company threatened that consumers' credit reports will be negatively affected when respondent or the company does not even engage in any credit reporting to any consumer reporting agencies about any consumer accounts. I mean, they are just the worst of the worst, so egregious.

You entered into a settlement agreement with them. You were enforcing action against them, and I appreciate that. But here is my question: I am concerned about the monetary penalty, the level of restitution for the consumers and the oversight that needs to follow through. So I have a couple of questions with respect to that, with your indulgence here.

I noticed that, for purposes of restitution for consumers, the restitution amount was $36,800, and I am curious how that came about. Why that amount?

Ms. KRANINGER. The amount in that case in particular I believe represents the number of consumers who have complained and the funds associated with that. So that is——

Senator CORTEZ MASTO. Complained to who?

Ms. KRANINGER. Complained to third party sources and complained to the Bureau.

Senator CORTEZ MASTO. So you are basing the restitution amount on the number of people that complained to you, that are even aware that you existed to complain to, along with those that may have complained to the company, and you are taking the company's word for it that they complained to the company. Is that right?

Ms. KRANINGER. This is really about, again, when it comes to trying to quantify consumer harm and identify consumers who have been harmed——

Senator CORTEZ MASTO. Believe me, I know. As Attorney General, we did it all the time. And here is my concern, because in this settlement agreement stipulation and consent with the company, you are basically letting the company determine and tell you the data and actually identify the affected consumers and tell you who they are, instead of mandating that the company actually sent a letter to every consumer that they ever touched or did business with to identify that the settlement existed and if they had a complaint, to identify it. Not only that, you allowed the company itself to be the one that is the arbiter of who decides the information that is being shared.

Quite honestly, what we have normally done is have independent administrators or somebody coming in so there is an independence to it. But you do have an enforcement person. I understand in this complaint that you have identified somebody that is particularly responsible for this, and I am trying to find the consent agreement here. Who is that person that will have that oversight?

Ms. KRANINGER. It is the Director of Enforcement. They are typically named in the consent orders. I am not sure—at the time I believe——

Senator CORTEZ MASTO. The Enforcement Director is who?

Ms. KRANINGER. The Acting Enforcement Director right now is Cara Petersen.

Senator CORTEZ MASTO. OK, and so she is the one that will have the oversight, make the determination, working with this company.

Ms. KRANINGER. Yes, in terms of compliance with the consent order.

Senator CORTEZ MASTO. Yeah, and so my concern is you are relying on what they are telling you as the data to identify affected consumers. That to me does not even make sense as somebody who enforced and protected consumers. But the second thing is you have a monetary penalty of $200 as a civil penalty. Where did that come from? And how did you identify the 200—or, excuse me, the $200,000?

Ms. KRANINGER. Senator, as you well know, because you have done a lot of work in this area as well, when it comes to the decision whether to sue or settle, when it comes to the fact that the settlement must be negotiated, there are a lot of factors that get weighed, including the ability to pay of the entity. We could certainly have made the decision to litigate this particular case, but that does not mean that the outcome would be any better for consumers or for justice if we had 2 or 3 years in litigation with three or four attorneys tied up for that time period and then we still could not get any money out of a company that had no money——

Senator CORTEZ MASTO. Actually, typically what we do in law enforcement is if there is a determination of a civil penalty, it is based on the number of violations that have occurred based on the impact with the consumer. I did not hear that from what you said, actually——

Ms. KRANINGER. And mitigated by what the entity can pay.

Senator CORTEZ MASTO. It has nothing to do with that. I mean, clearly, this is egregious, and your role is to enforce, is not only to hold them accountable in violation of existing laws, but at the same time to protect consumers and provide restitution, and not allowing the individual defendant to actually make a determination of the rules, who the affected people are, and continue the conduct without any further oversight or penalty.

What they have basically done and what you have given them is the ability to say, OK, I am just going to weigh this cost of $200,000 as a cost of doing business because I am going to make so much more and will continue down the same path. That is my concern. And I think what I am hearing today is the lack of enforcement and the lack of holding their feet to the fire and holding them accountable, they are just going to—any business is going to say, well, this is just a cost of doing business, I am going to incorporate it in that cost, because I am making good money so I will take the lumps as they come. And that is a problem for purposes of enforcement. That is my concern.

Ms. KRANINGER. And I agree——

Senator CORTEZ MASTO. And I would love to have further conversation with your Enforcement Division and talking with your attorneys as we address this moving forward because it is an issue across this country. Debt collection, as you identify in your own public data base, it is a problem for so many people across this country. So thank you.

Senator SHELBY. Thank you.

Senator Cotton.

Senator COTTON. Thank you, Ms. Kraninger, for your appearance here today. I want to speak about accountability. We hear a lot about that with companies, but, of course, it runs both ways, accountability of our Government to our people. The following is a quote from an official in an Arkansas company that has dealt with the CFPB. "Consumer compliance is an evergreen process and it should be treated as such. Why does the Bureau not acknowledge issues that are self-identified and self-corrected that fall outside of an exam period and the company be given credit for properly managing risk instead of being treated in their examinations as not even corrected?"

In fact, in one instance the company had made significant progress, and the onsite examiners were told not to put anything positive in the report by their supervisors offsite at the CFPB. I have to say I have heard other reports about higher-ups at the

CFPB telling rank-and-file examiners to exclude positive information or self-identified problems and corrections.

Is it the case that examiners inside the Bureau are being told by supervisors at a higher level not to include positive information in their reviews and their examination reports?

Ms. KRANINGER. Senator, I am not aware of any specific instances of that, and I can tell you it would be contrary to my direction. We have empowered the front-line examiners to conduct exams in accordance with their training, and that would certainly include a factual providing of what they saw and observed, positive or negative. And that is something that I absolutely expect, and if you have specifics on this and particularly a timeframe, I would absolutely like to pursue it.

Senator COTTON. So it is your direction that your examiners who are out on the front line of the company should include positive information in reports as well?

Ms. KRANINGER. It is important that they actually report on their own observations any information that they have observed.

Senator COTTON. What is the Bureau's policy on nonsystemic self-identified problems that have also been corrected through self-corrective action?

Ms. KRANINGER. That is something I am encouraging. Again, this is a massive ecosystem with a lot of players in it. Enforcement should be a last resort, and what we are trying to do is encourage legitimate financial services providers to comply with the law. And in so doing, that means they have a compliance management system that does self-identify issues where they are providing their own corrective action, and that is best for consumers, too. They will get restitution much faster, and we have then again a system that is operating and functioning properly. That is something I encourage.

We are looking at ways to make sure that these policies are codified and clear. I have a new head of Supervision, Enforcement, and Fair Lending who just started this week, and so knows that many of these things are things that I would like to see us pursue in the coming months.

Senator COTTON. Thank you. I think there is obviously a big difference between an isolated problem that an institution identifies and corrects versus a systemic problem. That is true in a private company, and that is true in a Government agency.

It reminds me of a story that Bob Gates told about the early days of the Obama administration when he was something of a fish out of water, being a holdover from the Bush administration, and they had the usual tensions that exist between White House staff and Cabinet Secretaries. They had a summit at the White House in the early days to resolve them, and Bob Gates, kind of the wise man of the group, told the White House staff that they were very important, they understand the President, some of them went back to his campaign for the Senate, but they could not implement decisions, so they needed the Cabinet officials to be involved in the decision-making process so they could get by and implementing it. He said he heard some laughter behind him, and he turned around to the Cabinet officials, and he said, "I do not know what all of you are laughing about because today, even though it is a Saturday, someone in your organization somewhere is doing something that you disapprove of, that is probably immoral and maybe illegal," the point being that in institutions as large as a Cabinet or the CFPB, there is almost always the possibility of someone doing something wrong. And as Bob Gates showed repeatedly in the Department of Defense, you want to try to stop isolated individual cases of wrongdoing and certainly have systems in place to stop systemic wrongdoing, but even more important is when you find those cases of wrongdoing, that you take corrective action immediately to stop them.

We want to encourage private institutions to do that. We also want the CFPB to have an opportunity to do that for any examiners that are not doing what is consistent with your guidance as well.

I appreciate your time.

Chairman CRAPO [presiding]. Thank you.

Senator Smith.

Senator SMITH. Thank you very much, Mr. Chair. Good morning. Nice to see you again.

Ms. KRANINGER. Good morning.

Senator SMITH. I would like to follow up on what I understand are some questions that some of my colleagues asked a little earlier on the Public Service Loan Forgiveness Program, something that I am really concerned about. You know, there is a Minnesota story that was—she is actually a plaintiff in the AFT lawsuit against the Department around this issue. She is a public school teacher in Brainerd, and she, like so many others, were told by her services that she was on track in making qualified payments for the PSLF even when that was not the case, and that incorrect information was provided her and not addressed until years later. And, of course, she made all sorts of life decisions based on that bad information.

And so here is what I want to try to understand a little bit better. So the CFPB and the Department of Education had an information-sharing agreement. Correct?

Ms. KRANINGER. Yes. Yes, on complaints in particular, and then there was a separate one on—I am forgetting what the second MOU—we will get back to you specifically on the second MOU because it did not get precisely to the point that I know you are asking about. But those were two in the past that are no more.

Senator SMITH. OK.

And are you pursuing efforts to reestablish that information-sharing agreement with the Department of Education?

Ms. KRANINGER. Yes. In fact, 2 days ago, the private education loan ombudsman sent a signed copy of the complaints MOU that is in the Dodd–Frank Act. It is a statutory responsibility that we have that MOU, and he sent that over signed, and we very much hope to execute that imminently. Then we are engaged in conversations around how we can work together in particular to make sure that the Bureau has the ability to enforce consumer financial protection laws through its larger participant rule.

Senator SMITH. OK, because it is one thing to share information, and it is another thing for the Bureau to use its investigative authority and ability to supervise and examine what is happening in order to put a stop to what we see is, by some reports, organizations' loan servicers that are denying up to 99 percent of applications for loan forgiveness. So tell me how you are pursuing that part of this, not only the information sharing but also the need for supervision and examination.

Ms. KRANINGER. Yes, I do believe it is important. Again, the Bureau issued a larger participant rule in the student loan servicing space, so we do have a responsibility and an ability to examine both entities engaged in Federal student loans and private student loans. I believe what is best for consumers is for the Department of Education and the CFPB to come together and determine the best way to support the functioning of their programs and their program management oversight and their contract management oversight responsibilities and our ability to enforce consumers financial protection law. Those two things can coexist, and that is the path that we are on in terms of our conversations.

Senator SMITH. So, really, your role is to be focused on consumer protection, and their role—I understand what you are saying, but you also have two different roles, you would agree?

Ms. KRANINGER. Yes.

Senator SMITH. Yes, and do you see that part of that role is to go in and try to—just like you might as a bank examiner, for example, that you would go in and try to ferret out where things are not working right rather than just waiting to find out after the fact that something is not working right?

Ms. KRANINGER. Absolutely, yes, when it comes to consumer financial protection law.

Senator SMITH. OK. Thank you.

I have a minute more. I would like to follow up on a question that I think when you were before the Committee in March I asked about, and I asked you about a proposal that the Bureau had published in 2017 to directly obtain data from a variety of entities in the student loan industry from big banks to the loan service providers. And this went to the OMB for routine review, and at the time you said you were looking into that to try to figure out where it stands.

Do you have an update for me on that?

Ms. KRANINGER. Yes, Senator, I do. The conditions have really changed since then in particular because the Department of Education is engaged in its next-gen modernization. As I have talked to the staff at the Bureau, they assess that the data collection as it was submitted to OMB is not really relevant today given those changes. What we are looking at now is what makes sense going forward, and we are certainly going to be talking to the Department of Education about that. But we have left that data request at OMB just pending our discussion and decisions about whether to amend it, whether to pull it back, or what opportunities there are for data collection in this area.

Senator SMITH. So when do you think you will move forward then?

Ms. KRANINGER. I certainly hope by the next time I am back here that I can have an update for you on specifically where we are going to go with this.

Senator SMITH. OK. Well, I will look forward to that update. I think it is important. Thank you.

Thank you, Mr. Chair.

Chairman CRAPO. Thank you.

Senator Van Hollen.

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

When you were here in March, you and I had a conversation about the Trump administration's efforts to weaken the payday protection rules that were put in place by the Obama administration to protect consumers against unscrupulous practices by payday lenders. As you know, that Obama rule had two components. It had the payments component, the payments provision, and the other provision on ability to repay. That whole rule was challenged in court, and the stay has been imposed by the courts. You followed this, right?

Ms. KRANINGER. Yes, sir.

Senator VAN HOLLEN. And as I understand the position of the Bureau, you do not think there is any reason to maintain the stay on the payment provisions of the Obama rule. Is that correct?

Ms. KRANINGER. I would tell you, Senator, that our filing speaks to that point. One of the claims raised by the other party is the constitutional structure of the Bureau, and so that is a significant matter that is part of—I would note that the court knows that as well, and so I think that is part of the basis for the continued stay.

Senator VAN HOLLEN. But my understanding, I mean, I have got a document here that you sent to the Committee explaining the Bureau's position in this case, and essentially the Bureau said there is no legal basis to stay the compliance date for the payment provisions. Isn't that right?

Ms. KRANINGER. Yes, specifically on the merits.

Senator VAN HOLLEN. So my question is: Given that that is the position you have taken in court, will you file a motion to lift the stay in order to allow this important provision to go forward? Will you do that?

Ms. KRANINGER. Senator, I am definitely looking at that and know that that is an option. I do think the constitutional structure question is a significant one and one, again, that has been raised, and was outlined in our filing.

Senator VAN HOLLEN. Again, I am just reading from what you have written, the Bureau has written, where you disagree about the need for the stay on the payments provision. So given that that is your position, why are you still looking at the option of filing a motion to lift the stay? Why don't you just file the motion?

Ms. KRANINGER. Because, as I said, in that same filing that you are looking at, we did note that the constitutional structure question is a significant one in the case, and that is something that the judge is sensibly weighing, but——

Senator VAN HOLLEN. I understand he is weighing that, but as I read your own motion, the Bureau does not think there is any reason for delaying this provision, and so I just do not know why you are not using your authority and prerogative to file a motion to lift the stay so we can put at least this provision in place.

Let me ask you about the ability-to-repay protections. At the hearing back in March, we looked at the analysis that the Bureau put forward that sort of proclaimed that the changes would save the payday lending industry between $7.3 and $7.7 billion on an annual basis, and that that was money that was now coming out of the pockets of consumers, right? These are consumers who would have been protected by the Obama era rule, but are no longer protected. So monies that consumers would have saved because of protection from unscrupulous practices are now going to the industry. And as I looked back on how you went about the revision of the rule, I was struck by the fact that the Bureau did not present any new research in defense of the change. That original rule protecting consumers had been based on research showing the harm done the consumers.

Can you tell us today what new research the Bureau developed in proposing the change to the rule, a change that would cause a $7.7 billion loss to consumers?

Ms. KRANINGER. Senator, a few things in response. One is certainly that the full record from the prior rulemaking and from our current rulemaking, the experiences of the States in terms of the laws that they have passed and the experience that they have had, and some newer research that is available will all be taken into account. This decision is before me now. I know I will certainly defend our proposal, but at the same time note that a final decision has not been made in this issue.

With respect to additional data that we took into account in the proposal, it is fundamentally about the legal and factual basis that the first rule was based on. Legally we do have the discretionary ability to undertake rulemaking related to unfair, deceptive, or abusive acts or practices, so that was the basis of that rule. It is my judgment that that is something that we should undertake very thoughtfully and judiciously because there are other effects on consumers and other effects on the markets.

So the availability of credit and the question, too, of the $7 billion, the question for each of those consumers individually is what their next best alternative actually was, whether that was the inability to pay a utility bill, the inability to repair a car, the next order effects that come as a result of that. Those are the things that I would posit at least as considerations when that is proposed as merely something that is a loss to consumers. The question is what else happened in their lives individually and what did the access to that credit afford.

I would also note that this is an area of the market where there are many challenges. We have taken and will continue to take enforcement actions against entities that are engaged in illegal activity. That will continue. And that is certainly a challenge in this space.

Senator VAN HOLLEN. Well, I am listening to your answer, and I would just note that I do not think you mentioned the new research that justified the change to this rule to protect consumers, so I would welcome any information you can present to this Committee. I am glad you are still reviewing this. I really hope you will not take the steps that you seem to be headed to take, which, in my view, would significantly harm consumers to the tune of $7.7 billion, according to the estimate of the analysis by the Bureau.

So thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

All right. Then that concludes the questioning for today's hearing. Again, we want to thank you, Director Kraninger, for coming today. I know there were a couple of Senators who had hoped to get back, but their schedules just are not letting that happen, so I know you are likely to get some additional questions.

For Senators who wish to submit questions for the record, those questions are due to the Committee by Thursday, October 24th. We ask, Director, that you respond to those questions as promptly as you can. And, again, we thank you for being here and appreciate the good work that you are doing.

Ms. KRANINGER. Thank you, Senator.

Chairman CRAPO. This hearing is adjourned.

[Whereupon, at 11:17 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 receive testimony from CFPB Director Kathy Kraninger on the CFPB's semiannual report.

On October 07, the CFPB issued its Spring 2019 Semiannual Report, which outlines the Bureau's significant work between October 2018 and March 2019, including rulemakings and supervisory and regulatory activities.

The report also provides insight into what the CFPB plans to undertake in the coming work period.

Since stepping into her role last December, Director Kraninger has demonstrated a commitment to ensuring that consumers have access to a wide range of financial products and services that meet their individual needs, fostering innovation and vigorously protecting consumers.

Reflecting this commitment to the CFPB's mission, Director Kraninger conducted an extensive cross-country listening tour with the full spectrum of CFPB stakeholders during her first months on the job.

Director Kraninger's conversations with consumers, industry, and fellow Federal and State regulators have improved CFPB engagement, informed their supervision and regulatory processes, and improved agency transparency.

In the Semiannual Report, Director Kraninger also highlighted that the CFPB has taken steps to "[strengthen] the consumer marketplace by providing financial institutions clear 'rules of the road' that allow them to offer consumers a range of high-quality, innovative financial services and products."

On September 10, the CFPB issued three new policies to promote innovation and reduce regulatory uncertainty. Those policies include the Trial Disclosure Program Policy; the Compliance Assistance Sandbox Policy; and the No-Action Letter Policy.

Each of these policies are intended to contribute to an environment that allows innovation to flourish safely, and ensure that consumer needs are met in increasingly efficient and effective ways.

Earlier this year, the CFPB announced a proposal to update the mandatory underwriting provisions of its 2017 Small Dollar Lending rule.

Updating this rule is an important step toward ensuring the availability of credit that is essential to so many consumers who struggle to access or qualify for other options, and basing rules on solid evidence and legal support.

As the CFPB continues to move forward on this rulemaking process, I encourage the CFPB to coordinate with the other financial regulators on an approach to small dollar lending to create a consistent framework across all institutions in order to promote and expand small dollar lending and credit options.

In July, the CFPB released an advance notice of proposed rulemaking seeking stakeholder comment on potential amendments to its Ability to Repay/Qualified Mortgage (ATR/QM) Rule.

FHFA Director Calabria and CFPB Director Kraninger noted the QM patch "exacerbates an unlevel playing field" and that "Fannie and Freddie should play by the same rules as everyone else."

The CFPB's actions are a positive step and I continue to encourage the Bureau's efforts to find a permanent solution to the Qualified Mortgage standard that provides certainty to consumers, lenders, and investors alike.

Last week, the CFPB announced the formation of a task force that will be devoted to examining ways to modernize and harmonize Federal consumer financial laws, especially those pertaining to consumer credit.

The Banking Committee has spent significant time this Congress evaluating how the Fair Credit Reporting Act, or FCRA, should operate in an increasingly digital economy, and whether certain data brokers and other firms serve a function similar to the original consumer reporting agencies.

I look forward to reviewing the CFPB's Task force on Federal Consumer Financial Law's recommendations on how to update the FCRA so that it continues to function as originally intended in a digital world.

Though I am greatly encouraged by many of the changes and initiatives at the CFPB under Director Kraninger's leadership, it remains clear that the fundamental structure of the CFPB must be reconsidered to make it more transparent and accountable.

I continue to support transitioning the CFPB to a bipartisan commission from a single director; subjecting the CFPB to appropriations; and providing a safety and soundness check for the prudential regulators.

On September 17, 2019, the CFPB and the Department of Justice filed a brief in the U.S. Supreme Court, urging the Court in the case of Seila Law LLC v. CFPB to review the constitutionality of the Bureau's leadership structure.

I have long argued that the CFPB's current structure lacks sufficient accountability, and look forward to the Supreme Court taking up a review of this case.

During this hearing, I look forward to hearing more about key initiatives at the CFPB in the last year; Director Kraninger's priorities for the CFPB in the upcoming work period; and additional legislative or regulatory opportunities to provide widespread access to financial products and services.

Director Kraninger, thank you again for joining the Committee this morning to discuss the CFPB's activities and plans.

PREPARED STATEMENT OF SENATOR SHERROD BROWN

Thank you, Chairman Crapo.

We created the Consumer Financial Protection Bureau to stand up for students, servicemembers, and other hardworking Americans and protect them from big banks and crooked corporations that rob them of their homes and their jobs and their savings.

After 10 months on the job, it's clear why President Trump selected you to head the Consumer Financial Protection Bureau—because he can count on you to protect Wall Street banks, payday lenders, shady debt collectors, and other companies that prey on hardworking Americans.

Under your and President Trump's leadership, this agency has chosen corporations over workers over and over again.

Since you took over, you and your appointees have overruled the recommendations of consumer experts and allowed crooked companies to lie, cheat, and steal from hardworking Americans—and get away with it.

The Consumer Protection Bureau is supposed to protect consumers—that's your entire job. To protect consumers from predatory payday loans that lead to endless cycles of debt.

But you instead chose to protect the interests of President Trump and his payday lending patrons.

Consumers are paying the price. Since August, when the payday loan rule was scheduled to go into effect, Americans have paid more than one billion dollars in fees to payday loan sharks. That's a billion dollars out of the pockets of consumers because the agency that was supposed to look out for them decided to look out for payday lenders instead.

You also could have protected servicemembers and their families.

But instead the Trump administration betrayed them when you stopped making sure companies followed the protections for servicemembers and their families.

You also could've continued and even strengthened the Bureau's enforcement of fair lending laws that returned hundreds of millions of dollars to victims of discrimination in the agency's first 7 years.

Instead, you continued President Trump's attacks on fair lending laws. In fact, instead of protecting consumers:

- You dismantled the Bureau's Office of Fair Lending.
- You put a Trump political appointee with a history of racist and sexist writings in charge of fair lending.
- And you are now trying to repeal a 2015 rule that required lenders to report basic loan information to ensure they are not discriminating.

And what are the results?

Since you took over, the Bureau has not brought a single case against a company for discriminatory lending practices. Last I checked, discrimination hasn't ended in this country over the past 11 months.

Under the Trump administration, you've also turned your back on student loan borrowers.

The Bureau could have helped protect the 44 million Americans with student loans from the widespread mistakes, errors, and mismanagement by the companies that handle their loans, and that have cost them thousands of dollars.

But again, you betrayed the people the president promised to look out for. You sided with Education Secretary DeVos and refused to examine Federal student loan servicers to make sure they're not cheating people with student loans.

The GAO and the Department of Education's Inspector General reported that the company that manages Federal student loans wrongly denied tens of thousands of teachers, nurses, firefighters, servicemembers, and other dedicated public servants the loan forgiveness they earned.

You've protected the companies, while these hardworking American families paid the price.

But I suppose we should expect nothing less from an Administration that looks like a Wall Street executive retreat.

Under your leadership, crooked corporations have no real incentive to follow the law. Even if they get caught, they know that the Bureau will hit them with nothing more than a slap on the wrist for ripping off consumers.

Director Kraninger, how do you explain to these hardworking Americans why the Bureau isn't protecting them? You can't.

You've done the role asked of you by President Trump—you have protected corporations, not workers and consumers.

And it's indefensible. Thank you, Mr. Chairman.

PREPARED STATEMENT OF KATHY KRANINGER

DIRECTOR, CONSUMER FINANCIAL PROTECTION BUREAU

OCTOBER 17, 2019

Chairman Crapo, Ranking Member Brown, and distinguished Members of the Committee thank you for the opportunity to present the Consumer Financial Protection Bureau's most recent Semiannual Report to Congress.

The Bureau presents these Semiannual Reports to Congress and the American people in fulfillment of its statutory responsibility and commitment to accountability and transparency. The Bureau's Spring 2019 (October 1, 2018, to March 31, 2019) Semiannual Report meets this mandate. My testimony is intended to highlight the contents of this Semiannual Report (Report).

1. Significant problems faced by consumers in shopping for or obtaining consumer financial products or services

In each Report, the Bureau identifies relevant trends affecting consumers shopping for, or obtaining consumer financial products or services. In this Report, the Bureau highlights three trends detailed in two Quarterly Consumer Credit Trends (qCCT) reports and a Research Brief.

First—Natural disasters can result in substantial property destruction and personal injury, and tragically, loss of life. They can also result in negative shocks to household finances, including lost income and major unexpected expenses. [1] Many financial institutions offer financial relief or assistance that often includes payment relief for customers affected by natural disasters. The qCCT report about Natural Disasters and Credit Reporting documents current practices for natural disaster reporting as reflected by comment codes entered in credit records.

The Bureau recognizes the serious impact major disasters or emergencies have on consumers and the operations of many supervised entities. Existing laws and regulations provide supervised entities regulatory flexibility to take certain actions that can benefit consumers in communities under stress and hasten recovery. The Bureau will also consider the impact of major disasters or emergencies on supervised entities themselves when conducting supervisory activities. In September 2018, the Bureau issued its "Statement on Supervisory Practices Regarding Financial Institutions and Consumers Affected by a Major Disaster or Emergency". [2]

The Bureau currently also produces a significant range of educational material on the financial aspects of preparing for a disaster. For example, the Bureau recently worked with the Federal Emergency Management Agency (FEMA) to develop a disaster checklist to help consumers prepare for a natural disaster. This material is made available to the public both in print and online.

Second—Understanding Servicemembers options in obtaining a mortgage is important in determining how the Bureau can best support Servicemembers and veterans. Servicemembers have a range of options for obtaining a mortgage. The qCCT report about Mortgages to First-time Homebuying Servicemembers discusses how loan choices for first-time homebuyers have evolved from 2006 to 2016. This report

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[1] One recent study of the economic effects of natural disasters on consumers and households estimates that checking account inflows fall by 20 percent and outflows fall by more than 30 percent after a natural disaster. See JPMorgan Chase & Co. Institute (2018), "Weathering the Storm: The Financial Impacts of Hurricanes Harvey and Irma on One Million Households". Available at *https://institute.jpmorganchase.com/institute/research/cities-local-communities/report-weathering-the-storm*. Another study finds a general increase in consumers' credit utilization after an event and, for some groups, an increase in bankruptcies. See Tran, B., and T. Sheldon (2018), "Same Storm, Different Disasters: Consumer Credit Access, Income Inequality, and Natural Disaster Recovery". Available at *https://www.aeaweb.org/conference/2018/preliminary/paper/KaN3Ar6t.*

[2] *https://files.consumerfinance.gov/f/documents/bcfp__statement-on-supervisory-practices__disaster-emergency.pdf*

shows that Servicemembers' reliance on VA loans for first time homebuying increased from 2006 to 2016. The Bureau is also focused on supporting Servicemembers in the mortgage loan process.

The Bureau's Buying a House tool is a useful guide in helping Servicemembers and veterans become aware of how to navigate the path to achieving home ownership.

Third—Bureau research has consistently demonstrated that having control of personal finances is an important element in financial well-being. Our Research Brief Consumer Insights on Paying Bills looks at common challenges related to bill payment. The Brief outlines a range of steps that consumers can consider to enhance timely debt servicing and maximize their cash flow.

The Bureau's approach to consumer protection includes five principles[3] for effective financial education, and the steps discussed in this Research Brief flow from the principle of helping consumers make good decisions and to follow through. This review is illustrative of the proactive approach we intend to continue in order to foster the financial well-being of American consumers.

2. Justification of the budget request of the previous year

The Bureau is funded principally by transfers from the Federal Reserve System, up to the limits set forth in Section 1017 of the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd–Frank Act) (12 U.S.C. 5497). As of March 31, 2019, the Bureau had received two transfers for Fiscal Year (FY) 2019 in the amounts of $172.9 million (October 1, 2018) and $122.8 million (January 2, 2019) for a total of $295.7 million. Additional information about the Bureau's finances, including information about the Bureau's Civil Penalty Fund and the Bureau-Administered Redress programs is, available in the annual financial reports and the Chief Financial Officer (CFO) quarterly updates, published online at *www.consumerfinance.gov*. Copies of the Bureau's quarterly funds transfer requests are also available online.

As of March 31, 2019, the end of the second quarter of FY2019, the Bureau had spent approximately $281.9 million in 2019 funds to carry out the authorities of the Bureau under Federal financial consumer law. This includes commitments, obligations, and expenditures. A commitment is a reservation of funds in anticipation of a future obligation. The Bureau spent approximately $154.9 million on employee compensation for the 1,452 employees on board at the end of the second quarter.

3. 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]

3.1—Significant rules:[5]

The Bureau did not adopt significant final rules or orders during the preceding year. The Bureau issued two significant notices of proposed rulemaking:

- Payday, Vehicle Title, and Certain High-Cost Installment Loans[6]
- Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date[7]

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[3] *https://www.consumerfinance.gov/about-us/blog/effective-financial-education-five-principles-and-how-use-them/*

[4] 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(c)(3), the Bureau is required to "conduct an assessment of each significant rule or order adopted by the Bureau" under Federal consumer financial law and issue a report of such assessment "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, for each rule and order that qualify as significant for assessment purposes; these notices will seek information required by statute and other information to assist the Bureau in the assessment.

[5] The statutory requirement under 1016(c)(3) calls for the Bureau to report a list of the significant rules and orders adopted by the Bureau. This list includes significant notices of proposed rulemakings.

[6] *https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/payday-vehicle-title-and-certain-high-cost-installment-loans/*

[7] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/payday-vehicle-title-and-certain-high-cost-installment-loans-delay-compliance-date-correcting-amendments/*

3.2—Less significant rules:[8]

- Final Rule: Federal Mortgage Disclosure Requirements under the Truth in Lending Act (TILA) (Regulation Z)[9]
- Final Rule: Amendment to the Annual Privacy Notice Requirement Under the Gramm–Leach–Bliley Act (Regulation P)[10]
- Final Rule: Partial Exemptions from the Requirements of the Home Mortgage Disclosure Act under the Economic Growth, Regulatory Relief, and Consumer Protection Act (Regulation C)[11]
- Final Rule: Summaries of Rights under the Fair Credit Reporting Act (Regulation V)[12]
- Final Rule: Home Mortgage Disclosure (Regulation C) Adjustment to Asset-Size Exemption Threshold[13]
- Final Rule: Truth in Lending Act (Regulation Z) Adjustment to Asset-Size Exemption Threshold[14]
- Final Rule: Civil Penalty Inflation Adjustments[15]
- Final Rule: Technical Specifications for Submissions to the Prepaid Account Agreements Database[16]

3.3—Significant initiatives:

- Final Policy Guidance: Disclosure of Loan-Level Home Mortgage Disclosure Act (HMDA) Data[17] (December 2018)
- Advance Notice of Proposed Rulemaking: Residential Property Assessed Clean Energy[18] (March 2019)
- Assessments of Significant Rules pursuant to Section 1022(d) of the Dodd–Frank Act
  - Remittance Rule assessment report[19] (October 2018)
  - Ability to Repay and Qualified Mortgage Rule assessment report[20] (January 2019)
  - 2013 Real Estate Settlement Procedures Act (RESPA) Mortgage Servicing Rule assessment report[21] (January 2019)
- Trial Disclosure Proposed Policy[22] (September 2018)

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[8] This list includes less significant rules, and it is not comprehensive. This list may exclude nonmajor rules, proposed rules, procedural rules, and other miscellaneous routine rules such as annual threshold adjustments. More information about the Bureau's rulemaking activities is available in the Unified Agenda at *https://www.reginfo.gov/public/*, and on the Bureau's public website at *https://www.consumerfinance.gov/policy-compliance/rulemaking/*.

[9] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/federal-mortgage-disclosure-requirements-under-truth-lending-act-regulation-z/*

[10] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/amendment-annual-privacy-notice-requirement-under-gramm-leach-bliley-act/*

[11] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/partial-exemptions-from-requirements-of-home-mortgage-disclosure-act-under-regulation-c/*

[12] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/summaries-rights-under-fair-credit-reporting-act-regulation-v/*

[13] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/home-mortgage-disclosure-regulation-c-adjustment-asset-size-exemption-threshold/*

[14] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/truth-lending-act-regulation-z-adjustment-asset-size-exemption-threshold/*

[15] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/civil-penalty-inflation-annual-adjustments/*

[16] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/technical-specifications-submissions-prepaid-account-agreements-database/*

[17] *https://www.consumerfinance.gov/documents/7051/HMDA-Disclosure-FPG-Final-12.21.2018-for-website-with-date.pdf*

[18] *https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/advance-notice-proposed-rulemaking-residential-property-assessed-clean-energy-financing/*

[19] *https://www.consumerfinance.gov/documents/7561/bcfp-remittance-rule-assessment-report-corrected-2019-03.pdf*

[20] *https://files.consumerfinance.gov/f/documents/cfpb-ability-to-repay-qualified-mortgage-assessment-report.pdf*

[21] *https://files.consumerfinance.gov/f/documents/cfpb-mortgage-servicing-rule-assessment-report.pdf*

[22] *https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/policy-encourage-trial-disclosure-programs/*

- No-Action Letters and Product Sandbox Proposed Policies[23] (December 2018)
- Start Small, Save Up Initiative[24] (February 2019)
- Suspicious Activity Reports on Elder Financial Exploitation[25] (February 2019)
- Classroom Activities for Teaching the Building Blocks of Financial Capability[26]
- Consumer Education (Ask CFPB) Milestones
- Your Money, Your Goals (financial empowerment tools and resources)
- Memorandum of Understanding with the Federal Trade Commission[27]
- Director's Listening Tour (December 2018–March 2019)
- CFPB Advisory Committees Enhancements
- Guidance Documents[28] (bulletins and guidance documents in the last year)
  - Summer 2018 Supervisory Highlights[29]
  - Winter 2019 Supervisory Highlights[30]
  - Bulletin 2018-01: Changes to Types of Supervisory Communications[31]
  - Statement on Supervisory Practices regarding Financial Institutions and Consumers Affected by a Major Disaster or Emergency[32]
  - Interagency Statement Clarifying the Role of Supervisory Guidance[33]
  - Prepaid Account Examination Procedures[34]
  - Short-Term, Small-Dollar Lending Examination Procedures[35]
  - TILA Examination Procedures[36]
  - Electronic Fund Transfer Act (EFTA) Examination Procedures[37]
  - CFPB Supervision and Examination Process[38]
  - Examination Report Template[39]
  - Supervisory Letter Template[40]
  - Examination Scope Summary Template[41]

3.4—Plan for upcoming initiatives:

- Home Mortgage Disclosure Act Data Release[42] (August 2019)

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[23] *https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/policy-no-action-letters-and-bcfp-product-sandbox/*

[24] *https://www.consumerfinance.gov/start-small-save-up/*

[25] *https://www.consumerfinance.gov/data-research/research-reports/suspicious-activity-reports-elder-financial-exploitation-issues-and-trends/*

[26] *https://www.consumerfinance.gov/practitioner-resources/youth-financial-education/teach/activities/*

[27] *https://files.consumerfinance.gov/f/documents/cfpb-ftc-memo-of-understanding-2019-02.pdf*

[28] The Bureau posts many documents relating to compliance and guidance on its website at *https://www.consumerfinance.gov/policy-compliance/guidance/*.

[29] *https://consumerfinance.gov/f/documents/bcfp-supervisory-highlights-issue-17-2018-09.pdf*

[30] *https://files.consumerfinance.gov/f/documents/cfpb-supervisory-highlights-issue-18-032019.pdf*

[31] *https://files.consumerfinance.gov/f/documents/bcfp—bulletin-2018-01-changes-to-supervisory-communications.pdf*

[32] *https://files.consumerfinance.gov/f/documents/bcfp-statement-on-supervisory-practices-disaster-emergency.pdf*

[33] *https://files.consumerfinance.gov/f/documents/interagency-statement-role-of-supervisory-guidance.pdf*

[34] *https://files.consumerfinance.gov/f/documents/cfpb-supervision-and-examination-manual-prepaid-account-exam-procedures.pdf*

[35] *https://files.consumerfinance.gov/f/documents/cfpb-payday-manual-revisions.pdf*

[36] *https://files.consumerfinance.gov/f/documents/cfpb-supervision-and-examination-manual-tila-exam-procedures-2019-03.pdf*

[37] *https://files.consumerfinance.gov/f/documents/cfpb-supervision-and-examination-manual-efta-exam-procedures-incl-remittances-2019-03.pdf*

[38] *https://files.consumerfinance.gov/f/documents/cfpb-examination-process-section.pdf*

[39] *https://files.consumerfinance.gov/f/documents/cfpb-examination-report-template.pdf*

[40] *https://files.consumerfinance.gov/f/documents/cfpb-supervision-and-examination-manual-supervisory-letter-template.pdf*

[41] *https://files.consumerfinance.gov/f/documents/201703-cfpb-Scope-Summary-Template.pdf*

[42] Additional activity has occurred with this matter since the end of this reporting period. On August 30, 2019, the Bureau released the Home Mortgage Disclosure Act (HMDA) data along with two Data Point articles. One Data Point article is the second in an annual series of Bureau articles describing mortgage market activity over time. It summarizes the historical data points in the 2018 HMDA data, as well as recent trends in mortgage and housing markets. The other Data Point article introduces the new and revised data points in the 2018 HMDA data and provides some initial observations about the Nation's mortgage market in 2018 based on those new

- Credit Card Market Report [43] (August 2019)
- Start Small, Save Up Initiative (ongoing)
- Consumer Complaint Database [44] (ongoing)
- Misadventures in Money Management (MiMM) for Active Duty Servicemembers [45] (ongoing)
- Savings Booklet [46]
- Director Stakeholder Engagement [47] (ongoing)
- Bureau Symposia Series [48] (ongoing)
- Guidance Documents (ongoing)
  - Equal Credit Opportunity Act (ECOA) Baseline Review Examination Procedures [49]
  - HMDA Examination Procedures [50]
  - Statement on Collection of Demographic Information by Community Development Financial Institutions [51]
  - Automobile Finance Examination Procedures [52]
  - Summer 2019 Supervisory Highlights [53]
  - Annual Report to Congress on TILA, the Electronic Fund Transfer Act (EFTA), and the Credit Card Accountability Responsibility and Disclosure (CARD Act) [54]

3.5—Plan for upcoming rules:

The Bureau published its Spring 2019 Rulemaking Agenda as part of the Spring 2019 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget. [55] As an independent regulatory agency, the Bureau voluntarily participates in the Unified Agenda. The Unified

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or revised data points. More information can be found here: *https://www.consumerfinance.gov/data-research/research-reports/data-point-2018-mortgage-market-activity-and-trends/* and *https://www.consumerfinance.gov/data-research/research-reports/introducing-new-revised-data-points-hmda/*.

[43] Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: *https://files.consumerfinance.gov/f/documents/cfpb-consumer-credit-card-market-report-2019.pdf.*

[44] Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: *https://www.consumerfinance.gov/about-us/newsroom/director-kraningers-speech-national-consumer-empowerment-conference/*.

[45] Additional activity has occurred with this matter since the end of this reporting period. Misadventures in Money Management (MiMM) became available for all active duty Servicemembers on May 23, 2019.

[46] Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: *https://www.consumerfinance.gov/about-us/blog/start-saving-today-our-new-savings-booklet-and-email-boot-camp/*.

[47] More than 700 meetings with consumers, staff, and stakeholders have occurred. Remarks provided to the Bipartisan Policy Center, Washington, DC, on April 17, 2019, are provided through this link: *https://www.consumerfinance.gov/about-us/newsroom/kathleen-kraninger-director-consumer-financial-protection-bureau-bipartisan-policy-center-speech/* and *https://www.consumerfinance.gov/about-us/newsroom/kathleen-kraninger-director-consumer-financial-protection-bureau-bipartisan-policy-center-speech/*.

[48] Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: *https://www.consumerfinance.gov/about-us/newsroom/bureau-announces-symposia-series/*.

[49] Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: *https://files.consumerfinance.gov/f/documents/cfpb-supervision-and-examination-manual-ecoa-baseline-exam-procedures-2019-04.pdf.*

[50] Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: *https://files.consumerfinance.gov/f/documents/cfpb-supervision-and-examination-manual-hmda-exam-procedures-2019-04.pdf.*

[51] Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: *https://files.consumerfinance.gov/f/documents/20190627-cfpb-statement-on-collection-demographic-information.pdf.*

[52] Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: *https://files.consumerfinance.gov/f/documents/201908-cfpb-automobile-finance-examination-procedures.pdf.*

[53] Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: *https://files.consumerfinance.gov/f/documents/cfpb-supervisory-highlights-issue-19-092019.pdf.*

[54] In production at the time of publishing.

[55] *https://www.consumerfinance.gov/about-us/blog/spring-2019-rulemaking-agenda/*

Agenda lists the regulatory matters that the Bureau reasonably anticipates having under consideration during the period from May 1, 2019, to April 30, 2020.[56]

The Bureau is considering further prioritization and planning of the Bureau's rulemaking activities, both with regard to substantive projects and modifications to the processes that the Bureau uses to develop and review regulations. The Bureau expects the Fall 2019 Agenda to issue a more comprehensive statement of priorities to reflect ongoing statutorily mandated market monitoring and the Bureau's other activities discussed in the Report.

During the reporting period, the Bureau was engaged in a number of rulemakings to implement directives mandated in the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (EGRRCPA), the Dodd–Frank Act, and other statutes. As part of these rulemakings, the Bureau is working to achieve the consumer protection objectives of the statutes while minimizing regulatory burden on financial services providers, including through facilitating industry compliance with rules.

Prerulemaking initiatives, as reflected in the Bureau's Spring 2019 Unified Agenda:

- Equal Credit Opportunity Act (Regulation B) Business Lending Data Collection and Reporting Requirements
- Remittance Transfers[57]
- Home Mortgage Disclosure Act (Regulation C) Data Collection and Reporting Requirements[58]

Proposed rules for the upcoming period, as reflected in the Bureau's Spring 2019 Unified Agenda:

- Debt Collection Rule[59]
- Home Mortgage Disclosure Rule (Regulation C)[60]
- Public Release of Home Mortgage Disclosure Act Data[61]

Final rules for the upcoming period as reflected in the Bureau's Spring 2019 Unified Agenda:

- Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date[62]

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[56] *https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION-GET-AGENCY-RULE-LIST&currentPub=true&showStage=active&agencyCd=3170*

[57] Additional activity has occurred with this matter since the end of this reporting period. In April, the Bureau issued a Request for Information (RFI) on the Remittance Rule seeking comments on measures to consider adopting to address the expiration in July 2020 of the Rule's temporary exception. More information can be found here: *https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-request-information-remittance-rule/*.

[58] Additional activity has occurred with this matter since the end of this reporting period. In May 2019, the Bureau issued an Advance Notice of Proposed Rulemaking (ANPR) that solicits comments about the costs and benefits of collecting and reporting the data points the 2015 HMDA Rule added to Regulation C and certain preexisting data points that the 2015 HMDA Rule revised. In June, the Bureau extended the comment period. More information can be found here: *https://www.consumerfinance.gov/about-us/newsroom/bureau-proposes-changes-hmda-rules/* and *https://www.consumerfinance.gov/about-us/newsroom/bureau-extends-comment-period-anpr-hmda-data-points/*.

[59] Additional activity has occurred with this matter since the end of this reporting period. In May 2019, the Bureau issued a Notice of Proposed Rulemaking (NPRM) to address such issues as communication practices and consumer disclosures. More information can be found here: *https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/debt-collection-practices-regulation-f/*. Additional Note: The NPRM provided a 90-day comment period that was set to close on August 19, 2019. To allow interested persons more time to consider and submit their comments, the Bureau determined that an extension of the comment period until September 18, 2019, was appropriate.

[60] Additional activity has occurred with this matter since the end of this reporting period. In May 2019, the Bureau issued a Notice of Proposed Rulemaking to increase the thresholds for reporting data about closed-end mortgage loans and open-end lines of credit. More information can be found here: *https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/home-mortgage-disclosure-regulation-c/*.

[61] Policy guidance was issued in December 2018. The Bureau announced in that guidance its intention to conduct a notice-and-comment rulemaking to seek input on the public release of data going forward; that proposal has not yet been issued.

[62] Additional activity has occurred with this matter since the end of this reporting period. *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/payday-vehicle-title-and-certain-high-cost-installment-loans-delay-compliance-date-correcting-amendments/*.

- The Expedited Funds Availability Act (Regulation CC) (EFA Act)[63]

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

The Bureau's Office of Consumer Response analyzes consumer complaints, company responses, and consumer feedback to assess the accuracy, completeness, and timeliness of company responses. The Bureau uses insights gathered from complaint data to scope and prioritize examinations and ask targeted questions when examining companies' records and practices to help understand problems consumers are experiencing in the marketplace, to provide access to information about financial topics and opportunities to build skills in money management that can help consumers avoid future problems, and to inform enforcement investigations to help stop unfair, deceptive, or abusive practices.

During the period April 1, 2018, through March 31, 2019, the Bureau received approximately 321,200 consumer complaints.[64] This was an approximate 2 percent decrease from the prior reporting period.[65] Consumers submitted approximately 82 percent of these complaints through the Bureau's website and 5 percent via telephone calls. Referrals from other State and Federal agencies accounted for 8 percent of complaints. Consumers submitted the remainder of complaints by mail, email, and fax. The Bureau does not verify all of the facts alleged in complaints but takes steps to confirm a commercial relationship between the consumer and the company. During this time period the Bureau sent approximately 257,300 (or 80 percent) of complaints received to companies for review and response.[66] Companies responded to approximately 95 percent of complaints that the Bureau sent to them for response during the period. The remaining complaints were either pending response from the company at the end of the period or did not receive a response.

The Bureau also publishes the Consumer Response Annual Report,[67] which provides a more detailed analysis of complaints. A detailed chart breaking down the complaints received by type is included in that Report, along with a discussion about how we use and apply the data.

5. 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 as described in the Report.

The Report also outlines a range of public enforcement actions from April 1, 2018, through March 31, 2019, detailed in descending chronological order by filing or issue date. This section also identifies those actions involving Office of Administrative Adjudication Orders with respect to covered persons that are not credit unions or depository institutions.

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. Between April 1, 2018, and March 31, 2019, the Bureau published two issues of Supervisory Highlights. All public enforcement actions are listed in Section 5.2 of the Report, and actions taken with respect to covered persons

[63] *https://www.consumerfinance.gov/about-us/newsroom/agencies-issue-final-amendments-regulation-cc-regarding-funds-availability/*. This Rule was finalized after the reporting period (June 2019).

[64] All data are current through March 31, 2019. 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, please refer to the Bureau's website, *https://www.consumerfinance.gov/complaint/process*.

[65] The prior reporting period—which spanned October 1, 2017, to September 30, 2018—reported 329,000 consumer complaints. See Consumer Fin. Prot. Bureau, "Semiannual Report Fall 2018" (Feb. 2019), available at *https://www.consumerfinance.gov/documents/7266/cfpb-semi-annual-report-to-congress-fall-2018.pdf*.

[66] The Bureau referred 14 percent of the complaints it received to other regulatory agencies and found 4 percent to be incomplete. At the end of this period, 0.5 percent of complaints were pending with the consumer and 0.6 percent were pending with the Bureau. Note: Percentages in this section of the report may not sum to 100 percent due to rounding.

[67] These reports can be viewed at: *https://www.consumerfinance.gov/data-research/research-reports/*.

which are not credit unions or depository institutions are noted with the summary of the action.

7. Assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law

For purposes of Dodd–Frank Section 1016(c)(7) reporting requirement, the Bureau has determined that any actions asserting claims pursuant to Section 1042 of the Dodd–Frank Act are "significant." The Bureau is unaware of any State actions asserting Dodd–Frank Act claims that were initiated during the April 1, 2018, through March 31, 2019, reporting period.

8. Analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau

The Report provides an update on the Bureau's work to fulfill requirements mandated by the Dodd–Frank Act related to fair lending, noting highlights from the Bureau's fair lending enforcement[68] and rulemaking[69] activities from April 1, 2018, through March 31, 2019. We continued our efforts to fulfill the fair lending mission of the Bureau through supervision, interagency coordination, and outreach in the period October 1, 2018, through March 31, 2019.

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 10 supervisory events at financial 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 ECOA and HMDA. For exam reports issued by Supervision during the reporting period, the most frequently cited violations were:

- Section 1003.4(a): Failure by a financial institution to collect and accurately report data regarding applications for covered loans that it receives, originates, or purchases in a calendar year, or, failure to collect and accurately report data regarding certain requests under a preapproval program in a calendar year; and
- Section 1002.12(b)(1)(i): Failure to create and preserve records and other documents required by the regulation.

In the current reporting period, the Bureau initiated 10 supervisory events, which is fewer than the 13 fair lending supervisory events reported as initiated during the reporting period reflected in the "Fall 2018 Semiannual Report".[70] In the current reporting period, the Bureau issued fewer matters requiring attention (MRAs) or memoranda of understanding (MOUs) than in the prior period. MRAs and MOUs direct entities to take corrective actions and are monitored by the Bureau through follow-up supervisory events. Consistent with BCFP Bulletin 2018-01,[71] the Bureau issues Supervisory Recommendations (SRs) to address supervisory concerns related to financial institutions' compliance management systems. SRs do not include provisions for periodic reporting nor expected timelines for implementation. During the current reporting period, the Bureau provided SRs relating to supervisory concerns related to weak or nonexistent fair lending risk assessments and/or fair lending training.

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[68] Dodd–Frank Act §1016(c)(5).

[69] Dodd–Frank §1016(c)(3). The Bureau's fair lending rulemaking activity pertaining to HMDA and Regulation C is discussed in Section 3 of the Report.

[70] The Bureau is using a new measure to identify the number of on-site supervision exams or reviews. See Fiscal Year (FY) 2019 Annual Performance Plan (February 2019). The "Spring 2019 Semiannual Report" update complies with this new measure. Therefore, the number of initiated examination events reported here is not comparable to the number of events reported in the Fall 2018 Semiannual Report. For comparison purposes, had the Bureau employed this new measure for initiated supervisory exams for the reporting period reflected in the Fall 2018 Semiannual Report, which indicated that the Bureau initiated 13 fair lending supervisory events, would instead have indicated that the Bureau had initiated 12 fair lending supervisory events.

[71] *https://files.consumerfinance.gov/f/documents/bcfp-bulletin-2018-01-changes-to-supervisory-communications.pdf*

8.2—Fair lending enforcement: [72]

The Bureau has the statutory authority to bring actions to enforce the requirements of 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 the U.S. Department of Justice (DOJ) when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination. [73]

During the reporting period, the Bureau did not initiate or complete any fair lending public enforcement actions. In addition, during this reporting period, [74] the Bureau did not refer any matters to the DOJ with regard to discrimination pursuant to Section 706(g) of ECOA. During the reporting period, the Bureau continued to implement and oversee compliance with the pending public enforcement orders that were entered by Federal courts or issued by the Bureau's Director in prior years.

8.3—Fair lending outreach:

The Bureau is committed to hearing from and communicating directly with stakeholders. The Bureau regularly engages in outreach with Bureau stakeholders, including consumer advocates, civil rights organizations, industry, academia, and other Government agencies, to: (1) educate them about fair lending compliance and access to credit issues, and (2) hear their views on the Bureau's work to inform the Bureau's policy decisions. Outreach is accomplished through meetings and the delivery of speeches and presentations addressing fair lending and access to credit issues as well as issuance of Reports to Congress, Interagency Statements, Supervisory Highlights, Compliance Bulletins, letters and blog posts, as well as through meetings and the delivery of speeches and presentations addressing fair lending and access to credit issues. During the reporting period, Bureau staff participated in twenty-one (21) outreach events involving fair lending and access to credit issues.

8.4—Fair lending coordination:

The Bureau's fair lending activity involves regular coordination with other Federal and State regulatory and enforcement partners. During the reporting period, Office of Fair Lending and Equal Opportunity (OFLEO) staff continued to lead the Bureau's fair lending interagency coordination and collaboration efforts by working with partners on the Interagency Working Group on Fair Lending Enforcement, and chairing the Interagency Task Force on Fair Lending and the Federal Financial Institutions Examination Council (FFIEC) HMDA Data Collection Subcommittee.

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 (OMWI)

The Bureau issued the Annual Report of OMWI activities on April 3, 2019. [75] Throughout the reporting period the Bureau continued executing on objectives and strategies outlined in the Bureau of Consumer Financial Protection Strategic Plan FY2018–2022, [76] which complements and reinforces the Diversity and Inclusion Strategic Plan 2016–2020. The Bureau began developing a Diversity and Inclusion Strategic Plan Update in March, which was published in July. [77]

As of March 2019, an analysis of the Bureau's current workforce reveals the following key points:

- Women represent 49 percent of the Bureau's 2019 workforce with no change from 2018;
- Minorities (Hispanic, Black, Asian, Native Hawaiian/Other Pacific Islander (NH/OPI), American Indian/Alaska Native (AI/AN) and employees of two or

[72] Section 1016(c)(5) of the Dodd–Frank Act requires the Bureau to include in the semiannual report public enforcement actions the Bureau was a party to during the preceding year, which is April 1, 2018, through March 31, 2019, for this report.

[73] See 15 U.S.C. §1691e(h) and 15 U.S.C §1691e(g) and (h).

[74] April 1, 2018, through March 31, 2019.

[75] *https://www.consumerfinance.gov/data-research/research-reports/fy-2018-office-minority-and-women-inclusion-annual-report-congress/*

[76] *www.consumerfinance.gov/about-us/budget-strategy/strategic-plan*

[77] Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: *https://www.consumerfinance.gov/data-research/research-reports/cfpb-diversity-and-inclusion-strategic-plan-update-2019-2022/*.

more races) represent 40 percent of the Bureau workforce in 2019 with no change from 2018; and

- As of March 31, 2019, 12.7 percent of Bureau employees on permanent appointments identified as an individual with a disability. Out of the permanent workforce, 3.4 percent of employees identified as an individual with a targeted disability. As a result, the Bureau continues to exceed the 12 percent workforce goals for employees with disabilities and 2.0 percent for employees with targeted disabilities—in both salary categories, as required in the EEOC's Section 501 regulations.

The Bureau seeks to increase diversity through efforts in recruiting and workforce engagement. During the reporting period, the Bureau was under a hiring freeze.[78] However, the Bureau onboarded nine (9) hiring exceptions, including six (6) women and four (4) minorities. The Bureau also utilized the student volunteer internship program, other professional development programs, and recruitment efforts directed to reach veterans and applicants with disabilities. 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 from nondiscrimination concepts are part of the learning curriculum and work environment. Employee resource groups, cultural education programs, and diversity and inclusion training are key components of this effort.

The Bureau's Diversity and Inclusion Strategic Plan describes our efforts to increase contracting opportunities for diverse businesses including Minority-owned and Women-Owned Businesses (MWOBs). The Bureau's OMWI and Procurement offices collectively work to increase opportunities for participation by MWOBs. These efforts include actively engaging Bureau business units with MWOB contractors throughout the acquisition cycle, developing a "How To Do Business with the CFPB" series and a supplier diversity guide. These resources are available on the Bureau's website.

Additionally, in the reporting period, the Bureau participated in four (4) national supplier diversity conferences that help to foster business partnerships between the Federal Government, its U.S. prime contractors, minority-owned businesses, and advocacy for women business owners and entrepreneurs. As a result of these efforts, 36.7 percent of the $49 million in contracts that the Bureau awarded or obligated during the reporting period went to MWOBs. In accordance with the mandates in Section 342(c)(2) OMWI has developed Good Faith Effort (GFE) standards for the collection and assessment of documentation of contractor's workforce and subcontractor diversity practices. These standards were updated in FY2019 to better align with Federal Acquisition Regulations. The GFE clause has been included in all CFPB contracts since FY2018.

Legislative Reform

In the invitation letter to testify before the House Financial Services Committee, the Committee requested that I identify any legislative reforms needed to better protect consumers. I know that Servicemembers and military families matter greatly to all of you just as they do to me. Earlier this year, the Bureau requested that Congress provide us with clear legal authority to supervise financial institutions for MLA compliance, and we transmitted proposed legislative language that would achieve this goal. I stand ready to work with Members of this Committee to provide us with this authority to assist the Bureau's ongoing efforts to prevent harm to our servicemembers and their families.

Task Force on Federal Consumer Financial Law

Last week the Bureau announced the will establish a task force to examine ways to harmonize and modernize Federal consumer financial laws. The Task Force on Federal Consumer Financial Law will produce new research and legal analysis of consumer financial laws in the United States, focusing specifically on harmonizing, modernizing, and updating the enumerated consumer credit laws—and their implementing regulations—and identifying gaps in knowledge that should be addressed through research, ways to improve consumer understanding of markets and products, and potential conflicts or inconsistencies in existing regulations and guidance. I believe that a logical and important part of the Bureau's maturation is to evaluate how best to harmonize these laws to ensure their efficient operation for the benefit of consumers. The Bureau is currently accepting applications from individuals who

[78] Additional activity has occurred with this matter since the end of this reporting period. The hiring freeze was lifted in August 2019.

are interested in serving on the task force. The members will have a broad range of expertise in the areas of consumer protection and consumer financial products or services; significant expertise in analyzing consumer financial markets, laws, and regulations; and a demonstrated record of senior public or academic service.

Conclusion

Since my confirmation, I have met with more than 800 stakeholders in the realm of consumer protection. This outreach is exceptionally valuable in building productive relationships and to hear the fullest possible range of insight and perspective. Building on my March testimony, I remain committed to strengthening the Bureau's ability to use all of the tools provided by Congress to protect consumers. Factoring in all of the input and counsel that I have received, I remain resolved that the most productive use of Bureau resources is to be focused on preventing harm to consumers. Empowering consumers to protect and further their own interests must be at the core of our mission. I have established and communicated clear priorities to Bureau staff for our work using the authorities provided by Congress. The Bureau's mission is to ensure access to fair, transparent, and competitive markets for consumers. We will work to execute this mandate through: (1) providing "clear rules of the road" to make clear what is lawful and unlawful behavior; and, (2) using supervision to foster a "culture of compliance" and as an opportunity to prevent violations: (3) vigorous enforcement; and (4) robust education efforts that empower consumers to make the best possible financial decisions.

Thank you again for the opportunity to present this Semiannual Report of the Bureau's work in support of American consumers.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN FROM KATHY KRANINGER

Q.1. During the October 17, 2019, hearing, Director Kraninger testified that the Bureau is in the process of attempting to reestablish the Memorandum of Understanding with the Department of Education. Please provide the following information:

When did the Bureau send the Department a draft MOU?

A.1. On October 15, 2019, the Bureau sent the Department of Education a copy of a Memorandum of Understanding (MOU) intended to ensure coordination in providing assistance to borrowers seeking to resolve student loan complaints. The Department of Education responded and discussions are ongoing.

Q.2. Has the Department responded to the Bureau's draft MOU, and if so, on what date?

A.2. On October 15, 2019, the Bureau sent to the Department of Education a copy of a MOU intended to ensure coordination in providing assistance to borrowers seeking to resolve student loan complaints. The Department of Education responded and discussions are ongoing.

Q.3. What is the expected timeline to finalize the MOU?

A.3. On October 15, 2019, the Bureau sent to the Department of Education a copy of a MOU intended to ensure coordination in providing assistance to borrowers seeking to resolve student loan complaints. The Department of Education responded and discussions are ongoing. The Bureau hopes to reach an agreement as soon as possible.

Q.4. In December 2017, the Department issued guidance prohibiting Federal student loan servicers from providing access to student borrower loan information, including to the Bureau and State regulators. In your April 2019 letter, you stated that, because the Department had cut off access to this information, the Bureau had not conducted full, complete examinations of Federal student loan servicers, including of the Public Service Loan Forgiveness (PSLF) program. Please provide the following information:

What is the most recent date that the Bureau conducted a full, complete examination of a Federal student loan servicer?

A.4. Since December 2017, student loan servicers have declined to produce information requested by the Bureau for supervisory examinations related to Direct Loans and Federal Family Education Loan Program (FFELP) loans held by the Department of Education based on the Department of Education's guidance. Additional information responsive to this request is Confidential Supervisory Information.

Q.5. What is the most recent date of the Bureau's full, complete examination of a Federal student loan servicer's management of the PSLF program?

A.5. See response above. To be clear, the Bureau examines Federal student loan servicers for compliance with Federal consumer financial laws pursuant to its regulation on larger participants in the student loan servicer market.

Q.6. What steps has the Bureau has taken to regain access from the Department to student borrower information necessary for the Bureau to conduct examinations of Federal student loan servicers? Please include in your response a description of any letters you have sent, the dates of those letters, and your expectation if, or when, the Bureau expects to regain access to this information. Please also provide any responses from the Department to letters sent by the Bureau.

A.6. The Bureau is engaged in discussions with the Department of Education to reestablish a MOU regarding supervision of student loan servicing, and those discussions are ongoing.

Q.7. Explain the legal reason why the Bureau has not requested to lift the stay and implement the payment provisions of the 2017 Payday, Vehicle Title, and Certain High-Cost Installment Loans (Payday Rule) in Consumer Financial Services Association of America v. CFPB, Case No. 1: 18-cv-295 (W.D. TX). In your August 19, 2019, letter, you explained that the Bureau has not lifted the stay because of a separate challenge to the CFPB's constitutionality in CFPB v. All American Check Cashing, Inc., which was pending a decision before the Fifth Circuit. That is a separate case, however, and does not require the Bureau to stay the payment provisions of the Payday Rule. Please provide answers to the following requests:

Is the Bureau legally required to stay the CFSA action in the Western District of Texas, or could the Bureau seek to lift the stay but is choosing not to? Please provide legal authority to support your response.

A.7. The Bureau is considering its options and has stated its position in public filings to the Court. The Bureau generally does not comment on ongoing litigation beyond what the Bureau states in its court filings.

Q.8. Identify each Bureau case that is currently in litigation, including the court in which the case is pending, and whether the case is stayed because of a constitutional challenge to the Bureau.

A.8. Community Financial Services Association of America v. CFPB, No. 1:18-cv-295 (W.D. Tex.), is the only case against the Bureau currently in litigation in which the plaintiff has raised a constitutional challenge to the Bureau. That case is currently stayed. In other cases against the Bureau, the plaintiffs have not raised a constitutional challenge. There are also cases currently in litigation in which the Bureau is the plaintiff. These include enforcement actions and petitions to enforce civil investigative demands. In some cases where the defendants have raised the constitutional argument, the court has stayed the litigation. In other cases, litigation has not been stayed. The Bureau's position on a stay in any given case depends on the circumstances of that case.

The following list includes civil actions in which the Bureau is a party (and, if it is party defendant, in which it has been served) pending as of December 2, 2019. Cases which have been stayed or otherwise delayed for reasons the Bureau understands to be related to the Supreme Court's grant of certiorari in Seila Law v. CFPB are noted with an asterisk.

CFPB v. Access Funding, LLC, No. 1-16-03759 (D. Md.)

*CFPB v. All American Check Cashing, Inc., No. 3:16-cv-356 (S.D. Miss.), stayed pending appeal[1] on constitutional issue, No. 18-60302 (5th Cir.), pet'n for cert. filed, No. 19-431 (S. Ct.)

Allied Progress v. CFPB, No. 19-cv-582 (D.D.C.)

American Oversight v. CFPB et al., No. 1:19-cv-3435 (D.D.C.)

Baker v. CFPB, No. 18-cv-2403 (D.D.C.)

Burke et al. v. Ocwen Financial et al., No. 19-13015 (11th Cir.)

California Reinvestment Coalition v. Kraninger, No. 4:19-cv-02572 (N.D. Cal.)

*CFPB v. CashCall, Inc., Nos. 18-55407, 18-55479 (9th Cir.)

BCFP v. Center for Higher Excellence in Higher Education, No. 2:19-cv-877 (D. Utah)

BCFP v. Certified Forensic Loan Auditors, LLC, et al., No. 2:19-cv-07722 (C.D. Cal.)

CFPB v. Global Financial Support, Inc., No. 3:15-cv-2440 (S.D. Cal.)

*Community Financial Services Association v. CFPB, No. 1:18-cv-00295 (W.D. Tex.), stayed.

BCFP v. Consumer Advocacy Center, Inc., et al., No. 8:19-cv-1998 (C.D. Cal.)

Democracy Forward Found. v. CFPB, No. 19-cv-1515 (D.D.C.)

Democracy Forward Found. v. CFPB, No. 19-cv-270 (D.D.C.)

Democracy Forward Found. v. CFPB, No. 19-cv-3370 (D.D.C.)

BCFP v. Fair Collections & Outsourcing, Inc., et al., No. 8:19-cv-2817 (D. Md.)

*BCPF v. Forster & Garbus, LLP, No. 2:19-cv-2928 (E.D.N.Y.)

Frank, LLP v. CFPB, No. 19-cv-1197 (D.D.C.)

BCFP v. Future Income Payments, LLC, No. 6:19-cv-2950 (D.S.C.)

Jones v. Kraninger, 18-cv-2132 (D.D.C.)

CFPB v. Klopp, No. 18-1694 (4th Cir.)

Lawyers' Committee for Civil Rights Under Law v. CFPB, No. 1:19-cv-1981 (D.D.C.)

BCFP v. Progrexion Marketing, No. 2:19-cv-00298 (D. Utah)

CFPB v. National Collegiate Student Loan Trust, et al., No. 1:17-cv-1323 (D. Del.)

CFPB v. Nationwide Biweekly Admin., Inc., Nos. 18-15431, 18-15887 (9th Cir.)

CFPB v. Navient Corp., et al. No. 3:17-101 (M.D. Penn.)

CFPB v. Nexus Services, Inc., No. 17-2238 (D.D.C.)

CFPB v. Ocwen Financial Corp., No. 9:17-cv-80495 (S.D. Fla.)

BCFP v. Premier Student Loan Center, et al., No. 8:19-cv-01998 (C.D. Cal.)

*CFPB v. RD Legal Funding, No. 18-2743 (2d Cir.)

Seila Law LLC v. CFPB, No. 19-7 (S. Ct.)

Shepherd v. CFPB, No. 18-cv-2004 (D.D.C.)

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[1] While this litigation is stayed in district court pending appeal, appellate proceedings have not been stayed

BCFP v. Snyder, No. 6:19-cv-2794 (D.S.C.)

Student Debt Crisis v. CFPB, No. 2:19-cv-10048 (C.D. Cal.)

CFPB v. The Mortgage Law Group, LLP, et al., No. 14-cv-513 (W.D. Wis.)

CFPB v. Think Finance, No. 4:17-cv-127 (D. Mont.), stayed pending related bankruptcy proceedings.

CFPB v. Universal Debt & Payment Solutions, LLC, et al., No. 1:15-cv-859 (N.D. Ga.)

Q.9. On October 11, 2019, the CFPB announced the formation of the Task Force on Federal Consumer Financial Law.

How many members does the CFPB expect to include in the task force?

A.9. The Taskforce will have approximately five members. The Bureau is currently finalizing membership selection and the number of members.

Q.10. What are the criteria for selection to the task force?

A.10. The Bureau plans to select members with demonstrated records of both senior public service and expertise in consumer finance, including: expertise in consumer protection and consumer financial products or services, significant experience researching and analyzing consumer financial markets, laws, and regulations, record of senior public or academic service, and recognition for professional achievements in economics, econometrics, or law.

Q.11. What is the expected allocation of representatives from consumer advocacy organizations, civil rights organizations, academia, and industry?

A.11. The Bureau will be seeking to fill the Taskforce with members possessing a broad range of expertise in the areas of consumer protection and consumer financial products or services, significant expertise in analyzing consumer financial markets, laws, and regulations, and a demonstrated record of senior public or academic service.

Q.12. The Bureau's investigation of Enova, an online payday lender, found that the company had illegally withdrawn millions of dollars from consumers' bank accounts. According to documents that were recently made public:

Career staff in the Bureau's Office of Enforcement recommended that the Bureau require Enova to refund to consumers approximately $2.16 million that Enova had illegally withdrawn from consumers' accounts. [2]

During settlement negotiations, Enova offered to provide $1,367,567 in refunds to impacted consumers. [3] Eric Blankenstein, one of your political appointees, raised questions about the legal basis for the Bureau to order Enova to refund amounts it illegally withdrew back to consumers. [4]

[2] See "Settling for Nothing: How Kraninger's CFPB Leaves Consumers High and Dry", Report Prepared by Majority Staff of the Committee on Financial Services, Oct. 2019, at 10–11, available at *https://financialservices.house.gov/uploadedfiles/cfpb-report-settling-for-nothing.pdf.*

[3] Id. at 11.

[4] Id. at 11–12.

In response, the Bureau's Legal Division researched the matter and concluded in a 39-page memorandum that it would be "legally appropriate" to require Enova to refund consumers the amounts debited from their accounts with their authorization. [5]

Mr. Blankenstein directed Enforcement to not seek refunds of the amounts illegally debited despite: (i) the Bureau's Legal Divisions opinion that it would be "legally appropriate" to seek this restitution; and (ii) Enova's offer to pay $1,367,567 in restitution. [6]

You ratified Mr. Blankenstein's decision and on January 22, 2019, signed a consent order with Enova that lacked any redress for consumers. [7]

In light of these facts, please respond to the following:

Enforcement and the Legal Division provided a legal basis to support requiring Enova to refund amounts it had illegally withdrawn from consumers' bank accounts. Please provide the legal support, including case law or other legal precedent, to support your decision to forego requiring Enova to provide restitution (refund amounts it had illegally withdrawn from consumers' bank accounts.).

A.12. The Bureau is committed to seeking all appropriate relief for consumers and considers whether redress or restitution may be appropriate in each case on the facts presented and in light of applicable law. The Consumer Financial Protection Act authorizes the Bureau to seek redress for consumers in appropriate cases as a matter of discretion. Particularly in the context of a negotiated settlement, the Bureau may choose to pursue the relief it determines best serves the public interest. In the Enova matter, the Bureau determined that the appropriate resolution in light of the company's conduct included imposition of a $3.2 million civil money penalty and injunctive relief to benefit consumers.

Q.13. The Bureau's summary of the Enova case stated that the Bureau decided not to pursue restitution for harmed consumers because "the amount of fees and penalties for each consumer could not be calculated with certainty." Identify all case law and other legal precedent, including all consent orders entered into by the Bureau or FTC, that support this legal standard for restitution.

A.13. See the response above.

Q.14. To the extent your decision was based on concerns that consumers may have lawfully owed the amounts to Enova that were illegally withdrawn from their accounts, did you consider requiring Enova to refund the amounts it had illegally withdrawn, but allowing Enova to then seek to collect any amounts lawfully owed (as set forth in the Legal Division memo and proposed by career staff in a prior enforcement action against American Express)? [8] Why did you not pursue this alternative?

A.14. See the response above.

Q.15. Is it the CFPB's position under Director Kraninger that companies do not have to provide restitution to consumers if they vio-

[5] Id. at 12–13.
[6] Id. at 13–15.
[7] Id. at 15.
[8] Id. at 13.

late the law and withdraw money from consumer's bank accounts without their authorization if the consumer owes the money?

A.15. As I have testified before Congress, under my leadership, the Bureau will seek the appropriate relief based on the facts and circumstances of each particular matter.

Q.16. On August 28, 2019, the Bureau announced a settlement with Asset Recovery Associates (ARA) for violations of the Consumer Financial Protection Act (CFPA) and Fair Debt collection Practice Act (FDCPA).[9] In the consent order, the Bureau found that Asset Recovery Associates had regularly engaged in unlawful debt collection practices, including threatening consumers since at least January 1, 2015.[10] Yet, the Bureau decided to limit restitution to just $36,800 for only those consumers who affirmatively complained about a false threat or misrepresentation by Asset Recovery Associates.[11] In your October 11, 2019, letter to me, you explained that "the available evidence made it infeasible to determine the complete set of consumers who received verbal false threats." Please provide the following information:

State the legal standard that the Bureau applied to determine who would receive restitution (consumers who complained) and the total amount of restitution.

Identify all case law and other legal precedent, including all consent orders entered into by the Bureau or FTC, that support the legal standard the Bureau applied for restitution.

Identify all case law and other legal precedent that require the Bureau identify "with certainty" the impacted consumers or calculate the amount of harm "with certainty" in order to provide restitution to those consumers.

Explain why the Bureau chose not to attempt to establish either a defendant-administered or Bureau-administered redress process that could have been used to identify consumers harmed by ARA's unlawful collection practices.[12]

A.16. The Bureau weighs many factors to determine the precise mix of restitution, penalties, and injunctive relief appropriate in each case. Generally, when analyzing remediation, the Bureau considers all relevant facts and circumstances and seeks to make consumers whole for losses caused by a party's illegal conduct. While the Bureau is committed to seeking all appropriate relief for consumers, not every case lends itself to restitution for all potentially affected consumers, particularly in the context of a negotiated settlement. Given the evidence available to identify consumers who were subject to the verbal false threats, this resolution reflects the

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[9] See "Consumer Financial Protection Bureau Settles With Asset Recovery Associates", news release, Aug. 28, 2019, available at *https://www.consumerfinance.gov/about-us/newsroom/bureau-settles-asset-recovery-associates/*.

[10] In the Matter of: Financial Credit Services, Inc., d/b/a Asset Recovery Associates, File No. 2019-BCFP-009 (Aug. 28, 2019) available at *https://files.consumerfinance.gov/f/documents/cfpb-asset-recovery-associates-consent-order-2019-08.pdf*.

[11] Id. 3.a.

[12] In prior cases where the Bureau could not specifically identify all harmed consumers, it established defendant-administered and Bureau-administered redress processes to identify and compensate harmed consumers. For example, in the Bureau's settlement with debt relief provider Morgan Drexen, Inc., the Bureau affirmatively contacted potential impacted consumers, set up a website, and established a claims process for victims to receive compensation for their harm. See *https://files.consumerfinance.gov/f/documents/201708-cfpb-morgan-drexen-victim-compensation.pdf*.

Bureau's assessment of what is an appropriate outcome under the circumstances and consistent with the law.

Q.17. In April, eight of my Senate colleagues and I wrote to you about the termination of the Bureau's existing Home Mortgage Disclosure Act (HMDA) Explorer and associated Public Data Platform Application Programming Interface (API) and the transfer of these data display functions to a new platform on the Federal Financial Institutions Examination Council (FFIEC) website. We are particularly concerned about the ability of individuals and organizations without sophisticated software to access and interpret HMDA data through the new portal. During a staff briefing pursuant to that letter, CFPB staff indicated that, based on their conversations in developing the new HMDA disclosure tool, 80 percent of HMDA data users wanted to be able to access data in Microsoft Excel format. While the functions on the new HMDA data website have improved since its launch, it remains impossible to download certain filtered data in a usable Excel format, filtering functions remain limited, and aggregate reports are no longer provided.

Please provide responses to the following:

What outreach has the Bureau done over the past 6 months to consumer advocates and local organizations to receive feedback on the new HMDA data tool?

A.17. The Bureau undertook efforts to engage with stakeholders in Summer 2018 when staff conducted user research with nine community groups to determine how HMDA data was being used and whether HMDA aggregate and disclosure (A/D) reports were useful. The results of this engagement created the key requirements for changes to HMDA data publications in 2019, and led to changes in A/D reports and the development of the HMDA Data Browser. These organizations included the National Community Reinvestment Coalition, Reinvestment Partners, Unidos US, National Consumer Law Center, Empire Justice Center, National Fair Housing Alliance, Association for Neighborhood Housing Development, Woodstock Institute, and Chattanooga Organized for Action.

As the HMDA Data Browser was being developed, structured usability testing was conducted in July 2019 in order to test designs and data outputs. The structured usability testing was conducted with both internal and external users and allowed the Bureau to learn about our end users' behavior, needs, and expectations.

The following community groups participated in the user testing sessions in July 2019: Association for Neighborhood and Housing Development, Empire Justice Center, Woodstock Institute, Illinois Peoples Action, National Community Reinvestment Coalition, National Consumer Law Center, National Fair Housing Alliance, Prosperity Now, and Unidos US.

Most recently, on November 6, 2019, Bureau staff held a call with approximately 10 local community organizations, who are members of the National Reinvestment Coalition (NCRC), to discuss their concerns and to solicit feedback with the availability of certain A/D reports. The feedback provided during the Summer 2018 and 2019 and November 2019 engagements provided important feedback to the Bureau for helping to identify further refinements to HMDA usability.

Q.18. What feedback has the Bureau incorporated, and what feedback has the CFPB been unable to incorporate?

A.18. User testing identified an opportunity to provide clearer descriptions and instructions. Additionally, feedback revealed participants wanted columns in the data to be reordered so that similar data would be grouped together. Groups also requested easy access to a data dictionary in order to better understand the definitions of filters and individual data elements in the CSV download. These features were all incorporated into the released version of the HMDA Data Browser.

Comments from the user testing sessions not only informed the current version of the HMDA Data Browser but also provided us with a set of additional features that will be developed in the future. This includes, but is not limited to, the ability to filter by more than two variables and the addition of predefined, presentation-ready visualizations based on common queries.

Q.19. What updates does the Bureau intend to make in the coming months that will make HMDA data more accessible for individuals and small- and medium-sized organizations that depend on HMDA data to analyze market access trends?

A.19. The HMDA Data Browser is being developed in an iterative fashion. The Bureau will provide additional functionalities and plans to gather user feedback and suggestions for improvements to the HMDA Data Browser on a regular basis. In the next updates to the HMDA Data Browser, the Bureau will provide the ability to create custom tables and datasets on a particular HMDA reporter and will allow for filtering the data by county, in addition to current MSA and State filters. Before the end of this year, the Bureau will also provide on the HMDA Platform additional documentation for the HMDA Data Browser that will assist users to isolate particular data within custom datasets that the Browser produces. The Bureau will continue its outreach to community groups to inform the development of resources to aid users in obtaining the data they need via the HMDA Data Browser.

Q.20. Has the Bureau conducted or received any additional research as part of its decision to delay the implementation or repeal certain portions of the Payday, Vehicle Title, and Certain High-Cost Installment Loans? If so, please identify the research, including the name of the researcher, and where the research is available to the public.

A.20. The Bureau decided to delay the implementation date of the mandatory underwriting provisions of the 2017 Payday, Vehicle Title, and Certain High-Cost Installment Loans final rule in order to allow the Bureau to consider whether to rescind those provisions as the Bureau has proposed. The basis for the delay is set out in the preamble to the Bureau's June 2019 rule, 84 FR 27907 (June 17, 2019). The Bureau is currently considering approximately 190,000 comments regarding its proposal to rescind the mandatory underwriting provisions. The Bureau has made these comments available in the public rulemaking docket at *https://*

www.regulations.gov/docketBrowser?rpp-25&so-DESC&sb-commentDueDate&po-0&D-CFPB-2019-0006. As the Bureau stated in its June 2019 delay rule, the Bureau remains open to the possibility that those comments may reveal other data, research, or arguments to confirm or refute the Bureau's proposed rescission of the mandatory underwriting provisions.

Q.21. Director Kraninger completed the reorganization of the Office of Fair Lending and Equal Opportunity that began under Acting Director Mulvaney, which included stripping OFLEO of its supervisory and enforcement authority. Under your and Mr. Mulvaney's leadership, the Bureau has not brought a single enforcement actions alleging violations of the Equal Credit Opportunity Act (ECOA). Please provide responses to the following:

How many enforcement investigations into potential violations of ECOA did the Bureau open in 2018 and 2019?

A.21. The Bureau's specific supervisory and investigatory enforcement activity is confidential. In 2018 and 2019, the Bureau had a number of ongoing fair lending investigations of institutions involving a variety of consumer financial products. One key area on which the Bureau has focused its fair lending enforcement efforts is addressing potential discrimination in mortgage lending, including the unlawful practice of redlining. At the end of Fiscal Year 2019, the Bureau had a number of pending investigations in this and other areas.

Q.22. Describe in detail the resources, if any, that the Bureau has dedicated to the enforcement of fair lending laws.

A.22. The Office of Enforcement is responsible for the enforcement of fair lending laws. As of September 2019, Enforcement has an allotted headcount of 150 full time employees. All Enforcement attorneys can participate in the investigation of any potential violation of Federal consumer financial law, including those focused on fair lending. The resources the Office of Enforcement deploys on fair lending matters is dependent on a number of factors, including the facts and circumstances of particular investigations.

The Office of Supervision Examinations is responsible for supervising entities for compliance with fair lending laws. Every Bureau examiner is trained to conduct fair lending examinations. During the course of a fair lending examination, the assigned team of examiners reviews the institution's books and records for compliance with fair lending laws using the Bureau's fair lending examination procedures. In addition, the Office of Supervision Examinations operates a National Fair Lending Examination Team, which includes a representative from each of the four regions, in addition to a senior examination manager, who are fully dedicated to fair lending examination work. This national team creates fair lending job aids and serves as an expert resource on fair lending matters for examiners across the country as they engage in fair lending work. The Office of Supervision Policy's fair lending team currently includes five attorneys and two analysts who are devoted to fair lending supervision matters.

Q.23. Describe the Bureau's fair lending goals, how it intends to achieve those goals, and how it will measure success.

A.23. The Bureau is committed to fair lending and will continue to vigorously enforce fair lending laws within our jurisdiction. By utilizing the tools of education, regulation, supervision, and enforcement, the Bureau can focus on preventing harm to consumers, which includes protecting consumers from unfair, deceptive, and abusive acts or practices as well as from discrimination. The Bureau's purpose is to ensure all consumers have access to consumer financial products and we will continue that purpose while exploring ways to increase access to credit for all, especially those in the unbanked and underbanked communities.

Q.24. The Bureau's proposed rule to implement the Fair Debt Collection Practices Act (FDCPA) would allow debt collectors to send unlimited text messages to consumers. But as the Bureau recognizes, millions of consumers do not have unlimited text messaging plans and would incur a charge for text messages from debt collectors. [13] The Bureau also recognizes that "receiving a text message from a debt collector may be similar to accepting a collect call from a debt collector," which is expressly prohibited by the Section 808(5) of the FDCPA. Please provide answers to the following:

Has the Bureau conducted a cost-benefit analysis to quantify the amount of potential charges to consumers text messages from consumers? If so, please provide the results of that analysis.

A.24. The Bureau's proposed debt collection rule does not allow for unlimited text messaging. Since 1977, the FDCPA has prohibited debt collectors from engaging in harassment, abuse, and unfair practices regardless of method of communication, including text messages. Debt collectors would continue to be prohibited from engaging in such conduct if the proposed rule were made final. In particular, even though the proposed rule does not include a specific limit on the number of texts a debt collector could send, if the rule were adopted a debt collector who sends too many texts would still violate the FDCPA. Further, the proposed rule would give consumers the power to stop future texts or emails as soon as they receive the first message. The proposed rule sought comment on the issue of text messages, and the Bureau is carefully reviewing and considering all comments.

The Bureau is not aware of representative data that could be used to quantify the amount of potential charges to consumers who receive text messages from debt collectors, either today or under the proposed rule. As part of the process of seeking public comment on the proposed rule, the Bureau asked for data or studies that could help quantify the costs and benefits to consumers of the proposed rule's provisions, including those related to communication attempts, but did not receive representative data that could quantify costs to consumers from receiving text messages. While the absence of representative data means that the Bureau is not currently able to quantify potential costs to consumers, the Bureau notes that under the proposal these costs would be limited in part by consumers exercising their option under the proposal to opt out of text messages if they do not wish to receive them because they would incur a charge to receive them.

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[13] See Notice of Proposed Rulemaking at 114 and at n. 255, available at *https://files.consumerfinance.gov/f/documents/cfpb-debt-collection-NPRM.pdf.*

Q.25. Did the Bureau consider whether consumers could opt-in to receiving text messages so that, among other things, they could avoid text messaging charges? If it did, please explain why the Bureau did not include it in the proposed rule.

A.25. The FDCPA does not explicitly prohibit debt collectors from sending text messages to consumers, nor does it require consumers to opt-in to such communications. Consequently, debt collectors may currently be sending text messages to consumers without offering them any opportunity to opt-out. In contrast, proposed §1006.6(e) would require debt collectors to notify consumers how to opt out of receiving electronic debt collection communications or communication attempts directed at a specific email address, telephone number for text messages, or other electronic-medium address. This proposal would enhance the ability of consumers to not receive electronic debt collection communications, for example, if they believe they receive too many such communications or if they are incurring charges from them.

Proposed §1006.6(e) also would require a debt collector who communicates or attempts to communicate with a consumer electronically in connection with the collection of a debt using a specific email address, telephone number for text messages, or other electronic-medium address to include in each such communication or attempt to communicate a clear and conspicuous statement describing one or more ways the consumer can opt out of further electronic communications or attempts to communicate by the debt collector to that address or telephone number. Proposed §1006.6(e) also would prohibit a debt collector from requiring, directly or indirectly, that the consumer, in order to opt out, pay any fee or provide any information other than the email address, telephone number for text messages, or other electronic-medium address subject to the opt-out. The proposed rule sought comment on issues related to text messages and the Bureau is carefully reviewing and considering all comments.

Q.26. The Bureau's proposed FDCPA rule would allow debt collectors to send consumers emails or direct messages that contain hyperlinks with required disclosures under Section 1692g(a). But the FTC has spent years educating consumers about the dangers of clicking on links from unfamiliar sources because they can lead to phishing attacks or malware downloaded onto consumers' computers or devices.[14] The FBI's Internet Crime Complaint Center reported that consumers lost $30 million to phishing schemes in a year.[15] Please providing the answers to the following:

Did the Bureau conduct or receive any studies or analyses to determine whether the proposed rule would increase the incidents of phishing or other attacks by consumers clicking on harmful hyperlinks? If so, please provide the studies and analyses.

A.26. The Bureau is aware of concerns about consumers accessing disclosures through hyperlinks; the proposed rule states that "[f]ederal agencies have advised consumers against clicking on hyperlinks provided by unfamiliar senders" and cites to two Federal Trade Commission (FTC) articles and a Federal Deposit Insur-

[14] See, e.g., *https://www.consumer.ftc.gov/articles/how-recognize-and-avoid-phishing-scams.*
[15] Id.

ance Corporation (FDIC) publication on this topic.[16] Because of these concerns, proposed §1006.42(c)(2)(ii) and 1006.42(d) describe consumer notice-and-opt-out processes meant to ensure that, before a debt collector sends a required disclosure by hyperlink, the consumer expects to receive it and does not object to such receipt. By helping the consumer identify the sender in advance, a notice-and-opt-out process may also reduce the risk that the consumer will treat an email containing a hyperlink as spam.

The Bureau is not aware of representative data that could be used to predict how the proposed rule's provisions related to providing disclosures via an emailed hyperlink would affect incidents of phishing.

Q.27. Given the FTC's warnings on the dangers of clicking on hyperlinks, did the Bureau conduct or receive any studies or analyses to determine whether consumers would not click on hyperlinks and therefore not receive the required disclosures with information on consumers' rights? If so, please provide the studies and analyses.

A.27. The Bureau is not aware of representative data that could be used to predict whether or how often consumers would not click on hyperlinks provided by debt collectors pursuant to the proposal, or how this would compare with whether or how often consumers receive required disclosures delivered by other means. The Bureau has been conducting survey research on debt collection disclosures, and as part of that research asked respondents how willing they would be to receive a notice from a debt collector that was delivered by hyperlink. The Bureau is in the process of analyzing the data from the survey.

The Bureau is aware of concerns about consumers accessing disclosures through hyperlinks; the NPRM states that "[f]ederal agencies have advised consumers against clicking on hyperlinks provided by unfamiliar senders" and cites to two FTC articles and an FDIC publication on this topic.[17] Because of these concerns, proposed §1006.42(c)(2)(ii) and 1006.42(d) describe consumer notice-and-opt-out processes meant to ensure that, before a debt collector sends a required disclosure by hyperlink, the consumer expects to receive it and does not object to such receipt. By helping the consumer identify the sender in advance, a notice-and-opt-out process may also reduce the risk that the consumer will treat an email containing a hyperlink as spam. The Bureau requested comment on the use of hyperlinks to deliver disclosures and is reviewing those comments now. The Bureau will continue to consider feedback and other information in reviewing the proposed rule's interventions as it moves forward towards a final rule.

Q.28. Did the Bureau consult with or seek input from the FTC on the proposal to allow debt collectors to deliver access to disclosures through hyperlinks? If so, please describe in detail which Bureau staff consulted with the FTC, with whom they consulted at the FTC, the dates of such consultation(s), and all feedback from the FTC.

[16] Debt Collection Practices (Regulation F), 84 FR 23274, 23363 (May 21, 2019).
[17] Debt Collection Practices (Regulation F), 84 FR 23274, 23363 (May 21, 2019).

A.28. The Bureau conducted interagency consultations with relevant Federal agencies, including the FTC, in advance of releasing the debt collection NPRM. Those interagency consultations included a discussion of electronic delivery of required notices. As part of these consultations, the Bureau received questions and feedback from the FTC on a variety of topics covered by the NPRM. FTC staff also filed a comment letter in response to the Bureau's NPRM.

Q.29. The Seventh Circuit Court of Appeals recently ruled that a debt collector had failed to comply with the FDCPA by sending emails with links to disclosures required under Section 1692g(a) of the FDCPA.[18] The court concluded that the emails did not "'contain' the statutorily mandated disclosures. Section 1692g(a). At most the emails provide a means to access the disclosures via a multistep online process."[19] Based on this ruling by the Seventh Circuit, has the Bureau reconsidered whether to permit debt collectors to deliver required disclosures through hyperlinks?

A.29. The Bureau is closely following case law related to topics covered by the proposed debt collection rule. The Bureau is also in the process of reviewing the many public comments received on the proposed debt collection rule. The Bureau will continue to consider feedback and other information in reviewing the proposed rule's interventions as it moves forward towards a final rule.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TOOMEY FROM KATHY KRANINGER

Q.1. Because of the unique legal status of tribes, there appears to be a frustrating lack of clarity regarding what constitutes a legitimate tribal lending entity. Bad actors could seek to exploit this regulatory uncertainty to take advantage of consumers. Good actors could remain on the sideline, denying consumers access to credit. What steps have you taken or are you considering taking to provide clear rules of the road to tribal lenders?

A.1. The Bureau has not issued any guidance on this topic but is sensitive to the concerns you are raising and will continue to consider input from relevant stakeholders on the subject. The Bureau has investigated tribally affiliated lending entities in the past and will continue to do so. A few years ago, the Ninth Circuit held, in the context of a CID enforcement action, "that the Consumer Financial Protection Act, a law of general applicability, applies to tribal businesses." Consumer Fin. Prot. Bureau v. Great Plains Lending, LLC, 846 F.3d 1049, 1054 (9th Cir.), cert. denied, 138 S. Ct. 555, 199 L. Ed. 2d 436 (2017). In our opposition to the petition for certiorari the Bureau (through DOJ) maintained our position that the CFPA applies to tribally owned lenders. Accordingly, we expect all lenders, including tribally affiliated lenders to comply with Federal consumer financial law.

[18] Lavallee v. Med-1 Solutions, LLC, 932 F.3d 1049 (7th Cir. 2019).
[19] Id. at 1050.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SCOTT FROM KATHY KRANINGER

Q.1. On March 12, 2019, when directly asked whether you view the CFPB as an agency with regulatory authority over insurance products, Director Kraninger, you testified that "no, [. . .] I do not. Dodd–Frank stipulated in Title X that we [the CFPB] do not regulate State-regulated insurance."

Given your testimony and your position that the CFPB has statutorily limited responsibilities in this space, can the CFPB explain how it handles the receipt and referral of consumer complaints received regarding insurance related products. The CFPB "Consumer Complaints Database" contains a number of consumer complaints that include the term "insurance." As of October 17, 2019, the term "insurance" is referenced 22,026 times across the spectrum of complaints received since the database was established on June 19, 2012 (reflecting an over 1.5 percent share of total complaints). Specific insurance products are referenced 6,237 times, such as "life insurance," "credit insurance," and various iterations of homeowners insurance.

Acknowledging that the Bureau may be perceived to have a jurisdictional nexus on some of these circumstances by the consumer, with regard to the business of insurance as it applies to these complaints, how are such complaints handled and how are consumers notified to file their compliant with a State insurance regulator? Furthermore, is it the CFPB's position that it has taken the necessary steps to notify consumers seeking to file a complaint that the agency has limited jurisdiction on matters related to the business of insurance?

A.1. The Bureau's complaint submission process is designed to centralize the collection of, monitoring, and response to complaints about consumer financial products and services.[1] The Bureau's complaint process is not designed to collect complaints about insurance products and services and it does not send complaints to bona fide insurance companies for response. A keyword search of the public, Consumer Complaint Database for terms related to insurance will return complaints that the Bureau has sent to financial companies for response, such as complaints about a mortgage servicer's handling of a consumer's escrow account or a title insurance agent's handling of a real estate loan closing.

When consumers submit complaints online or over the phone, the Bureau asks them to identify the consumer financial product or service with which they have a problem, the type of problem they are having with that product or service, and the company about which they are submitting the complaint. This submission process does not provide consumers with options to submit complaints about a bona fide insurance company. In 2018, more than 86 percent of the complaints submitted to the Bureau were submitted by consumers through the Bureau's website (81.5 percent) and by calling the Bureau's toll-free telephone number (4.9 percent). If consumers call with questions about insurance companies or attempt to submit a complaint about an insurance company over the phone,

[1] See Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203 (Dodd–Frank Act), Section 1013(b)(3)(A).

the Bureau's contact center agents direct consumers to contact their State insurance commissioner. The Bureau also receives complaints through referral from the White House, congressional offices, other Federal and State agencies (8.1 percent), mail (3.5 percent), fax (1.9 percent), and email (<0.1 percent). In the rare instances that the Bureau receives a complaint about an insurance company through one of these channels, the Bureau notifies the consumer that it cannot process the complaint and that the Bureau has added the complaint to the Consumer Sentinel Network, a secure online database operated by the Federal Trade Commission for civil and criminal law enforcement authorities.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MORAN FROM KATHY KRANINGER

Q.1. The CFPB is in the midst of sorting through the 12,000 plus comments submitted on the proposed debt collection rule. There are some concerns by banks that they might be inadvertently (and inappropriately) subject to the rule due to UDAAP commentary in the proposal. Can you confirm whether the rule will explicitly only be for third party debt collection, and not apply to first party lenders, as the Bureau has previously indicated?

A.1. The proposed rule applies only to "debt collectors" as defined in the Fair Debt Collection Practices Act (FDCPA). FDCPA section 803(6)'s definition of debt collector does not typically cover creditors who are engaged in their own collections. The Notice of Proposed Rulemaking (NPRM) defines the term "debt collector" by restating FDCPA section 803(6)'s definition. Consistent with this definition, the preamble to the proposed rule states repeatedly that the rule would cover only debt collectors as defined in the FDCPA. Note that the question as to creditor coverage often arises in connection with the proposed call caps in the NPRM. The NPRM's preamble focuses on consumers' experiences with, and complaints about, telephone calls from FDCPA-covered debt collectors.

Many industry stakeholders have requested increased clarification surrounding the potential application of the proposed rule or the reasoning in it (especially its application of UDAAP principles) to creditor collections. Creditors in collections may have different incentives than debt collectors in collection because concerns about reputational harm may be more of a constraint on the conduct of creditors, a key consideration underlying Congress' decision not to include creditor collections within the FDCPA. Moreover, there may be other facts and circumstances that would warrant different treatment of creditors and debt collectors when engaged in collections. The Bureau is carefully considering the request for clarification that creditor collections are not covered by any final debt collection rule it issues.

Q.2. Bankers across the country have indicated that supervision and enforcement teams are "pushing the envelope" by exceeding their mandates, making onerous information requests and creating their own policy determinations.

At financial institutions, the importance of CEOs setting the appropriate "tone from the top" is often stressed. How is the Bureau doing so? How is the message delivered and carried through to the field offices and representatives executing the exams and enforcement activity?

A.2. As Director, I establish the tone and expect my leadership team to communicate that tone and my priorities to staff whenever addressing examiners, supervision staff, and enforcement staff. Specifically, the tone is set by:

- the Director,
- the Deputy Director,
- the Supervision, Enforcement, and Fair Lending Associate Director,
- the Supervision Assistant Directors, and
- the Assistant Director of Enforcement.

The Bureau senior executives convey their intent, goals, and strategy during regular scheduled meetings and calls, as well as semiannual conferences with the examiners and staff. Enforcement also has a Policies and Procedures Manual that is periodically updated and that sets forth guidance and policies that govern Enforcement's work. I believe in being visible and accessible as a leader and including staff interactions in my travels, walks around headquarters, and open-door office hours.

Q.3. Since there are various regional offices throughout the country, how do you create consistency to ensure all institutions are subject to the same interpretations of the rules and compliance standards and, in turn, consumers have the same equal consumer protections?

A.3. Supervision senior leaders (including regional directors) meet monthly in person and weekly via teleconference to discuss Bureau goals and strategies. Moreover, the Bureau's examination process is generally centralized. All examination reports and citations of violations are reviewed by attorneys at our headquarters to ensure the law is applied and interpreted consistently across institutions.

Enforcement also has staff across the regional offices. All Enforcement staff coordinate their work through headquarters in Enforcement and all Enforcement staff are subject to Enforcement's Policies and Procedures Manual.

Q.4. The CFPB held a symposium on the "abusive" prong of UDAAP this past summer. The ambiguity that currently exists creates difficulties and harms for lenders and consumers by deterring new/beneficial offerings and features. Does the Bureau plan to define abusive or issue any guidance in this area?

A.4. Although Congress provided some indication of the meaning of abusiveness through a definition in the Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd–Frank Act), abusiveness does not have the long and rich history of unfairness or deception. Substantial concerns have been raised about the uncertain and indeterminate meaning of abusiveness under the Dodd–Frank Act, including during the Bureau's June 2019 symposium. The Federal Trade Commission has used its authority under the Federal Trade Commission (FTC) Act to address unfair and deceptive acts or practices for over 80 years, and the prudential regulators have also enforced this prohibition since before the Bureau's existence.

Ultimately this uncertainty is not beneficial to the marketplace: businesses that want to comply with the law face great challenges in doing so and these challenges can impose large costs, including impeding innovation. And consumers ultimately may lose the benefits of improved products and lower prices if lack of clarity imposes such costs.

During our symposium, we heard considerable feedback to help inform the Bureau's path forward regarding the myriad of complex considerations. The Bureau has a responsibility to provide greater clarity on how it plans to implement or apply this standard. At the same time, the Bureau recognizes the need for the jurisprudential environment to build the common law around abusiveness. We are looking to do both with a concrete step in the near future.

Q.5. In your testimony, you stated: "The Bureau's fair lending activity involves regular coordination with other Federal and State regulatory and enforcement partners. During the reporting period, Office of Fair Lending and Equal Opportunity (OFLEO) staff continued to lead the Bureau's fair lending interagency coordination and collaboration efforts by working with partners on the Interagency Working Group on Fair Lending Enforcement, and chairing the Interagency Task Force on Fair Lending and the Federal Financial Institutions Examination Council (FFIEC) HMDA Data Collection Subcommittee." Depending upon the financial sector being evaluated for bad actors, in some cases it seems that the Bureau appears to be inserting itself in areas where the FTC, OCC, and FDIC have primary jurisdiction but are still pursuing enforcement actions.

Can you explain the clear lines of policy, regulatory, and oversight demarcation where the Bureau and these agencies differ? Furthermore, please explain which agencies have the lead in monitoring, oversight and enforcement over such financial institutions such as community banks, etc.

A.5. The Bureau, the prudential regulators, and the FTC have separate, distinct, and independent statutory mandates. The Bureau has exclusive authority to supervise certain nondepository institutions engaged in certain product markets to assure compliance with Federal consumer financial law.[1] While the Bureau's authority to enforce the Federal consumer financial law with respect to such institutions is generally exclusive, the Bureau shares authority with the FTC and is required to (and does) coordinate with the FTC on such matters.[2] Pursuant to that statutory requirement, the Bureau recently renegotiated its coordination MOU with the FTC. Additionally, the Bureau works closely with State regulators to coordinate and reduce burden.

With respect to insured banks and credit unions with more than $10,000,000,000 in total assets, the Bureau has exclusive supervisory authority to assess their compliance with Federal consumer financial laws, obtain information about their activities subject to such laws and associated compliance systems or procedures, and detect and assess associated risks to consumers and markets for

[1] 12 U.S.C. §5514(d).
[2] 12 U.S.C. §5514(c).

consumer financial products and services.[3] To ensure consistency and minimize regulatory burden, we coordinate our supervisory activities with the prudential regulators. Moreover, to the extent the Bureau and another Federal agency are authorized to enforce a Federal consumer financial law against such a bank or credit union, the Bureau has primary enforcement authority.[4] Similarly, the Bureau also works closely with State regulators to coordinate and reduce burden.

The Bureau generally lacks supervisory and enforcement authority over insured banks and credit unions with $10,000,000,000 or less in total assets. Instead, the prudential regulators, and not the Bureau, would have the relevant supervisory and enforcement authority over these smaller banks and credit unions.

In keeping with statutory requirements that the Bureau coordinate with the prudential regulators, the Bureau works with the Federal prudential regulators on examination planning and policy considerations, as outlined in a May 2012 interagency MOU. We also meet with the prudential regulators periodically to coordinate supervisory and other activities. Bureau supervisory staff and the Federal prudential regulators also confer on a routine basis to discuss examinations and other supervisory matters regarding particular institutions. Overall, I am engaged with the prudential regulators on ways to ensure consistency, help minimize regulatory burden and duplication on all supervised institutions, and accomplish our separate, distinct, and independent statutory mandate.

Q.6. There is some concern that the Bureau's Enforcement division continues to target businesses, particularly small businesses in sectors where the Bureau's own data shows that the number of complaints are small or nonexistent and the monetary impact on consumers is grossly overshadowed by the expense that the Bureau incurs in 2–3 year CID process, not to mention the cost of litigation should the business choose not to settle. While the cost to the taxpayer for these endeavors are of concern, the most concerning thing is the tremendous impact that the CFPB with its $500 million annual operating budget is having on CIDs for small businesses with annual operating budgets that are 1–2 percent of that number. Many of us on the Committee have heard stories where the Bureau's Enforcement division has exercised its broad CID powers to the detriment of many small businesses in the pursuit of alleged violations that are in some cases 5 to 7 years old.

Can you please explain how the Enforcement Bureau and CFPB leadership is prioritizing cases to invest its time and taxpayer resources on?

Is there a materiality focus and timeliness prioritization that focuses on stopping current bad actors and reducing future consumer harm?

As the Director, what direction are you providing to the Enforcement staff with respect to the following:

Focusing on matters that effect present day consumers versus historical and outdated claims;

[3] 12 U.S.C. §5515(b)(1).
[4] 12 U.S.C. §5515(c).

The impact that the immense power and weight of the Bureau has on small businesses; and

The amount of consumer harm (dollars and impacted individuals) that merits a Federal action.

A.6. The Consumer Financial Protection Act (CFPA) specifies the objectives of the Bureau, which include ensuring that:

- Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;
- Consumers are provided timely and understandable information to make responsible decisions about financial transactions (i.e., through enforcing the Truth in Lending Act, Gramm–Leach–Bliley Act, Fair Credit Billing Act, and other enumerated laws with disclosure obligations); and
- Federal consumer financial law is enforced consistently in order to promote fair competition. Using these overall objectives, Enforcement regularly evaluates strategic priorities, and uses a variety of sources in that process. Some of those sources of information include:
- Consumer complaints—CFPB's Consumer Response and the FTC's Consumer Sentinel;
- The Bureau's whistleblower hotline;
- Other agency referrals/leads—including from State Attorneys General, State regulators, prudential regulators, and other Federal agencies;
- Information gathered from industry or market developments; and
- The results of exams by Supervision.

In addition, if there is a particular group of consumers—like servicemembers, or older Americans—that are being targeted or particularly impacted by certain practices, that may lead Enforcement to prioritize those issues too. Enforcement actions are intended to get to the bottom of any misconduct and the impact on consumers and to evaluate the appropriate amount of civil money penalties that may be imposed.

Whether to prioritize a particular set of issues can depend on the level of consumer or market harm as well as an assessment of the need for specific and general deterrence.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MENENDEZ FROM KATHY KRANINGER

Q.1. The Court of Appeals for the 7th Circuit recently ruled that debt collectors using hyperlinked disclosure did not meet the requirements of the Fair Debt Collection Practices Act. In light of the ruling, is the CFPB reconsidering allowing debt collectors to use hyperlinked disclosures as part of the Bureau's proposed debt collection rule?

A.1. The Bureau is closely following case law related to topics covered by the proposed debt collection rule. The Bureau is also in the process of reviewing the many public comments received on the proposed debt collection rule. The Bureau will continue to consider feedback and other information in reviewing the proposed rule's interventions as it moves forward towards a final rule.

Q.2. There is a significant problem of older consumers being targeted for financial exploitation. CFPB's own Spring 2019 Semiannual Report found that, from 2013 to 2017, more than 180,000 suspicious activity reports involved senior citizens being victims of attempted or suspected fraud.

Dodd–Frank's Section 989A(b) gave the CFPB a tool to help address this problem by requiring the CFPB to establish a grant program to allow eligible States to identify bad actors, provide educational materials and training to seniors, and enhance State law to provide protections for seniors against misleading or fraudulent marketing.

In order to ensure senior citizens are protected from financial exploitation and abuse, please provide answers to the following questions:

Is the CFPB planning on starting its senior grant program, pursuant to Section 989A(b) of Dodd–Frank?

A.2. Currently, the Bureau does not have plans for the disbursement of grants or the implementation of Section 989A of the Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd–Frank Act), As previously noted, no appropriations were provided to implement these grants, nor did Congress mandate that grants be provided.

Q.3. Under your leadership, what steps has the CFPB taken to implement Section 989A(b) of Dodd–Frank?

A.3. See previous answer.

Q.4. Can you provide a timeline as to when the CFPB expects to launch its senior grant program?

A.4. See previous answer.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN FROM KATHY KRANINGER

Q.1. *Rulemaking*—On July 31, 2019, the Bureau released an Advanced Notice of Proposed Rulemaking (ANPR) that clarifying its intentions to let the Qualified Mortgage Patch to expire in January 2021 or after a short extension, if necessary.[1] The Bureau's analysis stated "approximately 957,000 loans—16 percent of all closed-end first-lien residential mortgage originations in 2018—fell within the Temporary GSE QM loan definition but not the General QM loan definition."

In anticipating how the market would respond if the patch were removed, the notice stated that "some borrowers who would have sought High-DTI GSE loans might not obtain loans at all."

What is the dollar amount and percentage of total loan origination volume in 2018 that were qualified mortgages only because of the QM Patch?

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[1] Consumer Financial Protection Bureau, *Federal Register* Notice, "Qualified Mortgage Definition Under the Truth in Lending Act (Regulation Z)", July 31, 2019, *https://www.federalregister.gov/documents/2019/07/31/2019-16298/qualified-mortgage-definition-under-the-truth-in-lending-act-regulation-z.*

A.1. The ANPR states that the Bureau estimates that 16 percent of all closed-end first-lien residential mortgage origination volume fell within the Temporary GSE QM loan definition, but not the General QM loan definition, due to DTI ratios exceeding 43 percent. This estimate does not include Temporary GSE QM loans which may fall outside the General QM loan definition due to documentation incompatible with Appendix Q requirements. The Bureau estimates that the total amount of these loans was approximately $240 billion. Some of those loans likely could have been originated as QM loans under other elements of the QM Rule and of the QM rules promulgated by other governmental agencies.

Q.2. What is the total number and percentage of total borrowers in 2018 that were able to obtain qualified mortgages only because of the QM Patch?

A.2. Given the alternative categories of qualified mortgages available to High DTI borrowers in 2018, particularly FHA loans, VA loans, and Small Creditor QMs, the Bureau believes that most borrowers in 2018 whose loans fell within the Temporary GSE QM loan definition, but not the General QM loan definition, would have been able to obtain qualified mortgages. In addition, some borrowers obtaining High DTI GSE loans would likely have been able to lower their DTI by, for example, paying off or restructuring other debts or increasing their down payment in order to obtain loans within the General QM loan definition.

Q.3. How many borrowers does the Bureau estimate will no longer obtain loans once the QM Patch has expired?

How many of these individuals are low-, moderate-, and middle-income borrowers?

A.3. The number of borrowers who may be unable to obtain loans once the QM patch expires will depend on a wide range of factors including the number of consumers seeking to purchase a home or refinance a mortgage at any given period of time and the credit standards of Government agencies (including FHA), the GSEs, and lenders originating non-Government, non-GSE loans. Also, relevant will be the definition of Qualified Mortgage when the patch expires, an issue the Bureau has announced it will be reconsidering. Given all this, the Bureau cannot estimate with precision the number of consumers who may no longer be able to obtain loans once the QM patch expires.

Q.4. How many of these individuals are first time home buyers?

A.4. Please see previous answer.

Q.5. How many of these individuals are people of color?

A.5. Please see previous answer.

Q.6. For those borrowers who are currently covered by the QM Patch and are estimated to still be able to borrow on the private market or via a loan guaranteed by FHA (Federal Housing Agency) following the expiration of the patch, will the borrowing costs for any of these individuals increase?

If so, by how much?

A.6. Whether borrowers who are currently covered by the QM patch and would still be able to borrow on the private market or via a loan guaranteed by FHA will pay more than they would absent the expiration of the patch depends on a number of factors, including the profile of those consumers (e.g., their credit score, loan-to-value ratio, assets) and of the properties they seek to purchase and pricing decisions made by FHA, the GSEs, and lenders originating non-Government, non-GSE loans. Also, relevant will be the definition of Qualified Mortgage when the patch expires, an issue the Bureau has announced it will be reconsidering. Given all this, the Bureau cannot estimate with precision whether, and to what extent, the expiration of the QM patch would increase the cost of credit for future borrowers. However, based on current and historical pricing patterns, it is likely borrowing costs would increase for some borrowers if they cannot obtain a GSE or portfolio loan and instead take out an FHA loan.

Q.7. The analysis also says that other borrowers who obtained loans covered by the GSE Patch "may simply adapt and make different choices," including "adjusting their borrowing to result in a lower DTI ratio."

How many individuals and by what dollar volume will these individuals be forced to "adjust" their borrowing?

A.7. Given the alternative categories of qualified mortgages available to High DTI borrowers, particularly FHA loans, VA loans, Small Creditor QMs, and the expanded portfolio QM amendments created by the 2018 Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), the Bureau believes that, absent changes in those alternative categories, most borrowers who obtained loans covered by the GSE Patch would still be able to obtain qualified mortgages at the same DTI ratio even if the Bureau did not adjust the General QM definition. The number of borrowers who would be required to adjust their borrowing upon the expiration of the patch, and the dollar volume of such adjustments, will depend upon the same set of factors listed in response to Part C of this questions as well as any changes in the credit standards of other Government agencies (including FHA and VA). For the reasons stated therein the Bureau cannot estimate these numbers with precision.

Q.8. What are some of the "other choices" that these borrowers might make?

A.8. As noted above, the Bureau believes that most borrowers who obtained loans covered by the GSE Patch would still be able to obtain qualified mortgages at the same DTI ratio even if the Bureau did not adjust the General QM definition under the current QM standards maintained by the Bureau and other agencies. To the extent there are borrowers for whom that is not true, the choices available to them will depend upon the types of products offered on the market, the underwriting criteria for those products, borrowers' personal preferences and financial capabilities, and the parameters of the General QM definition. For example, if the market did not offer higher DTI loans, high DTI purchase loan borrowers could most directly decrease their loan amounts to obtain a General QM loan by either increasing their down payment, negotiating a lower purchase price or purchasing a lower-priced home. Cash-out refinance borrowers would likely be required to extract less equity from their home. Rate and term refinance borrowers would likely be required to pay down additional loan principal prior to refinancing. In each of these cases, borrowers with other nonmortgage debts could also pay off or restructure these debts, reducing or eliminating the required payments on these debts in their DTI ratio.

Q.9. Is it your view that removing a key mechanism for which many borrowers, particularly low-income borrowers and borrowers of color, rely on to access credit can appropriately be characterized as a "simple" adaptation?

A.9. The Bureau believes that, absent changes in the alternative qualified mortgage options described above, most borrowers would still be able to obtain High-DTI loans through alternative qualified mortgage options, or through non-QM mortgage options. For some borrowers with sufficient financial assets or flexibility, reducing their DTI may require a simple adjustment whereas for others, including LMI borrowers who are disproportionately borrowers of color, that would not be true. The Bureau intends to carefully consider all of the potential effects of the expiration of the patch in determining what changes, if any, to propose to the definition of General QM.

Q.10. On May 21, 2019, the CFPB issued a proposed rule that would amend Regulation F, which implements the Fair Debt Collection Practices Act (FDCPA).[2]

The proposal does not include an explicit cap on email and text message contact attempts in the same way that phone contacts are limited even though many consumers pay their cell phone providers per message. Is there a certain number of message attempts within a certain time frame that the CFPB would consider harassment? If the proposal is enacted as is, would the Bureau pursue companies that engage in email or text message harassment under its authority to go after Unfair, Deceptive, and Abusive Acts of Practices (UDAAP)?

A.10. The Bureau's proposed debt collection rule does not allow for unlimited emails or text messaging. Since 1977, the FDCPA has prohibited debt collectors from engaging in harassment, abuse, and unfair practices regardless of method of communication, including emails and text messages. Debt collectors would continue to be prohibited from engaging in such conduct if the proposed rule were made final. In particular, even though the proposed rule does not include a specific limit on the number of emails or texts a debt collector could send, if the rule were adopted a debt collector who sends too many would still violate the FDCPA. Further, the proposed rule would give consumers the power to stop future texts or emails as soon as they receive the first communication. The proposed rule sought comment on these issues and the Bureau is carefully reviewing and considering all comments. While it is premature to comment on the specifics of enforcement of a rule that is currently under consideration, as a general matter, the Bureau expects those covered by a regulation to comply with it.

[2] Consumer Financial Protection Bureau, *Federal Register* Notice, "Debt Collection Practices (Regulation F)", May 21, 2019, *https://www.federalregister.gov/documents/2019/05/21/2019-09665/debt-collection-practices-regulation-f.*

Q.11. Under the proposed rule, a debt collector would be prohibited from contacting an individual on social media if the contact could be viewed by a third-party, but would still be allowed to privately contact an individual on social media. What guardrails are included in the proposal to ensure that when contacting an individual on social media, the incorrect individual is not unfairly targeted and harassed?

A.11. The proposed rule makes clear that the FDCPA's long-standing prohibitions on harassment, abuse, and unfair practices apply to communications generally. In addition to this broad safeguard, the proposal would protect consumers as defined by the proposal, e.g., those who are obligated or allegedly obligated to pay any debt. Proposed §1006.6(e) would require a debt collector who communicates or attempts to communicate with a consumer electronically in connection with the collection of a debt using a specific email address, telephone number for text messages, or other electronic-medium address to include in each such communication or attempt to communicate a clear and conspicuous statement describing one or more ways the consumer can opt out of further electronic communications or attempts to communicate by the debt collector to that address or telephone number. Proposed §1006.6(e) would apply to all electronic communications, regardless of whether they are a medium of communication specified in the rule and regardless of whether that medium exists now or comes to exist in the future. Proposed §1006.6(e) also would prohibit a debt collector from requiring, directly or indirectly, that the consumer, in order to opt out, pay any fee or provide any information other than the email address, telephone number for text messages, or other electronic-medium address subject to the opt-out. In addition, proposed §1006.14(h)(1) would prohibit a debt collector from communicating or attempting to communicate with a consumer through a medium of communication if the consumer has requested that the debt collector not use that medium to communicate with the consumer.

Q.12. Section 1071 of the Dodd–Frank Act amended the Equal Credit Opportunity Act (ECOA) to require institutions to collect small business lending data related to credit applications made by businesses owned by women and minorities. In the semiannual report you submitted to Congress, it was noted that "the Bureau expects that it will be able to resume prerulemaking activities on the Section 1071 project within this next year." [3] After years of delay in implementing this rule, what further prerulemaking activities are needed and when does the Bureau anticipate being able to issue a Notice of Proposed Rulemaking?

A.12. I remain committed to implementing Section 1071 of the Dodd–Frank Act. As the Bureau's Unified Agenda reflects, this is now in prerule status and has been since last Spring when the Bureau reclassified the Section 1071 project from long-term status to prerule status. To move forward in this effort and other challenging issues facing the Bureau, I announced a symposia series on a variety of topics related to the Bureau's mission, including Section 1071.

[3] Consumer Financial Protection Bureau, "Semiannual Report of the Bureau of Consumer Financial Protection", Spring 2019.

On November 6, 2019, the Bureau held a symposium on Section 1071 of the Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd–Frank Act). The 1071 symposium was aimed at stimulating a proactive and transparent dialogue to assist the Bureau in its policy development as it works toward implementation of Section 1071. The symposium consisted of two panels of leading academic, think tank, consumer advocate, industry, and Government experts in the small business lending arena. The first panel focused on the evolution in the estimated $1.4 trillion small business lending marketplace. The discussion touched on various policy issues related to small business lending including new business models, delivery mechanisms, regulatory burden, new types of partnerships, and the general availability of credit and potential consumer harm, as well as emerging concerns in the marketplace. The second panel included a discussion surrounding the implementation of Section 1071, including issues raised in response to the Bureau's Request for Information. It also explored ways to mitigate potential costs and burdens for reporters. A recording of the event, along with written statements from the panelists, is available on the Bureau's website.

In my opening remarks at the symposium, I emphasized that "small businesses, including those owned by women and minorities, are critical engines for economic growth," that "Section 1071 would increase public data about small business lending," and that the Section 1071 rulemaking "needs to be done with great care and consideration in order that the rule not impede the ability of small businesses—including minority and women owned small businesses—to access the credit they need." As part of its rulemaking process, the Bureau is exploring potential ways to implement Section 1071 in a balanced manner with a goal of providing small business lending data that achieves the statutory objectives without unnecessarily affecting the cost or availability of credit to small businesses.

In promulgating regulations, the Bureau is required to follow the procedures set forth in the Regulatory Flexibility Act (RFA), including the special RFA requirements imposed by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), the Administrative Procedure Act (APA) and section 1022 of the Dodd–Frank Act. Accordingly, the next formal phase in implementing Section 1071 of the Dodd–Frank Act will be the release of materials in advance of convening a SBREFA panel, in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy, to consult with representatives of small businesses that may be affected by the rulemaking. Under this plan and consistent with the Bureau's special statutory obligations, the Bureau intends to release a detailed SBREFA outline of the proposals it is considering by November 2020. The outline will describe how the Bureau is considering implementing Section 1071, discuss other alternatives the Bureau has considered, and identify the potential impact that the proposals under consideration might have on small entities.

Once the SBREFA process concludes, the Bureau intends to move expeditiously to issue a Notice of Proposed Rulemaking (NPRM) in accordance with APA procedures. At that time, the Bureau will be better able to identify a target date for the issuance of a proposed rule.

Q.13. In 2018, the CFPB indicated that it was considering revising the use of disparate impact under ECOA. In August, the Department of Housing and Urban Development (HUD) proposed a new disparate impact rule, which, among other things, increased the amount of evidence needed that must be pleaded in the complaint, and added new defenses making it nearly impossible to bring a successful case against a defendant that makes decisions via algorithm or makes discriminatory decisions that are more profitable than the nondiscriminatory alternatives.

Cases of discrimination against defendants in mortgage industry are often brought under both ECOA and the Fair Housing Act. Does the Bureau intend to make the disparate impact standards consistent under ECOA and the Fair Housing Act?

A.13. In May 2018, the Bureau stated its intention to reexamine the application of the disparate impact doctrine under the Equal Credit Opportunity Act (ECOA). In anticipation, the Bureau is currently gathering information and discussing this issue with stakeholders. As part of this effort, the Bureau continues to closely monitor HUD's proposal to revise its disparate impact rule under the Fair Housing Act. In April 2019, the Bureau announced that it plans to hold a symposium on disparate impact and the ECOA. The symposium is part of a series exploring consumer protections in today's dynamic financial services marketplace.

Q.14. A number of institutions under the Bureau's supervision and financial technology companies that the Bureau works with through its Office of Innovation use algorithms to underwrite loans. Has there ever been an instance where the Bureau has found that facially neutral algorithms produced a disparate impact on a protected class under ECOA?

A.14. In general, the Bureau does not comment publicly on confidential enforcement investigations or disclose confidential supervisory information.

Q.15. The HUD disparate impact proposal provides a defense for companies where the discriminatory activity is more profitable than the alternative. Throughout its history, the Bureau, together with the Department of Justice has brought a number of cases using disparate impact theories. In any of those cases, was the discriminatory behavior profitable for the company?

A.15. The Bureau cannot comment on any specific matter because, as noted above, the Bureau does not comment publicly on confidential enforcement investigations. As a general matter, the Bureau's enforcement actions under ECOA consider whether a creditor discriminated on a prohibited basis against any applicant, with respect to any aspect of a credit transaction, and not whether such behavior was or is profitable.

Q.16. *Supervision and Enforcement*—According to the most recent semiannual report "the Bureau did not initiate or complete any fair lending public enforcement actions. In addition, during this reporting period, the Bureau did not refer any matters to the DOJ with regard to discrimination pursuant to Section 706(g) of ECOA."[4]

Is the Bureau's position that violations of ECOA are not taking place?

A.16. No. The law mandates that the Bureau enforce Federal consumer financial law, including fair lending laws such as ECOA and Home Mortgage Disclosure Act (HMDA), and the Bureau will continue to do that. In 2019, the Bureau has made three fair lending referrals to the Department of Justice pursuant to the Equal Credit Opportunity Act.

Q.17. Has the Bureau modified the standards it uses to determine whether an act constitutes a violation of ECOA, including under the disparate impact theory?

A.17. The Bureau continues to evaluate the use of disparate impact under ECOA on a case-by-case basis based on the specific facts and circumstances of each matter. As noted above, the Bureau is currently considering reexamining the application of the disparate impact doctrine under the Equal Credit Opportunity Act.

Q.18. The Bureau is considering reducing the number of data points collected under the Home Mortgage Disclosure Act (HMDA). These data are not only incredibly valuable to outside actors trying to detect and fight discrimination, but also to the Bureau in its supervision, enforcement, rulemaking, and market monitoring functions. Please provide a list of publicly available Bureau actions, including enforcement actions, rulemakings, and Bureau reports that relied even partially on either the new data points collected under Dodd–Frank and or Bureau rules.

A.18. The Consumer Financial Protection Act (CFPA) amended HMDA to require the reporting of 13 new data points. The CFPA also granted the Bureau authority to use its discretion to require reporting of additional data points, which the Bureau did in 2015 by amending Regulation C, HMDA's implementing regulation, to include 14 additional data points as well as the 13 required new data points. Most of the new requirements from the 2015 HMDA Rule took effect on January 1, 2018, and reporting started in March 2019. There are two publicly available Bureau reports, both published in August 2019, that rely on this new data: "Introducing New and Revised Data Points in HMDA" and "Data Point: 2018 Mortgage Market Activity and Trends".

Q.19. The Dodd–Frank Wall Street Consumer Protection Act requires that the Director of the CFPB holds a seat on the five member Board of Directors of the Federal Deposit Insurance Corporation (FDIC). In your capacity as CFPB Director, you currently serve on the FDIC Board.

On February 7, 2019, Bank Branching and Trust Corporation (BB&T) and SunTrust Banks, Inc (SunTrust) announced that they would merge to form what would become the 8th largest bank holding company (BHC) by asset size in the United States.[5] While the

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[4] Id.

[5] SunTrust, "BB&T and SunTrust To Combine in Merger of Equals To Create the Premier Financial Institution", February 07, 2019,*http://investors.suntrust.com/news/news-details/2019/BBT-and-SunTrust-to-Combine-in-Merger-of-Equals-to-Create-the-Premier-Financial-Institution/default.aspx.*

merger of the holding companies must be approved by the Federal Reserve, the Bank Merger Act requires that the FDIC also approve the merger in their role as the primary regulator of the newly chartered State nonmember bank owned by the holding company.[6] In the future, the question of whether to approve the merger will come before the FDIC Board.

As of the date of this hearing, what type of data and analysis related to the proposed merger have you requested from CFPB career staff?

A.19. As of the date of the hearing, the merger was not before the FDIC Board for consideration. To the extent I feel it is appropriate to request data of CFPB staff I do.

Q.20. As of the date of this hearing, have you requested or been offered any briefings from the FDIC to keep you informed of the merger process and timeline?

A.20. As of the date of the hearing, the merger was not before the Board for consideration and the matter was still being reviewed at the staff level. Once staff work is complete, FDIC staff offer briefings at the appropriate time.

Q.21. According to a study released earlier this year that pulled 2018 data from the CFPB's Consumer Complaint Database and ordered the institutions with the largest number of complaints weighted by the size of the institution's deposits, BB&T had the 16th largest number of complaints per dollar of deposits and SunTrust had the 4th largest number of deposits.[7] How will you use the consumer complaint database to inform your decision making with respect to the proposed merger?

A.21. FDIC staff review bank merger applications based on the statutory factors prescribed in the Bank Merger Act (BMA) and any other relevant provisions of the Federal Deposit Insurance (FDI) Act. The merger application was reviewed in accordance with the statutes.

Q.22. What are the most important factors that you believe should be considered to determine whether the proposed merger could potentially harm consumers? For each factor, please describe the quantitative and qualitative data you plan to use in your evaluation.

A.22. The most important factors in reviewing bank merger applications is ensuring that it is reviewed in accordance with the statute. As discussed above, the bank merger application was reviewed in accordance with the BMA and relevant provisions of the FDI Act. These statutes require an analysis that includes an assessment of the impact on consumers and communities, as well as a review of their programs with respect to consumer protection.

Q.23. Has the FDIC or any other regulator requested any information from the CFPB about the consumer protection or fair lending records for BB&T or SunTrust to inform the merger approval process?

[6] Congressional Research Service, "BB&T and SunTrust: Merger Approval Process and Trends", July 19, 2019, *https://fas.org/sgp/crs/misc/IN11146.pdf.*

[7] LendEDU, "Report: Reviewing CFPB Complaints of U.S. Banks in 2018", *https://lendedu.com/blog/banks-cfpbcomplaints-2018/.*

A.23. Yes, information regarding BB&T and Suntrust's consumer protection and fair lending records were shared with FDIC staff in accordance with the Bureau's normal interagency information sharing procedures.

Q.24. On September 10, 2019, the CFPB announced the creation of the American Consumer Financial Innovation Network (ACFIN) to enhance coordination among Federal and State regulators to "facilitate financial innovation." [8] However, there are uncertainties with respect to the ultimate role of ACFIN and how it could impact consumer protection regulations at the State level.

What is the purpose of ACFIN? How does it fit within the Bureau's mission to protect consumers? How it could impact State regulators of States that have and have not opted to join the network?

A.24. The purpose of AFCIN is to enhance coordination among Federal and State regulators to facilitate financial innovation that benefits consumers. The network also seeks to benefit consumers by keeping pace with market innovations and helping ensure they are free from fraud, discrimination, and deceptive practices. As with the Global Financial Innovation Network (GFIN) led by the U.K.'s Financial Conduct Authority, ACFIN members seek to accomplish their objectives through information-sharing and coordinating innovation-related policies and programs, as appropriate. There is no requirement that ACFIN members coordinate on no-action letters, Sandbox trials, or similar programs.

Q.25. The ACFIN charter states that "none of the actions undertaken under the auspices of ACFIN will be for the purpose of preempting State law." Is it possible that ACFIN could still result in the preemption of State law, even if it is not the intended purpose of the action?

A.25. The purpose of ACFIN is to enhance coordination among Federal and State regulators. The Bureau participates in ACFIN because it believes that coordination with our fellow regulators is a crucial component of facilitating consumer-friendly innovation. The ACFIN charter provision was intended to underscore—for current and potential State ACFIN members—that ACFIN is not intended to preempt State law. The Bureau's innovation-related activities concern Federal consumer financial law, not State law, and I do not foresee how our activities in connection with ACFIN would preempt State law.

Q.26. On August 31, 2017, the Department of Education (ED) terminated its Memoranda of Understanding (MOU) with the CFPB regarding the sharing of information in connection with oversight of Federal student loans. [9] This decision was unjustified, unwise, and another way to protect servicers from real oversight and accountability. The recently released Annual Report of the Student Loan Ombudsman notes that a new MOU for data sharing with ED is still not in place as of the close of the report, on August 31,

[8] Consumer Financial Protection Bureau, "American Consumer Financial Innovation Network", *https://files.consumerfinance.gov/f/documents/cfpb-CFIN-charter-2019-09.pdf.*

[9] Inside Higher Ed, "Education Dept. Ends Partnership with CFPB", Andrew Kreighbaum, September 5, 2017, *https://www.insidehighered.com/news/2017/09/05/education-dept-rebukes-cfpb-overreach-kills-information-sharing-agreement.*

2019,[10] preventing the CFPB from accessing full information needed to protect student borrowers. However, the report indicates the agency anticipates that a new MOU will be established, stating that "[g]oing forward, when an MOU is in place, deeper analysis of Federal data is anticipated."[11]

Please provide an update on the status of the negotiations with ED regarding a new MOU, including when you expect to finalize a new MOU with ED.

A.26. There are two MOUs that the Bureau is discussing with the Department of Education: one for complaints and one for supervisory information. On October 15, 2019, the Bureau sent to the Department of Education a copy of an MOU intended to ensure coordination in providing assistance to, and servicing, borrowers seeking to resolve student loan complaints. The Department of Education responded and discussions are ongoing. In addition, the Bureau is engaged in ongoing discussions with the Department of Education to reestablish an MOU regarding supervision of student loan servicing.

Q.27. Do you support the terms of the previous MOU? If not, what changes to the previous MOU is the CFPB advocating for?

A.27. As noted above, the Bureau is engaged in ongoing discussions. Once those discussions have concluded, the Bureau will provide a copy of the new MOU.

Q.28. In an April 23, 2019, letter to me, you indicated that since the Department of Education issued its December 2017 Memorandum regarding the Privacy Act of 1974, "student loan servicers have declined to produce information requested by the Bureau for supervisory examinations related to [Federal student] loans held by the Department based on the Department's guidance."[12] This startling revelation means ED's policies have emboldened servicers to ignore requests from Federal regulators charged with enforcing consumer protection laws. Just this week, NPR reported that the CFPB launched an investigation of student loan servicers' implementation of the Public Service Loan Forgiveness (PSLF) program in early 2018, but was unable to obtain needed information after ED instructed loan servicers not to share information with CFPB investigators.[13] Have you been able to complete to original specifications or otherwise continue conducting the 2018 investigation into the PSLF program?

If so, based on the preliminary findings of CFPB investigators, what actions do you intend to take to improve the implementation of the PSLF program?

A.28. The NPR report does not mention any enforcement investigation instead alluding to supervisory examinations. In general, the Bureau does not comment publicly on confidential enforcement in-

[10] Consumer Financial Protection Bureau, "Annual Report of the CFPB Private Education Loan Ombudsman", October 2019, p. 6, *https://files.consumerfinance.gov/f/documents/cfpb-annual-report-private-education-loan-ombudsman-2019.pdf.*

[11] Id.

[12] Letter from CFPB Director Kathleen Kraninger to U.S. Senator Elizabeth Warren, April 23, 2019.

[13] NPR, "Exclusive: Turf War Blocked CFPB From Helping Fix Student Loan Forgiveness Program", Chris Arnold, October 15, 2019, *https://www.npr.org/2019/10/15/769326896/exclusive-turf-war-blocked-cfpb-from-helping-fix-student-loan-forgiveness-program.*

vestigations or disclose confidential supervisory information. Since the letter I sent on April 23, 2019, student loan servicers have continued to decline to produce information requested by the Bureau for supervisory examinations related to Federal student loans held by the Department based on the Department's guidance. To be clear, the Bureau examines Federal student loan servicers for compliance with Federal consumer financial laws pursuant to its regulation on larger participants in the student loan servicer market.

Q.29. If not, what resources or access to information does the CFPB need in order to complete this investigation?

A.29. The Bureau needs information from Federal student loan servicers to complete these supervisory reviews.

Q.30. What actions has the agency taken to obtain information from student loan servicers in order to conduct the agency's oversight responsibilities? Have student loan servicers fully cooperated with these efforts?

A.30. The Bureau has sent supervisory requests to certain Federal student loan servicers. In addition, in the course of investigations and litigation related to student loan servicing practices, the Bureau has issued Civil Investigative Demands (CIDs) and sent Federal court discovery requests; in response to these demands, the Bureau has received information from student loan servicers. [14]

Q.31. *Operations*—Please provide a list of political appointees currently employed, including as detailees from other agencies, at the CFPB, their titles, the date they were hired, and their salaries.

[14] See, e.g., Aug. 10, 2018, Order, Consumer Financial Protection Bureau v. Navient, Case No. 3:17-CV-101 (M.D. Pa. Aug. 10, 2018).

A.31.

LAST NAME	FIRST NAME	TITLE	Date Onboard	PAY BAND	TOTAL SALARY
CZWARTACKI	JOHN	CHIEF COMMUNICATIONS OFFICER	4/29/2018	82	$239,595
DUKE	ANDREW	POLICY ASSOCIATE DIRECTOR (EA)	2/3/2019	90	$259,500
EDWARDS	OLIVIA	EXECUTIVE ASSISTANT	12/17/2018	41	$60,416
GARIBAY	MARISOL	ASSISTANT COMMUNICATIONS	1/17/2019	81	$219,042
JOHNSON	BRIAN	DEPUTY DIRECTOR	12/1/2017	90	$259,500
KIREILIS	ALTHEA	ASSOCIATE DIRECTOR OFFICE OF EQUAL OPPORUNITY AND FAIRNESS	5/21/2018	90	$259,500
SUTTON	KIRSTEN	CHIEF OF STAFF AND SPECIAL ASSISTANT	2/4/2018	90	$259,500
PAHL	THOMAS	POLICY ASSOCIATE DIRECTOR (RMR)	4/23/2018	90	$259,500
WATKINS	PAUL	ASSISTANT DIRECTOR OFFICE OF INNOVATION	7/16/2018	81	$219,042
CARNEMARK	KARLA	DEPUTY CHIEF OF STAFF	5/26/2019	82	$239,595

Q.32. Does the CFPB have plans to hire additional political appointees? If so, please provide position descriptions and salary ranges for their jobs.

A.32. Section 1013 of the Dodd–Frank Act states, "The Director may fix the number of, and appoint and direct, all employees of the Bureau in accordance with the applicable provisions of title 5, United States Code." This authority includes the appointment of employees under Schedule C hiring authority.

Schedule C appointees are commonly used throughout the Federal Government, including at other financial regulatory agencies. The decision to classify a job as a Schedule C position is made by the Director of the Office of Personnel Management (OPM) at the request of an agency head. For all Schedule C positions at the Bureau, we followed the process established by OPM, which reviewed and approved all of the Bureau's Schedule C hires.

OPM recently approved a Schedule C appointment for Jennifer Stalzer to serve as my Administrative Specialist starting January 5, 2020. The position is graded as a CN–52 and has a salary range of $92,166 to $133,640 including locality pay. A copy of the position description is attached as requested.

Q.33. The Partnership for Public Service produces an annual ranking of the best place to work using data from the Office of Personnel Management's Annual Employee Survey about job satisfaction. From 2017 to 2018, CFPB's ranking dropped 25 points, from 79.9 to 51.7, twice as much the agency with the next highest drop.

One manifestation of employees' dissatisfaction is attrition. Please provide quarterly staffing levels for the Bureau, broken up by Division and if possible, by office from 2017 Q1 to present.

A.33.

CFPB Division and Office	FY17 Q1	FY17 Q2	FY17 Q3	FY17 Q4	FY18 Q1	FY18 Q2	FY18 Q3	FY18 Q4	FY19 Q1	FY19 Q2	FY19 Q3	FY19 Q4	FY20 Q1
CONSUMER EDUCATION & ENGAGEMENT DIVISION	**80**	**83**	**81**	**83**	**84**	**81**	**218**	**210**	**209**	**206**	**205**	**204**	**198**
CONSUMER ED & ENGAGEMENT DIVISION FRONT OFFICE	15	15	15	17	17	17	18	17	16	18	15	15	15
CONSUMER ENGAGEMENT	12	14	13	13	14	14	13	14	13	13	14	14	14
CONSUMER RESPONSE							136	136	136	132	129	127	124
FINANCIAL EDUCATION	17	16	16	16	16	15	15	13	14	15	17	17	16
FINANCIAL EMPOWERMENT	11	10	10	11	11	11	11						
OFFICE OF COMMUNITY AFFAIRS								10	10	9	9	11	10
OLDER AMERICANS	8	12	11	11	11	10	11	11	11	10	10	10	9
SERVICE MEMBER AFFAIRS	11	11	11	10	10	9	10	9	9	9	9	8	7
STUDENT, CONSUMER OFFICE											2	2	3
STUDENTS	6	5	5	5	5	5	4						
OFFICE OF THE DIRECTOR	**34**	**35**	**35**	**34**	**31**	**37**	**38**	**35**	**37**	**51**	**52**	**54**	**53**
OFFICE OF THE DIRECTOR FRONT OFFICE	18	14	14	13	10	15	16	11	15	13	12	15	15
COMMUNICATIONS										4	4		
OFF OF LEGISLATIVE AFFAIRS												2	2
OFFICE OF INNOVATION									1	1	3	4	4
STRATEGY OFFICE	4	6	6	6	6	7	7	8	6	6	4	4	4
OFFICE OF EQUAL OPPORTUNITY & FAIRNESS	*12*	*15*	*15*	*15*	*15*	*15*	*15*	*16*	*15*	*27*	*29*	*29*	*28*
OFF OF EQU OPP & FAIRNESS	2	3	3	3	3	3	3	5	4	6	6	6	6
OFF OF FAIR LENDING AND EO										9	9	8	8
OFF OF MIN & WOM INCLUS	3	5	5	5	5	5	5	5	5	6	7	6	6
OFFICE OF CIVIL RIGHTS	7	7	7	7	7	7	7	6	6	6	7	9	8
EXTERNAL AFFAIRS DIVISION	**40**	**42**	**43**	**44**	**42**	**46**	**41**	**37**	**33**	**30**	**31**	**34**	**34**
EXTERNAL AFFAIRS DIVISION FRONT OFFICE	13	14	8	10	9	12	10	11	8	9	9	9	10
ADVISORY BOARDS (ABC)			5	5	5	5	6	5	5	4	4	5	5
COMMUNICATIONS	7	7	7	6	6	6	4	3	2				

COMMUNITY AFFAIRS	6	6	6	6	5	6	6						
FINANCIAL INSTITUTIONS	5	6	6	6	6	6	6	6	6	6	5	5	5
INTERGOVERNMENTAL AFFAIRS	2	2	3	4	4	5	4	2	2	2	4	4	4
LEGISLATIVE AFFAIRS	7	7	8	7	7	6	5	4	4	3	3		
OFF OF COMMUNICATIONS												5	5
PUB ENGAGEMT & CMUNTY LIAISON								6	6	6	6	6	5
LEGAL DIVISION	**76**	**81**	**79**	**78**	**79**	**78**	**76**	**71**	**71**	**70**	**67**	**67**	**68**
LEGAL DIVISION FRONT OFFICE	12	11	11	11	11	11	11	11	11	11	10	10	9
GENERAL LAW & ETHICS	23	25	25	25	25	25	24	22	22	22	21	22	22
LAW AND POLICY	27	27	27	26	26	24	24	21	22	22	21	21	21
LITIGATION & OVERSIGHT	14	18	16	16	17	18	17	17	16	15	15	14	16
OPERATIONS DIVISION	**453**	**463**	**457**	**459**	**454**	**448**	**298**	**288**	**285**	**275**	**275**	**278**	**282**
OPERATIONS DIVISION FRONT OFFICE	5	6	7	7	8	7	6	5	6	11	12	12	13
CHIEF DATA OFFICER													16
CHIEF FINANCIAL OFFICER	35	35	34	35	35	35	35	35	35	35	35	36	36
CONSUMER RESPONSE	144	144	143	141	143	143							
HUMAN CAPITAL	58	58	58	59	55	54	54	55	54	53	54	56	56
PROCUREMENT	22	23	23	23	23	23	23	23	22	21	21	20	21
PROJECT MANAGEMENT	10	9	8	8	6	6	5	5	5				
ADMINISTRATIVE OPERATIONS	*28*	*28*	*29*	*28*	*29*	*28*	*27*	*27*	*27*	*26*	*24*	*25*	*17*
ADMINISTRATIVE OPERATIONS	7	6	7	7	8	8	7	6	6	5	4	5	6
ADMIN OPERATION-RECORDS & FOIA	6	7	7	7	7	6	7	8	8	8	7	9	
ADMIN OPERATIONS-FACILITIES	7	7	7	7	7	7	7	7	7	7	7	7	7
ADMIN OPERATIONS-SECURITY	8	8	8	7	7	7	6	6	6	6	6	4	4
TECHNOLOGY & INNOVATION	*151*	*160*	*155*	*158*	*155*	*152*	*148*	*138*	*136*	*129*	*129*	*129*	
TECHNOLOGY & INNOVATION	111	125	121	131	144	142	141	133	131	127	128	128	123
TECHN & INNOVATION-FELLOWS	35	32	31	24	8	7	4	3	3	2	1	1	
TECHN & INNOVATION-PRIVACY	5	3	3	3	3	3	3	2	2				
OTHER PROGRAMS	**29**	**30**	**27**	**25**	**27**	**26**	**20**	**17**	**17**	**17**	**17**	**18**	**18**
ADMINISTRATIVE ADJUDICATION	3	3	3	3	3	3	3	2	2	2	2	2	2
DIRECTOR'S FINANCIAL ANALYSTS	22	23	20	18	19	18	12	10	10	10	10	11	11
OMBUDSMAN	4	4	4	4	5	5	5	5	5	5	5	5	5
RESEARCH, MARKETS, & REGULATIONS DIVISION	**166**	**167**	**168**	**167**	**166**	**163**	**159**	**148**	**143**	**138**	**137**	**140**	**140**
RESEARCH, MARKETS, & REG DIV FRONT OFFICE	12	11	11	9	9	10	10	9	9	9	10	10	8
CARDS, PAYMT & DEP MKTS	8	8	8	10	10	10	10	8	8	8	7	7	
CONS CRED, PYMTS, & DEP MKTS												11	18
LEND, COLLECT & REPORT MKT	11	11	11	11	12	12	12	11	12	10	11		
MORTGAGE MARKETS	8	7	8	8	8	8	8	6	6	5	5	6	6
REGULATIONS	75	74	76	74	72	69	68	65	61	60	59	58	60
RESEARCH	48	50	48	49	49	50	46	44	43	42	41	44	44
SMALL BUSINESS LEND MKTS	4	6	6	6	6	4	5	5	4	4	4	4	4

SUPERVISION, ENFORCEMENTT, & FAIR LENDING DIVISION	741	770	761	751	750	738	716	698	687	661	644	629	624
SUPERVSN, ENFRCMT, & FAIR LEND DIVISION FRONT OFFICE	8	7	8	6	9	10	10	9	9	10	10	9	9
ENFORCEMENT	146	153	152	152	151	148	145	141	140	139	138	138	138
FAIR LENDING AND EQUAL OPPORT	36	37	37	35	35	34	31	30	26				
SUPERVISION POLICY	47	48	45	45	44	48	47	47	48	51	49	46	49
SUPERVISION EXAMINATIONS	*504*	*525*	*519*	*513*	*511*	*498*	*483*	*471*	*464*	*461*	*447*	*436*	*428*
SUPERVISION EXAMINATIONS	41	51	53	53	53	46	43	41	39	42	41	40	39
SUPERVISION MIDWEST REGION	106	110	107	105	105	106	103	102	99	98	94	88	86
SUPERVISION NORTHEAST REGION	111	121	118	117	116	114	113	110	109	107	99	98	98
SUPERVISION SOUTHEAST REGION	122	121	119	119	120	117	116	114	113	113	111	111	109
SUPERVISION WEST REGION	124	122	122	119	117	115	108	104	104	101	102	99	96
Bureau Total	**1619**	**1671**	**1651**	**1641**	**1633**	**1617**	**1566**	**1504**	**1482**	**1448**	**1428**	**1424**	**1417**

* Table of staffing levels depict employee head count on-board as of the last pay period of the quarter. Data reported as of 12/7/19.

**Please note that reorganizations and/or the renaming of Bureau Offices over the years have resulted in organizational shifts throughout the Bureau.

Q.34. What is CFPB's plan to improve morale among staff?

A.34. The staff of the Bureau are highly committed to the Bureau's mission and care deeply about the organization. I respect them, I take their views and opinions seriously, and their input is integral to my decision making. Further, I am committed to leading a diverse, productive, effective workforce.

After I was sworn in as Director, it was important for me to hear input from staff directly. I made it a priority during the first months of my tenure to go on a "listening tour" and visit as many Bureau staff as possible, both at Headquarters and in all four of our regional locations. I have continued to engage with employees through Bureau-wide all-hands sessions, regular meetings with Division and Office teams, and weekly "office hours" to provide updates on Bureau priorities, recognize individual and team efforts and achievements, and continue to gather staff feedback. The Bureau also regularly surveys staff, including through our Annual Employee Survey.

Here are specific actions I have taken in response to some employee feedback as well as initiatives that reflect my approach to leadership and management:

- Early on, I outlined my approach to addressing the hiring freeze and empowering senior managers to determine skill and resource needs to address the Bureau's mission priorities. During the listening tour, I made clear that I was open to, and had granted, many exceptions to the hiring freeze in response to requests by managers who demonstrated a critical mission need. Subsequent to that, in May 2019, I launched the FY2020 Staffing Plan process with a goal of moving the Bureau towards a more sustainable and disciplined practice of identifying and hiring the staff needed to accomplish the Bureau's mission priorities. In August 2019, I announced to staff that I had approved an FY2020 Staffing Plan for the Bureau and lifted the hiring freeze.

- As a precursor to the FY2020 Staffing Plan process, I approved a number of initiatives designed to help determine optimal staffing levels for the long term. These initiatives include better aligning resources with my top policy priorities, improving how cross-Bureau legal functions are performed, and enhancing how administrative and operational functions are performed across the Bureau.
- I established a Workforce Effectiveness Committee to ensure that the Bureau takes a holistic, consistent approach to considering workforce-related plans and initiatives with a particular view towards improving workforce effectiveness, employee engagement, and diversity and inclusion efforts.
- I created a Customer Experience Office to focuses on improving our internal staff experience through enhanced operational services enabling the workforce to be more effective and efficient in meeting the Bureau's mission.
- I have continued to strongly promote diversity and inclusion by refreshing the Bureau's Diversity and Inclusion Strategic Plan, enhancing the focus on strong engagement with employees, and utilizing an integrated approach to education, training, and engagement programs that incorporate diversity and inclusion concepts into the learning curriculum and work environment. Employee Resource Groups, which are networks of Bureau employees with similar interests, backgrounds, or experiences, cultural education programs, and diversity and inclusion training are key components of this effort.
- I presented the Director's Mission Achievement Award to recognize staff leadership and team contributions towards the Bureau's mission. The award is CFPB's highest honor. In accordance with my priorities, this year I recognized both leadership excellence and outstanding team contributions. Twenty leaders and over 200 team members across 29 teams were nominated by a joint committee of representatives from the union and CFPB management.
- I promoted the Bureau's focus on data and information governance and management by creating a new Office of the Chief Data Officer, combining it with related functions such as Records, FOIA and Privacy, and elevating it to report directly to the Chief Operating Officer.
- I opened a regional office in Atlanta, Georgia, so that the Bureau's Southeast Region can collaborate more effectively with other partner financial regulators who also have their regional office in Atlanta; the Southeast Regional Office will feature a regional learning and development center for Bureau examiners and Federal and State partners.
- I launched the consolidation of all Washington, D.C.-based staff from two office buildings into one to increase the effective-

ness of the organization and to significantly improve the collaboration across all teams and divisions. Moves are underway and planned to be completed in January 2020.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM KATHY KRANINGER

Q.1. *Civil Penalty Fund*—Please answer the following questions regarding the Civil Penalty Fund's fiscal status for FY19.

How much money was collected in FY19? Please provide a list of defendants, the civil penalty imposed, and the civil penalty that was collected.

A.1. In Fiscal Year 2019, the Bureau collected civil penalties from 24 defendants totaling $131.2 million. Below is a list of defendants, the amount of the penalty imposed, and the amount collected.

Defendant Name	Civil Penalty Imposed	Civil Penalty Collected
National Credit Adjusters, LLC and Bradley Hochstein – Defendant Hochstein	$3,000,000	$200,000
National Credit Adjusters, LLC and Bradley Hochstein – Defendant National Credit Adjusters, LLC	$3,000,000	$50,000
Bluestem Brands, Inc., et al.	$200,000	$200,000
Cash Express, LLC	$200,000	$200,000
Santander Consumer USA Inc.	$2,500,000	$2,500,000
Richard F. Moseley, Sr., et al. – Defendants Moseley, Sr., Moseley, Jr., and Corporate Defendants	$1	$1
Hoffman Law Group f/k/a Residential Litigation	$10,000,000	$55,157
USAA Federal Savings Bank	$3,500,000	$3,500,000
Village Capital & Investment LLC	$260,000	$260,000
Enova International, Inc.	$3,200,000	$3,200,000
Mark Corbett	$1	$1
Cash Tyme	$100,000	$100,000
Sterling Jewelers Inc.	$10,000,000	$10,000,000
Vincent Howard, Lawrence Williamson, Howard Law, P.C., The Williamson Law Firm, LLC, and Williamson & Howard, LLP	$40,000,000	$1
Conduent Education Services, LLC	$3,900,000	$3,900,000
D and D Marketing, Inc. d/b/a T3Leads, et al. – Defendants Grigor Demirchyan and Marina Demirchyan	$2	$2
Servis One, Inc., d/b/a BSI Financial Services	$200,000	$200,000
Freedom Mortgage Corporation	$1,750,000	$1,750,000
Freedom Debt Relief, LLC	$5,000,000	$4,506,500
Equifax	$100,000,000	$100,000,000
Asset Recovery Associates, Inc. (ARA)	$200,000	$50,000
Maxitransfers	$500,000	$500,000
S Payment & Processing Solutions, LLC	$1	$1
Sumant Khan	$1	$1
Total	$187,510,006.00	$131,171,663.97

Q.2. How much money was spent on victim compensation in FY19? Please provide a list of cases that had classes of eligible victims for compensation, how many victims were eligible for compensation per case, the total amount of uncompensated harm, how much was provided for compensation per case, and the average amount of compensation per victim.

A.2. During Fiscal Year (FY) 2019, the Bureau had eight active Civil Penalty Fund distributions. Below is a list of cases, amount distributed per case, number of consumers (at the time of initial distribution) and average payment per consumer. While eight cases were active during FY19, distributions related to seven of the cases listed in this table were initiated prior to FY19.

Case Name	Amount Distributed	# Consumers	Avg. PMT
CES	$2,402,614	2,689	$893
Global Client Solutions	$115,894,180	64,214	$1,805
Morgan Drexen Inc.	$114,759,385	59,001	$1,945
Student Aid Institute	$3,508,900	3,265	$1,075
Student Loan Processing	$7,923,524	4,800	$1,651
TMLG	$18,331,734	5,394	$3,399
Triton	$1,022,298	873	$1,171
World Law	$90,212,602	20,485	$4,404
Totals	**$354,055,237**	**160,721**	**N/A**

Q.3. In Fiscal Years (FY) 17 and 18, the Bureau allocated $0 towards consumer education and financial literacy programs. In Fiscal Year 2019, how much will you allocate from the Civil Penalty Fund to consumer education and financial literacy programs?

A.3. No allocations were made to financial literacy from the Civil Penalty Fund in FY19.

Q.4. How much money was left unallocated and returned to the fund in FY19?

A.4. Three Civil Penalty Fund matters concluded in FY19 (Global Client Solutions, Student Loan Processing, and Student Aid Institute). Total allocated to those three cases was $127.6 million. Of that amount, $127.3 million was mailed to consumers, 92 percent of issued checks were cashed and $10.6 million is available for return to the fund for future allocations.

Q.5. How much money is left for future allocation after FY19?

A.5. As of September 30, 2019, the Civil Penalty Fund had an unallocated balance of $553.2 million.

Q.6. *Home Mortgage Disclosure Act*—At a hearing before the Senate Committee on Indian Affairs, one of the witnesses, Patrice K. Kunesh, presented the results of a report by the Federal Reserve Bank of Minneapolis, The Higher Price of Mortgage Financing for Native Americans. The report found that Native Americans were twice as likely to have a high cost mortgage loan. Native Americans will pay about $107,000 more on average than other homebuyers. The report also found that about 35 percent of Native Americans who bought homes on reservation land during the study's timeframe bought a manufactured home. I am concerned by the Bureau's recent proposals to exempt more banks and credit unions from reporting Home Mortgage Disclosure Act (HMDA) data.

The Bureau still collects HMDA data but does not publish it on the HMDA site. Will the Bureau allow researchers access to the nonpublic HMDA data? If so, how and which researchers?

A.6. The Bureau continues to release all of the data that was previously publicly available under HMDA as well as a number of new data elements added pursuant to the Dodd–Frank Frank Wall Street Reform and Consumer Protection Act (Dodd–Frank Act) Amendments to HMDA. The Dodd–Frank Act also directed the Bureau to develop regulations that modify the information made public in order to protect the privacy interest of mortgage applicants or mortgagors. Consistent with the balancing test in the Bureau's 2015 HMDA Rule and policy statement issued by the Bureau, for the 2018 data, the Bureau has not made a few of the new data elements, such as credit scores, available at the individual applicant or loan level.

Concurrent with the release of the national snapshot and dynamic loan-level datasets in August 2019, the Bureau also released two Data Point articles summarizing the 2018 HMDA data (*https://www.consumerfinance.gov/data-research/hmda/*). The first article summarizes trends in historical data points. The second article is a comprehensive analysis of each of the data points collected and reported under HMDA for the first time in 2018, including data elements that have not themselves been publicly released.

The Bureau also is considering other measures to allow industry, community researchers, and academics to have access not only to the modified HMDA data discussed above, but also unmodified HMDA data. As the Bureau discussed in the 2018 final policy guidance, it believes HMDA's public disclosure purposes may be furthered by allowing industry and community researchers and academics to access not only the modified HMDA data that is publicly released but also to obtain for research purposes the unmodified HMDA data through what is sometimes referred to as a "restricted access program." The Bureau is continuing to evaluate that concept, including the options for such a program, and the risks and costs that may be associated with such a program. Initiating a restricted access program for community and industry researchers and academics would require that the Bureau obtain the approval of the FFIEC Agencies and the Department of Housing and Urban Development that share ownership of the HMDA data.

Q.7. What is the Bureau doing to ensure steering in lending for manufactured housing is not occurring?

A.7. The Bureau recognizes that manufactured housing (MH) is an important source of affordable housing, in particular for rural and low-income consumers, and that preserving access to credit for MH is important to rural and low-income consumers. At the same time, the Bureau also recognizes that MH customers may be more likely to belong to groups, such as older or lower-income families, which include many consumers who might be financially vulnerable.

Regarding steering, the Bureau's Loan Originator Compensation rule implements the Dodd–Frank Act's prohibition on compensating loan originators based on the terms of the transaction. This prohibition is designed to eliminate steering incentives such as increased compensation for steering a consumer into a higher-priced loan. In the Dodd–Frank Act, Congress excluded from the definition of mortgage originator an employee of a manufactured home retailer who does not take a residential mortgage loan application or offer or negotiate terms of a residential mortgage loan, so long as the employee does not advise a consumer on loan terms. In promulgating the above-referenced Rule, the Bureau incorporated this exclusion into the definition of loan originator.

In the Economic Growth, Regulatory Reform, and Consumer Protection Act of 2018, Congress expanded the exclusion to cover a retailer of manufactured or modular homes or an employee of the retailer so long as the employee does not receive compensation or gain with respect to a manufactured home sale for which credit is extended that is in excess of any compensation or gain received in a comparable cash transaction, does not directly negotiate with the consumer or lender on loan terms, and discloses to the consumer, in writing, any corporate affiliation with any creditor. If the retailer does have a corporate affiliation with any creditor, the exception would also require the disclosure of at least one unaffiliated creditor. If, however, a retailer of manufactured or modular homes or an employee of the retailer stands to gain compensation beyond that received in a comparable cash transaction, that compensation is prohibited from being based on the terms of the loan, and the prohibition on steering incentives continues to apply under the Bureau's Rule.

In August 2019, the Bureau, along with our FFIEC partners, released the 2018 HMDA data, which include two new data points specific to manufactured housing. Under the 2015 HMDA rule, institutions now report whether the applicant owned or leased the land as well as whether the loan was secured by both the manufactured home and the land or only the manufactured home (commonly called chattel). The Bureau's accompanying report on new and revised HMDA data points included an analysis of MH lending.[1] As part of our ongoing monitoring, the Bureau will continue to do research and engage with stakeholders about MH lending to

[1] See *https://www.consumerfinance.gov/data-research/research-reports/introducing-new-revised-data-points-hmda.*

ensure that consumers have access to credit for MH and that the market for MH credit operates fairly, transparently, and competitively.

Q.8. *Enforcement: American Recovery Associates*—Was the decision to levy $36,800 for restitution from American Recovery Associates a decision made by the career enforcement staff?

A.8. As has been true throughout the Bureau's history, the Director authorizes settlement parameters in a public enforcement action after considering a recommendation from Bureau staff.

Q.9. Were political staff, including you as the Director, involved in the decision to levy the restitution amount?

A.9. See response above.

Q.10. Was the recommendation of the career enforcement staff that restitution be limited to $36,800?

A.10. See response above.

Q.11. Was it the recommendation of the career enforcement staff that restitution only be provided to people who complained?

A.11. See response above.

Q.12. What other consumer cases limit restitution only to people who complained to a Government agency?

A.12. The Bureau weighs many factors to determine the precise mix of restitution, penalties, and injunctive relief appropriate in each case. Generally, when analyzing remediation, the Bureau considers all relevant facts and circumstances and seeks to make consumers whole for losses caused by a party's illegal conduct. While the Bureau is committed to seeking all appropriate relief for consumers, not every case lends itself to restitution for all potentially affected consumers, particularly in the context of a negotiated settlement. The evidence available may impact the Bureau's ability to identify harmed consumers and obtain all appropriate relief for those harmed consumers.

Q.13. How will the Bureau identify who complained about ARA? What are your sources to gather complaints?

A.13. The Bureau will identify who complained about ARA based on complaints made to the Bureau as well as complaints made to third party sources that report to Consumer Sentinel, which among other sources includes complaints made to the Federal Trade Commission.

Q.14. *General Questions*—In your answers to my question, you said that ARA identified customers who complained and that the amount of restitution depended on their ability to pay. A post-hearing call to my staff corrected your statement to say ARA was not involved. Have there been enforcement decisions where the firm identified consumers who were harmed? If so, which ones? If so, did the firm recommend restitution amounts?

A.14. When resolving public enforcement actions, the Bureau often requires the company to submit to the Bureau for review and non-objection a comprehensive written plan for providing redress consistent with the requirements of the consent order or stipulated judgment. The Bureau then has the discretion to make a determination of nonobjection to the redress plan or to direct the company to revise it. In some cases, the consent order or stipulated judgment also requires the company to state in the redress plan how the company will identify consumers who will receive restitution required under the order[2] or to provide a report after redress is completed showing how the company identified and provided restitution to consumers.[3]

Q.15. Have officials at the White House ever contacted you or a member of the CFPB staff to recommend an action related to supervision or enforcement? If so, who and which cases? What was the Bureau's response to the request for a recommended action?

A.15. I am not aware of any instance in which officials at the White House have contacted myself or other Bureau staff to recommend an action related to supervision or enforcement.

Q.16. Have officials at the White House ever contacted you or a member of the CFPB staff to inquire into an investigation? If so, who and which cases? What was the Bureau's response to the request for information?

A.16. I am not aware of any instance in which officials at the White House have contacted myself or Bureau staff to inquire into an investigation.

Q.17. Isn't the standard for restitution supposed to be a "reasonable approximation of the amount lost by consumers or of illegal profits?"

A.17. The Bureau is committed to seeking all appropriate relief for consumers and considers whether redress or restitution may be appropriate in each case on the facts presented and in light of applicable law. The Consumer Financial Protection Act authorizes the Bureau to seek redress for consumers in appropriate cases as a matter of discretion. Particularly in the context of a negotiated settlement, the Bureau may choose to pursue the relief it determines best serves the public interest. Settlements allow the Bureau to avoid expending significant resources proving claims in court, mitigate trial risk, achieve speedier results for consumers, and provide certainty for companies. While the Bureau is committed to seeking all appropriate relief for consumers, not every case lends itself to restitution for all potentially affected consumers, particularly in the context of a negotiated settlement.

Q.18. Do CFPB guidelines require the company to pay a "reasonable approximation" of the harm done?

A.18. While the Bureau is committed to seeking all appropriate relief for consumers, not every case lends itself to restitution for all potentially affected consumers, particularly in the context of a negotiated settlement.

Q.19. Please identify other debt collection settlements when the CFPB set up processes to identify consumers who might have been harmed. Has the Bureau appointed a settlement administrator or

[2] USAA: *https://files.consumerfinance.gov/f/documents/bcfp__usaa-federal-savings-bank__consent-order.pdf.*

[3] Santander: *https://files.consumerfinance.gov/f/documents/bcfp__santander-consumer-usa__consent-order__2018-11.pdf.*

put up a website where people can submit a claim in previous enforcement cases, either debt collection or other types of financial products? If so, please provide some examples.

A.19. The Bureau has entered into a number of settlements that have set up processes to identify harmed consumers, including through the use of a settlement administrator or public website. Among these are Bureau of Consumer Financial Protection v. Equifax,[4] United States of America and Consumer Financial Protection Bureau v. BancorpSouth Bank;[5] United States of America and Consumer Financial Protection Bureau v. Provident Funding Associates, LP;[6] and In the Matter of GE Capital Retail Bank, Care Credit LLC.[7]

Q.20. Even if the company cannot pay the full amount, can CFPB provide restitution to harmed consumers through the Civil Monetary Penalties Fund?

A.20. In some circumstances, the Bureau can provide compensation from the Civil Penalty Fund (Fund) to certain harmed consumers. When a person or company violates a Federal consumer financial protection law, the Bureau can bring an enforcement proceeding against such a person or entity. If that person or company is found to have violated the law, it may have to pay a civil money penalty. When the Bureau collects civil penalties, it deposits them in the Fund. The money in the Fund is pooled and might be available to compensate eligible victims who have not received full compensation for their harm through redress paid by the defendant in the case. The Bureau's Civil Penalty Fund rule determines whether consumers are eligible for such compensation. The Bureau hopes to make payments to all eligible victims, but whether it will be able to will depend on the amount of money in the Fund and other factors. Every 6 months, the Fund Administrator will determine which classes of victims will receive payments from the Fund. To make that determination, the Fund Administrator assesses how much money is available in the Fund and reviews closed cases to determine which victims are eligible to receive payments. As of September 30, 2019, the Civil Penalty Fund has an unallocated balance of $553.2 million.

Q.21. Military Lending On August 22, you met with Holly Petraeus.

Did she share any written materials with you with regards to your decision to stop supervision for military lending violations under the Military Lending Act? If so, please provide those.

A.21. I don't believe Ms. Petraeus produced nor offered any written materials regarding the supervision for Military Lending Act violations.

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[4] *https://www.consumerfinance.gov/about-us/newsroom/cfpb-ftc-states-announce-settlement-with-equifax-over-2017-data-breach/*

[5] *https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-and-department-justice-action-requires-bancorpsouth-pay-106-million-address-discriminatory-mortgage-lending-practices/*

[6] *https://www.consumerfinance.gov/about-us/newsroom/cfpb-and-department-of-justice-take-action-against-provident-funding-associates-for-discriminatory-mortgage-pricing/*

[7] *https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-ge-carecredit-to-refund-34-1-million-for-deceptive-health-care-credit-card-enrollment/*

Q.22. Did Ms. Petraeus share her views on your decision to stop supervision for military lending violations? If so, please share what she shared with you about her views.

A.22. I have asked Congress to explicitly grant the Bureau authority to conduct examinations specifically intended to review compliance with the MLA. The requested authority would complement the work the Bureau currently does to enforce the MLA. Ms. Petraeus shared with me her experience as the Bureau's inaugural Assistant Director for Servicemember Affairs.

Q.23. *Consumer and Civil Rights Groups*—In July, you met with consumer and civil rights groups, such as the National Fair Housing Alliance, the Leadership Conference on Civil and Human Rights, U.S. PIRO, the NAACP and National Consumer Law Center. In June, you met with consumer groups such as Center for Responsible Lending, National Coalition of Asian Pacific Americans for Community Development and Americans for Financial Reform.

Will those be regular meetings, such as quarterly?

A.23. As of December 31, 2019, I have met with 238 consumer, civil rights and nonprofit organizations during my tenure thus far as Director of the CFPB. I intend to continue meeting and engaging on a regular basis with consumer, civil rights and nonprofit groups around the country. These interactions broaden my views and perspectives, and I know they do the same for my staff. My External Affairs Division will continue to facilitate opportunities to meet with consumer, civil rights, and nonprofit organizations whenever and however we can.

Q.24. Will you continue to meet with representatives of those groups individually?

A.24. Yes, I will continue to engage with leaders individually as well as collectively. During my tenure I have held one-on-one meetings with many consumer and civil rights leaders from across the Nation, and I am committed to continuing and maintaining ongoing channels of communication and engagement with consumer and civil rights representatives, as with any stakeholders of the Bureau.

Q.25. Are all the financial firms you met with on your calendar? For example, you met with Bob Broeksmith on July 19th but your calendar did not note that he was the head of the Mortgage Bankers Association.

A.25. Yes, all official meetings with external entities are on my calendars, which are released to the public on the Bureau's website. Staff are working to ensure consistency and accuracy of the calendar entries for meetings with external people/entities, to include name, title/position, and the full name of the entity.

Q.26. *Diversity*—Your June calendar noted PRIDE month. Please note CFPB activities related to Pride.

A.26. Each year the Bureau commemorates PRIDE Month to recognize the contributions of the LGBTQ+ community. In June 2019, the following Bureau activities were hosted to commemorate PRIDE Month:

- The Office of Minority and Women Inclusion (OMWI) created posters in honor of PRIDE Month, which were displayed in CFPB's Washington, D.C., headquarters and offices along with the Regional offices.
- The OMWI Office posted "Did You Know" facts on the Bureau's internal website featuring interesting facts and information about LGBTQ+ contributions to the country.
- On May 30, 2019, the Bureau's PRIDE Employee Resource Group (ERG) hosted a happy hour social at the Bureau Headquarters open to all PRIDE members, to kick off the commemoration of PRIDE Month.
- On June 4, 2019, the OMWI Director issued a Bureau-wide message commemorating PRIDE Month, giving the history of the month and why it is observed. The message also encouraged Bureau employees to participate in the various events being held to celebrate PRIDE Month and provided information on ways employees could participate in external activities in commemoration of PRIDE Month.
- On June 11, 2019, OMWI and the PRIDE ERG coordinated a photo shoot entitled, "Raising the Rainbow Flag" with the members of LGBTQ+ Bureau community and allies in the Bureau's building Courtyard. Approximately 90 employees joined in, holding up strips of colored fabric to make a human representation of the PRIDE flag for the photo. The photo was displayed on the lobby monitors in headquarters and Bureau-wide in the June edition of the OMWI Newsletter, Perspectives, to increase awareness and promote unity around the LGBTQ+ Bureau community.
- On June 11, 2019, in a Bureau-wide message reflecting on my first 6 months at the Bureau, I highlighted PRIDE Month and encouraged staff to participate in upcoming Bureau activities commemorating PRIDE Month and celebrating the LGBTQ+ community.
- On June 13, 2019, OMWI and the PRIDE ERG hosted an internal panel event entitled, "Making the Difference: Being Out and Open in the Workplace" at our 1990 K St. Washington, D.C., office, which was accessible via Web-ex to the Bureau's Regional offices and remote workers. The panel of Bureau staff shared their experiences with the challenges and rewards of coming out in the workplace. The PRIDE ERG's Executive Sponsor moderated the event and my Chief of Staff gave opening remarks.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR JONES FROM KATHY KRANINGER

Q.1. *CFPB Research on Tax Time Savings*—Last month, the CFPB released research, in collaboration with H&R Block, which attempted to find effective methods to encourage taxpayers to invest more in their savings. One of the findings is that recipients of the earned income tax credit (EITC) were more likely to save than those who used the refund anticipation check (RAC).

Some banks choose to charge additional large fees on RACs. Many users of RACs are recipients of the earned income tax credit. The EITC is essential to keeping families across the country out of poverty and helps them prepare for emergencies, not to be used for tax preparers to take additional fees.

Has the CFPB considered taking action to ensure that financial institutions do not charge exorbitant RAC fees?

A.1. The Bureau continues to monitor the market for Refund Anticipation Loans and Refund Anticipation Checks to detect risks to consumers. Under the Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd–Frank Act), the Bureau seeks to ensure that consumers have access to consumer financial products and services, that the markets for those services are fair, transparent and competitive, and can exercise its authorities to ensure that consumers are provided with timely and understandable financial information to make responsible decisions about financial transactions. The Bureau also is tasked with ensuring that these markets operate transparently and efficiently to facilitate access and innovation.

Q.2. *CFPB Consumer Counseling*—One of my constituents brought to my attention issues with bank accounts after the death of her husband. Her husband was the primary account holder and she was an authorized user.

Although she was involved in the financial dealings of the household, the bank still closed the account after his death, forcing her to reapply for credit cards and open new bank accounts, putting her in financial constraints during a very vulnerable time.

The CFPB's website acknowledges the importance of closing financial accounts of passed loved ones but not the complications that can occur. While I recognize the CFPB cannot unilaterally close this information gap, I believe it can better educate consumers about the long-term effects of these kind of financial decisions.

Have you received complaints from surviving family members regarding this or similar issues related to account closures, and what steps will you take to better educate consumers?

A.2. The Bureau is aware of difficulties that can arise following the death of a spouse. In a 2017 report focused on older consumers, the Bureau noted:

> Consumers reported difficulties navigating and organizing finances following the death of a spouse or family member. Consumers must often take specific steps to take control of financial assets following the death of a spouse or family member—these steps are dependent on the unique circumstances of the individual and financial product. [1]

The Bureau has released two consumer advisories related to this important topic. The first is a quiz for partners to complete together about their current household financial picture. [2] The second

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[1] *https://files.consumerfinance.gov/f/documents/201705_cfpb_Monthly_Complaint_Report.pdf*

[2] *https://www.consumerfinance.gov/about-us/blog/share-financial-information-your-spouse-now-avoid-problems-later/*

offers tips on classifying digital assets and making sure to include those items in family financial planning.[3] The Bureau also has engaged in research to help couples prepare each other for the role of family financial manager. The research assessed what resources are currently available to surviving spouses and how to address the gaps that exist. Based upon this research, the Bureau will continue to explore how to create more robust information on the topic in the future.

Q.3. *Senior Protections*—Seniors usually have limited funds after they are retired. However, many bad actors target seniors to convince them to purchase unneeded financial products. The Dodd–Frank Act attempted to combat this with Section 989A, which directed the CFPB to establish grants to States to protect seniors from misleading sales of financial products.

Section 989A was never fully implemented under the leadership of Former Director Richard Cordray. Are there coming plans for the disbursement of these grants or the implementation of Section 989A of the Dodd–Frank Act?

A.3. Currently, the Bureau does not have plans for the disbursement of grants or the implementation of Section 989A of the Dodd–Frank Act. As you may be aware, no appropriations were given to implement these grants, nor did Congress mandate that grants be provided.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SMITH FROM KATHY KRANINGER

Q.1. What and when was the most recent action the CFPB has taken to establish a consumer complaint information sharing agreement with the Department of Education?

A.1. On October 15, 2019, the Bureau sent to the Department of Education a copy of a MOU intended to ensure coordination in providing assistance to and serving borrowers seeking to resolve student loan complaints. The Department of Education responded and discussions are ongoing.

Q.2. What and when was the most recent action the CFPB has taken to establish an information sharing agreement related to supervisory examinations and oversight matters with the Department of Education?

A.2. The Bureau is engaged in discussions with the Department of Education to reestablish a MOU regarding supervision of student loan servicing, and those discussions are ongoing.

Q.3. Do you commit to having the CFPB disaggregate complaints regarding PSLF and TEPSLF from other complaints it receives on student loan servicers in future student loan reports?

A.3. The Bureau is committed to managing the consumer compliant system as effectively as possible to meet its intended purposes. In terms of disaggregating or characterizing complaints, that can be a challenge. Consumers frequently reference more than one issue in their complaints. Regarding PSLF and TEPSLF, the complaint

[3] *https://www.consumerfinance.gov/about-us/blog/virtual-valuables-consider-your-digital-footprint-you-prepare-future/*

database collects this information in the narrative portion of the complaint. This means that such complaints are challenging to aggregate and disaggregate, and they are even more challenging when there is more than one issue in the complaint. Further complicating disaggregation, the terms in the narrative used to describe and identify PSLF and TEPSLF are provided directly by the consumer. This means that two consumers may have the exact same issue with PSLF, but describe the issue differently with different terms. The result may be that one consumer's complaint is identified as a PSLF issue, while the other may be identified as a more general servicing issue.

Q.4. Aside from any efforts to coordinate with the Department of Education related to establishing information sharing agreements, what and when was the most recent action the CFPB has taken to investigate the Public Service Loan Forgiveness (PSLF) program and the Temporary Expanded PSLF (TEPSLF)?

A.4. The Bureau's specific supervisory and investigatory enforcement activity is confidential. The Bureau's examination manual for student loan servicing guides examiners in conducting examinations, and it provides guidance about a number of specific issues, including issues that may arise during examinations focused on non-Federal loans (private student loans and commercial loans insured under the Family Federal Education Loan Program (FFELP)). To be clear, the Bureau examines Federal student loan servicers for compliance with Federal consumer financial laws pursuant to its regulation on larger participants in the student loan servicer market.

Q.5. How many oversight examinations of Federal student loan servicers related to PSLF or TEPSLF has the CFPB conducted since the TEPSLF program began in May 2018?

A.5. Since December 2017, student loan servicers have declined to produce information requested by the Bureau for supervisory examinations related to Direct Loans and Federal Family Education Loan Program (FFELP) loans held by the Department of Education based on the Department's guidance. Additional information responsive to this request is Confidential Supervisory Information.

Q.6. What process does the CFPB follow for complaints that specifically mention PSLF or TEPSLF? Does this process differ in any meaningful way from other complaints related to student loan servicing?

A.6. The Bureau handles PSLF or TEPSLF complaints in the same manner as it handles other complaints related to student loan servicing.

Q.7. To date, how many oversight examinations of private student loan servicers has the CFPB conducted in calendar year 2019?

A.7. The Bureau's specific supervisory activity is confidential.

Q.8. In your testimony you referenced the ongoing Next Generation (Next Gen) Financial Services Environment platform overhaul for Federal student aid servicing as the reason for reconsidering CFPB's 2017 data collection request submitted to OMB. Because of Next Gen, you said "the data collection as it was submitted to OMB isn't really relevant today." What data collected through the Next Gen platform will the CFPB use that makes the previous request to OMB for data collection irrelevant?

A.8. At present, servicing of federally owned student loans is handled by nine contract servicers. These accounts are hosted on four separate technology platforms, maintained by the so-called Title IV Additional Servicers (TIVAS)—FedLoan Servicing/PHEAA, Great Lakes, Navient, and Nelnet. The five small, not-for-profit servicers (NFPs) use either the FedLoan or Nelnet servicing platform, under remote servicing agreements. All nine of the servicers maintain their own customer service centers. The data request would have required for data to be pulled from each of these platforms by each servicer.

Under Next Gen, we understand that all federally owned borrower accounts will be transferred to a single servicing platform, which will fundamentally change the way servicing responsibilities are allocated across parties and move all of the data management to a single platform. Contracts are to be awarded to companies to provide specific—but not all—servicing functions, which means that the data request would need to be retooled to match the contractor's functionality. Customer service centers may be offered by one or more contractors. As a result, the new system does not align with the design of the data request, decreasing the long-term value of implementing the data collection as originally envisioned. The Department of Education has not yet announced the completion of the Next Gen contract awards, the number of contractors and the scope of each entity's work remain unknown.

Also, the Next Gen system has been structured to handle some collections activities, which are now handled under a separate system. The Bureau may consider how to add collections outcomes to the data request, considering this shift.

Q.9. Is Next Gen data included in the information sharing agreement you are pursuing with ED?

A.9. The discussions about the information sharing agreement have not concluded.

Q.10. What actions will the CFPB take should the Department of Education not agree to share data collected through Next Gen?

A.10. The Bureau has not made a determination about potential actions the agency might consider should the Department of Education not agree to share data collected through Next Gen.

Q.11. Because Next Gen only pertains to Federal student loan servicing and not the private student loan market, what portions of the CFPB's request to OMB to collect data do you and your staff believe to be still relevant?

A.11. Next Gen will not, in and of itself, affect the relevance of the data previously requested but the sources of that data will or may change. As discussed above, the source(s) of the data for federally owned loans will undoubtedly change. It is also possible that the sources of information for private education loans also could change as a result of the implementation of Next Gen. The Bureau will reassess the data request once it has clearer insight into how Next Gen will affect the collection and maintenance of private student loan data. In the interim, the Bureau would be able to collect the requested information for private education loans from the holders or servicers of those loans in the course of supervisory exams.

Q.12. What and when was the most recent action you have taken to revise CFPB's information collection request to OMB?

A.12. The Bureau plans to reconsider the collection request once the Next Gen contracts are finalized by the Department of Education.

Q.13. The October 2019 report from the CFPB's student loan ombudsman recommends "providing limited exceptions to existing statutes" regarding data elements collected in complaints to better reflect and respond to changing environments. What statutory language is this recommendation referring to and what type of exception would be helpful?

A.13. This recommendation refers to the Paperwork Reduction Act. Exceptions would include limiting statutory requirements that otherwise lengthen the time periods regarding making changes to the collection of relevant data as the markets and issues evolve and change.

Q.14. Please describe the actions that are already underway or planned "for more in-depth analysis [of the factors leading to] the decrease in complaints" related to Federal student loan servicers between 2017 and 2019, as reported in the October 2019 student loan ombudsman report.

A.14. Actions planned for more in-depth analysis include adding an analyst as part of the office staffing plan; reaching out to student loan advocacy groups, industry trade associations, and the Department of Education for their insights and analysis; and coordinating internally with Research and Markets.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA FROM KATHY KRANINGER

Q.1. In past statements, you have expressed the CFPB's intent to ensure a smooth transition away from the Government sponsored enterprise (GSE) patch. There is concern that allowing the patch to expire will limit access to mortgages for many low-income borrowers, making home ownership more difficult to achieve. What kind of market disruption do you anticipate in 2021 when the patch expires? What steps is the CFPB taking to mitigate market disruption and harm to consumers?

A.1. The Bureau is committed to a smooth transition from the GSE patch in order to mitigate any disruption to the market and to limit the potential for harm to consumers. As outlined in the 2014 Ability-to-Repay/Qualified Mortgage (ATR/QM) Rule, the patch was intended to be a temporary measure to address conditions in the mortgage market. The Bureau released an advance notice of proposed rulemaking (ANPR) in July, noting that it plans to allow the patch to expire in January 2021, or after an extension to facilitate a smooth and orderly transition from the patch. In the ANPR, the Bureau requested comments about possible amendments to the definition of Qualified Mortgage in the ATR/QM Rule in light of the expiration of the patch to facilitate a smooth and orderly transition away from the patch. The Bureau also sought comment on how long of a transition period would be necessary for the market to implement changes in response to any such amendments. The Bureau is currently considering those comments as it decides what steps to take to promote a smooth transition away from the patch.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

Bureau of Consumer Financial Protection
1700 G Street NW
Washington, D.C. 20552

October 07, 2019

The Honorable Mike Crapo
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Crapo,

As required under Section 1016 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, attached please find the Bureau of Consumer Financial Protection's Spring 2019 Semi-Annual Report to Congress (October 1, 2018 to March 31, 2019).

Should you have any questions about the report, do not hesitate to contact me, or have your staff contact Janel Fitzhugh in the Bureau's Office of Legislative Affairs. Ms. Fitzhugh can be reached at 202-435-7149.

Sincerely,

Kathleen L. Kraninger
Director

consumerfinance.gov

SPRING 2019

Semi-Annual Report of the Bureau of Consumer Financial Protection

Message from the Director

I am pleased to present the Consumer Financial Protection Bureau's (Bureau) Semi-Annual Report to Congress for the period October 1, 2018 to March 31, 2019.

On day one as Director last December, I launched a listening tour. Now more than eight months into this job, I have met with more than 750 consumer groups, consumers, state and local government officials, military personnel, academics, non-profits, faith leaders, financial institutions, and former and current Bureau officials. Ongoing engagement, and transparent, robust discussions help the Bureau carry out our mission

We are using all of our tools—education, regulation, supervision, and enforcement—to protect consumers and prevent harm. That starts by empowering consumers to make informed decisions. That continues with smart regulation and fostering a culture of compliance through supervision.

We continue to seek the most effective means to use the tools provided by Congress to ensure compliance with the Dodd-Frank Act and other consumer protection statutes. And that includes vigorous and even-handed enforcement and focusing on prevention of harm. The importance of having access to financial products and services that meet individual needs, and the Bureau's potential to foster financial well-being for Americans is significant and should be maximized. I am committed to strengthening the consumer financial marketplace by providing financial institutions clear "rules of the road" that allow them to offer consumers a range of high-quality, innovative financial services and products.

I am proud of the work that is highlighted in this report and thank the Bureau staff who have been instrumental in leading these efforts. We will continue to build on our efforts going forward to prevent consumer harm and ensure that consumers are protected.

Sincerely,

Kathleen L. Kraninger

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1. Significant problems faced by consumers in shopping for or obtaining consumer financial products or services

During the reporting period, the Bureau released two Quarterly Consumer Credit Trends (qCCT) reports that focus on problems consumers may experience in obtaining consumer financial products or services and choices consumers make when shopping for such products or services. Both reports use a longitudinal, nationally-representative sample of approximately five million de-identified credit records from one of the three nationwide consumer reporting agencies. The Bureau also published a research brief that looks at the common challenges consumers encounter with bill payments.

1.1 Natural Disasters and Credit Reporting

Natural disasters can cause substantial property destruction and personal injury, including the loss of life. Importantly, natural disasters can also result in negative shocks to household finances, such as lost income and major unexpected expenses (e.g., home or automobile repair costs).[1] As a result, many financial institutions offer financial relief or assistance that often includes payment relief for customers affected by natural disasters.

During the reporting period, the Bureau released the qCCT report *Natural Disasters and Credit Reporting* about how natural disasters affect consumers' credit reports and potentially their

[1] *One recent study of the economic effects of natural disasters on consumers and households estimates that checking account inflows fall by 20 percent and outflows fall by more than 30 percent after a natural disaster. See J.P. Morgan Chase & Co. Institute (2018), "Weathering the Storm: The Financial Impacts of Hurricanes Harvey and Irma on One Million Households." Available at https://institute.jpmorganchase.com/institute/research/cities-local-communities/report-weathering-the-storm. Another study finds a general increase in consumers' credit utilization after an event and, for some groups, an increase in bankruptcies. See Tran, B. and T. Sheldon (2018), "Same storm, different disasters: Consumer credit access, income inequality, and natural disaster recovery." Available at https://www.aeaweb.org/conference/2018/preliminary/paper/KaN3Ar6t.*

financial well-being and ability to access financial products or services in the future. It provides information on how financial institutions furnish information on natural disaster assistance to credit reporting agencies. The report documents the prevalence of natural disaster comment codes in credit records to shed light on current practices for natural disaster reporting. The report also focuses on Hurricane Harvey, which made landfall on August 25, 2017, near Houston, Texas. Hurricane Harvey is tied with Hurricane Katrina as the costliest hurricane in U.S. history with roughly $125 billion in damages[2] and roughly 373,000 individuals requesting Federal Emergency Management Agency (FEMA) assistance.

Key findings include:

- In 2017, roughly 8.3 percent of consumer credit reports included this comment code at least once. This estimate is comparable to FEMA estimates that disasters affected roughly eight percent of U.S. residents in 2017.[3] Among tradelines that received this comment code, the code was present for two months, on average.
- In the Houston-The Woodlands-Sugar Land, TX, metropolitan statistical area[4] nearly 40 percent of consumers with a credit report received the natural disaster comment code on at least one of their credit tradelines after Hurricane Harvey.
- Mortgage accounts were the most common type of tradeline to receive the natural disaster comment code.
- Tradelines that received the natural disaster comment code are associated with higher median balances and higher rates of delinquency prior to the hurricane.

In addition to this report, the Bureau provides financial education material on the financial aspects of preparing before a disaster.[5]

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[2] *See National Hurricane Center (2018), "Costliest U.S. tropical cyclones tables updated." Available at https://www.nhc.noaa.gov/news/UpdatedCostliest.pdf.*

[3] *See FEMA Release HQ-17-191 (2017), "FEMA Reflects on Historic Year." Available at https://www.fema.gov/news-release/2017/12/29/fema-reflects-historic-year.*

[4] *The Office of Management and Budget defines the Houston-The Woodlands-Sugarland, TX metropolitan statistical area to include nine counties: Harris, Fort Bend, Montgomery, Brazoria, Galveston, Liberty, Waller, Chambers, and Austin.*

[5] *https://www.consumerfinance.gov/consumer-tools/disasters-and-emergencies/.*

1.2 First-time Homebuying Servicemembers

When buying a house, servicemembers have the option of taking out a home loan guaranteed by the U.S. Department of Veterans Affairs (VA). VA-guaranteed home loans differ from other mortgages in several ways, including allowing purchases without a down payment and without mortgage insurance. They also provide stronger loan-servicing protections than many other mortgages. Servicemembers may also choose mortgage products open to non-servicemembers, such as a conventional loan or a loan regulated by a different government agency like the Federal Housing Administration (FHA) or the U.S. Department of Agriculture (USDA).

The Bureau published a qCCT report *Mortgages to First-time Homebuying Servicemembers* that describes mortgages to servicemembers who are first-time homebuyers, focusing on how their home loan choices have evolved from 2006 to 2016. Prior Bureau work has documented that home purchases were primarily financed with conventional loans during the housing boom, followed by a rise in the share of nonconventional home-purchase mortgages in the years following the collapse of the housing market. This report focuses specifically on VA loans and finds a similar increase in the share of VA loans during the housing crisis. This increase persisted through at least 2017, in contrast to a decline in nonconventional loans among non-servicemembers in recent years.

Key findings include:

- The share of first-time homebuying servicemembers using VA mortgages increased, from 30 percent before 2007 to 63 percent in 2009. Among non-servicemember first-time homebuyers there was a parallel increase in the use of FHA and USDA mortgages. However, whereas non-servicemembers' reliance on FHA/USDA mortgages declined after 2009, servicemembers' reliance on VA loans continued to increase, reaching 78 percent by 2016.

- The greater share of VA loans among servicemembers was part of a larger shift among consumers (both servicemembers and non-servicemembers) away from conventional to government-guaranteed mortgages between 2006 and 2009. Conventional mortgages—that is, non-government-guaranteed mortgages—were about 60 percent of loans among first-time homebuying servicemembers in 2006 and 2007, but this share declined to 13 percent by 2016. By comparison, the conventional loan share among non-servicemembers fell from almost 90 percent before 2008 to 41 percent in 2009, then went back up to 60 percent in 2016. The combined share of FHA and USDA mortgages to these borrowers increased and then decreased accordingly.

- The median loan amount for first-time homebuying servicemembers with a VA loan increased in nominal dollars from $156,000 in 2006 to $212,000 in 2016, closely tracking

> the median value of conventional home loans taken out by non-servicemembers. By contrast, the median loan amounts in nominal dollars for servicemembers who used conventional or FHA/USDA mortgages during this period were lower in value compared to VA loans and increased at a slower pace, growing from $130,000 in 2006 to $150,000 in 2016.

In addition to this report, servicemembers and veterans, as well as the general public, can make use of the Bureau's Buying a House tool,[6] which provides information and action steps throughout the homebuying process related to shopping for, applying for, and closing on a home mortgage.

1.3 Consumer Insights on Paying Bills

Bureau research has shown that having control over day-to-day, month-to-month finances is an important element of financial well-being.[7] Still, many consumers struggle to make ends meet. In the Bureau's 2015 national survey on financial well-being, 43 percent of people reported that covering expenses and bills in a typical month is somewhat or very difficult.[8] Some of these challenges may stem from factors that can be addressed, at least partially, through financial education to help consumers learn new skills and use new tools.

The Bureau published a research brief, *Consumer Insights on Paying Bills*, that looks at the common challenges related to bill payment. The brief describes Bureau research on ways to help consumers better manage their cash flow and bills. This research found that suggesting consumers do something as simple as changing bill due dates to align with income flow could help some consumers better manage their cash flow. In cases where billers can't accommodate these requests, consumers can take other steps that begin with understanding their cash flow and bill schedule.

This approach builds on one of the Bureau's five principles for effective financial education. This principle—Make it easy to make good decisions and follow through—suggests that tools and approaches that make it easier for consumers to pay bills on time can help them move towards financial well-being.

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[6] *https://www.consumerfinance.gov/owning-a-home/*.

[7] *Consumer Financial Protection Bureau, Financial well-being: The goal of financial education (2015), https://www.consumerfinance.gov/data-research/research-reports/financial-well-being/*.

[8] *Consumer Financial Protection Bureau, Financial well-being in America (2017), https://www.consumerfinance.gov/data-research/research-reports/financial-well-being-america/*.

2. Justification of the budget request of the previous year

The Bureau's Strategic Plan, Budget, and Performance Plan and Report, which is available online at www.consumerfinance.gov/about-us/budget-strategy/budget-and-performance/, includes estimates of the resources needed for the Bureau to carry out its mission. The document also describes the Bureau's performance goals and accomplishments, supporting the Bureau's long-term Strategic Plan.

2.1 Fiscal year 2019 spending through the end of the second quarter of FY 2019

2.1.1 Bureau fund

As of March 31, 2019, the end of the second quarter of Fiscal Year (FY) 2019, the Bureau had spent approximately $281.9 million in FY 2019 funds[9] to carry out the authorities of the Bureau under Federal financial consumer law. The Bureau spent approximately $154.9 million on employee compensation and benefits for the 1,452 Bureau employees who were on board by the end of the quarter.

TABLE 1: FY 2019 SPENDING BY EXPENSE CATEGORY

Expense Category	Fiscal Year 2019
Personnel Compensation	112,678,000
Benefit Compensation	41,973,000
Benefit Compensation – former employees	207,000
Travel	7,693,000
Transportation of Things	110,000

[9] *This amount includes commitments, obligations, and expenditures. A commitment is a reservation of funds in anticipation of a future obligation. 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. An expenditure is the authorization or outlay of payment related to a prior obligation.*

Rents, Communications, Utilities & Misc.	8,605,000
Printing and Reproduction	1,602,000
Other Contractual Services	94,119,000
Supplies & Materials	1,932,000
Equipment	11,844,000
Land and Structures	1,088,000
Total (as of March 31, 2019)	**$ 281,851,000**

2.1.2 FY 2019 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 Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). As of March 31, 2019, the Bureau had received the following transfers for FY 2019. The amounts and dates of the transfers are shown below.

TABLE 2: FUND TRANSFERS

Funds Transferred	Date
$172.9M	October 01, 2018
$122.8M	January 02, 2019
$295.7M	**Total**

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 Chief Financial Officer (CFO) quarterly updates published online at www.consumerfinance.gov/about-us/budget-strategy/financial-reports/.

Copies of the Bureau's quarterly funds transfer requests are available online at 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[10]

3.1 Significant rules[11]

The Bureau did not adopt significant final rules or orders during the preceding year. The Bureau issued two significant notices of proposed rulemaking:

[10] *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(c)(3), the Bureau is required to "conduct an assessment of each significant rule or order adopted by the Bureau" under Federal consumer financial law and issue a report of such assessment "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.*

[11] *The statutory requirement under 1016(c)(3) calls for the Bureau to report a list of the significant rules and orders adopted by the Bureau. This list includes significant notices of proposed rulemakings.*

- Payday, Vehicle Title, and Certain High-Cost Installment Loans[12]
- Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date[13]

3.2 Less significant rules[14]

- Final Rule: Federal Mortgage Disclosure Requirements under the Truth in Lending Act (Regulation Z)[15]
- Final Rule: Amendment to the Annual Privacy Notice Requirement Under the Gramm-Leach-Bliley Act (Regulation P)[16]
- Final Rule: Partial Exemptions from the Requirements of the Home Mortgage Disclosure Act under the Economic Growth, Regulatory Relief, and Consumer Protection Act (Regulation C)[17]
- Final Rule: Summaries of Rights Under the Fair Credit Reporting Act (Regulation V)[18]

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[12] *https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/payday-vehicle-title-and-certain-high-cost-installment-loans/.*

[13] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/payday-vehicle-title-and-certain-high-cost-installment-loans-delay-compliance-date-correcting-amendments/.*

[14] *This list includes less significant rules, and it is not comprehensive. This list may exclude non-major rules, proposed rules, procedural rules, and other miscellaneous routine rules such as annual threshold adjustments. More information about the Bureau's rulemaking activities is available in the Unified Agenda at https://www.reginfo.gov/public/, and on the Bureau's public website at https://www.consumerfinance.gov/policy-compliance/rulemaking/.*

[15] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/federal-mortgage-disclosure-requirements-under-truth-lending-act-regulation-z/.*

[16] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/amendment-annual-privacy-notice-requirement-under-gramm-leach-bliley-act/.*

[17] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/partial-exemptions-from-requirements-of-home-mortgage-disclosure-act-under-regulation-c/.*

[18] *https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/summaries-rights-under-fair-credit-reporting-act-regulation-v/.*

- Final Rule: Home Mortgage Disclosure (Regulation C) Adjustment to Asset-Size Exemption Threshold[19]

- Final Rule: Truth in Lending Act (Regulation Z) Adjustment to Asset-Size Exemption Threshold[20]

- Final Rule: Civil Penalty Inflation Adjustments[21]

- Final Rule: Technical Specifications for Submissions to the Prepaid Account Agreements Database[22]

3.3 Significant initiatives

- *Final Policy Guidance: Disclosure of Loan-Level HMDA Data.*[23] In December 2018, the Bureau issued final policy guidance describing modifications that the Bureau intends to apply to the loan-level data that financial institutions report under the Home Mortgage Disclosure Act (HMDA) and Regulation C before the data are disclosed to the public. These modifications are made if the Bureau's disclosure of the unmodified data would create risks to applicant and borrower privacy that are not justified by the benefits of such disclosure to the public.

- *Advance Notice of Proposed Rulemaking: Residential Property Assessed Clean Energy.*[24] Section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amends the Truth in Lending Act (TILA) to mandate that the Bureau prescribe certain regulations relating to "Property Assessed Clean Energy" (PACE) financing. In March 2019, the Bureau issued an Advance Notice of Proposed Rulemaking on PACE

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[19] https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/home-mortgage-disclosure-regulation-c-adjustment-asset-size-exemption-threshold/.

[20] https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/truth-lending-act-regulation-z-adjustment-asset-size-exemption-threshold/.

[21] https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/civil-penalty-inflation-annual-adjustments/.

[22] https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/technical-specifications-submissions-prepaid-account-agreements-database/.

[23] https://www.consumerfinance.gov/documents/7051/HMDA_Disclosure_FPG_--_Final_12.21.2018_for_website_with_date.pdf.

[24] https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/advance-notice-proposed-rulemaking-residential-property-assessed-clean-energy-financing/.

financing to facilitate the Bureau's rulemaking process. As defined in EGRRCPA Section 307, PACE financing results in a tax assessment on a consumer's real property and covers the costs of home improvements. The required regulations must carry out the purposes of TILA's ability-to-repay (ATR) requirements, currently in place for residential mortgage loans, with respect to PACE financing, and apply TILA's general civil liability provision for violations of the ATR requirements the Bureau will prescribe for PACE financing. The EGRRCPA directs that such requirements account for the unique nature of PACE financing.

- *Assessments of Significant Rules.* Section 1022(d) of the Dodd-Frank Act requires the Bureau to conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law.
  - *Remittance Rule assessment report.*[25] In October 2018, the Bureau published the findings of the assessment of the Remittance Rule, which took effect on October 28, 2013. In general, the Remittance Rule gave certain protections to consumers that send remittance transfers from the United States to another country.
  - *Ability to Repay and Qualified Mortgage Rule assessment report.*[26] The Bureau issued the Ability to Repay and Qualified Mortgage Rule in January 2013 to implement provisions of the Dodd-Frank Act that require lenders, before making a residential mortgage loan, to make a reasonable and good faith determination based on verified and documented information that the consumer has a reasonable ability to repay the loan. The rule took effect in January 2014. The assessment, issued in January 2019, used a range of data sources, including a unique data set the Bureau assembled for purposes of this assessment, to comprehensively examine the extent to which the rule has affected consumers' access to credit and the cost of credit.
  - *2013 Real Estate Settlement Procedures Act (RESPA) Mortgage Servicing Rule assessment report.*[27] The Bureau issued the RESPA Mortgage Servicing Rule in January 2013 to implement certain provisions of the Dodd-Frank Act imposing new obligations on mortgage servicers who are generally responsible for billing borrowers for amounts due, collecting payments, disbursing funds, and providing customer service. The rule also added new protections which the Bureau deemed appropriate or

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[25] https://www.consumerfinance.gov/documents/7561/bcfp_remittance-rule-assessment_report_corrected_2019-03.pdf.

[26] https://files.consumerfinance.gov/f/documents/cfpb_ability-to-repay-qualified-mortgage_assessment-report.pdf.

[27] https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-rule-assessment_report.pdf.

necessary to carry out the consumer protection purposes of RESPA. This rule took effect in January 2014. The assessment, issued in January 2019, used a range of data, including a unique data set the Bureau assembled, to examine how the rule has affected the experiences and outcomes for consumers, with a particular focus on those who fall behind on their mortgage payments.

- *Trial Disclosure Programs.*[28] In September 2018, the Bureau proposed the creation of Disclosure Sandbox through revisions to its 2013 Policy on Trial Disclosure Programs. The Bureau voluntarily sought public comment during a 30-day comment period and received approximately 30 distinct comment letters from a broad array of stakeholders, including consumer advocacy groups and civil rights organizations, industry trade associations and individual financial service providers, and state attorneys general and associations of state regulatory agencies. The Bureau determined that the proposed revisions were necessary because the Bureau had not permitted a single trial disclosure program under the 2013 Policy.

- *No-Action Letters and Product Sandbox.*[29] In December 2018, the Bureau proposed (i) revising its 2016 Policy on No-Action Letters and (ii) the creation of a Product Sandbox. The Bureau voluntarily sought public comment during a 60-day comment period and received approximately 30 distinct comment letters from a broad array of stakeholders, including consumer advocacy groups and civil rights organizations, industry trade associations and individual financial service providers, and state attorneys general and associations of state regulatory agencies. The Bureau determined that revisions to the 2016 were necessary because the Bureau had issued only one no-action letter under the 2016 Policy. The Bureau proposed the Product Sandbox to address stakeholder demand for forms of compliance assistance that provide greater protection from liability than is provided by no-action letters.

- *Start Small, Save Up Initiative.*[30] On February 25, 2019, in conjunction with America Saves Week, the Bureau launched the Start Small, Save Up campaign. The purpose of the campaign is to increase people's financial well-being by increasing people's opportunities to save and empower them to realize their personal savings goals, starting with a focus on emergency savings. The campaign will employ partnerships to distribute educational

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[28] https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/policy-encourage-trial-disclosure-programs/.

[29] https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/policy-no-action-letters-and-bcfp-product-sandbox/.

[30] https://www.consumerfinance.gov/start-small-save-up/.

materials and conduct research as well as drive and measure outcomes toward more savings.

- *Suspicious Activity Reports on Elder Financial Exploitation.* In February 2019, the Bureau released a report about key facts, trends, and patterns revealed in Suspicious Activity Reports—or SARs—filed by banks, credit unions, and other financial services providers regarding suspected elder financial exploitation. The Bureau analyzed 180,000 elder financial exploitation SARs filed with the federal Financial Crimes Enforcement Network (FinCEN) from 2013 to 2017, involving more than $6 billion in funds subject to actual, attempted, or suspected fraud. This first-ever public analysis provides a chance to better understand elder fraud and to find ways to improve prevention and response. The Bureau has made this information widely available to financial services providers, law enforcement, and persons working in adult protective services.

- *Classroom Activities for Teaching the Building Blocks of Financial Capability.* In December 2018, the Bureau launched a set of activities for high school teachers to incorporate lessons into the classroom that support the development of financial skills. These activities are based on the building blocks for youth to develop financial capability in adulthood. Children and youth need to develop all three of the interconnected building blocks to support financial capability in adulthood. The building blocks are executive function; financial habits and norms; and financial knowledge and decision-making skills. The searchable teacher platform on consumerfinance.gov includes 105 specific classroom activities for high school teachers to use with their students.[31] The Bureau is currently developing classroom activities for use by middle school teachers with their students.

- *Consumer Education Milestones.* Early in calendar year 2019, Ask CFPB reached 25 million lifetime unique users. Ask CFPB offers easy-to-understand explanations and actions consumers can take on topics ranging from debt collection to credit reports to mortgages. In the same period, the Bureau reached 25 million print publications delivered, covering financial education topics ranging from budgeting and bill paying to avoiding fraud against seniors.

- *Your Money, Your Goals.* In FY 2019, the Bureau's financial empowerment program for front-line staff and volunteers entered its seventh year. Your Money, Your Goals provides a suite of financial empowerment tools and resources that frontline staff and volunteers can use to build their own financial skills and confidence and to start money conversations with the people they serve. The Bureau uses a train-the-trainer model and provides direct training and technical assistance to help an annual cohort of organizations build capacity to

[31] https://www.consumerfinance.gov/practitioner-resources/youth-financial-education/teach/activities/.

integrate Your Money, Your Goals tools and information into their work. From 2013 through March 2019, more than 25,000 front line staff and volunteers have been trained to use Your Money, Your Goals, and conservative estimates indicate that the program has been used with more than one million consumers. The suite of materials now includes the core toolkit and training materials; companion guides that focus on money topics specific to Native communities, people with criminal records, and people with disabilities; and three issue-focused booklets, "Debt getting in your way," "Want credit to work for you?" and "Behind on bills?"

- *Memorandum of Understanding (MOU) with the Federal Trade Commission (FTC).*[32] The CFPB and the FTC have reauthorized their MOU. The agreement reflects the ongoing coordination between the two agencies under the terms of the Consumer Financial Protection Act and is designed to coordinate efforts to protect consumers and avoid duplication of federal law enforcement and regulatory efforts.

- *Director's Listening Tour.* From her confirmation through March 31, Director Kraninger conducted an extensive listening tour with the full range of Bureau stakeholders, including Members of Congress, fellow federal and state government principals, servicemembers, the media, former and current Board and Council members, and many others. Listening sessions included five January roundtables with faith groups, consumer groups, mortgage trades, large institution trades, as well as community banks and credit unions in Washington, DC. In the Bureau's regional offices in San Francisco, CA; Chicago, IL; and New York, NY, Director Kraninger also hosted seven listening sessions with diverse Bureau stakeholders and completed seven site visits to view operations at fintech, debt collection, and payment processing sites as well as a site visit to Consumer Reports. The Bureau publishes the Director's schedule on its website, which would provide additional details about the Director's engagements summarized above.[33]

- *Enhancements to the Bureau's Advisory Committees.*

  - On March 21, 2019, the Bureau announced a series of enhancements to its advisory committee program.[34] Effective FY 2020, the committees will expand their focus to broad policy matters and increase the frequency of in-person meetings from two times a year to three times a year.

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[32] https://files.consumerfinance.gov/f/documents/cfpb_ftc_memo-of-understanding_2019-02.pdf.

[33] https://www.consumerfinance.gov/about-us/the-bureau/leadership-calendar/.

[34] https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-enhancements-advisory-committees-and-opening-member-applications/.

- The Consumer Advisory Board (CAB), Community Bank Advisory Council (CBAC), and Credit Union Advisory Council (CUAC) will continue their joint public meetings. The Advisory Research Council (ARC) will meet separately, in-person and twice a year. Additionally, the ARC was elevated to a Director-level advisory committee. The membership terms for the committees were extended from a one-year term to two-year terms, and the terms were staggered.

- In addition to a Chair, each committee will be assigned a Vice-Chair. Both the Chair and the Vice-Chair will serve a one-year term in their respective positions, with the Vice-Chair assuming the Chair the following year. The Bureau also announced the opening of the application window for new advisory committee members.

- *Guidance Documents*. The Bureau also issued the following bulletins and other guidance documents over the past year:[35]

  - Summer 2018 *Supervisory Highlights*[36]

  - Winter 2019 *Supervisory Highlights*[37]

  - Bulletin 2018-01: Changes to Types of Supervisory Communications[38]

  - Statement on Supervisory Practices regarding Financial Institutions and Consumers Affected by a Major Disaster or Emergency[39]

  - Interagency Statement Clarifying the Role of Supervisory Guidance[40]

  - Prepaid Account Examination Procedures[41]

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[35] *The Bureau posts many documents relating to compliance and guidance on its website at https://www.consumerfinance.gov/policy-compliance/guidance/.*

[36] *https://files.consumerfinance.gov/f/documents/bcfp_supervisory-highlights_issue-17_2018-09.pdf.*

[37] *https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-18_032019.pdf.*

[38] *https://files.consumerfinance.gov/f/documents/bcfp_bulletin-2018-01_changes-to-supervisory-communications.pdf.*

[39] *https://files.consumerfinance.gov/f/documents/bcfp_statement-on-supervisory-practices_disaster-emergency.pdf.*

[40] *https://files.consumerfinance.gov/f/documents/interagency-statement_role-of-supervisory-guidance.pdf.*

[41] *https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_prepaid-account-exam-procedures.pdf.*

- Short-Term, Small-Dollar Lending Examination Procedures[42]
- TILA Examination Procedures[43]
- Electronic Fund Transfer Act (EFTA) Examination Procedures[44]
- CFPB Supervision and Examination Process[45]
- Examination Report Template[46]
- Supervisory Letter Template[47]
- Examination Scope Summary Template[48]

3.4 Plan for upcoming initiatives

- *Home Mortgage Disclosure Act Data Release.* In August 2019, on behalf of the Federal Financial Institutions Examination Council (FFIEC), the Bureau will release data on mortgage lending transactions at U.S. financial institutions covered by HMDA.[49] Covered institutions include banks, savings associations, credit unions, and mortgage companies.

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[42] https://files.consumerfinance.gov/f/documents/cfpb_payday_manual_revisions.pdf.

[43] https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_tila-exam-procedures_2019-03.pdf.

[44] https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_efta-exam-procedures-incl-remittances_2019-03.pdf.

[45] https://files.consumerfinance.gov/f/documents/cfpb_examination-process-section.pdf.

[46] https://files.consumerfinance.gov/f/documents/cfpb_examination-report_template.pdf.

[47] https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_supervisory-letter_template.pdf.

[48] https://files.consumerfinance.gov/f/documents/201703_cfpb_Scope-Summary-Template.pdf.

[49] *Additional activity has occurred with this matter since the end of this reporting period. On August 30, 2019, the Bureau released the Home Mortgage Disclosure Act (HMDA) data along with two Data Point articles. One Data Point article is the second in an annual series of Bureau articles describing mortgage market activity over time. It summarizes the historical data points in the 2018 HMDA data, as well as recent trends in mortgage and housing markets. The other Data Point article introduces the new and revised data points in the 2018 HMDA data and provides some initial observations about the nation's mortgage market in 2018 based on those new or revised data points. More information can be found here:* https://www.consumerfinance.gov/data-research/research-reports/data-point-2018-mortgage-market-activity-and-trends/ *and* https://www.consumerfinance.gov/data-research/research-reports/introducing-new-revised-data-points-hmda/.

The loan-level HMDA data covering 2018 lending activity will include lending activity submitted to the Bureau through August 2019.

The data will include a total of 48 data points providing information about the applicants, the property securing the loan or proposed to secure the loan in the case of non-originated applications, the transaction, and identifiers. Many of the data points are available for the first time in the 2018 HMDA data. Certain smaller-volume financial institutions are not required to report all of these data, pursuant to the EGRRCPA.

- *Credit Card Market Report*. Every two years, the Bureau reports on the state of the consumer credit card market.[50] The report for 2019 will cover how consumers use cards, the price they pay for using them, the availability of credit cards, the practices used by credit card companies and debt collectors, academic literature on the possible effects of the Credit Card Accountability Responsibility and Disclosure Act (CARD Act), and innovation in the credit card market.[51]

- *Start Small, Save Up Initiative*. As part of the Bureau's Start Small, Save Up initiative, the Bureau formed a Research and Evaluation Working Group whose purpose is to enhance the evidence base of the Start Small, Save Up campaign by executing a plan to collect, analyze, and report on data that will provide insight into current innovations in the savings space, with the goal of identifying promising strategies to encourage saving. To this end, the Research and Evaluation Working Group has already begun to engage in a variety of research-related activities, including cataloguing promising evidence-based strategies and innovations related to consumers' savings, engaging with potential external industry research and data partners on savings programs, and leveraging the Bureau's existing "Making Ends Meet" consumer survey to learn more about savings and financial well-being.

- *Consumer Complaint Database*. In March 2018, the Bureau sought input on its public reporting practices of consumer complaint information and its Consumer Complaint Database. In response to this request, the Bureau received more than 25,000 comments, including comments from individuals, trade associations, and community groups, among others. Since receipt of those comments, the Bureau has engaged with stakeholders

[50] *In 2009, the Credit Card Accountability Responsibility and Disclosure Act (CARD Act) made substantial changes to the legal requirements applicable to the credit card market, with Section 502 of the CARD Act also requiring that a report be issued every two years with respect to the market.*

[51] *Additional activity has occurred with this matter since the end of this reporting period. On August 27, 2019, the Bureau released its fourth biennial report on the state of the credit card market for the period of 2017–2018. More information can be found here: https://www.consumerfinance.gov/data-research/research-reports/the-consumer-credit-market-2019/.*

regarding features of the Database, analyzed how the Bureau currently presents this information to the public, and explored ways to ensure that it presents complaint information fairly.[52]

- *Misadventures in Money Management for Active Duty Servicemembers.* The Bureau plans to make Misadventures in Money Management (MiMM) available for all active duty servicemembers. MiMM is an online training that engages servicemembers with real life financial choices in a fun and interactive manner and provides just-in-time, financial curriculum.

  The storyline used throughout the MiMM educational program centers around a fictional group of young people who all sign up for military service, each of them facing a different financial issue as they enter into the military. MiMM covers topics including consumer financial decision-making, choosing a financial institution, understanding protections under the Servicemembers Civil Relief Act, avoiding impulse purchases, and understanding how debt can affect a military career. Previously, MiMM was only available to future servicemembers in a delayed entry program and those in a Reserve Officer Training Corps (ROTC) program.[53]

- *Savings Booklet.* The Bureau plans to release the fourth issue-focused booklet in the Your Money, Your Goals suite of financial empowerment tools. "Building your savings? Start with small goals" will provide eight tools to help consumers plan for short-term and long-term goals. The booklet is meant to be used in conjunction with one-on-one financial counseling or coaching received through a case manager or other service provider, but it can also be used by individuals on their own as they think about how to start and keep saving.[54]

- *Outreach.* The Director anticipates engaging with a broad range of the Bureau's stakeholders during the next several months. She plans to deliver an inaugural speech in Washington, DC, which will kick-off the Bureau's foundational Savings Initiative, Start Small, Save Up, followed by speaking engagements in Los Angeles, CA; Denver, CO; San Antonio, TX; New Orleans, LA; and Chicago, IL. She will also participate in a wide array of

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[52] *Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: https://www.consumerfinance.gov/about-us/newsroom/director-kraningers-speech-national-consumer-empowerment-conference/.*

[53] *Additional activity has occurred with this matter since the end of this reporting period. MiMM became available for all active duty servicemembers on May 23, 2019.*

[54] *Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: https://www.consumerfinance.gov/about-us/blog/start-saving-today-our-new-savings-booklet-and-email-boot-camp/.*

events and meetings with Bureau stakeholders in the aforementioned cities as well as Austin, TX; Asheville, NC; Bristol, TN; and Milwaukee, WI. The Bureau intends to engage in policy events including a fielding hearing on debt collection in Philadelphia, PA, and rollout of revised innovation policies in Atlanta, GA. In Washington, DC, the Bureau also plans to host an inaugural Hill Day with Members of Congress.

- *Bureau Symposia Series*. Director Kraninger will announce a symposia series that explores consumer protection in today's dynamic financial services marketplace. The series is aimed at stimulating a proactive and transparent dialogue to assist the Bureau in its policy development process. Future symposia series topics include the meaning of abusive acts or practices under Section 1031 of the Dodd-Frank Act, behavioral law and economics, Section 1071 of the Dodd-Frank Act, disparate impact and the Equal Credit Opportunity Act (ECOA), cost-benefit analysis, and consumer authorized financial data sharing. The symposia series will be open to the public and webcast on the Bureau's website.[55]
- *Guidance Documents*.
  - ECOA Baseline Review Examination Procedures[56]
  - HMDA Examination Procedures[57]
  - Statement on Collection of Demographic Information by Community Development Financial Institutions[58]
  - Automobile Finance Examination Procedures[59]

[55] *Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: https://www.consumerfinance.gov/about-us/newsroom/bureau-announces-symposia-series/.*

[56] *Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_ecoa-baseline-exam-procedures_2019-04.pdf.*

[57] *Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_hmda-exam-procedures_2019-04.pdf.*

[58] *Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/20190627_cfpb_statement-on-collection-demographic-information.pdf.*

[59] *Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/201908_cfpb_automobile-finance-examination-procedures.pdf.*

- Summer 2019 *Supervisory Highlights*[60]
- Annual Report to Congress on the TILA, EFTA, and CARD Act[61]

3.5 Plan for upcoming rules

The Bureau published its Spring 2019 Rulemaking Agenda as part of the Spring 2019 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget.[62] As an independent regulatory agency, the Bureau voluntarily participates in the Unified Agenda. The Unified Agenda lists the regulatory matters that the Bureau reasonably anticipates having under consideration during the period from May 1, 2019, to April 30, 2020.[63]

The Bureau is considering further prioritization and planning of the Bureau's rulemaking activities, both with regard to substantive projects and modifications to the processes that the Bureau uses to develop and review regulations. The Bureau expects the Fall 2019 Agenda to issue a more comprehensive statement of priorities to reflect its ongoing statutorily mandated market monitoring and the Bureau's other activities discussed above.

During the reporting period, the Bureau was engaged in a number of rulemakings to implement directives mandated in the EGRRCPA, the Dodd-Frank Act, and other statutes. As part of these rulemakings, the Bureau is working to achieve the consumer protection objectives of the statutes while minimizing regulatory burden on financial services providers, including through facilitating industry compliance with rules.

Pre-rulemaking initiatives, as reflected in the Bureau's Spring 2019 Unified Agenda:

- *Business Lending Data (Regulation B).* Consistent with undertaking rulemaking to implement the EGRRCPA, the Bureau is working to develop rules to implement Section 1071 of the Dodd-Frank Act. Section 1071 amended the ECOA to require financial institutions to collect, report, and make public certain information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau

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[60] *Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-19_092019.pdf.*

[61] *In production at the time of publishing.*

[62] *https://www.consumerfinance.gov/about-us/blog/spring-2019-rulemaking-agenda/.*

[63] *https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&showStage=active&agencyCd=3170.*

expects that it will be able to resume pre-rulemaking activities on the Section 1071 project within this next year. In November 2019, the Bureau plans to conduct a symposium on small business loan data collection.

- *Higher-Priced Mortgage Loan Escrow Exemption.* Prior to the enactment of the Dodd-Frank Act, the Federal Reserve Board (Board) issued a rule requiring the establishment of escrow accounts for payment of property taxes and insurance payments for certain "higher-priced mortgage loans," a category which the Board defined to include what it deemed to be subprime loans. Pursuant to the Dodd-Frank Act, the Bureau in 2013 issued a rule creating an exemption from the escrow requirement for creditors with under $2 billion in assets and meeting other criteria. Section 108 of the EGRRCPA amended 15 U.S.C. 1639d to direct the Bureau to conduct a rulemaking to exempt from the escrow requirement loans made by certain creditors with assets of $10 billion or less and meeting other criteria. The Bureau plans to publish a notice of proposed rulemaking during FY 2020 concerning this exemption.

- *Remittance Transfers.* Section 1073 of the Dodd-Frank Act contains an exception to disclosure requirements for international remittance transfers that permits insured depository institutions and insured credit unions in certain circumstances to estimate certain pricing information. As mandated by statute, this exception will expire on July 21, 2020. The Bureau is now considering appropriate steps, which may include rulemaking, related to the expiration of the exception and other potential remittance transfer issues. In its consideration of next steps, the Bureau is also taking account of stakeholder feedback that it received both during and after the assessment process, mentioned above.[64]

- *Home Mortgage Disclosure Act (Regulation C) Data Collection and Reporting Requirements.* The Bureau announced in December 2017, that it intends to open a rulemaking to reconsider various aspects of a 2015 final rule that amended regulations implementing HMDA. The Bureau expects to issue in 2019 an Advance Notice of Proposed Rulemaking to consider adjustments to certain data points reported under HMDA that were added or revised by the 2015 final rule. The Bureau's goal in gathering this information is to ensure that the data collection and reporting requirements established in the 2015 HMDA Rule appropriately balance the benefits and burdens associated with data

[64] *Additional activity has occurred with this matter since the end of this reporting period. In April, the Bureau issued a Request for Information (RFI) on its Remittance Rule. The RFI includes a consideration of issues discussed in the Bureau's assessment of the Rule, which examined if the Rule had been effective in achieving its goals. More information can be found here: https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-request-information-remittance-rule/.*

collection and reporting. The information received will help the Bureau determine whether to formulate a proposed rule relating any of the data points from the 2015 final rule.[65]

Proposed rules for the upcoming period, as reflected in the Bureau's Spring 2019 Unified Agenda:

- *Debt Collection Rule.* The Bureau has been engaged in research and pre-rulemaking activities regarding debt-collection practices. The Bureau released an outline of proposals under consideration in July 2016, concerning practices by companies that are debt collectors under the Fair Debt Collection Practices Act (FDCPA), in advance of convening a panel in August 2016, under the Small Business Regulatory Enforcement Fairness Act in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy to consult with representatives of small businesses that might be affected by the rulemaking.[66]

- *Home Mortgage Disclosure Act (Regulation C).* The Bureau expects to issue a Notice of Proposed Rulemaking in spring 2019 to follow up on a previous temporary adjustment to the thresholds for collecting and reporting data with respect to open-end lines of credit and to seek comment on adjustments to these thresholds as well as to the thresholds for collecting and reporting data with respect to closed-end mortgage loans, and to incorporate an interpretive and procedural rule that it issued in August 2018 to clarify partial HMDA exemptions created by the EGRRCPA.[67]

- *Public Release of Home Mortgage Disclosure Act Data.* This rule will facilitate further implementation of a statutory directive in the Dodd-Frank Act that the Bureau modify or require modification of the public HMDA data for the purpose of protecting consumer privacy interests. Commencing a notice-and-comment rulemaking will enable the Bureau to adopt a more definitive approach to disclosing HMDA data to the public in future years

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[65] *Additional activity has occurred with this matter since the end of this reporting period. In May 2019, the Bureau issued an Advance Notice of Proposed Rulemaking that solicits comments about the costs and benefits of collecting and reporting the data points the 2015 HMDA Rule added to Regulation C and certain preexisting data points that the 2015 HMDA Rule revised. In June, the Bureau extended the comment period. More information can be found here: https://www.consumerfinance.gov/about-us/newsroom/bureau-proposes-changes-hmda-rules/.*

https://www.consumerfinance.gov/about-us/newsroom/bureau-extends-comment-period-anpr-hmda-data-points/.

[66] *Additional activity has occurred with this matter since the end of this reporting period. In May 2019, the Bureau issued a Notice of Proposed Rulemaking to address such issues as communication practices and consumer disclosures. More information can be found here: https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/debt-collection-practices-regulation-f/.*

[67] *Additional activity has occurred with this matter since the end of this reporting period. In May 2019, the Bureau issued a Notice of Proposed Rulemaking to increase the threshold for reporting data about open-end and closed-end mortgage loans. More information can be found here: https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/home-mortgage-disclosure-regulation-c/; https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/home-mortgage-disclosure-regulation-c-data-points-and-coverage-extension-comment-period/.*

after considering new information concerning the privacy risks and benefits of disclosure of the HMDA data.

Final rules for the upcoming period as reflected in the Bureau's Spring 2019 Unified Agenda:

- *Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date*. The Bureau announced in 2018 that it intended to open a rulemaking to reconsider its 2017 rule titled Payday, Vehicle Title, and Certain High-Cost Installment Loans. The rule has a compliance date in August 2019. The Bureau issued a Notice of Proposed Rulemaking in February 2019 that proposed to delay the compliance date for provisions of the rule concerning the underwriting of covered short-term and longer-term balloon payment loans for 15 months to allow the Bureau adequate opportunity to review comments on its main rulemaking and to make any changes to those provisions before affected entities bear additional costs and experience related market effects associated with implementing and complying with them. The postponement would also account for potential implementation challenges that had not been anticipated at the time of the 2017 rule.[68]

- *The Expedited Funds Availability Act (Regulation CC)*. The Expedited Funds Availability Act (EFA Act), implemented by Regulation CC, governs availability of funds after a check deposit and check collection and return processes. The Bureau worked with the Board to issue jointly a proposal for implementing the statutory requirement to adjust for inflation the dollar amounts in the EFA Act and to reflect certain amendments to the statute by the EGRRCPA. The agencies also sought new or updated comments concerning the issues raised in the Board's March 2011 proposal that are subject to the Bureau's joint rulemaking authority; the Bureau will review this information before considering whether and how to proceed concerning these issues. In addition, the Bureau will work with the Board to issue jointly a final rule by June 2019 to implement the statutory requirement to adjust for inflation the dollar amounts in the EFA Act and to reflect certain amendments to the statute by the EGRRCPA.

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[68] *Additional activity has occurred with this matter since the end of this reporting period. https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/payday-vehicle-title-and-certain-high-cost-installment-loans-delay-compliance-date-correcting-amendments/.*

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 April 1, 2018, through March 31, 2019, the Bureau received approximately 321,200 consumer complaints.[69] This is an approximate two percent decrease from the prior reporting period.[70] Consumers submitted approximately 82 percent of these complaints through the Bureau's website and five percent via telephone calls. Referrals from other state and federal agencies accounted for eight percent of complaints. Consumers submitted the remainder of complaints 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. The Bureau sent approximately 257,300 (or 80 percent) of complaints received to companies for review and response.[71] Companies responded to approximately 95 percent of complaints that the Bureau sent to them for response during the period. The remaining complaints were either pending response from the company at the end of the period or did not receive a response. Company responses include descriptions of steps taken or that will be taken in response to the consumer's complaint, communications received from the consumer, any follow-up actions or planned follow-

[69] *All data are current through March 31, 2019. 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 the Bureau's website at https://www.consumerfinance.gov/complaint/process.*

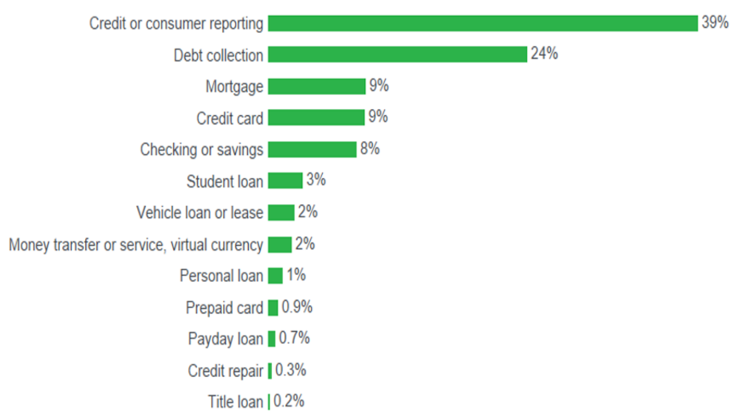
[70] *The prior reporting period, October 1, 2017, to September 30, 2018, reported 329,000 consumer complaints. See Consumer Fin. Prot. Bureau, Semi-Annual Report Fall 2018 (Feb. 2019), available at https://www.consumerfinance.gov/documents/7266/cfpb_semi-annual-report-to-congress_fall-2018.pdf.*

[71] *The Bureau referred 14 percent of the complaints it received to other regulatory agencies and found four percent to be incomplete. At the end of this period, 0.5 percent of complaints were pending with the consumer and 0.6 percent were pending with the Bureau. Percentages in this section of the report may not sum to 100 percent due to rounding.*

up actions, and a categorization of the response. Companies' responses describe a range of relief. Examples of relief include: mortgage foreclosure alternatives that help consumers keep their home; stopping unwanted calls from debt collectors; correcting consumers' credit reports; restoring or adjusting a credit line; correcting account information, including information on credit reports; and addressing formerly unmet customer service issues. Ninety-eight percent of companies' responses to complaints were timely.

When consumers submit complaints, the Bureau's complaint form prompts them to select the consumer financial product or service with which they have a problem as well as the type of problem they are having with that product or service. The Bureau uses these consumer selections to group the financial products and services about which consumers complain to the Bureau for public reports. As shown in Figure 1, credit or consumer reporting, debt collection, and mortgages are the most-complained-about consumer financial products and services.

FIGURE 1: CONSUMER COMPLAINTS BY PRODUCT



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 uses insights gathered from complaint data and analyses to help understand problems consumers are experiencing in the marketplace and the impact of those experiences on their lives, to develop tools to educate and empower people to know their rights and protect themselves, to scope and prioritize examinations and ask targeted questions when examining companies' records and practices, and to inform enforcement investigations to help stop unfair practices as the Bureau identifies them. The Bureau also shares consumer complaint information with prudential regulators, the FTC, other federal agencies, and state agencies[72] and 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.[73]

[72] *Dodd-Frank Act § 1013(b)(3)(D).*

[73] *From April 1, 2018, to March 31, 2019, the Bureau published four special topic complaint reports about servicemembers, mortgages, debt collection, and complaints from the 50-states and the District of Columbia. 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 of this Report as issued guidance documents undertaken within the preceding year.

5.2 Enforcement activities[74]

The Bureau was a party in the following public enforcement actions from April 1, 2018, through March 31, 2019, detailed as follows and listed in descending chronological order by filing or issue date. This section also identifies those actions involving Office of Administrative Adjudication Orders with respect to covered persons that are not credit unions or depository institutions.

In the Matter of CMM, LLC, et al. (collectively d/b/a Cash Tyme) (File No. 2019-BCFP-0004) (not a credit union or depository institution). On February 5, 2019, the Bureau issued a consent order against CMM, LLC, and its wholly owned subsidiaries, which operate under the name of Cash Tyme, a payday retail lender with outlets in seven states. The Bureau found that Cash Tyme violated the Consumer Financial Protection Act of 2010 (CFPA) by failing to take adequate steps to

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[74] *Enforcement activity summaries are current as of March 31, 2019, and do not include activities that occurred after the reporting period.*

prevent unauthorized charges to consumers; failing to promptly monitor, identify, correct and refund overpayments; making collection calls to third parties that disclosed or risked disclosing debts to third parties; misrepresenting that it collected third-party references from borrowers for verification purposes when it was using such information for marketing purposes; and displaying signage advertising unavailable services. The Bureau also found that Cash Tyme violated the Gramm-Leach-Bliley Act and Regulation P by failing to provide initial privacy notices to consumers. Finally, the Bureau found that Cash Tyme violated the TILA and Regulation Z by failing to include a payday loan fee charged to Kentucky consumers in the annual percentage rate (APR) in loan contracts and advertisements; rounding APRs to whole numbers in advertisements; and by publishing advertisements that included example APR and payment amounts based on example terms of repayment without disclosing the corresponding repayment terms used to calculate the APR. The Bureau's order requires Cash Tyme to ensure that all consumers who made overpayments would receive refunds and imposes a civil money penalty of $100,000. The requirements of the order also include prohibitions on Cash Tyme using reference information collected in connection with loan applications for any reason other than underwriting, and on transferring or selling any such reference information to third parties.

In the Matter of Enova International, Inc. (File No. 2019-CFPB-0003) (not a credit union or depository institution). On January 25, 2019, the Bureau issued a consent order against Enova International Inc. The Bureau found that Enova violated the CFPA by debiting consumers' bank accounts without authorization. The Bureau also found that Enova failed to honor loan extensions it granted to consumers. Under the terms of the consent order, Enova is barred from making or initiating electronic fund transfers without valid authorization. The order also imposes a civil money penalty of $3.2 million.

In the Matter of Mark Corbett (File No. 2019-BCFP-0002) (not a credit union or depository institution). On January 23, 2019, the Bureau issued a consent order against Mark Corbett. The Bureau found that Corbett violated the CFPA by misrepresenting to consumers that the contracts he facilitated were valid and enforceable when, in fact, the contracts were void because veterans' pension payments are unassignable under federal law; misrepresenting to consumers that the offered product was a purchase of payments and not a high-interest credit offer; misrepresenting to consumers when they would receive their funds; and failing to disclose to consumers the applicable interest rate on the credit offer. The Bureau's order permanently bans Corbett from brokering, offering, or arranging agreements between veterans and third parties under which the veteran purports to sell a future right to an income stream from the veteran's pension. The order also required Corbett to pay a civil money penalty of $1 because of his demonstrated inability to pay.

Bureau of Consumer Financial Protection v. Sterling Jewelers, Inc. (S.D.N.Y No. 19-cv-0448 LGS). On January 16, 2019, the Bureau and the People of the State of New York filed a joint complaint and proposed stipulated final judgment and order against Sterling Jewelers, Inc., which the district court entered on February 7, 2019. The Bureau's and the State's joint complaint alleged that Sterling violated the CFPA by opening store credit-card accounts without customer consent; enrolling customers in payment-protection insurance without their consent; and misrepresenting to consumers the financing terms associated with the credit-card accounts. The Bureau also alleged that Sterling violated the TILA by signing customers up for credit-card accounts without having received an oral or written request or application from them. Under the settlement, Sterling is required to pay a $10 million civil money penalty to the Bureau and a $1 million civil money penalty to the State of New York. The settlement also includes injunctive relief designed to prevent the continuation of the claimed illegal conduct.

In the Matter of USAA Federal Savings Bank (File No. 2019-BCFP-0001). On January 3, 2019, the Bureau issued a consent order against USAA. The Bureau found that USAA violated the CFPA and the EFTA. The Bureau found that USAA violated the EFTA by failing to honor consumers' requests to stop preauthorized electronic fund transfers, and failing to initiate and complete reasonable error resolution investigations. The Bureau found that USAA violated the CFPA by unfairly reopening bank accounts that previously had been closed by consumers. The order requires USAA to comply with the EFTA and the CFPA, and orders USAA to pay $12.2 million in restitution to certain consumers who were denied a reasonable error resolution investigation, and pay a $3.5 million civil money penalty.

In the Matter of State Farm Bank, FSB (File No. 2018-BCFP-0009). On December 6, 2018, the Bureau issued a consent order against State Farm Bank, FSB. The Bureau found that State Farm Bank violated the Fair Credit Reporting Act (FCRA), Regulation V, and the CFPA by obtaining consumer reports without a permissible purpose; furnishing to consumer reporting agencies (CRAs) information about consumers' credit that the bank knew or had reasonable cause to believe was inaccurate; failing to promptly update or correct information furnished to CRAs; furnishing information to CRAs without providing notice that the information was disputed by the consumer; and failing to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of information provided to CRAs. The Bureau's order requires State Farm Bank to not violate the FCRA or Regulation V and to implement and maintain reasonable written policies, procedures, and processes to address the practices at issue in the consent order and prevent future violations.

Bureau of Consumer Financial Protection v. Village Capital and Investment, LLC (D. Nev. No. 2:18-cv-02304). On December 4, 2018, the Bureau filed a complaint and proposed stipulated final judgment and order against Village Capital and Investment, LLC, which the district court entered on December 21, 2018. The Bureau alleged that Village Capital violated the CFPA by misleading veterans regarding its Interest Rate Reduction Refinancing Loans—loans that allow veterans to refinance their mortgages at lower interest rates with a loan guaranteed by the Department of Veterans Affairs. Specifically, the Bureau alleged that Village Capital misled veterans by overstating the benefits of refinancing. The order requires Village Capital to pay $268,869 in redress to consumers and a civil money penalty of $260,000. The order also prohibits Village Capital from misrepresenting the terms or benefits of mortgage refinancing.

In the Matter of Santander Consumer USA Inc. (File No. 2018-BCFP-0008) (not a credit union or depository institution). On November 19, 2018, the Bureau issued a consent order against Santander Consumer USA Inc. The Bureau found that Santander engaged in deceptive acts and practices in violation of the CFPA by (1) not properly describing the benefits and limitations of its S-GUARD GAP product, an optional add-on product offered in connection with auto loans; and (2) failing to properly disclose the impact on consumers of obtaining a loan extension. Under the terms of the consent order, Santander must provide approximately $9.29 million in restitution to certain consumers, pay a $2.5 million civil money penalty, and clearly and prominently disclose the terms of its loan extensions and add-on product, among other provisions.

In the Matter of Cash Express, LLC (File No. 2018-CFPB-0007) (not a credit union or depository institution). On October 24, 2018, the Bureau issued a consent order against Cash Express LLC. The Bureau found that Cash Express violated the CFPA by deceptively threatening in collection letters that it would take legal action against consumers, even though the debts were past the date for suing on legal claims, and it was not Cash Express's practice to file lawsuits against these consumers. The Bureau also found that Cash Express violated the CFPA by misrepresenting that it might report negative credit information to consumer reporting agencies for late or missed payments, when the company did not actually report this information. The Bureau also found that Cash Express violated the CFPA by abusively withholding funds during check-cashing transactions to satisfy outstanding amounts on prior loans, without disclosing this practice to the consumer during the initiation of the transaction. Under the terms of the consent order, Cash Express and its subsidiaries are barred from taking check cashing proceeds to pay off previous debts unless consumers consent in writing. Cash Express is further barred from making misrepresentations about its consumer reporting activities and its intention or likelihood of filing suit to collect a debt. The order requires Cash Express to pay approximately $32,000 in restitution to consumers and imposes a civil money penalty of $200,000.

In the Matter of Bluestem Brands, Inc.; Bluestem Enterprises, Inc.; and Bluestem Sales, Inc., d/b/a Fingerhut and Gettington.com (File No. 2018-BCFP-0006) (not a credit union or depository institution). On October 4, 2018, the Bureau issued a consent order against Bluestem Brands, Inc., and its subsidiaries. The Bureau found that Bluestem violated the CFPA by unfairly delaying the transfer of payments that customers had made to the Bluestem companies on charged-off accounts to the third-party debt buyers that had purchased those accounts. These delays were likely to subject customers to misleading collection activity, including collection activity on accounts that they had completely paid off. The Bureau's order requires Bluestem to improve its processes to timely identify and forward customer payments on accounts that are sold to third-party debt buyers. Bluestem is also required to improve its process to prevent consumers from making payments by phone or on the companies' websites on sold accounts, and to notify customers who make payments to Bluestem on sold accounts that their accounts have been sold. The order also requires Bluestem to pay a civil money penalty of $200,000.

Bureau of Consumer Financial Protection v. Future Income Payments, LLC, et al. (C.D. Cal. No. 8:18-cv-01654). On September 13, 2018, the Bureau filed a complaint against Future Income Payments, LLC, Scott Kohn, and several related entities. The Bureau alleged that defendants represented to consumers that their pension-advance products were not loans, were not subject to interest rates, and were comparable in cost to, or cheaper than, credit-card debt when, in actuality, the pension-advance products were loans, and were subject to interest rates that were substantially higher than credit-card interest rates. The Bureau also alleged that the defendants failed to disclose a measure of the cost of credit, expressed as a yearly rate, for its loans. Among other relief, the Bureau sought compensation for harmed consumers, civil money penalties, and injunctive relief. The defendants waived service of the Bureau's complaint but failed to answer or otherwise respond to it. The Bureau obtained a clerk's entry of default in December 2018.

In the Matter of Triton Management Group, Inc.; TMS Group, Inc. d/b/a Always Money; EFS, Inc. d/b/a Quik Pawn Shop; Three Rivers Investment, Inc. d/b/a Always Money (File No. 2018-CFPB-0005) (not a credit union or depository institution). On July 19, 2018, the Bureau issued a consent order against Triton, TMS Group, EFS, and Three Rivers (collectively, Triton). The Bureau found that Triton deceived Mississippi consumers in violation of the CFPA, and violated the disclosure requirements of the TILA by failing to disclose properly the finance charges associated with their auto title loans. The Bureau also found that Triton used advertisements that failed to disclose the APR and other information required by the TILA. Under the terms of the consent order, Triton and its subsidiaries are barred from misrepresenting the costs and other terms of their loans. The order enters a judgment of $1,522,298 against Triton, which represents the undisclosed finance charges consumers paid on their Triton loans. Full payment of this amount is suspended subject to Triton's paying $500,000 to affected consumers. The order also imposes a $1 civil money penalty.

In the Matter of National Credit Adjusters, LLC and Bradley Hochstein (File No. 2018-BCFP-0004) (not a credit union or depository institution). On July 13, 2018, the Bureau issued a consent order against National Credit Adjusters, LLC and its former CEO and part-owner, Bradley Hochstein. The Bureau found that National Credit Adjusters and Hochstein engaged in unfair and deceptive acts and practices in the collection and sale of consumer debt and provided substantial assistance to the unfair and deceptive acts and practices of others in violation of the CFPA. The Bureau also found that National Credit Adjusters engaged in unfair and deceptive acts and practices in violation of the FDCPA. The Bureau's order imposes a civil money penalty of $3 million against National Credit Adjusters and $3 million against Hochstein. Full payment of those amounts is suspended subject to compliance with other requirements and National Credit Adjusters paying a $500,000 civil money penalty and Hochstein paying a $300,000 civil money penalty. The Bureau's order also imposes injunctive relief and prohibits Hochstein from working for, or providing certain services to, any individual or business that collects, buys, or sells consumer debt.

In the Matter of Citibank, N.A. (File No. 2018-BCFP-0003). On June 29, 2018, the Bureau issued a consent order against Citibank, N.A. The Bureau found that Citibank violated the TILA, as implemented by Regulation Z, by failing to reevaluate and reduce the annual percentage rates for certain consumer credit card accounts consistent with the requirements of Regulation Z, and by failing to have reasonable written policies and procedures in place to conduct APR reevaluations consistent with the requirements of Regulation Z. The Bureau's order requires injunctive relief and for Citibank to pay $335 million in restitution to consumers.

In the Matter of Security Group Inc., Security Finance Corporation of Spartanburg, Professional Financial Services Corp., et al. (File No. 2018-CFPB-0002) (not a credit union or depository institution). On June 13, 2018, the Bureau issued a consent order against Security Group, Inc., an installment lending company, and its operating subsidiaries (SGI). The Bureau found that SGI engaged in unfair debt collection acts and practices, including with respect to in-person collection visits and collection calls to consumers' workplaces and references. The Bureau found that SGI's improper collection attempts included physically preventing consumers from leaving their homes and visiting and calling consumers' places of work while knowing that those contacts could endanger the consumers' employment. The Bureau also found that SGI's furnishing practices violated the FCRA. The Bureau's order requires SGI to cease in-person collection visits, comply with the FCRA, and pay a civil penalty of $5 million.

In the Matter of Wells Fargo Bank, N.A. (File No. 2018-BCFP-0001). On April 20, 2018, the Bureau issued a consent order against Wells Fargo Bank, N.A. The Bureau found that Wells Fargo engaged in unfair acts and practices in the way it administered a mandatory insurance program related to its auto loans and in how it charged certain borrowers for mortgage interest rate-lock extensions, in violation of the CFPA. The Bureau's order required Wells Fargo to remediate harmed consumers and undertake certain activities related to its risk management and compliance management. The Bureau also assessed a $1 billion civil money penalty against the bank and credited the $500 million penalty collected by the Office of the Comptroller of the Currency (OCC) toward the satisfaction of its fine.

Consumer Financial Protection Bureau v. Think Finance, LLC f/k/a Think Finance, Inc., et al. (D. Mont. No. 17-cv-0127); In re Think Finance, LLC, et al., (Bankr. N.D. Tex. No. 17-33964). On November 15, 2017, the Bureau filed a complaint against Think Finance and its wholly owned subsidiaries. The Bureau alleges that they collect debts that were not legally owed. Specifically, the Bureau alleges that Think Finance collects on loans that are void ab initio under state laws governing interest rate caps or the licensing of lenders. The Bureau alleges that Think Finance made deceptive demands and took money from consumers' bank accounts for debts that were not legally owed, in violation of federal law. The Bureau seeks restitution, injunctive relief, and a civil money penalty. On April 24, 2018, the defendants filed a motion to dismiss, which the court denied on August 3, 2018. Defendants filed an answer on August 31, 2018. The Bureau also filed a proof of claim in the Think Finance bankruptcy case. Both matters remain pending.

Consumer Financial Protection Bureau v. Freedom Debt Relief, LLC and Andrew Housser (N.D. Cal. No. 17-cv-6484). On November 8, 2017, the Bureau filed a complaint against Freedom Debt Relief, the nation's largest debt-settlement services provider, and its co-CEO Andrew Housser. The Bureau alleges that they deceive consumers and charge unlawful advance fees. The Bureau alleges that Freedom misleads consumers about its ability to negotiate settlements with all creditors, misleads consumers about the circumstances under which it charges fees and in some cases, charges fees in the absence of a settlement. The Bureau is seeking compensation for harmed consumers, civil money penalties, and an injunction against Freedom and Housser to halt their allegedly unlawful conduct.

Consumer Financial Protection Bureau v. Federal Debt Assistance Association, LLC, Financial Document Assistance Administration, Inc., Clear Solutions, Inc., Robert Pantoulis, David Piccione, and Vincent Piccione (D. Md. No. 17-cv-2997). On October 12, 2017, the Bureau filed a complaint against two companies operating under the name "FDAA," a service provider, and their owners. The Bureau alleged that defendants falsely present FDAA as being affiliated with the federal government. The Bureau also alleged that FDAA's so-called "debt validation" programs violated the law by falsely promising to eliminate consumers' debts and improve their credit scores in exchange for thousands of dollars in advance fees. The court entered default judgment against all of the defendants on May 22, 2018, after they failed to respond to the Bureau's lawsuit. The court's order bans the defendants from providing debt-relief or credit-repair services to consumers, requires them to pay $4.9 million in redress to consumers, and imposes a civil money penalty of $16 million.

Consumer Financial Protection Bureau v. The National Collegiate Master Student Loan Trust, et al. (D. Del. No. 17-cv-1323). On September 18, 2017, the Bureau filed a complaint and proposed consent judgment against several National Collegiate Student Loan Trusts (collectively, "NCSLT"). The Bureau alleges that NCSLT brought debt collection lawsuits for private student loan debt that the companies could not 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 redress to consumers, disgorgement, and a civil money penalty. Soon after the Bureau's filing, several entities moved to intervene to object to the proposed consent judgment. The judge granted the intervention motions, and the parties are currently engaged in discovery. 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. The Bureau alleges that 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 Homeowners Protection Act (HPA). On June 23, 2017, Ocwen moved to dismiss. The court has not yet ruled on that motion. The case remains pending.

Consumer Financial Protection Bureau v. Weltman, Weinberg & Reis Co., L.P.A. (N.D. Ohio No. 1:17-cv-0817). On April 17, 2017, the Bureau filed a complaint against the debt collection law firm Weltman, Weinberg & Reis Co., L.P.A. The Bureau alleged that the law firm sent collection letters that misrepresented that attorneys were meaningfully involved in collecting the debt. A trial with an advisory jury was held beginning May 1, 2018. The advisory jury found that the Bureau had proved by a preponderance of the evidence that the law firm's collection letter contained false, deceptive, or misleading representations in connection with the collection of a debt, but found that the Bureau had not proved that the law firm's lawyers were not meaningfully involved in the debt collection process. The court declined to adopt the advisory jury's first finding, accepted the advisory jury's second finding, and entered judgment in favor of the law firm on July 25, 2018.

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-0890). 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. The Bureau alleges that they made misrepresentations to potential borrowers, 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 filed a motion to dismiss the Bureau's complaint, which the Bureau opposed. On June 21, 2018, the court issued an opinion concluding that the defendants are subject to the CFPA's prohibitions and that the complaint properly pleaded claims against all of them. The court held, however that the for-cause removal provision that applies to the Bureau's Director violates the constitutional separation of powers and cannot be severed from the remainder of Title X of the Dodd-Frank Act. Based on that conclusion, the court ultimately dismissed the entire case.

The parties' appeals are now pending before the United States Court of Appeals for the Second Circuit.

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. 17-cv-0161). On January 30, 2017, the Bureau filed a complaint against a number of law firms and attorneys. The Bureau alleged that they violated the Telemarketing Sales Rule (TSR) by: (1) charging consumers upfront fees for debt relief services; (2) misrepresenting that consumers would not be charged upfront fees for debt relief services when, in fact, they were; and (3) providing substantial assistance to Morgan Drexen and Walter Ledda while knowing or consciously avoiding knowing that Morgan Drexen and Ledda were engaging in these violations. The Bureau also alleged 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 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. On March 27, 2019, the court entered a consent judgment resolving the Bureau's claims. Under the consent judgment, the defendants are permanently banned from telemarketing any consumer financial product or service or otherwise offering or providing debt relief services. The judgment imposes a $40 million civil money penalty and orders the defendants to pay redress in the amount of $35,256,275. The money judgment and civil money penalty are suspended, provided that certain conditions are met.

Consumer Financial Protection Bureau v. TCF National Bank (D. Minn. No. 17-cv-0166). On January 19, 2017, the Bureau filed a complaint against TCF National Bank. The Bureau alleged that that TCF misled consumers about overdraft services in violation of Regulation E and the CFPA. Specifically, the Bureau alleged 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. 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 claims for deceptive and abusive acts or practices. On August 1, 2018, the court accepted a settlement between the Bureau and TCF. TCF agreed to pay $25 million in restitution to customers who were charged overdraft fees and also agreed to an injunction to prevent future violations. The settlement also imposed a civil money penalty of $5 million. The penalty was adjusted to account for a $3 million penalty imposed by the OCC.

Consumer Financial Protection Bureau v. Navient Corporation, Navient Solutions, Inc., and Pioneer Credit Recovery, Inc. (M.D. Pa. No. 17-cv-0101). 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; misreported to credit reporting agencies that severely and permanently disabled borrowers who had loans discharged under a federal program had defaulted on the loans when they had not; 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 collection fees that would be forgiven in the federal loan rehabilitation program. 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. Access Funding, LLC, Access Holding, LLC, Reliance Funding, LLC, Lee Jundanian, Raffi Boghosian, Michael Borkowski, and Charles Smith (D. Md. No. 1:16-cv-3759). 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. The Bureau alleges 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 consumers 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 filed motions to dismiss, which the court denied. The defendants filed a motion for partial summary judgment, which the court denied on January 18, 2019. The case remains pending.

Consumer Financial Protection Bureau v. Northern Resolution Group (W.D.N.Y. No. 16-cv-0880). On November 2, 2016, the Bureau, in partnership with the New York Attorney General, filed a complaint against debt collectors Northern Resolution Group, LLC, Douglas MacKinnon, Mark Gray, Enhanced Acquisitions, LLC, and Delray Capital, LLC. The Bureau alleges 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.

Consumer Financial Protection Bureau v. All American Check Cashing, Inc., Mid-State Finance, Inc., and Michael E. Gray (S.D. Miss. No. 16-cv-0356). On May 11, 2016, the Bureau filed a complaint against two companies, All American Check Cashing, Inc. and Mid-State Finance, Inc., which 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 Bureau moved for summary judgment on August 4, 2017. The court has not yet ruled on the Bureau's summary judgment motion. On March 21, 2018, the court denied the defendants' motion for judgment on the pleadings, and on March 26, 2018, the defendants moved to certify that denial for interlocutory appeal. The next day, the court granted the defendants' motion in part, holding that interlocutory appeal was justified with respect to defendants' constitutional challenge to the Bureau's statutory structure. On April 24, 2018, the court of appeals granted the defendants' petition for permission to appeal the district court's interlocutory order. The district court action has been stayed pending the appeal. The United States Court of Appeals for the Fifth Circuit heard oral arguments in the appeal on March 12, 2019, and has not yet issued a decision.

Consumer Financial Protection Bureau v. D and D Marketing, Inc., d/b/a T3Leads, Grigor Demirchyan, and Marina Demirchyan (C.D. Cal. No. 15-cv-9692); Consumer Financial Protection Bureau v. Dmitry Fomichev (C.D. Cal. No. 16-cv-2724); and Consumer Financial Protection Bureau v. Davit Gasparyan a/k/a David Gasparyan (C.D. Cal. No. 16-cv-2725). On December 17, 2015, the Bureau filed a complaint against T3Leads and its then current executives, Grigor Demirchyan and Marina Demirchyan. The Bureau alleged 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; the Bureau further alleged 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—that alleged that they substantially assisted T3's violations. The complaints sought 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. On September 8, 2017, the district court entered a stipulated final judgment and order against one of the defendants, Davit Gasparyan. The order imposes injunctive relief and requires Gasparyan to pay a $250,000 penalty. On March 7, 2019, after stipulation of the parties, the district court dismissed with prejudice the action against Fomichev, and the Ninth Circuit dismissed the pending interlocutory appeals. On March 28, 2019, the district court entered a stipulated final judgment and order against T3 and former T3 officers, Grigor and Marina Demirchyan, imposing injunctive relief, $1 million in damages jointly and severally against the defendants, a $3 million civil money penalty against T3, and a $1 penalty against each of the Demirchyans.

In the Matter of Integrity Advance, LLC and James R. Carnes (File No. 2015-CFPB-0029) (not a credit union or depository institution). On November 18, 2015, the Bureau filed a notice of charges against an online lender, Integrity Advance, LLC, and its CEO, James R. Carnes. The Bureau alleges that they deceived consumers about the cost of short-term loans and 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.), and, subsequently, pending a decision in *Lucia v. SEC*, No. 17-0130 (S. Ct.). Subsequent to the Supreme Court's ruling in *Lucia* that suggested that the Administrative Law Judge that presided over the proceedings in this case may have been improperly appointed, the Director remanded the case for a new hearing and recommended decision by the Bureau's Administrative Law Judge. 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. 15-cv-2440). On October 29, 2015, the Bureau filed a complaint against Global Financial Support, Inc., which operates under the names Student Financial Resource Center and College Financial Advisory, and Armond Aria. The Bureau alleges that Global Financial Support, Inc., 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 also 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. A stay was entered by the court on May 17, 2016, pending an ongoing criminal proceeding involving one of the defendants. The case remains pending.

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. The Bureau and NYDFS allege that they deceived consumers about the costs and risks of their pension-advance loans. Specifically, the Bureau and NYDFS allege 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 allege 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 allege 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.

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. The Bureau alleged that they engaged in unfair, deceptive, and abusive practices relating to its payday lending enterprise. Specifically, the Bureau alleged 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 relief defendants. The Bureau moved for the sanction of default judgment against the remaining defendants, which the court granted on March 29, 2018. The case was resolved through a stipulated judgment, entered by the court on February 4, 2019, which permanently barred the remaining defendants from any consumer lending in the United States, from collecting on any of the existing loans to United States consumers, and from disclosing, using, or benefiting from consumer information associated with loans made to consumers in the United States.

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. The Bureau alleged that they engaged in abusive and deceptive acts and practices in violation of the CFPA and the 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 purported 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 money 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 forbidding defendants from engaging in specified acts or practices. The court denied defendants' post-trial motions on March 12, 2018, and both parties have filed a notice of appeal. The parties' appeals are currently pending before the United States Court of Appeals for the Ninth Circuit.

Consumer Financial Protection Bureau v. Universal Debt & Payment Solutions, LLC, et al. (N.D. Ga. No. 15-cv-0859). 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. On 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 two remaining defendants moved for summary judgment. On January 29, 2018, the court granted the Bureau's motion for contempt against one of the defendants for violating the court's preliminary injunction. The Bureau has filed additional motions for contempt against several defendants, which the court has not ruled on. On March 21, 2019, the court granted the Bureau's motion for summary judgment on all of its claims against five of the debt collector defendants, and one of its claims against two other debt collector defendants. The court denied the Bureau's motion for summary judgment on its other claims against the latter two debt collector defendants, and denied those two defendants' motion for summary judgment against the Bureau. The court has not ruled on the Bureau's requested relief, and will hold a hearing on remedies. The case remains pending.

Consumer Financial Protection Bureau v. Richard F. Moseley, Sr., et al. (W.D. Mo. No. 14-cv-0789). 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. The Bureau alleged that they used a maze of interrelated entities to make unauthorized and otherwise illegal loans to consumers and that the defendants' practices violated 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. were resolved. In November 2017, Moseley was convicted on multiple counts after a jury trial in the Southern District of New York and in June 2018, sentenced to 120 months in prison. The court entered a stipulated final judgment against one individual defendant on July 23, 2018, and a stipulated final judgment against Moseley and the remaining defendants on August 10, 2018. Under the terms of the orders, one individual defendant Randazzo is banned from the industry and required to pay a $1 civil penalty, and the remaining defendants are banned from the industry, and must forfeit approximately $14 million in assets, and pay a $1 civil money penalty. The civil money penalty amount is based in part on the defendants' limited ability to pay. The August 10 order also imposes a judgment for $69 million in consumer redress, but, in light of the defendants' limited ability to pay, the judgment will be suspended upon compliance with other requirements.

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-0513). On July 22, 2014, the Bureau filed a complaint 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 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 directing consumers not to contact lenders, and by making deceptive statements to consumers when providing mortgage assistance relief services. A trial was held on April 24, 2017 through April 28, 2017. 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. On May 29, 2018, the Bureau filed an unopposed motion to increase the redress amount ordered by the court to $18,716,725.78, based on newly discovered information about additional advance fees paid by consumers. On November 15, 2018, the court issued an opinion and order ruling that certain defendants violated Regulation O by taking upfront fees, by failing to make required disclosures, by directing consumers not to contact their lenders, and by making deceptive statements. The court directed that the parties submit briefs addressing what damages, injunctive relief, and civil money penalties, if any, should be awarded. Briefing on those issues was completed on February 19, 2019. The case remains pending.

Consumer Financial Protection Bureau v. ITT Educational Services, Inc. (S.D. Ind. No. 14-cv-0292). On January 6, 2014, the Bureau filed a complaint 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 lender CashCall Inc., its owner, a subsidiary, and an affiliate. The Bureau alleged 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 alleges 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. 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. Based in part on that finding, the court concluded that the choice-of-law provision in the loan agreements was not enforceable, found that the law of the borrowers' states applied, and that the loans were void. Because the loans were void, the court found that the defendants engaged in deceptive acts or practices by demanding and collecting payment on debts that consumers did not 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 money penalty but denying the Bureau's request for restitution and an injunction. The parties' appeals remain pending before the United States Court of Appeals for the Ninth Circuit.

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 two issues of *Supervisory Highlights* between April 1, 2018, through March 31, 2019.[75]

All public enforcement actions are listed in Section 5.2 of this Report. Those actions taken with respect to covered persons which are not credit unions or depository institutions are noted within the summary of the action.

[75] *Summer 2018, https://files.consumerfinance.gov/f/documents/bcfp_supervisory-highlights_issue-17_2018-09.pdf; Winter 2019, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-18_032019.pdf.*

7. Assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law[76]

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 unaware of any State actions asserting Dodd-Frank Act claims that were initiated during the April 1, 2018, through March 31, 2019, reporting period.

[76] *State action summaries are current as of March 31, 2019, and do not include activities that occurred after the reporting period.*

8. Analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau

This Semi-Annual Report update is focused on highlights from the Bureau's fair lending enforcement[77] and rulemaking[78] activities from April 1, 2018, through March 31, 2019, and continued efforts to fulfill the fair lending mission of the Bureau through supervision, interagency coordination, and outreach, from October 1, 2018, through March 31, 2019.[79]

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 10 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 ECOA and HMDA.

For exam reports issued by Supervision during the reporting period, the most frequently cited violations were:

- Section 1003.4(a): Failure by a financial institution to collect and accurately report data regarding applications for covered loans that it receives, originates, or purchases in a calendar year, or, failure to collect and accurately report data regarding certain requests under a preapproval program in a calendar year;

[77] *Dodd-Frank Act § 1016(c)(5).*

[78] *Dodd-Frank Act § 1016(c)(3). The Bureau's fair lending rulemaking activity pertaining to HMDA and Regulation C is discussed above in Section 3.*

[79] *Dodd-Frank Act § 1016(c)(8).*

- Section 1002.12(b)(1)(i): Failure to create and preserve records and other documents required by the regulation.

In the current reporting period, the Bureau initiated 10 supervisory events, which is fewer than the 13 fair lending supervisory events reported as initiated during the reporting period reflected in the Fall 2018 Semi-Annual Report.[80] In the current reporting period, the Bureau issued fewer matters requiring attention (MRAs) or memoranda of understanding (MOUs) than in the prior period. MRAs and MOUs direct entities to take corrective actions and are monitored by the Bureau through follow-up supervisory events.

Consistent with BCFP Bulletin 2018-01,[81] the Bureau issues Supervisory Recommendations (SRs) to address the Bureau's supervisory concerns related to financial institutions' compliance management systems. SRs do not include provisions for periodic reporting nor expected timelines for implementation. During the current reporting period, the Bureau provided SRs relating to supervisory concerns related to weak or nonexistent fair lending risk assessments and/or fair lending training.

8.2 Fair lending enforcement[82]

The Bureau has the statutory authority to bring actions to enforce the requirements of 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 the U.S. Department

[80] *The Bureau is using a new measure to identify the number of on-site supervision exams or reviews. See Fiscal Year (FY) 2019 Annual Performance Plan (February 2019). This Spring 2019 Semi-Annual Report update complies with this new measure. Therefore, the number of initiated examination events reported here is not comparable to the number of events reported in the Fall 2018 Semi-Annual Report. For comparison purposes, had the Bureau employed this new measure for initiated supervisory exams for the reporting period reflected in the Fall 2018 Semi-Annual Report, that report, which indicated that the Bureau initiated 13 fair lending supervisory events, would instead have indicated that the Bureau had initiated 12 fair lending supervisory events.*

[81] *https://files.consumerfinance.gov/f/documents/bcfp_bulletin-2018-01_changes-to-supervisory-communications.pdf.*

[82] *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 April 1, 2018, through March 31, 2019, for this report.*

of Justice (DOJ) when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.[83]

During the reporting period, the Bureau did not initiate or complete any fair lending public enforcement actions. In addition, during this reporting period,[84] the Bureau did not refer any matters to the DOJ with regard to discrimination pursuant to Section 706(g) of ECOA.

During the reporting period, the Bureau continued to implement and oversee compliance with the pending public enforcement orders that were entered by federal courts or issued by the Bureau's Director in prior years.

On June 29, 2016, the Bureau and the DOJ announced a joint action against BancorpSouth Bank (BancorpSouth) for discriminatory mortgage lending practices that harmed African Americans and other minorities. The consent order, which was entered by the court on July 25, 2016, requires BancorpSouth to pay $4 million in direct loan subsidies in minority neighborhoods[85] in Memphis; at least $800,000 for community programs, advertising, outreach, and credit repair; $2.78 million to African-American consumers who were unlawfully denied or overcharged for loans; and a $3 million penalty.[86] On June 25, 2018, the Bureau announced that participation materials were mailed to potentially eligible African-American borrowers identified as harmed by BancorpSouth's alleged discrimination in mortgage lending between 2011 and 2015, notifying them how to receive redress. Starting on March 15, 2019, checks were mailed to African-American borrowers who were confirmed as eligible to receive a payment.

On February 2, 2016, working with the DOJ, the Bureau ordered[87] Toyota Motor Credit Corporation (Toyota Motor Credit) to pay up to $21.9 million in damages to harmed African-American and Asian and/or Pacific Islander borrowers for unlawful discrimination.[88] On

[83] *See 15 U.S.C. § 1691e(h).*

[84] *April 1, 2018, through March 31, 2019.*

[85] *Majority-minority neighborhoods or minority neighborhoods refers to census tracts with a minority population greater than 50 percent.*

[86] *Consent Order, United States v. BancorpSouth Bank, No. 1:16-cv-00118-GHD-DAS (N.D. Miss. July 25, 2016), ECF No. 8, https://files.consumerfinance.gov/f/documents/201606_cfpb_bancorpSouth-consent-order.pdf. .*

[87] *Consent Order in re Toyota Motor Credit Corporation, CFPB No. 2016-CFPB-0002 (Feb. 2, 2016), https://files.consumerfinance.gov/f/201602_cfpb_consent-order-toyota-motor-credit-corporation.pdf.*

[88] *On May 21, 2018, the President signed a joint resolution passed by Congress disapproving the Bureau's Bulletin titled "Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act" (Bulletin), which had provided guidance about ECOA and its implementing regulation, Regulation B. Consistent with the joint resolution, the Bulletin has no force or effect. The ECOA and Regulation B are unchanged and remain in force and effect.*

December 29, 2017, participation materials were mailed to potentially eligible borrowers whom Toyota Motor Credit overcharged for their auto loans notifying them how to participate in the settlement fund. On February 1, 2019, checks were mailed to eligible, participating consumers.

On September 28, 2015, working in coordination with the DOJ, the Bureau ordered[89] Fifth Third Bank (Fifth Third) to pay $18 million in damages to harmed African-American and Hispanic borrowers for unlawful discrimination in auto lending.[90] On December 17, 2018, participating African-American and Hispanic borrowers, whom Fifth Third overcharged for their auto loans, were mailed checks totaling $12 million, plus accrued interest.

8.3 Fair lending outreach

The Bureau is committed to hearing from and communicating directly with stakeholders. The Bureau regularly engages in outreach with Bureau stakeholders, including consumer advocates, civil rights organizations, industry, academia, and other government agencies, to: (1) educate them about fair lending compliance and access to credit issues and (2) hear their views on the Bureau's work to inform the Bureau's policy decisions.

Outreach is accomplished through meetings and the delivery of speeches and presentations addressing fair lending and access to credit issues as well as issuance of Reports to Congress, Interagency Statements, *Supervisory Highlights*, Compliance Bulletins, letters and blog posts, as well as through meetings and the delivery of speeches and presentations addressing fair lending and access to credit issues. During the reporting period, Bureau staff participated in 21 outreach events involving fair lending and access to credit issues. In these events, staff worked directly with stakeholders and shared information on fair lending priorities and emerging issues. The Bureau also heard feedback on fair lending issues and how innovation can promote fair, equitable, and nondiscriminatory access to credit. Some examples of the topics covered include credit access for limited-English proficiency (LEP) consumers, fair lending priorities, fair lending model governance, innovations in lending, redlining, HMDA, small business lending, and alternative data.

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89 Consent Order, In re Fifth Third Bank, CFPB No. 2015-CFPB-0024 (Sept. 28, 2015), https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-fifth-third-bank-for-auto-lending-discrimination-and-illegal-credit-card-practices/.

90 See supra note 88.

8.4 Fair lending coordination

The Bureau's fair lending activity involves regular coordination with other federal and state regulatory and enforcement partners. During the reporting period, Office of Fair Lending and Equal Opportunity (OFLEO) staff continued to lead the Bureau's fair lending interagency coordination and collaboration efforts by working with partners on the Interagency Working Group on Fair Lending Enforcement, and chairing the Interagency Task Force on Fair Lending and the FFIEC HMDA Data Collection Subcommittee.

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 (OMWI).

During the reporting period, the Bureau published its Annual Report of OMWI activities. The 2018 Annual Report was issued on April 3, 2019.[91]

In addition, the Bureau continued executing on objectives and strategies outlined in the Bureau of Consumer Financial Protection Strategic Plan FY 2018–2022[92] (Bureau Strategic Plan), which complements and reinforces the Diversity and Inclusion Strategic Plan 2016–2020. In order to better align the Diversity and Inclusion Strategic Plan with the Bureau's Strategic Plan, the Bureau began developing a Diversity and Inclusion Strategic Plan Update in March 2019, which will be published in July 2019.[93]

Specifically, Objective 3.2 of the Bureau's Strategic Plan commits the Bureau to "maintain a talented, diverse, inclusive and engaged workforce." The plan requires the Bureau to achieve this objective with specific strategies, which are:

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[91] https://www.consumerfinance.gov/data-research/research-reports/fy-2018-office-minority-and-women-inclusion-annual-report-congress/.

[92] https://www.consumerfinance.gov/about-us/budget-strategy/strategic-plan/.

[93] *Additional activity has occurred with this matter since the end of this reporting period. More information can be found here:* https://www.consumerfinance.gov/data-research/research-reports/cfpb-diversity-and-inclusion-strategic-plan-update-2019-2022/.

- Establish and maintain human capital policies and programs to help the Agency effectively and efficiently manage a talented, diverse, and inclusive workforce.
- Offer learning and development opportunities that foster a climate of professional growth and continuous improvement.
- Develop human capital processes, tools, and technologies that continue to support the maturation of the Bureau and the effectiveness of human resource operations.
- Build a positive work environment that engages employees and enables them to continue doing their best work.
- Maintain comprehensive equal employment opportunity (EEO) compliance and diversity and inclusion programs, including those focused on minority and women inclusion.

9.1 Increasing workforce diversity

As of March 2019, an analysis of the Bureau's current workforce reveals the following key points:

- Women represent 49 percent of the Bureau's workforce in 2019 with no change from 2018.
- Minorities (Hispanic, Black, Asian, Native Hawaiian/Other Pacific Islander (NH/OPI), American Indian/Alaska Native (AI/AN) and employees of Two or More races) represent 40 percent of the Bureau workforce in 2019 with no change from 2018.
- As of March 31, 2019, 12.7 percent of Bureau employees on permanent appointments identified as an individual with a disability. Out of the permanent workforce, 3.4 percent of employees identified as an individual with a targeted disability. As a result, the Bureau continues to exceed the 12 percent workforce goals for employees with disabilities and 2.0 percent for employees with targeted disabilities–in both salary categories as required in the EEOC's Section 501 regulations.

The Bureau engages in the following activities to increase workforce diversity:

- Staffing
  - The Bureau continues to enhance diversity by recruiting, hiring, and retaining highly qualified individuals from diverse backgrounds to fill positions at the Bureau.

- During the reporting period, the Bureau was under a hiring freeze.[94] However, the Bureau on-boarded nine (9) hiring exceptions for new employees, which included six (6) women and four (4) minorities.
- The Bureau also utilized the student volunteer internship program, other professional development programs, and recruitment efforts directed to reach veterans and applicants with disabilities to assist in the Bureau's workforce needs.

- 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. Employee resource groups, cultural education programs and diversity and inclusion training are key components of this effort.

9.2 Increasing contracting diversity

In accordance with the mandates in Section 342(b)(2)(B) of the Dodd-Frank Act, Section 2.4 of the Bureau's Diversity and Inclusion Strategic Plan describes the efforts the Bureau takes to increase contracting opportunities for diverse businesses including Minority-owned and Women-owned Businesses (MWOBs). The Bureau's OMWI and Procurement offices collectively work to increase opportunities for participation by MWOBs.

9.2.1 Outreach to contractors

The Bureau promotes opportunities for the participation of small and large Minority-owned and Women-owned Businesses by:

- Actively engaging Bureau business units with MWOB contractors throughout the acquisition cycle.

[94] *Additional activity has occurred with this matter since the end of this reporting period. Director Kraninger lifted the hiring freeze in August 2019.*

- Developing a "How to Do Business with the CFPB" series that includes technical assistance outreach and other resources—such as procurement forecasts of upcoming contract opportunities—digitally on the Bureau's website.[95]
- Continuing to publish the Bureau's supplier diversity guide on the Bureau website.[96]
- Participating in four (4) national supplier diversity conferences that help to foster business partnerships between the federal government, its U.S. prime contractors, minority-owned businesses, and advocacy for women business owners and entrepreneurs.
- As a result of these efforts, 36.7 percent of the $49 million in contracts that the Bureau awarded or obligated during the reporting period went to MWOBs.

The following table represents the total amount of dollars spent/disbursed to MWOBs as a result of contract or billing.

TABLE 3: DOLLARS SPENT TOWARD MINORITY-OWNED AND WOMEN-OWNED BUSINESSES[97]

Dollars Spent	Percent of Total	MWOB Category
$7,948,597	13.0%	Women
$896.064	1.5%	Black/African American
$1,773.351	2.9%	Native American
$9,350.884	15.35%	Asian American
$632,114	1.0%	Hispanic American

[95] https://www.consumerfinance.gov/about-us/doing-business-with-us/.

[96] https://www.consumerfinance.gov/about-us/doing-business-with-us/small-minority-businesses/.

[97] *Data in this table is for FY 2019 through May 31.*

9.3 Diversity within the Bureau contractors' workforces

In accordance with the mandates in Section 342(c) (2) of the Dodd-Frank Act, OMWI has developed Good Faith Effort (GFE) standards for the collection and assessment of documentation of its contractor's workforce and subcontractor diversity practices. In FY 2019, these standards were updated to better align with Federal Acquisition Regulations (FAR). OMWI, in collaboration with the Procurement office, developed a CFPB-specific GFE contract clause. The GFE clause has been included in all CFPB contracts since FY 2018 and notifies Contractors of their responsibilities under Dodd-Frank.

9.4 Assessing diversity of regulated entities

Pursuant to Section 342 (b) (2) (c) of the Dodd-Frank Act, CFPB developed a process to assess the diversity policies and practices of the entities the Bureau regulates. The Bureau developed a diversity self-assessment form that aligns with the Joint Standards for Assessing Diversity Practices of Regulated Entities, created by the federal regulatory agencies in 2015. The Bureau conducted outreach to mortgage finance organizations for the past several years to begin the process of assessing the diversity and inclusion practices of the entities the Bureau regulates and published the findings from that outreach.[98] During the reporting period, in February 2019, the Bureau sent outreach letters to entities within the mortgage industry introducing the Bureau's new OMWI Director and requesting contact information for the executives responsible for the institutions' diversity programming. The Bureau is conducting a multi-prong outreach strategy including direct entity contact, leveraging trade organizations, and joint outreach with other federal regulators to engage entities to participate in the voluntary self-assessment process in the Fall 2019. The Bureau is developing an online data collection tool to collect and manage the data.

[98] https://www.consumerfinance.gov/data-research/research-reports/diversity-and-inclusion-mortgage-industry-readout-opening-roundtable/.

APPENDIX A: ADDENDUM

2018 Annual Report to Congress on the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act)

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) mandates a nationwide licensing system and registry for residential mortgage loan originators. It requires that State licensing and registration and federal registration of mortgage loan originators (MLOs) be accomplished through the same online system, known as the Nationwide Mortgage Licensing System and Registry (NMLS&R). The NMLS&R is owned and operated by the State Regulatory Registry LLC (SRR), a wholly owned subsidiary of the Conference of State Bank Supervisors (CSBS). The statutory purposes of the SAFE Act generally include increasing uniformity, reducing regulatory burden, enhancing consumer protection, and reducing fraud.

In July 2011, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) transferred to the Bureau rulemaking authority, and other authorities, of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the National Credit Union Administration, the Federal Deposit Insurance Corporation, and the Department of Housing and Urban Development for the SAFE Act. With this transfer, the Bureau assumed the (1) responsibility for developing and maintaining the federal registration system; (2) supervisory and enforcement authority for SAFE Act compliance for applicable entities under the Bureau's jurisdiction; (3) back-up and related authority relating to SAFE Act standards for MLO licensing systems at the state level; and (4) certain rulemaking authority.

While administering the SAFE Act during 2018, the Bureau worked closely with SRR/CSBS to facilitate sharing mortgage loan originator information between state and federal regulators through the NMLS&R. Officials from the Bureau and SRR/CSBS met regularly to discuss issues related to the operation of the NMLS&R, resolve issues, and discuss requirements and policies related to the administration and functions of the NMLS&R. The Bureau reviewed, and approved as applicable, NMLS&R record adjustment requests to correct inaccurate information on federal registrant accounts. It also responded to Freedom of Information Act (FOIA) requests that pertained to federally registered MLOs. As of December 31, 2018, there were approximately 415,291 federally registered MLOs in the NMLS&R.

Bureau officials participated in the annual NMLS User Conference and Training that provided information and training on the NMLS&R's state licensing and federal registry system related processes. The event was open to regulatory and industry system users, education providers, consultants, and others interested in attending, so it also provided an opportunity for Bureau officials to meet the other participants, build relationships, and share contact information.

The Bureau continues to answer SAFE Act-related questions through its regulations guidance function and provides different forms of guidance and compliance resources on its website. The Bureau also maintains a SAFE Act Inquiries e-mail box to manage operational questions about the SAFE Act. Questions frequently received in 2018 involved routine compliance issues related to licensing and registration, MLO disclosure questions, and those related to the use of the online system. The Bureau works with NMLS&R officials with inquiries associated to the use of the system.

While the Bureau has not conducted a formal assessment of the SAFE Act, our interactions with SRR and the public indicate that the system is meeting expectations and provides a comprehensive licensing and supervisory database. During 2018, all of the required states, territories, and D.C. regulators ("state regulators") continued to use the NMLS&R for licensing their mortgage loan originators, as is mandated by the SAFE Act and Regulation H. The NMLS&R continues to collect and maintain the information required by the SAFE Act, Regulation H, and Regulation G. Additionally, an online consumer portal is available at no charge to consumers to provide employment and disciplinary and enforcement history for loan originators.

All bank and non-bank mortgage origination exams conducted by the Bureau in 2017 included a review for compliance with the SAFE Act. Examiners tested for accurate licensing and registration as well as related policies and procedures.

During 2017, SRR/CSBS continued to engage the Bureau on issues regarding the NMLS&R and the modernization of the NMLS&R ("NMLS 2.0"). The modernization entails rebuilding the NMLS&R on a more modern platform in order to improve its operations, enhance the user experience, and strengthen supervision. The Bureau continues to provide its feedback and position on current and proposed functions relating to the federal registration process for mortgage loan originators in the NMLS&R to SRR/CSBS.

LETTER SUBMITTED BY THE CONSUMER BANKER'S ASSOCIATION

100 CONSUMER BANKERS ASSOCIATION CENTENNIAL

CBA

HELPING FINANCE THE AMERICAN DREAM SINCE 1919.

October 11, 2019

The Honorable Mike Crapo
Chairman
Committee on Banking, Housing,
and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing,
and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Crapo and Ranking Member Brown:

The Consumer Bankers Association (CBA) submits the following comments for the hearing entitled, "The Consumer Financial Protection Bureau's Semi-Annual Report to Congress." We appreciate the Senate Banking Committee's continued oversight of the Consumer Financial Protection Bureau (CFPB or Bureau) and its activities. 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.

Legislative Recommendations to Improve the CFPB

Bipartisan Commission at the Consumer Financial Protection Bureau

Since its inception, the CFPB has been the center of political and legal debates about the legitimacy of its leadership structure. In fact, this hearing comes as the Supreme Court considers whether to hear a case challenging the structure of the CFPB and whether its single director leadership model is constitutional. We are concerned the Seila Law v. CFPB case[1] could result in a Supreme Court ruling that would create a governance structure where the director is removable at-will; inviting increased turmoil at the Bureau by further undermining the mission and operations of the CFPB.

We urge Congress to ensure the CFPB's independence and constitutionality by replacing the single director structure with a five-person, bipartisan commission, as originally intended by the House when it first passed the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010.[2] It is crucial that appropriate protections, checks and balances are in place given the scope and importance of the CFPB. It is also important to insulate the Bureau from political shifts with each new director that could reduce its ability to impartially ensure a fair and competitive marketplace.

The CFPB director is currently a single officer responsible for leading the CFPB and is the chief decisionmaker on rulemakings, enforcement and supervisory actions that affect millions of Americans' everyday financial lives. A change in that position affects the entire CFPB and laws that affect all Americans. The potential of a court ruling that could install removeable at-will director would bring increased confusion to financial services providers who

[1] Seila Law v. Consumer Financial Protection Bureau, 923 F.3d 680 (9th Cir. 2019), *petition for cert. filed* (U.S. June 28, 2019) (No. 17-56324).
[2] Dodd-Frank Wall Street Reform and Consumer Protection Act, H.R. 4173, 111th Cong. § 4103 (2010).

have been asking that Congress inject stability and transparency into the Bureau. An at-will Director, removable every four years, or sooner, would leave financial instructions with few assurances that the rules they are complying with today would remain in place. The financial services marketplace thrives in a stable regulatory environment. When regulatory stability is eroded by changing political dynamics, the consumer suffers from financial institutions' inability to rely upon a consistent regulatory environment.

The American people overwhelmingly favor a bipartisan commission at the Bureau. A Morning Consult poll found 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.[3] Additionally, two dozen trade associations representing thousands of banks, credit unions, financial institutions, and businesses of all sizes support this urgently needed.

Regulatory Actions

Enforcement and Supervision

Throughout her tenure, Director Kraninger has emphasized the need to use all of the CFPB's tools to prevent consumer harm. This includes properly educating consumers and establishing clear regulations in addition to ensuring compliance through supervision and holding bad actors accountable through enforcement. A directive to utilize all of the Bureau's facilities marks a departure from how the CFPB has historically emphasized the enforcement process as a regulatory tool and focused a large portion of industry interaction through enforcement actions. CBA appreciates Director Kraninger's charge to use all four of the Bureau's tools to better allow the financial services industry to serve customers while ensuring consumers are protected. However, CBA members continue to raise concerns that the new directive has not worked its way throughout the Bureau, as many CFPB examiners continue to present new issues on previously settled matters of law, lookback periods, and issues remediated by other government agencies through their supervision processes.

Sound supervision can prevent consumer harm while still allowing financial institutions the flexibility to develop new products and services to better serve customers. Examiners need to streamline procedures and work with other regulators to create an efficient supervisory regime that protects consumer interests and establishes clear rules of the road for financial institutions. CBA members still find examiner communication lacking as there seems to be a persistent disconnect from CFPB leadership. The result is more arduous, duplicative and inefficient exams for financial institutions that leave less time and resources to improve policies, procedures and serve our customers.

To this end, we strongly encourage the CFPB to ensure that coordination with other regulatory agencies remain a high priority and do more to streamline exam processes. CBA member banks are often supervised by multiple federal regulators (as well as the state regulatory bodies that supervise state-chartered banks). A single financial services company can be examined by the Federal Reserve, the OCC, the FDIC, and the CFPB, among others. 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 or substantially similar documents are often sought by multiple entities, and repetitive inquiries are often made to the same people inside supervised institutions, requiring additional time and effort to respond to each duplicative inquiry. Better interagency coordination is needed to minimize the cost and burden to financial institutions, allowing them to better serve their customers.

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[3] Morning Consult Poll, May 3, 2017.

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. The Treasury Department, in its 2017 report on financial services, recognized this as problematic and recommended a single entity act as a traffic cop or coordinator to minimize wasted effort by both public and private entities. CBA supports this approach to increased regulatory coordination.

Remittance

In April of this year the CFPB issued a Request for Information Regarding Potential Regulatory Changes to the Remittance Rule ("Remittance RFI"). In the Remittance RFI, the Bureau sought comment on two aspects on its Remittance Transfer Rule, subpart B of Regulation E (the "Remittance Rule"): (1) the pending July 2020 expiration of a temporary exception that, if certain conditions are met, allows insured depository institutions to estimate the exchange rate and certain fees on remittance transfers, 12 CFR 1005.32(a) ("Temporary Exception"); and (2) the Remittance Rule's 100-transfer safe harbor that provides an exemption from the Remittance Rule for institutions that send 100 or fewer annual remittance transfers, 12 CFR 1005.30(f)(2). CBA appreciates the Bureau's willingness to work with industry participants to find a solution to this impending problem. Bank-provided remittance transfers are an important service for bank customers. Without action by the Bureau, the Temporary Exception expiration will have the perverse effect of reducing consumer choice, forcing bank customers to use less convenient or more expensive services, and leave some consumers without alternative means of sending transfers that they send today through their banks. Accordingly, CBA requests that the Bureau:

- Recognize the distinct segment of the remittance transfer market that is served by banks; and

- Utilize its existing authority to permit banks to provide estimated disclosures so that they can continue providing remittance transfer services to their customers with the same worldwide reach that their customers are accustomed to today.

The Remittance Rule implementing section 1073 of the Dodd-Frank Act (codified at section 919 of the Electronic Fund Transfer Act ("EFTA")) established a comprehensive consumer protection system for consumers sending remittance transfers from the United States to individuals and businesses in foreign countries. The Remittance Rule requires consumer disclosures that include the price of a remittance transfer (including most fees and the exchange rate), the amount of currency to be delivered to the recipient, and the date the funds will be available to the recipient.

Although disclosures are generally required to be exact, Congress included in section 1073 of the Dodd-Frank Act a time-limited exception allowing insured depository institutions that satisfy specified conditions to estimate certain fees and the exchange rate. The Remittance Rule incorporated this exception. Congress initially set the exception to last for five years, until July 2015, and authorized the Bureau to extend the exception further, to July 2020, if the expiration "would negatively affect the ability of [insured institutions] . . . to send remittances." In 2014, the Bureau made such a determination and extended the exception to July 21, 2020. In doing so, the Bureau explained insured institutions were, for some transfers, unable to disclose exact exchange rates or fees and that the Bureau did not expect solutions to this problem to emerge before July 2020.

Recently, the Bureau assessed the Remittance Rule ("Assessment"). The Assessment found that, in 2017, bank and credit union-initiated remittance transfers made up less than 5 percent of the total volume of remittance transfers but accounted for 28.2 percent of the total value of remittance transfers. The Assessment also found that, although the percentage of banks using the Temporary Exception dropped since the Remittance Rule took effect 11.6 percent of banks reported using the Temporary Exception in 2017 for 10.2 percent of their transfers (or 6.4 percent of all bank remittance transfers).

Small-Dollar Bank Lending

On February 6, 2019, the CFPB issued a proposed rule to revise its controversial November 2017 small-dollar loan rule (2017 Rule). The proposal would effectively rescind the 2017 Rule's requirement that lenders determine a borrower's ability to repay prior to extending small-dollar and certain other types of covered loans. The CFPB has also finalized a delay of the compliance date for the 2017 Rule's existing ability to repay provisions to November 19, 2020. According to the proposal, the CFPB believes that the 2017 Rule's ability to repay provisions would have the effect of eliminating lenders willing to participate in the market, thereby decreasing consumer's access to credit and competition in credit markets. We agree with the Bureau's assessment of the 2017 rule and applaud the proposal that will help depository institutions offer short term credit products.

The proposed rescissions would substantially decrease the significant burdens on lenders that would be imposed by the existing ability to repay requirement. The 2017 Rule would require lenders to obtain extensive information about a consumer's finances and use the information to project whether the consumer will be able to make payments for his or her existing payment obligations and the payments under the covered loan and still meet basic living expenses for a period of thirty days. The changes in the proposed rule may encourage lenders previously discouraged by the requirements under the 2017 Rule to engage in small-dollar, short-term loans.

Lenders would still be subject to the 2017 Rule's payment provisions, which require a lender to obtain a new customer authorization to attempt to withdraw funds from a consumer's account following two consecutive failed attempts to withdraw payments from that account. The provisions also require lenders to provide consumers with a written notice prior to a first attempt to withdraw payment from a checking, savings, or prepaid account and before subsequent attempts to withdraw payments if the payment amounts, dates, or payment channels differ from the first attempt.

We greatly appreciate the Bureau's interest in revisiting the rule to ensure consumers have options in the marketplace for small dollar credit needs. Because we expect the rulemaking will likely identify other problems with the Final Rule, we have urged the Bureau to grant an immediate extension of the compliance date for the entire 2017 Rule. Without an immediate extension, banks will expend resources unnecessarily to achieve compliance with a rule the Bureau is reconsidering and may materially change.

The Bureau's small dollar rule has greater impact on products outside of the short-term lending space. The Bureau should strongly consider exempting traditional consumer loan products, which do not raise consumer protection concerns, and which this rulemaking was not intended to address. In the 2017 Rule, the Bureau expansively defined "covered loans" — i.e., the loans subject to the Final Rule's restrictions — without regard to the loan's amount or duration. Consequently, the 2017 Rule captures many loans that are not short-term, small dollar loans, including some wealth management products and bridge loans just to give a few examples. To address this concern, the Bureau should also clarify the financing of any product or service in connection with a purchase money loan is included in the Rule's exemption for these loans and thus avoid restricting access to open-end lines of credit.

Separation of Ombudsman and Office of Students Role

For several years, the CFPB Student Loan Ombudsman also led the Office of Students. These are incompatible roles: an ombudsman should be impartial and serve in a confidential capacity, while a division leader is a policymaker, enacting rules and recommending enforcement by the agency. Combining these roles creates an inherent conflict of interest and CBA strongly recommends the Bureau separate the positions.

No-Action Letters & the Office of Innovation's Project Sandbox

Financial services innovation benefits consumers by promoting financial security, inclusion, and well-being. New and innovative financial products and services can greatly expand access to credit for all consumers, while providing improved access to important financial information, and increased customer safeguards. Congress recognized the great utility financial services innovation has for consumer protection in Title X of Dodd-Frank when it charged the CFPB with ensuring "markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation".[4]

The Bureau's finalized innovation policies within the Office of Innovation are vital steps in ensuring financial institutions are able to best serve their customers innovative products and services require a flexible and accessible regulatory environment, of which the CFPB plays a key role in developing and regulating for adherence to consumer protection laws.

The recently finalized changes to the No-action letter (NAL) process will open the door for more financial institutions to innovate to better serve and protect their customers, as well as bring new, financially underserved customers into the fold. The CFPB's previous NAL process, established in 2016, did little to alleviate regulatory concerns many financial institutions have when developing new financial services, hence why only one firm has applied for no-action relief under the program. The Bureau's finalized changes to the NAL and trial disclosures policies, as well as its establishment of a Compliance Assistance Sandbox, will help more consumers attain financial security and stability by allowing financial institutions to develop new products and services that comply with well-established financial regulations. CBA also recognizes the Bureau's commitment to regulatory coordination through the creation of the American Consumer Financial Innovation Network (ACFIN), which is intended to enhance coordination among federal and state regulators to facilitate financial innovation.

CBA strongly supports the Bureau's finalized innovation policies and creation of ACFIN and believes this regulatory framework is absolutely necessary to the Bureau's commitment to increase innovation while better protecting consumers.

Debt Collection

CBA 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 Bureau'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

[4] 12 U.S.C. § 5511(b)(5) (2012).

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.

One example of why revisions to the FDCPA should apply only to third-party debt collectors are contact frequency limits. “One size fits all” call frequency limit could create significant consumer harms if applied to creditors collecting their own debts. Of chief concern, “one size fits all” call frequency limits do not recognize the differences between individual consumers and different portfolios and will negatively impact consumers that need financial assistance. “One size fits all” call frequency limits placed on creditors will likely result in late fees, negative credit reporting, account closure, repossessions, foreclosures, litigation, and fewer consumers benefitting from hardship programs, and as such, should not be applied to creditors.

We strongly urge Congress and the CFPB to work with industry to establish debt collection regulations for third-party debt collectors that strike the right balance between consumer protection and consumer engagement.

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 HMDA, which are to: “1. help determine whether financial institutions are serving the housing needs of their communities; 2. assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and 3. assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.”[5]

The Dodd-Frank Act mandated expanding the information collected under Regulation C, HMDA’s governing regulation. In 2015, then-Director Cordray used the Bureau’s discretionary authority to increase the number of loan-level HMDA data fields reported and publicly disclosed, further increasing the complexity and costs of HMDA reporting beyond those fields mandated by Dodd-Frank. This new data set, collected for the first time in 2018, was reported to the government on March 1, 2019.

Expanded data collection and reporting poses serious risk to consumer privacy by introducing even more sensitive loan data into the public domain.[6] Specifically, the expanded set of publicly available HMDA data provides ample data scraping opportunities for companies to piece together information related to the loan and borrower to “re-identify” the consumer and engage in unsolicited targeted marketing. There is no mechanism for consumers or lenders to opt-out of or protect disclosure of this sensitive personal and financial information from entering the public domain.

CBA has long been concerned about the sensitive nature of HMDA data and believes the discretionary data fields added by the CFPB in 2015 pose privacy risks to consumers while also mandating extraordinarily high annual compliance costs. CBA applauds the CFPB’s decision to revisit the 2015 rule to closely review the data fields that will be collected, stored and ultimately made available to the public. CBA encourages the CFPB to eliminate those discretionary data fields that are not required by statute, that are unduly onerous to collect and report, that provide present marginal value in furthering HMDA’s objectives, and that create or contribute risk of consumer re-identification.

[5] CFPB Bulletin 2013-11 “Home Mortgage Disclosure Act (HMDA) and Regulation C – Compliance Management; CFPB HMDA Resubmission Schedule and Guidelines; and HMDA Enforcement” (October 9, 2013) http://files.consumerfinance.gov/f/201310_cfpb_hmda_compliance-bulletin_fair-lending.pdf
[6] If a consumer wishes to purchase a home, he/she must provide confidential financial data that lenders in turn must report for HMDA purposes; most of which the CFPB releases to the public.

Complaint Database

CBA supports recent initiatives driven to make the CFPB complaint database more usable for the public and industry. Efforts to clearly disclose complaints which are unverified are a helpful first step in level-setting data contained in the database. Further, encouraging consumers to work with their financial institution prior to submitting a complaint will lead to more consumer issues resolved in a timely and efficient manner. Establishing tools to contextualize complaint data that recognizes the massive amount of complaints that are redressed by financial institutions will leave consumers informed while allowing financial institutions better positioned to combat consumer issues.

Banks and credit unions have strong incentives to maintain deep, well-informed, mutually satisfactory relationships with customers. Our members have robust complaint management procedures outside of the CFPB's database to ensure they are resolving disputes as quickly as possible. Furthermore, every depository institution is examined regularly by the federal regulatory agencies to ensure a strong and effective complaint management system.

CBA urges the Bureau to continue its review of consumer complaint data for accuracy and validity before its publication. We believe this will help ensure consumer privacy and prevent the dissemination of misleading information.

Section 1071 Small Business Rulemaking

CBA strongly supports a cautionary approach to rulemaking under Section 1071 of the Dodd-Frank Act, which amends the Equal Credit Opportunity Act ("ECOA") to require financial institutions to compile, maintain, and report information concerning credit applications made by women-owned, minority-owned, and small businesses. Under the section, 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 to the CFPB. 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.

CBA and its member institutions strongly believe that the CFPB should keep top of mind that although Section 1071 mandates this rule, it is not as simple as data collection efforts undertaken on other lending products such as residential mortgages. The notion that business lending parallels residential mortgage lending is misplaced. The use of Home Mortgage Disclosure Act ("HMDA")-like reporting for business lending activity to ferret out potential discrimination is, in our opinion, a tremendously flawed premise because the two types of transactions differ inherently in many key aspects:

- Residential lending all shares the same type of collateral. Business lending may not be secured at all, and when secured, the type of collateral varies tremendously. Therefore, comparing terms between loans is problematic.

- Mortgage loan applicants reported under HMDA are all consumers. Business lending involves loans to all types of applicants, ranging from mom-and-pop businesses to sophisticated corporate structures; from sole-proprietors to corporations.

- Business loans are often renewals rather than new loans. These renewals are not akin to refinances in the residential world.

- Business loans often have much shorter and varied durations, where mortgages tend to be more uniform.

- The appropriate property address for a business loan to use for reporting and analysis can be debated with no easy or right answer.

- Capturing business loan applicants for reporting and analysis can be debated with no easy or right answer given the various ownership and structures.

We believe the CFPB must be keenly aware that the dissimilar nature of business lending when trying to construct this rule presents two-fold challenges:

1) Determining which data fields to require collection for, developing standard values to be reported, and proposing workable rules for collecting and reporting the data will be tremendously difficult, if the goal is to have a thoughtful, achievable rule that yields useful data.

2) Constructing fair lending analysis approaches that will yield meaningful and appropriate conclusions for business lending is even more challenging.

In light of these issues and the need to streamline the credit process in order to extend credit with greater speed to qualified applicants, CBA and its member institutions cannot stress enough the importance of well-balanced rules under Section 1071 in order to avoid overly burdensome data collection requirements that could stifle small business lending, greatly increase compliance costs for small business lenders, and open the door to costly litigation. Key to this rulemaking will be the ability for lenders to address 1071 reporting compliance with already existing reporting systems (e.g., Community Reinvestment Act, FinCEN Beneficial Ownership Rules, etc.) in order to ensure as little disruption in the market at possible. These systems will need to be automated and accurate. Adherence to systems already in place will allow lenders streamline the collection process.

Consumer Advisory Boards

Dodd-Frank established various advisory boards at the Bureau to "provide information on emerging practices in the consumer financial products or services industry", and the Consumer Advisory Board (CAB) has often been the leader on many of these initiatives. However, despite its mission outlined Dodd-Frank and under the CAB's charter, very few financial institutions serve on the CAB. Financial institutions are often the experts on emerging consumer financial practices, products and services, yet their voice is often muted at these important CAB functions. For the advisory boards to live up to their statutorily mandated purpose, more financial institution representation is necessary to give a more rounded and full opinion on the vital issues the CAB attempts to address.

Similarly, the Taskforce on Federal Consumer Financial Law announced on Friday, October 11, 2019, presents a good opportunity for the Bureau to conduct an objective, holistic review of consumer financial laws and eliminate outdated, redundant and wasteful red tape. This would allow the CFPB to focus its resources where consumer protections are most needed and remain alert for new and emerging threats. For this process to succeed it is essential that the Bureau engage retail banking experts within the taskforce, and we look forward to working with the Director on this promising initiative.

Qualified Mortgage

CBA appreciates the Bureau's reconsideration of the Qualified Mortgage ("QM") rules in a data-driven way. We agree current underwriting policies and maintaining a customer's ability to replay should be closely reviewed as the Bureau considers updating this rule.

CBA and its member institutions strongly believe the Bureau should be extremely careful not to disrupt the mortgage market or limit a credit-worthy borrower's access to mortgage credit with the expiration of the QM Patch. The current version of QM rules needlessly restrict access to credit for qualified borrowers. We encourage the Bureau to review its current definition of QM and the accompanying Appendix Q to identify a more reasonable method of providing mortgage access to qualified consumers.

With the patch set to expire January 2021, CBA supports the Bureaus continued efforts to make appropriate adjustments to the QM rule and ensure a smooth introduction to the home loan market.

Conclusion

Improving the financial lives of consumers is a goal that unites lawmakers, regulators and industry. Achievement of this shared goal occurs when there is a stable and even-handed regulatory framework that produces clear and reasonable rules of the road to protect consumers and allow for a robust financial services market.

Regulatory stability and transparency will not be realized until the Bureau's governance structure allows for the debate and deliberation of multiple stakeholders with diverse experiences and expertise. A bipartisan commission of five, Senate-confirmed commissioners would provide a balanced and deliberative approach to supervision, regulation, and enforcement of rules and regulations that oversee the financial services sector and provide consumers needed safeguards.

CBA stands ready to work with Congress and the CFPB to implement the suggested legislative and regulatory improvements to the Bureau, and we appreciate the opportunity to submit this statement for the record.

Sincerely,

Richard Hunt
President and CEO
Consumer Bankers Association

LETTER SUBMITTED BY THE CREDIT UNION NATIONAL ASSOCIATION

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CUNA

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October 16, 2019

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 Kathy Kraninger's Semi-Annual Report to Congress. The Credit Union National Association (CUNA) represents America's credit unions and their 115 million members. We request this letter be added to the record of the hearing, and we appreciate your consideration of our views.

A Bipartisan Commission at the CFPB, as proposed by Elizabeth Warren and President Obama, Is Essential to Ensuring the Bureau's Independence

While there are many measures the Bureau must take to improve the regulatory and supervisory landscape, Congress also has a responsibility to act to ensure that the CFPB can be an effective agent of consumer protection. The current structure—with a single, powerful director—gives too much authority to one person and does not provide enough oversight and accountability. One consequence of the current structure is policy that disrupts consumer protection and functioning markets in an interest to achieve a political agenda that suits the party of the president; another is frequent and severe changes in policy that increase costs of compliance that are generally passed on to consumers in the form of higher interest rates and fees, making credit and services more expensive and less available, particularly to vulnerable borrowers.

To ensure that consumers enjoy strong and consistent protections, Congress should enact legislation that changes the leadership structure to a multimember, bipartisan commission. A multi-member commission, as envisioned by the original proponents of the Bureau, would enhance consumer protection by ensuring that diverse perspectives are considered prior to finalizing rules and prevents disruptions caused by leadership changes. Credit union members and other consumers would benefit from policymaking that includes more voices. This structure is 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 controls 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 Congress has entrusted the Bureau to protect.

Proponents of the CFPB often argue its present structure renders it politically independent; but in less than a decade, the CFPB has proven itself without a doubt to be independent only from the minority political party. The Founders of the Republic understood that true political independence comes from having multiple voices at the decision-making table, as opposed to a single decision maker. It is time for Congress to fix the CFPB by changing the structure to a bipartisan commission as originally envisioned by then-Harvard Professor Elizabeth Warren and President Obama and as previously supported by former House Financial Services Committee Chairman Jeb Hensarling and several current Republican members of this committee.

The CFPB's Execution of Its Regulatory Agenda Should Ensure Credit Unions and Other Providers Are Able to Provide Efficient, Safe and Affordable Products and Services

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 members with high-quality and consumer-friendly financial products and services has been significantly impeded by several rules promulgated under past leadership. As mentioned above, the CFPB's overly broad approach to rulemaking resulted in burdensome regulatory requirements being imposed on credit unions based on the mistakes and irresponsible practices of other industry stakeholders.

Outlined below are high-level priorities and recommendations credit unions have provided to the CFPB regarding its regulatory approach and several specific rules:

Regulating America's Credit Unions

CUNA has strongly urged the Bureau to closely monitor the impact that its rules have had on credit unions and their members and to appropriately tailor regulations to reduce burden or exempt credit unions entirely, as appropriate. The Bureau's rulemakings and supervisory efforts should be focused on Wall Street banks and the unregulated and under-regulated sectors of the financial services industry which do not have a separate federal regulator. If the Bureau spent fewer resources on regulating and supervising credit unions and other small lenders subject to federal prudential regulation, then it could spend more time focusing on entities that may be actively engaged in predatory practices that exploit consumers. We believe this can be accomplished without sacrificing important consumer protections provided by credit unions.

Throughout their history, credit unions have been supervised by several different federal agencies. The lesson that comes through clearly based on these different supervisory arrangements is that credit unions are best positioned to succeed when supervised and examined by a regulatory agency that has familiarity with the characteristics that differentiate credit unions from other financial services providers. For that reason, the CFPB should aim to work more closely with the National Credit Union Administration (NCUA) throughout the rulemaking process and use its statutory authority to transfer consumer protection regulation supervision of the largest credit unions to NCUA. The NCUA understands the credit union model and operational issues, and is best equipped to examine and supervise credit unions for regulatory compliance.

Effectively Using Statutory Authority

In the wake of the financial crisis, Congress contemplated the need for exceptions to certain rules and crafted the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to authorize the Bureau to tailor its rules so those acting responsibly in the financial services marketplace are not needlessly hampered by those rules. Congress deliberately provided this authority expressly in Section 1022 of the Dodd-Frank Act.

> *The Bureau, by rule, may conditionally or unconditionally exempt* ***any class of covered persons****, service providers or consumer financial products or services from any provision of this title, or from any rule issued under this title . . . . (Emphasis added)*[1]

Congress' words are unambiguous, and very clearly grant the CFPB the authority to exempt any class of covered entities from its rules. CUNA has strongly urged the Bureau to use this authority to help protect credit union members from the many problems associated with creating one-size-fits-all rules that are inappropriate for the different not-for-profit structure of credit unions. Credit unions and credit union service organizations (CUSOs) should receive appropriate exemptions from the Bureau's regulatory requirements. However, it is critically important for the Bureau to understand that credit unions are not asking to be exempt from all its rules; instead, we ask the Bureau to consider how credit unions are vastly different from other financial service providers and to tailor certain rules accordingly.

[1] 12 U.S.C. § 5512(b)(3)(a).

Debt Collection

As not-for-profit financial cooperatives, credit unions treat their members-owners with respect throughout the debt collection process and they comply with relevant consumer protection regulations for first-party debt collectors. As a result, consumer complaints regarding credit unions and their debt collection practices are very low compared to other lenders.

The Fair Debt Collection Practices Act (FDCPA) was enacted to establish guidelines and limitations on the practices of third-party debt collectors. Many credit unions use third party collectors to assist with the collection of delinquent accounts, and when they do so, the collection practices are subject to the FDCPA.

In passing the FDCPA, Congress excluded lenders collecting their own debt (first-party collectors) from the law's coverage because it recognized, unlike third-party collectors whose relationship with the debtor exists solely to collect payments, first-party collectors have significant incentive to protect their good will and maintain an ongoing banking relationship with the borrower long after the collections process has been concluded. This relationship-based approach to first-party debt collection holds true today and, therefore, CUNA would strongly oppose any effort through legislation or regulation to expand the FDCPA to credit unions that collect their own debts.

Short-term Small Dollar Lending

Credit unions often provide the safest and most affordable loan options for consumers in need of emergency credit. The Bureau's rules governing short-term, small dollar lending should be meaningfully tailored to address predatory practices in the small dollar, short-term lending space. However, any rule targeted toward payday lending should be crafted so not to inhibit credit unions from offering reasonable small dollar products to members in need. CUNA has called on the Bureau to revise its current payday rule to allow more credit unions to enter the short-term, small dollar lending space. Such revisions would include creating an express, broader exemption for credit union loan products and working with the National Credit Union Administration (NCUA) as the agency develops additional small dollar loan programs to coincide with the Payday Alternative Loan (PAL) I program, which currently benefits from a partial carve-out from the Bureau's rule.

Remittances

While CUNA is supportive of appropriate safeguards for consumers initiating remittance transfers, including clear and understandable disclosures, we have also recommended the CFPB propose and finalize substantive amendments to the Remittance Rule to better balance necessary consumer protections with a more tailored regulation that allows consumers access to desired products and services. In this instance, the Bureau should make at least three key revisions in the current Rule:

- Raise the safe harbor threshold from 100 to 1,000 remittance transfers in both the prior and the current calendar years;
- Eliminate or allow a consumer to opt out of the 30-minute cancellation requirement;
- Urge Congress make permanent the fee estimates safe harbor.

Historically, remittances have been a significant and, depending on a credit union's field-of-membership, popular service offered to members. CUNA believes the Remittance Rule, as it currently stands, has made it increasingly difficult for the nation's credit union members to obtain a service that is important to the financial well-being of many individuals.

Home Mortgage Disclosure Act (HMDA)

The Bureau has consistently acknowledged that credit unions maintained sound credit practices through the economic crisis and did not engage in the practices that led to the crash of the housing market. Nevertheless, the HMDA rule has disproportionately burdened credit unions, due to their finite resources, despite no evidence of past wrongful conduct. This particularly makes little sense given credit unions' field of membership requirements.

Although recent developments have provided some HMDA relief to small institutions, including the increase to the reporting thresholds and the S. 2155 partial exemption, CUNA has urged the CFPB to consider additional amendments to the 2015 HMDA final rule that would provide meaningful exemptions to credit unions. These amendments would:

- Allow reporting for Home Equity Lines of Credit (HELOCs) to once again be voluntary. HELOC reporting had always been voluntary under prior rules as these loans are distinct from first lien mortgages.
- Reduce the new data set for all credit unions to data points specifically enumerated in the Dodd-Frank Act. The statutorily enumerated data points are sufficient for HMDA's purpose of identifying discriminatory practices.
- Increase the mortgage thresholds to exempt as many credit unions as possible from HMDA reporting, particularly considering the fact credit unions may only lend within their fields of membership.

Ability-to-Repay/Qualified Mortgage

The Bureau completed and issued an assessment report on the impact of the 2013 Ability-to-Repay and Qualified Mortgage Rule (ATR/QM rule). Based on the report's data, CUNA is supportive of the CFPB engaging in an initiative to determine how and to what extent the rule could be modified to improve upon the initial rule's effects. As the Bureau considers potential revisions to the rule, CUNA has called on the Bureau to engage in a meaningful and prolonged feedback process to ensure any amendments do not create new overly burdensome requirements on credit unions.

In response to a recent Advanced Notice of Proposed Rulemaking (ANPR) on the planned expiration of the GSE Patch, CUNA called on the Bureau to couple any expiration or limited extension of the patch with a revision to the overall ability-to-repay regulations, including the elimination of (1) the 43 percent debt-to-income ratio and (2) the Appendix Q income verification rules as prerequisites for a mortgage loan to satisfy the requirements of the safe harbor created by the qualified mortgage lending definition. Both actions are essential to preserving access to affordable mortgage credit for millions of credit union members and ensuring the smooth and orderly transition of the secondary mortgage market.

Unfair, Deceptive, or Abusive Acts or Practices (UDAAP)

In the past, the Bureau engaged in the practice of "regulation by enforcement," especially regarding its UDAAP authority. Instead of proposing clear regulations pursuant to an appropriate Administrative Procedure Act (APA) process, the Bureau would use its enforcement authority against financial institutions and expect the subsequent consent order to serve as a means for others to determine what acts and practices it interprets to be in violation of the law. Under the leadership of Acting Director Mulvaney, this controversial practice ended as the Bureau announced an intent to consider a potential UDAAP rulemaking soon. CUNA has stated support for this clarification effort and called on the CFPB to bring transparency to its overly-subjective approach to UDAAP through a rule or other method.

Regarding the UDAAP law, CUNA has recommended the Bureau:

- Solicit feedback on whether to eliminate or clarify the overly-subjective "abusive" prong. It should also seek feedback on whether any other aspects of its UDAAP authority should be changed.
- Clarify that previous enforcement actions or consent orders that conflict with statutory or judicial precedent create no new expectations for compliance. This would help provide more transparency and due process to credit unions and consumers.
- Clarify and reaffirm the Bureau's narrow authority under the Dodd-Frank Act in regulating the business of insurance—particularly as it applies to credit unions and banks selling insurance—and that UDAAP is not a backdoor to regulate insurance activities.

Small Business Data Collection

The Dodd-Frank Act amended the Equal Credit Opportunity Act (ECOA) to require financial institutions to compile, maintain, and submit to the Bureau certain data on credit applications by women-owned, minority-owned, and small businesses.

Credit unions' unique and distinct memberships, a consequence of legally-restricted fields of membership, would not correspond with the Bureau's plans for data collection and would likely result in data that does not portray a complete or accurate picture of credit union lending. CUNA has recommended any rule issued under this authority expressly exclude credit unions from reporting requirements. The regulatory burden likely to be associated with this rule, particularly for smaller credit unions, could harm the ability of small business owners to obtain needed credit from their credit union.

Industry Outreach

CUNA values the outreach the CFPB has engaged in with the credit union industry. We appreciate the meetings, discussions, and roundtables conducted throughout the country, and we encourage the CFPB to continue with this engagement. These efforts will assist in the agency's understanding of the credit union business model and how regulations and additional requirements affect operations and service to consumers.

In particular, the CFPB's Credit Union Advisory Council (CUAC) is a valuable asset, and we are pleased that the Council is actively utilized by the Bureau. We support a statutory requirement for this Council, as well as longer terms for CUAC members, such as three-year terms. CUNA also supports roundtable discussions with credit unions of all sizes throughout the country before rulemakings are conducted that could affect credit union operations. Roundtables can be conducted throughout the United States, in various locations, to ensure feedback is representative of all credit unions. We also encourage the Bureau to conduct discussions with Credit Union Service Organizations (CUSOs).

Furthermore, CUNA encourages the Bureau to provide frequent webinars and open communication through all channels with industry stakeholders about new rules and requirements. This outreach is critical for smaller financial institutions with fewer compliance resources.

Cost/Benefit Analysis to Rules for Credit Unions

The Bureau prides itself on being a data-driven agency. Unfortunately, there have been Bureau rulemakings that lacked or did not demonstrate sufficient evidence, data, research, or other information to substantiate assertions within the rulemaking.

CUNA urges the Bureau to base its rulemakings on thorough data and research. The Bureau should also be wholly transparent in its reliance on data, ensuring the public has access to the same information that the Bureau relies on as a foundation for its rulemakings.

Guidance and Implementation Support

The past several years has seen a massive increase in consumer financial services regulations. This increase in regulations is particularly burdensome for credit unions which, unlike big banks, do not have dozens of legal experts in house to assist with compliance questions.

CUNA encourages the Bureau to provide compliance resources to the industry, such as Frequently Asked Questions (FAQs) with interpretations, to assist industry stakeholders on regulatory implementation. An example of helpful FAQs was the Department of Housing and Urban Development's Real Estate Settlement Procedures Act FAQs, which the industry regularly used as a resource.

We also encourage the Bureau to conducted webinars on final rulemakings, with opportunities for questions and answers from Bureau staff. The Bureau should house all of its compliance resources, including recorded webinars, final rule summaries, and FAQ documents in a central location on its website. The Bureau should also conduct annual outreach with industry stakeholders, especially credit unions, to receive feedback on its current compliance resources and what additional resources would help the industry.

Financial Health, Literacy, and Educational Outreach Efforts

The most effective way to protect consumers is through education. Credit unions are uniquely positioned to provide financial education resources to members and to focus on consumer financial well-being. By definition, credit unions are instruments to bring cooperative credit to communities. As equal member-owners in a credit union, the credit union, as a whole, has a direct interest in promoting the financial literacy and sound financial judgment of each member.

CUNA encourages the CFPB to work with our organization, credit unions, and the National Credit Union Foundation in its consumer education efforts. We are all effective partners because our priority is the financial health of consumers.

Furthermore, CUNA strongly recommends the Bureau utilize financial education efforts to guide consumer behavior. This approach, rather than additional rulemakings to guide consumer choices, provides the foundation for solid consumer financial health. Consumer education is proactive, not reactive, and should be the Bureau's default when addressing consumer financial services issues or industry practices. CUNA, credit unions, and the Foundation are able and willing partners in consumer education initiatives implemented by the Bureau.

Conclusion

As CUNA stated when the Dodd-Frank Act was enacted:

> "Consumers of financial products, especially consumers of products and services provided by currently unregulated entities, need greater protections and a consumer financial protection agency could be an effective way to achieve that protection, provided the agency does not impose duplicative or unnecessary regulatory burdens on credit unions. In order for such an agency to work, consumer protection regulation must be consolidated and streamlined; it should not add to the regulatory burden of those who have been regulated and performed well, such as credit unions."[2]

The need for consumer protection remains, but rulemakings must be targeted to address the problems in the industry and exclude credit unions from additional requirements when credit unions are not engaged in the problematic activity.

We look forward to collaborating with the CFPB and Congress to improve upon the past work of the Bureau, while strongly supporting a continued focus on reigning in bad actors in the financial services marketplace. On behalf of America's credit unions and their 115 million members, thank you for holding this important hearing.

Sincerely,

Jim Nussle
President & CEO

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[2] Letter from Credit Union National Association to members of the House of Representatives regarding H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act (June 20, 2010).

LETTER SUBMITTED BY THE NATIONAL ASSOCIATION OF FEDERALLY-INSURED CREDIT UNIONS

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NAFCU
National Association of Federally-Insured Credit Unions

October 16, 2019

The Honorable Michael Crapo Chairman Committee on Banking, Housing & Urban Affairs United States Senate Washington, DC 20510	The Honorable Sherrod Brown Ranking Member Committee on Banking, Housing & Urban Affairs United States Senate Washington, DC 20510

Re: Tomorrow's Hearing on "The Consumer Financial Protection Bureau's Semi-Annual Report to Congress"

I write today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in regard to tomorrow's hearing, "The Consumer Financial Protection Bureau's Semi-Annual Report to Congress." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 118 million consumers with personal and small business financial service products. NAFCU appreciates the Committee's ongoing oversight of the Consumer Financial Protection Bureau (CFPB) and efforts to promote financial inclusion and consumer protection. As we have previously communicated to the Committee, there are some areas where we believe the structure and operations of the CFPB can be enhanced.

NAFCU supports CFPB Director Kathy Kraninger's efforts to provide financial institutions with regulatory certainty and targeted relief, while focusing the CFPB's efforts on bad actors. Credit unions have a long history of providing affordable and responsible financial services to their members and were not responsible for the predatory lending practices that led to the financial crisis. Nonetheless, the credit union industry has been greatly impacted from the onslaught of post-crisis financial regulation.

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, which amounts to over 20 percent of the industry. A large majority of those credit unions that closed or merged were small in asset size, and as such, could not afford to comply with all the rules promulgated by the CFPB. NAFCU appreciates the CFPB undertaking a review of its rules, and hopes we will see more relief. Many credit unions cannot afford to comply with complex rules, and would otherwise be forced to stop offering services to members. Although the CFPB already provides for some exemptions based on an entity's asset size, NAFCU strongly believes that the CFPB can do more, such as increase the exemption threshold, or consider exemptions based on an institution's characteristics and activities. NAFCU asks that the Committee encourage to CFPB to utilize its authority in Section 1022 of the Dodd-Frank Act to provide targeted exemptions for credit unions while still ensuring its rules regulate bad actors.

Lastly, NAFCU has long held the position that, given the broad authority and awesome responsibility vested in the CFPB, a five-person commission leadership structure would provide consumers and regulated institutions alike more continuity in policymaking over the course of time.

We appreciate your leadership and ongoing focus on issues important to credit unions, and we look forward to continuing to work with you and Director Kraninger. Should you have any questions or require any additional information, please do not hesitate to contact me or Sarah Jacobs, NAFCU's Associate Director of Legislative Affairs, at 703-842-2231.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Senate Banking Committee