

**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
SECOND SESSION
ON
RECEIVING UPDATES ON THE CONSUMER FINANCIAL PROTECTION
BUREAU'S SEMIANNUAL REPORT TO CONGRESS

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JULY 29, 2020
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Printed for the use of the Committee on Banking, Housing, and Urban Affairs



Available at: <https://www.govinfo.gov/>

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2023

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C O N T E N T S

WEDNESDAY, JULY 29, 2020

	Page
Opening statement of Chairman Crapo	1
Prepared statement	30
Opening statements, comments, or prepared statements of:	
Senator Brown	2
Prepared statement	30

WITNESS

Kathleen L. Kraninger, Director, Consumer Financial Protection Bureau	5
Prepared statement	32
Responses to written questions of:	
Senator Brown	43
Senator Toomey	73
Senator Menendez	77
Senator Warren	79
Senator Cortez Masto	87

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

The Spring 2020 Semi-Annual Report of the Bureau of Consumer Financial Protection	89
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**THE CONSUMER FINANCIAL PROTECTION
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GRESS**

WEDNESDAY, JULY 29, 2020

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

The Committee met by videoconference at 10:02 a.m., Hon. Mike Crapo, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN MIKE CRAPO

Chairman CRAPO. This hearing will come to order.

This hearing is another remote video hearing. I will go through quickly some of the standard reminders to remind everybody that once you start speaking, there will be a slight delay before your picture shows on the screen.

To minimize background noise, please remember to click the mute button until it is your turn to speak. And as always, if there is a technology issue, we will move on until that gets resolved.

Again, I remind all Senators and the witness that the 5-minute clock still applies, and you do have a box on your screen labeled "Clock" that will show how much time is remaining. Some Senators have said they do not seem to be able to find that. If you go to the right-hand side of your screen and move your cursor, your mouse, some options will show up, and one of them is the grid view. If you click grid view, you will see a grid of everybody, and one of the things you will see as a part of that grid is the clock. And, again, I will try to remember to gently remind people because some Senators have asked for that reminder because they cannot see the clock.

Again, to simplify the speaking order, Senator Brown and I have agreed to go by seniority in this hearing.

Today we are receiving testimony from CFPB Director Kathy Kraninger on the CFPB's semiannual report.

On July 2, the CFPB issued its Spring 2020 Semiannual Report, which outlines the CFPB's significant work between October 2019 and March 2020, including rulemakings and supervisory and regulatory activities.

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

Director Kraninger last appeared before this Committee on March 10, 3 days before President Trump declared a national state of emergency related to the COVID-19 outbreak.

Shortly thereafter, the CARES Act was signed into law, which included measures to help families directly, provide aid to small businesses, and to stabilize our markets.

In implementing the CARES Act, the CFPB has taken important actions related to mortgage origination and servicing, consumer credit reporting, and data reporting to further address the economic impact of the ongoing pandemic.

The CFPB has also announced several policies and valuable educational initiatives intended to help consumers take steps to protect their finances during the COVID-19 emergency, and to ensure that regulated entities can take reasonable and prudent steps to assist communities impacted by the coronavirus.

I commend Director Kraninger and her staff for taking these steps to help consumers, families, and small businesses as they continue to weather this global coronavirus pandemic.

Last month, the Supreme Court issued a ruling on *Seila Law v. CFPB* that found that the agency's structure, led by a single director only able to be removed "for cause," is unconstitutional.

The Court's decision on this case is consistent with what many in Congress have long said: The CFPB's structure lacks sufficient accountability and transparency.

I continue to advocate for establishing a bipartisan board of directors to oversee the CFPB; subjecting the CFPB to the annual appropriations process, similar to other Federal regulators; and establishing a safety-and-soundness check for the prudential regulators.

On July 7, the CFPB finalized a rule rescinding the mandatory underwriting provisions of its small dollar loan rule.

The availability of short-term, small dollar credit is essential to millions of Americans.

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.

The changes made by the 2020 small dollar loan final rule carefully balances ensuring the widespread availability of credit to all Americans while preserving strong protection for all consumers.

During this hearing, I look forward to hearing more about the impact of the COVID-19 emergency on consumers and the financial marketplace; key COVID-19 response initiatives undertaken by the CFPB in recent months; additional regulatory and legislative changes that can further support the economy; and Director Kraninger's priorities for the CFPB in the upcoming work period.

Director Kraninger, thank you again 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, for holding this virtual hearing, and thank you, Director Kraninger, and welcome. Thanks for participating in this remote hearing and practicing social distancing to prevent the potential spread of coronavirus, which is still spreading, and is still taking the lives of hundreds of Americans every day.

Across the country, in big cities and small towns alike, Americans are calling for their Government to work for them. Nearly everyone has had their lives upended by this pandemic, but this disease is not spreading in a vacuum.

You know, Ms. Kraninger, that workers have seen their wages stagnate for years, while Washington shovels more tax cuts to their wealthy friends and to the largest corporations.

Families' expenses have only grown. The cost of housing, child care, prescription drugs, all those costs have gone up, leaving 40 percent of Americans unable to come up with \$400 in an emergency.

Black and Brown Americans have never had their hard work pay off like it should, and they live every day with systemic racism that threatens their health and their safety and their lives.

From Jim Crow to redlining, you know that Black families have never had the same freedom and opportunity to choose where they live. They have watched this administration dismantle a critical element of the Fair Housing Act.

We have the widest homeownership gap in 50 years. The Urban Institute said this: "The gap in homeownership rate between Black and White families in the U.S. is bigger today than it was when it was legal to refuse to sell someone a home because of the color of their skin."

The racial wealth gap has actually increased: the average White family now has 10 times the wealth of the average Black family.

Director Kraninger, you know that Black and Brown consumers disproportionately lack access to basic financial services, forcing them to rely on risky and costly alternatives.

This leads to so-called reverse redlining, where companies target minority communities for exploitative loans and other abusive financial products.

That is why it is easier to find a payday lender in communities of color; it is easier to find a payday lender than to find a bank branch.

For years, American workers and families have watched the people who are supposed to serve them look out for the biggest corporations while their financial problems continued to mount.

People are angry and they are frustrated.

Americans watch CEOs pay themselves while laying off workers. They see corporations scam people and get away with it while people of color spend their entire lives paying for one wrong move. They are told to pull themselves up by their bootstraps while Wall Street gets bailouts and handouts.

Americans feel like no one is on their side, especially in this administration.

That is where the Consumer Financial Protection Bureau is supposed to come in.

Your job, Director Kraninger, is to look out for everyone else—the workers and families without lobbyists, who do not have wealth and connections to throw around. That is why we created this agency a decade ago.

In a moment when Americans of all ages and backgrounds are demanding justice for our Black and Brown neighbors and account-

ability for the corporations that exploit them, you have the power as the Director to actually do something about it.

The CFPB has the tools, the resources, and a legal requirement to root out discrimination in lending and to protect communities of color from shady financial products that strip away their wealth.

Under Director Cordray, the Bureau wielded these tools to hold banks, credit card companies, and other corporations accountable when they engaged in illegal discrimination, returning more than \$500 million to Black, Latinx, and Asian Americans.

Under Director Kraninger and Acting Director Mulvaney, the Consumer Bureau did not bring one single action, one single case of illegal discrimination for more than 2½ years.

Sadly, that is about what we would expect from a President who seems to have made it his mission to roll back civil rights protections and a President of the United States who openly uses race to divide us.

We might have hoped that in this moment of national crisis, we might have hoped, with 150,000 Americans who lost their lives and 30 million Americans have lost their jobs, we might have hoped that in this moment of national crisis President Trump and his appointees would rise to the occasion.

Instead, Director Kraninger, like other Trump appointees, you have exploited the coronavirus pandemic to roll back protections for American families instead of actually strengthening them.

During the pandemic, Americans have reached out in record numbers seeking your help. We have seen an 86-percent increase in complaints about credit reporting. But instead of cracking down, Director Kraninger announced the CFPB would do nothing to punish banks or debt collectors or other corporations that make mistakes on consumers' credit reports.

Millions of Americans have fallen behind and missed mortgage payments because of the President's failure to get this pandemic under control. But instead of helping struggling homeowners, the Consumer Bureau weakened requirements that banks and lenders contact homeowners to help them avoid foreclosure.

Last, families have been forced to turn to credit cards to make ends meet. The CFPB, the agency that is supposed to look out for them, has made it easier—easier, not harder—for these credit card companies rip off consumers, making it easier for credit cards to hide their terms and true price.

Director Kraninger also decided that a worldwide pandemic just seems to be the right time to push consumers into predatory payday loans.

In March, the Bureau released guidelines encouraging banks to get into the payday business.

In May, the Consumer Bureau released information on how banks that offer payday loans can apply for prospective immunity from Bureau oversight or enforcement.

And in July, despite extensive evidence of a corrupted rule-making process and bicameral calls for an Inspector General investigation, the CFPB released a new payday rule that eliminated the basic requirement that lenders make sure a consumer can pay back the loan.

Director Kraninger has gone so far as to tell financial firms that it will give them a pass when they break the law, so long as they make a “good faith” effort to comply.

This is exactly why most people think our system is broken.

If your utility payment is withdrawn before your paycheck clears and if you overdraw your account, the bank does not waive the fee because you made a “good faith” effort to deposit that check.

We have one system for corporations and the powerful and the wealthy and the well-connected, one where you get away with just about anything in this town and around the country, and a different one for everyone else, where your “good faith” effort never seems to be enough.

Director Kraninger, we did not need a Supreme Court decision to tell us you would not be independent from President Trump.

I have got to hand it to you. You have done exactly the job the President of the United States asked you to do. You have protected a system where corporations play by one set of rules with a different set for everyone else.

Thank you, Mr. Chairman.

Chairman CRAPO. Thank you, Senator Brown.

Director Kraninger, thank you again for being here today. We appreciate your attendance and look forward to our discussion with you. I would like to ask you to remember to honor the 5-minute rule for your oral testimony so that Senators have time for their questions and also remind our Senators that we have the 5-minute rule and we have the clock and I intend to stick to it.

With that, Director Kraninger, please begin your statement.

**STATEMENT OF KATHLEEN L. KRANINGER, DIRECTOR,
CONSUMER FINANCIAL PROTECTION BUREAU**

Ms. KRANINGER. Thank you, Mr. Chairman.

Mr. Chairman, Ranking Member Brown, Members of the Committee, thank you for this opportunity to provide you with an update of the CFPB’s important work.

I appear before you as the country is engaged in a national conversation on racial inequality as well as confronting the unprecedented pandemic. Today I would like to discuss both topics with you.

Under my leadership, the CFPB is taking steps to help create real and sustainable changes in our financial system so that African Americans and other minorities have equal opportunities to build wealth and close the economic divide.

Yesterday I authored a blog outlining the Bureau’s important work on fair lending. We also issued a request for information on how best to create a regulatory environment that prevents credit discrimination in all aspects of a transaction and expands access to credit. The information that is submitted will help us enforce the Equal Credit Opportunity Act, or ECOA.

Among the topics the public can comment on are how to better protect consumers with limited English proficiency as well as applicants who derive income from any public assistance program. I encourage the public to respond so that we can build a financial system that treats everyone fairly and provides clear rules of the road.

Having clear standards helps us identify any violations in fair lending helps us identify any violations in fair lending laws. Recently the Bureau filed a lawsuit alleging a lender had violated ECOA by discouraging African Americans from applying for loans through its advertising.

The Bureau also announced a settlement last year with a mortgage corporation that violated the Home Mortgage Disclosure Act and Regulation C by intentionally submitting years of mortgage loan data that contained errors in the fields of race, ethnicity, and sex.

Since my last testimony before the Committee, I have requested critical authority from Congress to allow the Bureau to compensate whistleblowers. In our enforcement work, we have seen firsthand that whistleblowers can provide key information on fair lending violations.

I want to thank Senator Cortez Masto for introducing legislation similar to what I requested, and I stand ready to work with the Congress to secure this important authority.

Now let me take a moment to discuss how we are protecting consumers during the pandemic. We have worked to expand our reach to consumers to provide them with actionable, useful information about their rights, options, and expectations in the marketplace for consumer financial products and services. We have produced over 70 blogs and videos that have been accessed directly by more than 3 million users. Through our social media reach, staff estimates our materials have been sent to 41 million users. These materials are available in seven different languages and have been constantly updated to adapt to the changing dynamics. We have also promoted our consumer complaint system. When consumers submit complaints to the Bureau, they help inform our work in supervision, enforcement, regulation, and education.

Specifically in response to complaints and other market and stakeholder feedback during the pandemic, we worked with inter-agency partners to quickly address a student loan-related credit reporting issue as well as CARES Act mortgage forbearance lump sum payment concerns.

From January 1 through July 26, 2020, consumers have submitted more than 270,000 complaints to the Bureau of which more than 14,000 complaints specifically referenced coronavirus. Each month from March through June set a new monthly record for complaints, yet our consumer contact center and our online portal have operated efficiently and effectively throughout the pandemic to take consumer complaints and refer those complaints to companies for response.

We also partnered with other Federal agencies to develop and launch a unified housing website to provide consumers with comprehensive and accurate information on their rights during this time. The Bureau has also developed a new targeted supervisory approach called "Prioritized Assessments" to focus on those markets and institutions that pose the greatest risk of consumer harm as a result of pandemic-related issues.

We remain fully engaged in the execution of the Bureau's critical mission, including continued progress on our regulatory agenda, which is relevant to the pandemic and ultimate economic recovery,

as well as our supervisory and enforcement work. We work closely with partners and stakeholders recognizing the important roles that others play in supporting our consumer protection mission and preventing harm. I am particularly proud of the Bureau's staff and its excellent work during these challenging times, and I thank you for the opportunity to testify today and look forward to your questions.

Chairman CRAPO. Thank you, Director Kraninger.

This month, the CFPB issued a final rule amending the 2017 small dollar loan rule by rescinding the mandatory underwriting provision. The CFPB justified revising the rule after determining that the evidence underlying the mandatory underwriting provisions is not sufficiently robust and reliable to support their continued inclusion in the rule.

I appreciate the CFPB for taking action to ensure that regulations that could affect consumers' access to credit are based on solid evidence and legal support rather than flawed analysis. Can you explain why the 2017 analysis on mandatory underwriting provisions was flawed and limited rather than facilitating consumer choice?

Ms. KRANINGER. Thank you, Senator, for raising this important issue. We have seen that the demand for small dollar products is substantial. Consumers need that access to credit. That absolutely includes responsible small dollar products from banks and credit unions. And in the past decade, a number of different policy and actions by governments and others have limited the availability of that kind of credit and limited the number of market participants that are offering that kind of credit.

The payday rule, as we looked at it and reconsidered it, looking at again the evidentiary base and the impact that it had on the availability of small dollar credit was substantial. By the Bureau's own analysis in that 2017 rule, it would reduce the availability of that credit by at least 70 percent.

So looking again holistically at this, taking a step back at what is available in that market and really taking a look at the evidence that was there, promoting competition and enabling consumers to understand the products that are available to them, a huge part of where we are today, both rescinding the mandatory underwriting provisions that were very specific and did not really avail themselves to small dollar lending, putting forward the payment provisions so those—it is my intention, working through the litigation that we are in now, to have those payment provisions go into effect, and also doing the work we are doing on testing disclosures to again see if we can promote greater understanding of those products, that is, I think, the best approach for how to proceed in the small dollar marketplace.

Chairman CRAPO. Well, thank you. In fact, to me the notion that the previous rule, the 2017 rule would reduce access by 70 percent by the Bureau's own statistic, that is correct, right? That is what you found or what the Bureau found?

Ms. KRANINGER. Yes, Senator.

Chairman CRAPO. That is remarkable. Now, the Bureau and you are being criticized for this adjustment to the rule, claiming that

it is pushing people into the laps of predatory lenders. How would you respond to that?

Ms. KRANINGER. Senator, I think as I noted, the desire to increase competition and ensure that there are fair and transparent markets, as is part of the Bureau's mission, that is our focus. I can tell you we still are very much engaged in supervision and enforcement in this space. We have taken public enforcement action against bad actors in this market. There are bad actors in every market that the Bureau supervises and enforces against. But that is not something that should preclude the actions of those that are seeking to comply with the law and are seeking to provide options to consumers, in addition to recognizing that the States have made their own determinations about what kinds of products should be available to their consumers and continuing to enable the States to, you know, again, oversee those aspects of the market.

Chairman CRAPO. Will the proposed new rule open access to companies, financial institutions that are currently not providing small dollar loans but give them the opportunity to provide those small dollar loans?

Ms. KRANINGER. That is absolutely part of the intent, Senator. In addition to that, we issued a no-action letter template to encourage banks to offer responsible small dollar products, and we anticipate that a number of them will do that in the coming months, so looking forward to, again, continuing to promote that. There are also credit unions that offer similar products, and we are trying to, again, facilitate that kind of availability of credit for consumers who are going to need that.

Chairman CRAPO. So it seems to me that the intended outcome here is that we maintain protection and security against predatory practices, but significantly increase access to credit.

Ms. KRANINGER. Absolutely, Senator. That is the intent.

Chairman CRAPO. Thank you.

Senator Brown.

Senator BROWN. Thank you.

Ms. Kraninger, I would like to ask you about the payday rule that cuts protections for consumers. I have an internal CFPB memo about the payday rulemaking that was made public in April. This memo was written by a senior career employee who was closely involved in the payday rulemaking. Have you read this memo, Director?

Ms. KRANINGER. Senator, I have.

Senator BROWN. Thank you. The memo, as you know, describes repeated efforts by your political appointees to manipulate economic research. The memo contains details, specific dates, the names of individuals involved, identifies corroborating emails and other documents. According to the memo, your political appointees ignored research they disagreed with in order to repeal the rule.

Is it appropriate for CFPB to ignore research to repeal this rule?

Ms. KRANINGER. Senator, the full record is available in the rulemaking process, both the 2017 process and the updated process.

Senator BROWN. I know you are really good at testimony. You are very good. But, you know, the question is: Is it appropriate to ignore research as this memo claims? Is it appropriate to ignore it?

Ms. KRANINGER. Senator, the memo—

Senator BROWN. Is it appropriate to ignore the research?

Ms. KRANINGER. We have a full record of research that we relied on in the entire process, and it is——

Senator BROWN. You are obviously not going to answer. The fact that you proceeded to finalize a rule, Director, despite a clearly corrupted process, again, this that you have read, raises questions about whether you have followed the law. So let me ask some quick basic questions.

Under the Administrative Procedures Act, should the CFPB determine the outcome before it begins the rulemaking process? Yes or no.

Ms. KRANINGER. That has never occurred. The process and the public back-and-forth are critical to it. I have certainly testified to that with respect to this topic and others before——

Senator BROWN. Certainly from this memo it certainly did. Let me ask another question. Under the APA should it ignore research that reaches a conclusion that the agency head disagrees with? Yes or no.

Ms. KRANINGER. Senator, the full record, again, is out there for public comment, and my decision was based on that.

Senator BROWN. OK. According to this, not. But I just asked the basic question: Should the Director overturn what recommendations? So if the CFPB had done any of these things during the payday rulemaking process, would it violate the APA? Yes or no. If, in fact, they had ignored, they had overridden, they had ignored, they had not taken into account, is that a violation of the APA?

Ms. KRANINGER. Senator, some of this is hypothetical, but the full record is available for the public to review, and that is the basis upon which I made the decision.

Senator BROWN. Thank you. Your nonanswer raises questions about your leadership. It confirms my concerns and the concerns of so many about the corruption of the rulemaking process. It again shows that you are doing the bidding of the President of the United States, the President who always sides with corporate interests and with big banks and with payday lenders against the public.

Let me shift to fair lending. I have been highly critical, as you know, of your decision to reorganize and strip the Office of Fair Lending of its oversight duties. I warned you this decision would cripple the Bureau's ability to bring fair lending cases. You assured us this was not the case. Well, look how things have turned out. During Director Cordray's tenure, CFPB returned more than \$500 million to consumers who had been discriminated against by credit card companies, auto lenders, and mortgage lenders.

During your tenure, how much has the CFPB returned to consumers who were discriminated against by credit card companies? What is the figure?

Ms. KRANINGER. Senator, I do not know that there has been a continuation of the kinds of cases you are noting. I would like to note that could be read as a success of the original enforcement actions——

Senator BROWN. No, I——

Ms. KRANINGER.——make sure that those companies have actually corrected——

Senator BROWN. In fact, there was \$500 million with Cordray and zero dollars with Kraninger. It is not that the world got cleaned up when President Trump came to town and drained the swamp. It is clear that people are still being cheated, and this Bureau is not doing anything.

So let me ask a question specifically. How much has CFPB returned to consumers discriminated against by auto lenders? Is the number also zero?

Ms. KRANINGER. Senator, all of our restitution and enforcement actions that are public are out there. I take your point. Fair lending cases are actually incredibly challenging to bring. That is why I have sought whistleblower compensation authority, but we—

Senator BROWN. Ms. Kraninger, they are challenging to bring against auto lenders, mortgage lenders, credit card companies, but they were not so challenging that Director Cordray could recover \$500 million. So we have seen the CFPB has not returned a single dollar to victims of discrimination since you became Director. That record speaks for itself.

Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator Kennedy, are you there?

[No response.]

Chairman CRAPO. Senator Kennedy?

[No response.]

Chairman CRAPO. I think we have several of the other Senators who are not yet—they have had to go check in at other hearings. I am going to wait another 5 or 10 seconds, then go from Senator Kennedy to Senator Menendez. Is Senator Menendez available?

[No response.]

Chairman CRAPO. Senators who are available, click your camera on so I can see you. I see Senator Cortez Masto. Senator Tester is on. He beat you, Senator Cortez Masto. Senator Tester, we will go to you.

Senator TESTER. Thanks, Mike. Thank you, Mr. Chairman. I appreciate you having this hearing, and thank you to the Ranking Member also.

I want to kind of follow up on the Ranking Member's questions, because the statistics out there, I mean, you talked about in your opening statement what a fine job that is being done on supervision and enforcement. But in 2015, there were 55 enforcement actions taken, and these figures may be incorrect. If they are, let me know. In 2018, there were 11. That is an 80-percent cut, if my math is correct.

What do you attribute that to, if, in fact, as you have stated previously, you are aggressively taking action against bad actors?

Ms. KRANINGER. Senator, I can tell you certainly in 2018 I was not at the Bureau, but the transition in leadership is something that I have testified to is logically requires folks getting up to speed, getting comfortable. Every enforcement action is a decision by the Director, and it is one that I can tell you I take seriously.

Last year, we had 22 public enforcement actions in addition to resolving a number of prior litigation actions, and I expect that that number at the end of this fiscal year will be notably higher. We continue to work our way through appropriate enforcement

actions, and one real focus area for me is actually making sure we have timely action both for those who are potential victims, but also——

Senator TESTER. So let us just follow this up. I had a friend that worked for an auto dealership that was a lender, and he quit the job because he did not feel right because he knew he was taking advantage of people. This was long before I got to the Senate.

The Ranking Member brought up the fact that there were zero dollars returned to consumers from auto lenders. Can you tell me why? Is it you do not think auto lending is within your purview, or you do not think they are doing anything wrong? What is the reason for that?

Ms. KRANINGER. Senator, the question that Senator Brown asked was with respect to——

Senator TESTER. This is a question that I am asking.

Ms. KRANINGER. Oh, yes. I would like to distinguish the questions, though, because you are asking in general about auto lenders as opposed to a fair lending case, just to be clear and related to discrimination. But there have been enforcement actions against auto lenders, including restitution and compensation through our supervisory activities as well. Some of that, certainly what we get through public enforcement action is public, and I can get you that number.

Senator TESTER. Is any of that returned to the consumer, any of those dollars?

Ms. KRANINGER. Yes. Yes, they have been.

Senator TESTER. Can you tell me how much?

Ms. KRANINGER. Off the top of my head, I am sorry, sir, I cannot. But we will absolutely get back to you on that number.

Senator TESTER. OK. I would appreciate that.

Senator TESTER. Has the Bureau changed its enforcement actions during this crisis?

Ms. KRANINGER. Yes, Senator. Well, we continue to robustly engage in it. We are very mindful of interagency discussions around fraud, particularly fraud and scams, and keeping an eye out for those kinds of activities in our slice of the market.

Senator TESTER. Have enforcement actions increased because of this crisis?

Ms. KRANINGER. I can tell you that the number of investigations ongoing has increased related to that. We are moving as swiftly as we can.

Senator TESTER. By how much?

Ms. KRANINGER. The number of investigations that we have open is not a public number. I am actually looking at that, Senator, because I——

Senator TESTER. I am asking for a percentage.

Ms. KRANINGER. Percentage increase? Again, I would not want to give you a percentage increase off the top of my head, but we can certainly talk about numbers with your office that are appropriate given the confidential nature of enforcement actions.

Senator TESTER. Mr. Chairman, I will tell you that Director Kraninger is very, very good at not answering questions. By the way, that is not a good quality. I did that once on a news show,

and I had a manager of mine call me up and say, “You are an idiot.” And I never did it again.

These hearings with Director Kraninger have been a total waste of time. I hope this administration goes away because, quite frankly, we need somebody who will protect consumers and not just give us a spiel.

Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator MENENDEZ.

Senator MENENDEZ. Thank you, Mr. Chairman.

Census survey data indicates that about 17 percent of Black homeowners and 8 percent of Latino homeowners reported having missed their mortgage payment in May compared to about only 4 percent of White homeowners. Adding to this hardship is the fact that Black and Latino households are much less likely than White homeowners to access foreclosure prevention measures like entering into forbearance plans, leaving minority communities out of home-saving relief.

The numbers are clear. Black and Latino homeowners are 4 and 2.2 times, respectively, more likely to report completely missing mortgage payments than deferring payments. White homeowners, however, are only 1.4 times more likely to miss payments than defer mortgage payments.

It is clear there is a major problem with minority families accessing mortgage forbearance. So, Director Kraninger, what are you doing to address this problem and ensure that minority homeowners are taking advantage of mortgage forbearance and loan modification options?

Ms. KRANINGER. Thank you, Senator. It is a crucial question during the times we are facing now. Two responses.

One is making clear that servicers are held to the requirements under the CARES Act. We are doing that in partnership with the other Federal regulators so we send a clear message to them. We have worked on scripts so that when borrowers call them, they have the right information, clear information about their rights.

The second aspect of this is, in addition to the unified housing website that we pulled together, really doing everything we can to reach consumers through consumer advocate groups and other community organizations, through their lenders, we have produced videos and blogs of what their rights are under the CARES Act and the questions that they should ask their servicers when they contact them, so really trying to provide both sides of that.

Senator MENENDEZ. Let me just say the CFPB released its joint supervisory statement regarding mortgage servicing rules back in April. Black and Latino homeowners have not entered into mortgage deferral programs at the same rate as White homeowners since the beginning of this pandemic. Now, this could be for myriad reasons. Perhaps their mortgage is not covered by the CARES Act. But perhaps they are not aware of their rights under the CARES Act. The fact remains that minority homeowners are missing mortgage payments at a higher rate than they are entering into forbearance, including since the time the CFPB’s joint supervisory statement, as well as that in terms of consumer education, that website has been up for months. So it is clear that your consumer

education efforts are not closing the gap here to ensure all homeowners receive necessary relief. And I would also note that you still do not encourage homeowners to file a fair lending complaint with you. People are always sent to HUD for fair housing complaints and told to call the CFPB only if the servicer does not fix the problem first, which makes it seem that the CFPB does not want to hear about discrimination, and, frankly, that does not inspire much confidence that you will take a racial disparity problem seriously.

So I will ask you again: What are you going to do to make sure that Black and Hispanic homeowners do not fall into greater dire circumstances, lose their homes? Are you ready to be more proactive? Because if not, we are going to see a tsunami of foreclosures on communities that can ill afford that the one element that they have for wealth is their home.

Ms. KRANINGER. Senator, again, I agree with you that this is a critical issue. I do want to distinguish between the Fair Housing Act and the Equal Credit Opportunity Act. We do not have jurisdiction over the Fair Housing Act. So that is the distinction we are trying to make.

I welcome any of your ideas or thoughts with respect to how we can continue to be as proactive as possible in getting consumers the information they need. They have rights. They have options. And we have, you know, again, tried to reach—we have reached over 3 million people directly, including specifically that video on CARES Act options.

Senator MENENDEZ. Evidently, you are not reaching Black and Hispanic homeowners, I can tell you that right now.

One final question. The COVID-19 health crisis also created an economic crisis. Current unemployment is 11.1 percent. According to the Federal Reserve, nearly 40 percent of households earning less than \$40,000 a year had already lost at least one job by May. As indebted consumers begin to face delinquency or defaults, it is only a matter of time before we see financially insecure Americans suffer abuse and harassment by some debt collectors.

Do you expect debt collectors to go after more Americans given the current state of affairs? And what—

Chairman CRAPO. [Inaudible] has left his desk.

Senator MENENDEZ. If I may just finish my question, Chairman. And what are you going to hold them to in terms of the standard?

Ms. KRANINGER. Mr. Chairman, I guess very quickly I can respond. Senator, it is an important question, and we are working hard to address the issues you raised and to see where we can go. So these are important issues, but I know I am out of time here.

Senator MENENDEZ. Well, it deserves a better answer than that.

Chairman CRAPO. Thank you.

Senator Kennedy, are you on?

[No response.]

Chairman CRAPO. Senator Moran?

Senator MORAN. Mr. Chairman, I am here. This is Jerry Moran.

Chairman CRAPO. Go ahead, Jerry.

Senator MORAN. Thank you.

Ms. Kraninger, good morning. I want to talk about data privacy for a moment. I chair a Subcommittee in the Commerce Committee that has jurisdiction over data privacy. I have worked with a num-

ber of my colleagues, Republicans and Democrats, trying to develop a data privacy bill. Let me talk about it in the fintech arena, which our Subcommittee would not have jurisdiction, would not want Chairman Crapo to think that we are stepping on his toes. But he, too, has a great interest in data privacy based upon the conversations we have had.

Nontraditional financial service providers have grown significantly in past years as Americans have increasingly used mobile devices for banking, for investing, or for borrowing services. And many of those financial technology companies aggregate significant amounts of data from bank websites after being given authorization by the bank customer, by the consumer.

Given the rise of third-party access to this sensitive consumer financial information, data privacy and security has become even more important and a topic that we need to deal with.

Section 1033 of the Dodd-Frank Act ensures that consumers have access to and the ability to leverage the data in their records subject to rules by the CFPB. And on July 24th, the CFPB announced plans to issue an Advance Notice of Proposed Rulemaking related to consumer-authorized access to financial records.

Ms. Kraninger, what are the goals of the CFPB in this rulemaking process? What are the specific data privacy risks that are posed that you are attempting to address? And what voluntary actions have companies taken to date to better ensure consumer data is protected?

Ms. KRANINGER. Thank you, Senator. Section 1033, of course, Congress anticipated an issue in this area, did note that consumers should have the ability to authorize access to their own financial data, and there has been quite a bit of activity in this space, as you noted, with fintech providers being engaged in it.

Congress anticipated rulemaking. I would say the Bureau has issued principles in the past that remain true today, certainly allowing consumers to provide that permission. But there are security and cybersecurity implications and privacy implications for some of that data, as well as proprietary issues that some of the financial services providers have with what data is accessed and certainly what data aggregators can do with that data when they access it. And we had a symposium earlier this year where we pulled together experts. I was truly impressed with the conversation because we were able to in just a few hours really encapsulate a lot of the different dynamics that are happening in this space. But it is clear, at least to the Bureau at this point, that we want to move forward in a way that is slightly more formal with that Advance Notice of Proposed Rulemaking to get some more fidelity over whether we should do a rulemaking.

It is a challenging area. Again, the principle that consumers should control their own data is clear. But precisely what that means, particularly if consumers are providing their credentials to particularly their bank and their bank information to a third party and what that means in terms of the bank's ability to fulfill their responsibilities to protect that data. So those are some of the dynamics that are at play here, but I think it is clear that consumers want to share their data. They like the services that a lot of the fintech providers are providing them, and the CFPB was told by

Congress to engage in this space, and so there is an opportunity for us to continue to move forward to make sure that it is operating the way it should.

I would say just with respect to industry action, there has been progress on, rather than screen scraping that data away, using APIs to get to that data. And so we are, again, following that dynamic as well in the market.

Senator MORAN. I cannot see the clock, so I am going to just follow up. But what your answer suggests to me is that this is very early in the process in what you are going to develop?

Ms. KRANINGER. I am sorry, Senator. Is what in what I am going to develop?

Senator MORAN. What I take from your answer is that the CFPB is just beginning the process to determine what its rules might be.

Ms. KRANINGER. Yes.

Senator MORAN. And, therefore, there is nothing that you could announce as where you are headed. It is not that specific or that known.

Ms. KRANINGER. That is correct, Senator, other than the principles that the CFPB issued several years ago remain the principles at play here.

Senator MORAN. Thank you.

Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator Warner.

Senator WARNER. Thank you, Mr. Chairman. Director Kraninger, it is good to see you, albeit it remotely.

You and I have spoken a couple of times on the CFPB's proposed changes to the ability to repay and the QM rule, and I do appreciate your engagement with me on this issue because I really think the Bureau needs to work to make changes that will help increase access to borrowers of color, and particularly gig workers, who I think have been disproportionately challenged in a variety of rulemakings.

We all know that consumer groups have said that efforts to eliminate a hard DTI and Appendix Q, while adding a pricing limit or cap would really benefit consumers while maintaining appropriate loan quality. I actually think, again, eliminating the strict DTI cap would particularly help those lower-income borrowers. Gig workers in particular, as we have talked about, have a difficulty at times in documenting their earnings, who under the current rule, let us face it, have been really excluded from getting mortgages. QM has really hurt them. And I think those folks are particularly suffering right now in the midst of the pandemic.

So I have got a couple of questions about where I hope we are headed. While the rule that you proposed appropriately proposes moving away from a hard DTI cap for QM, I would hope, though, that the Bureau still plans to maintain the responsibility on lenders to consider and verify debt and income of borrowers. Is that correct? Can you speak to that?

Ms. KRANINGER. Yes, Senator, and that is specifically in Title 14, so that is statutory, and a little bit of devil in the details as to what that means, as you noted, for self-employed people and gig

workers. But the requirement to consider and verify debt and income is essential.

Senator WARNER. And to be clear, while you are going through this proposal, the CFPB is not planning on eliminating any of the other consumer protections that are part of qualified mortgages, including provisions that bar interest-only loans or those with excessive balloon payments. Both of those have been estimated to have really hit about half of the foreclosures during the financial crisis. So you are not going to move away from these consumer protections in your final rule, are you?

Ms. KRANINGER. Here again, statutory precluded features in qualified mortgages would continue.

Senator WARNER. How are you going to make sure, again, on a more generalized basis, are you going to make sure that responsible credit is available particularly in these low-income communities and, again, a particular interest of mine, and I see Senator Schatz on the line as well, of gig workers?

Ms. KRANINGER. Senator, I think it comes down to—and this is a conversation we are very interested in getting comments on—what verification and consideration of debt and income look like, what standards the stakeholders can come together on, definitely encouraging industry and consumer advocates to come together in some kind of stakeholder group to develop standards that would get to the issues that you are raising, you have raised and are concerned about. We have not had enough time, frankly, to do that ourselves, and I do not know that the Bureau should do that. I think there is an opportunity here for other standards, but also rely on the other Federal standards, in addition to asking for comment on whether Fannie and Freddie's standards should be considered as acceptable under the rule as well. So that is where this really comes into play. But as you noted, Appendix Q was fairly limited and strict and really did—if it were to be applied more broadly than it was, would affect gig workers and self-employed folks pretty severely.

Senator WARNER. Well, we want to keep working with you on both getting rid of the DTI cap, working with you on Appendix Q, but also not at the price of sacrificing the consumer protection.

I have only a moment for one more question. You know, we have seen a huge uptick, I think, increased by 86 percent, of complaints about credit reporting agencies, and as a matter of fact, in March I sent a letter to the Big Three credit reporting agencies and you guys, urging you to make sure that consumers that have been disproportionately hurt by the coronavirus do not have permanent marring of their credit.

Unfortunately, one of the few actions CFPB has taken is simply to give the credit bureaus more time to pursue these actions, so I really hope we can expect more. We have seen this uptick in negative comments. I think we need to make sure that we do not bar people permanently from their credit during the coronavirus. And I know our time has expired, but this is an issue that I want to come back and visit with you in great detail. It is terribly, terribly important.

Ms. KRANINGER. Senator, it is incredibly important, so thank you.

Senator WARNER. Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman.

Ms. Kraninger, good morning. Can you hear me OK?

Ms. KRANINGER. I can.

Senator KENNEDY. How many entities do you regulate?

Ms. KRANINGER. Many thousands. It depends on whether we are talking about the regulations we issue, the entities that we examine directly, all of them—thousands upon thousands.

Senator KENNEDY. What percentage of them do you think are honest?

Ms. KRANINGER. Senator, that is a tough one to put a number on. I think it probably gets to how many people you generally think are honest and those you associate with or those in the world generally. I think there are many who are, and there are some who are not.

Senator KENNEDY. How many of them intentionally abuse consumers?

Ms. KRANINGER. I would say, Senator, unfortunately, more than we would like there to be.

Senator KENNEDY. Well, is it most of them?

Ms. KRANINGER. I certainly do not believe that, no, sir.

Senator KENNEDY. Is it 40 percent?

Ms. KRANINGER. Again, I would hesitate to put a number on this specifically, and that is why I said “more than we would like there to be,” because clearly there are some. And some of the challenge is in sorting those out who are intentionally seeking to do that and those who make mistakes and those who are absolutely complying with the law. So that is our job to sort that out.

Senator KENNEDY. Has anybody ever checked?

Ms. KRANINGER. In terms of checking compliance across, we certainly are doing our best to tackle that in a layered approach way. We have continued to—

Senator KENNEDY. I am not interested in a layered approach. I am interested in whether any academic, or otherwise, or the agency, have ever assessed what percentage of the entities you regulate intentionally abuse consumers.

Ms. KRANINGER. I am not aware of anything, Senator, in terms of an actual analysis of that. It may very well exist, but I am not aware of it.

Senator KENNEDY. How much money did your agency spend last year?

Ms. KRANINGER. Roughly about \$500 million for our own activities.

Senator KENNEDY. All the rules and regulations and actions that your agency takes, what is the cost of that on our economy?

Ms. KRANINGER. Well, Senator, again, I do not know that there has been a full analysis of the cost on that, much less the benefit of consumer protections. It is a fair question, but I think there is a little bit of cost and benefit there as well.

Senator KENNEDY. Well, if you were in the private sector and you went to your bank and asked to borrow half a billion dollars, I think they would ask you, “What for?” And you would tell them.

And they would ask a question that, in effect, would be: “What are your costs and benefits?” We have not done that for your agency?

Ms. KRANINGER. Not specifically in those terms, sir. I certainly would concede that in the wake of the financial crisis there was certainly a conclusion that consumer protection needed to be done by one agency, and so that consolidation——

Senator KENNEDY. Let me ask you one last question, Director, because I am about to run out of time. How does the United States of America and its businesses rank against the other economies throughout the world in terms of honesty and consumer abuse, in your opinion?

Ms. KRANINGER. Senator, I really have not done a good comparative across the world, but I would certainly say that we have a robust set of laws and regulations intended to protect consumers and promote that fair——

Senator KENNEDY. I know that, but how do we rank with other countries? This is my final comment. It looks to me like we are flying blind here.

That is all I have, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator WARREN. Thank you, Mr. Chairman.

So in 2008, when the bottom fell out of the economy and people were cheated on their mortgages and credit cards and auto loans and other financial products, there was no cop on the beat to protect them, and that is why 10 years ago last week, President Obama created the Consumer Financial Protection Bureau to protect consumers from abusive financial products.

And so now here we are in the middle of another financial crisis, this time caused by a global pandemic, and now more than at any time since the last crisis, consumers need strong leadership at the CFPB.

Now, one of the ways that the CFPB monitors problems is through its consumer complaint hotline. Director Kraninger, do you know how much the volume of consumer complaints that the Bureau receives every month has increased since this pandemic started?

Ms. KRANINGER. It is close to 30 percent. As I noted in the opening, March, April, May all did set records in terms of how many complaints we have received in an individual month.

Senator WARREN. So I actually looked at your numbers and thought it was about 50 percent, and those, as you say, are the highest monthly complaints ever in the Bureau’s history. So let us talk about what those complaints show.

Today the biggest category of COVID-related complaints to the CFPB are coming from people struggling to pay their mortgages. It is the CFPB’s job to ensure that the companies that handle mortgages are following the law so that families do not end up in foreclosure when the law says they should not.

So, Director Kraninger, over 9 million people lost their homes to foreclosure during the last crisis, and now we have rules to guard against those foreclosures. But instead of enforcing those rules, you issued guidelines to tells servicers that so long as they act “in good faith,” the Bureau will not step in if they break the law.

Director Kraninger, can you give me other examples of when law enforcement says, for example, to a thief that, “As long as you claim you are in good faith, you are not going to be held responsible when you break the law”?

Ms. KRANINGER. Senator, if I could, the number of mortgage complaints were early in that process in March and April, and I think they are actually a great example of the Bureau responding to that and working with our Federal partners to do that, so the number of complaints—

Senator WARREN. But I would just like an answer to my question. Can you give me another example in law when enforcement steps in and says, “As long as you guys are in good faith, we are not going to enforce the law”?

Ms. KRANINGER. Senator, that is not what the guidance says. Our guidance says that compliance with the law is critical. However, again, you know well the discretion that all law enforcement entities have with respect to the cases they take on and where they spend their energy. And so the ability to—

Senator WARREN. Let me just stop you right there. Actually, the guidance specifically says that the rules that are written into law will not be enforced so long as the mortgage servicer claims that it is in good faith. And I am just asking, because I know of nowhere else that guidances like that are put out. If Congress had wanted to write into law a good-faith exception, we certainly could have done that. But we did not do it. Not enforcing the law has a real impact, and in the 2 months since you handed out a “Get Out of Jail Free” card to every mortgage servicer, consumer complaints related to foreclosures have gone up, not down. The Bureau even acknowledged this in the latest bulletin it put out this month to summarize the coronavirus compliance complaint.

So let us move on to credit reporting. Errors on individuals’ credit reports can cost consumers thousands of dollars, hurt their scores for years to come. People are under a lot of financial pressure right now, so let us take a look at what you have done.

Director Kraninger, you told the credit reporting companies they did not need to bother complying with the law when a consumer disputes something on a credit report. So why do you think your job is to write the rules to allow credit reporting companies to break the law?

Ms. KRANINGER. Senator, I would also say that is false. The point of fact with respect to dispute resolution is that it needs to be done, but it is difficult to resolve a dispute if, for example, the merchant in a small business that could be a subject of this is actually closed and the credit reporting agency cannot reach them. So we still—that is where the good-faith example comes into play.

Senator WARREN. Director Kraninger, I just read what it is that you actually put out. Now, what you put out said you are not going to enforce the 30- or 45-day deadlines that are written into law under the Fair Credit Reporting Act so long as the credit reporting agencies are making a good-faith effort. For me, you did not limit it to small businesses. You did not say we will take one-off advice on when we think someone is in good faith. You just sent it out there across the board, and to me that is an invitation to break the law. And it matters because we know now there has been an 86-

percent increase in the complaints about credit reporting since the pandemic started. Your own data shows that since you put out this guidance, complaints have continued to go up, not down.

So let us recap. You are getting more and more complaints from desperate consumers, but instead of using the Bureau's full authorities to enforce the law, you just told companies you are going to help them when they cheat consumers. And these are the same companies that had no problem screwing over consumers during the last financial crisis. There is no doubt that consumers are in a better position because the CFPB is out there, and I am grateful to the employees who do this every day. But your leadership has been a miserable failure based on your actions in this pandemic. You should resign.

Chairman CRAPO. Senator Scott.

Senator SCOTT. I hope you are doing well, Director Kraninger. Thanks for being with us today.

I have a couple questions as it relates to home ownership. I think it is really important for us to recognize from our perspective that as many people pursue the American dream, part and parcel of achieving that dream really is home ownership. And so that is one of the ways that we can build wealth in homes throughout this country and in families and in family systems throughout the country. So I think it is really important for us to maintain a strong focus on home ownership.

One of the questions I have is I know that there is a proposal for us to go from, as we call it, the DTI, the debt-to-income ratio, 43 percent, to more of a pricing model. So my question for you is: Can you explain the rationale behind leaving the safe harbor at the 150 basis points while the QM status moves to 200 basis points? Because from my perspective, that might actually make it more challenging for some folks to become homeowners if we go from the debt-to-income of 43 percent to a pricing model.

Ms. KRANINGER. Thank you, Senator. Certainly the intent—it is a Notice of Proposed Rulemaking that is out for comment, but the intent is to address many of the issues in the original ATR/QM rule that just did not quite bear out. The patch had a distortionary effect because 43 percent DTI was not a hard and fast cap for the GSEs, and roughly a third of the loans that the GSEs backed in 2018 had DTIs that were higher than 43 percent, and that data is in our rulemaking.

So looking at that and understanding that the intent here is that pricing is actually more holistic, it is not just debt-to-income ratio alone, but it is other factors that might allow particularly minority borrowers to come into the system, again, if they can demonstrate the ability to repay, and they are getting loans that are meeting the QM features in the statute. So I think there is an opportunity here to look at all of that, but we are taking comment.

I take your point on the 200 basis points versus the safe harbor and rebuttable presumption standards. The thresholds for safe harbor and rebuttable presumption are actually the current thresholds, but it is something that we are taking comment on and looking at and thinking about, again, how all of this works together. But the intent is to balance that. Congress clearly told us ability to repay is critical, so we are balancing that against making sure

that we can continue to enable home ownership, particularly for minority communities in particular.

Senator SCOTT. I would agree with you. I think we should do all that we can for creditworthy borrowers to become homeowners when it makes sense. I think harmonizing the QM and the safe harbor might make it easier for financial institutions to not go to the default position of the safe harbor that is 50 points lower.

Let me hop to another question as my time starts to seep away so quickly in these hearings. I know our friends in the House, so to speak, passed the HEROES Act, and a part of the HEROES Act is this notion of suppressing bad debt during the pandemic. And it is hard to argue that you would not want to give some leeway, some flexibility to borrowers to catch up, hence the 120-day provision afterwards.

Here is my question to you, and you will have to work with me if I do not say it as artfully as I would like to. If we suppress bad debt, especially indefinitely, after the pandemic is over, don't we start distorting the market? And if we distort the market, doesn't that make it harder for decisionmakers at institutions to make good, sound judgments? And if that happens, won't many creditors decide to pull back away from extending credit as opposed to leaning into creditworthy folks because there is clarify in the marketplace? Am I missing that point or not?

Ms. KRANINGER. You are raising a very important point because that is why accuracy is so important in the law with respect to the credit reporting system. But we are, to your point, making at least some accommodations. For example, even in the QM Notice of Proposed Rulemaking, we asked for comment on how income and debt during this time period should be treated and how we can think about that. So I think there are perhaps other ways to get at this than reducing the accuracy in the credit reporting system.

But I would also note obviously any action Congress takes on this that becomes law will be something we would enforce.

Senator SCOTT. Well, let me just use my final 20 seconds, Mr. Chairman, to say this: Ultimately I hope that the CFPB will commit to ensuring that, absent any congressional action, they will administer no rule that requires credit market participants to suppress or delete credit data. That will make it harder for creditworthy borrowers, not easier, in the long run.

Thank you so much.

Chairman CRAPO. Thank you.

Senator Schatz.

Senator SCHATZ. Thank you, Director Kraninger, for being here. Credit reporting agencies under the CARES Act are supposed to report consumers as current if they receive any accommodation under the CARES Act. What is the CFPB doing to make sure that actually happens?

Ms. KRANINGER. So, Senator, we have actually worked very closely with the big national credit reporting agencies as well as with furnishers, so we have had a number of webinars; we have worked with them on the direction that they send out to furnishers. You know well there are thousands of entities across the country that furnish data. So trying to make sure they understand what current means is important. So we have worked—

Senator SCHATZ. So you do some sort of—I mean, you have to do this education process with furnishers and the agencies and all the rest of it. What happens if there is noncompliance? What happens if someone who has received an accommodation under the CARES Act is reported as not current? If there is an error on their credit report, then they go to the CFPB and complain. Then how do you dispose of that complaint?

Ms. KRANINGER. We have got a good example in the student loan space because there were also other provisions related to student loans in the CARES Act. There was a student loan servicer that was actually reporting information inaccurately that was affecting credit scores that was immediately seen by a number of students and other borrowers who submitted complaints. We also heard from stakeholders in the market saying, “What is going on with this?” It was with respect to one particular scoring mechanism.

We intervened very quickly with the Department of Education, figured out what was going on. It was corrected both on the front end of that process in terms of how that was reported, and it was corrected in the model.

Senator SCHATZ. OK. So does this worry you as sort of a global problem? Do you think that this is no longer occurring except in individual instances? Or do you think you need to continue—because I am all for getting the word out, but I do think that, you know, that is fine but you need a stick. And just educating these furnishers may not be enough.

Do I have your commitment to lay eyes on this problem from the perspective of being an enforcement agency as well as everything else that you do?

Ms. KRANINGER. Senator, I would give you one quick example, too, is our prioritized assessments. We are sending examiners into furnishers, and we have a constant presence at the NCRAs to look at particularly this.

Senator SCHATZ. OK, great. The CARES Act establish a national eviction moratorium for federally supported rental properties spanning multiple agencies, and it also prohibits fees and penalties for missed payments during that time. You sort of have the same problem here, small landlords who may not exactly know what their tenants’ rights are, or even big landlords who want to systematically ignore the CARES Act for their own financial reason.

So here is the question: Are you collecting any data on eviction actions taken? Are you collecting any data on penalties assessed so that you cannot just—you know, you and I can characterize the scale of this problem as a percentage of the whole, but we are just supposing how big this problem is. Do you have your arms around this in terms of actual data?

Going back to what Senator Kennedy said, his question was more global and, I would argue, unanswerable. This is not an unanswerable question. Are you collecting data on the extent of compliance with this sort of pillar of what the CARES Act was all about, which is everybody is supposed to get a little bit of, both officially speaking, forbearance but also a little bit of kindness, a little bit of room, right? And the room that I see you providing is to the big boys, right? It is to the credit reporting agencies. It is to the lenders. And I am wondering to what extent are you aggressively collecting data

on the legislative intent of the CARES Act originally, which is you have got to give regular people a little bit of room and not just assume that the big boys are complying with the statute. So are you collecting the data necessary to ensure compliance?

Ms. KRANINGER. Let me quickly answer you on that. There was not an enforcement mechanism for any Federal agency, and I will say this is outside the purview directly of the CFPB in terms of any enforcement or data collection on that. What we have done, though, is made sure, again, through education efforts and with the inter-agency partners engaged in education of landlords, of renters, what their rights are, we have facilitated complaint submission, again, making sure that State Attorneys General are connected, and so that is—

Senator SCHATZ. All right. You go through this education process. I am all for that. I think that is part of that. But it is not that you—just because the CARES Act did not direct the CFPB to collect data that you have, therefore, pivoted from collecting data or acting on behalf of consumers. That is actually the statutory mandate of the agency. You do not need specific instructions from the CARES Act to go ahead and protect mortgage holders and renters. That is your job.

Thank you.

Chairman CRAPO. Senator Cotton.

Senator COTTON. Thank you, Mr. Chairman. Thank you, Director Kraninger.

My office has been in touch with your Bureau about encouraging transparency and feedback around exams. We also spoke about that at your last appearance here in March. At the time you said the Bureau was going to be implementing a new feedback mechanism housed in your Ombudsman's Office that would allow financial institutions to provide feedback on their exams and bring problems to the agency's attention. At the time in March, you predicted the new process would be implemented in roughly 2 to 3 months. I, of course, understand the pandemic might have delayed this new procedure from starting as quickly as you would have expected, but can you please give me an updated timeline on when this feedback mechanism will be implemented?

Ms. KRANINGER. Yes, Senator. It is certainly my hope that we can do that in the fall. Part of the dynamic is that we need to have the traditional exams in place to facilitate that, and our Ombudsman is very dedicated to working with industry to understand, you know, what their challenges might be and what they would like that feedback mechanism to look like. She has very robust processes, and she has a measure of independence, too. But I will say that this is something that we are committed to doing, and I think it is an excellent idea.

Senator COTTON. Can you be a little more specific than "the fall"? That is anywhere from September 20th to December 20th, roughly.

Ms. KRANINGER. I agree. As I said, the Ombudsman's measure of independence means that she did not even want me to say "the fall." I will acknowledge to you that I fully believe we should be able to do it in that timeframe, and we will get you some more specificity and some, you know, activities that she is undertaking to make that happen so you have more assurance on progress.

Senator COTTON. OK. Thank you. You do agree that there would be fewer problems with, say, the use of guidance if everyone involved knew at the end of the exam the financial institution had a chance to fill out a survey with specific questions like: Was the guidance used appropriately? Was it used inappropriately?

Ms. KRANINGER. I think it is an important mechanism to get this feedback, and I do think that the examiners have clear guidance and are following it about the use of her application of guidance that would be inappropriate. We are there to ensure compliance with the law, which includes regulations but does not include guidance.

Senator COTTON. And that is because—I mean, most people tend to behave somewhat differently if they know that there is going to be transparency and accountability for their actions as opposed to if there is no transparency, no accountability. Would you agree with that?

Ms. KRANINGER. I would like to think people generally would comply with the law in general because they need to. But, yes, I would say that is one principle of examination. We send the examiners in expecting institutions to comply and that that will, again, foster greater compliance because they know they are being watched.

Similarly, to your point, the fact that there could be feedback on the examiners' activity should have a similar effect.

Senator COTTON. Has the Bureau given any thought to allowing regulated institutions to record their interactions with regulators?

Ms. KRANINGER. Senator, no one has raised that with me in the past, so I—this is new one, at least for me.

Senator COTTON. OK. And how do you assess the performance of your examiners and whether or not they are behaving and acting properly and performing their job in accordance with law and regulations and your expectations of professionalism? Is there any kind of rating system for examiners the way, say, the military will provide annual performance reviews and senior commanders can only rate so many so high and so many so low?

Ms. KRANINGER. We have a performance system at the Bureau that is really pass-fail at this point in time. But that does not mean that we do not value the feedback that we provide. We have got a good field manager structure in place. We have liaisons to institutions that are separate from the exam team, so there is that opportunity again to try to get feedback. And I think the mechanism that we have been talking about of doing surveys, post-exam surveys, that will be another mechanism to kind of get that good feedback. But I would say our training regime as well as our commissioning process of trying to continue to build the skills and capabilities of the examination force is important, too.

Senator COTTON. Thank you very much for your answers, Dr. Kraninger—Director Kraninger. I will give you a doctorate if you want one.

Chairman CRAPO. Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you.

Director Kraninger, thanks for being here. Thanks for the report that you provide to the Congress as well.

So let me start with enforcement. You and I have had this conversation quite often, and I appreciate you engaging with me on this. At least the data that I show since December of 2018 when you arrived at the Bureau, it looks like there have been 39 enforcement actions, which include multiple companies and individuals. Is that about right?

Ms. KRANINGER. I think that is right.

Senator CORTEZ MASTO. OK. And this is what you and I have talked about, and we continue, I think, to talk about because this is a concern of mine. I have noted a number of these cases resulted in suspended judgments, meaning that—and particularly as I look at the debt collection companies along with auto title companies and travel companies, they paid much smaller fines than was agreed to in the original judgment, and let me give an example. In Florida, a debt collection company was charging illegal fees to 7,300 customers. And to resolve their case, which went to court, the company was ordered to pay a \$3.8 million judgment.

However, the Bureau suspended that nearly \$4 million judgment and required the company to pay only \$5,000, and the two business owners to pay only \$7,000 and \$10,000, respectively. So I guess—not I guess. I know my question to you is: Why was 99 percent of the fine suspended if the Bureau found that customers, 7,300 of them, were illegally overcharged \$4 million that those responsible only paid \$23,000?

Ms. KRANINGER. Senator, I do greatly respect your interest in this issue, and it is an important one for how we carry out our enforcement tool. I think you know well, too, that settling some of these judgments is something that does happen frequently in the law enforcement context in trying to get to resolution, particularly when it is determined, as is part of actually our statutory process for mitigating factors, if the entity does not have the resources to pay. So there is—

Senator CORTEZ MASTO. So is that what you looked for in this particular case as to whether this payday lender has the ability to pay the judgment?

Ms. KRANINGER. Senator, I do not want to stipulate anything with that particular case in mind. We can come back to you on it if there is anything more that needs to be said or could be said there. But, generally speaking, yes, that is a significant part of it. It is the estimation of how much time we want to spend continuing to litigate, which, of course, is our resources, and how much effort there would need to be to go after funds from an entity that does not have the funds to pay.

Senator CORTEZ MASTO. And so in making that determination, do you get some sort of official document from them? Do you get an affidavit or some sworn affidavit verifying why that company—that they do not have the ability to pay? Is that how it works?

Ms. KRANINGER. It is a conversation, I know, between the enforcement attorneys and the other party. So, again, depending on where the case is or what case—I do not want to hold myself to that particular case. But it absolutely is a career staff conversation that generally I am not even involved in.

Senator CORTEZ MASTO. So can I ask you this: How do the customers get redress? If the companies, the bad players, are not—the

\$4 million judgment is not followed through, how do customers get redress then?

Ms. KRANINGER. In many cases that is why we are charging a civil money penalty of a dollar, I know, which does get them attention or of a more—a lesser amount so that they can access the civil money penalty fund that we have at the Bureau. So that is a means by which at least—again, I do not want to specify in this case, but in cases generally, we continue to get redress for consumers we can identify.

Senator CORTEZ MASTO. So do you see the hypocrisy here? You have bad players that payday lend, that they literally—you determine whether they have the ability to pay their judgments, and then you bail them out by using this civil monetary fund. But then actually the borrower, the payday lender, we do not look at their ability to pay. And there are predatory lenders out there. I mean, do you see the hypocrisy there and why some of my colleagues are saying this is absolutely ridiculous? You are looking at the big corporations. You are bailing them out with this civil monetary penalty fund. But when it comes to the actual borrower, you are saying, no, these payday lenders do not have to look at their ability to pay? It is hypocritical, and I think that is the concern that you see from my colleagues at all of this enforcement action and why we are talking about why are all these bad players getting away with taking advantage of consumers and the consumers are not being protected.

I know my time is up. I will submit the rest of my questions for the record.

Senator CORTEZ MASTO. Thank you, Mr. Chairman.

Chairman CRAPO. Thank you, Senator.

Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman, Ranking Member Brown. Director Kraninger, thank you for your testimony.

I really just want to pick up really where my colleague Senator Cortez Masto left off with respect to the payday lending rule changes that you made reversing the earlier protections. And I must say it is outrageous that in the middle of this pandemic, when so many people are struggling to make ends meet, you provided this big payday to payday lenders at the expense of consumers. I think it is about a \$7 billion payday for those that make loans knowing that the people who are receiving the loans cannot repay them, and then coming after them. And it is bad at any time, but especially egregious at a moment when so many families are struggling to make ends meet.

This has been a conversation you and I and others have had since the beginning of this administration, really, really outrageous that this rule was finalized and consumers will be badly hurt.

Let me turn to the flip side of that, which is the debt collection part, because many of these people who received predatory loans and are victims of predatory lending, of course, end up on the debt collection end of the spectrum. I understand that you are working on a debt collection rule that I am also worried will undermine, you know, the rights of consumers. But we are in the middle of a pandemic. Many people are, of course, out of work. It is hard to pay their bills. Senator Murphy and I just introduced a bill in the Sen-

ate yesterday that says that during this pandemic hospital systems and major medical providers that are receiving hundreds of millions of dollars in taxpayer assistance to do important work, but they should not be turning around during this pandemic and garnishing people's wages for medical debt.

Have you considered issuing any emergency protections against collection of—practices like garnishment of wages or seizing bank accounts for the collection of medical debt during this pandemic?

Ms. KRANINGER. Senator, we have given very clear direction as the financial regulators and with the prudential regulators that accommodation of their customers of consumers and borrowers during this time is paramount. That is balanced by safety and soundness considerations and certainly the continued compliance with consumer protection law, but that is the requirement at play that we provided in terms of direction. And I would also note on the rulemaking that we are engaged in, the continued enforcement of abusive activities around debt collection continues to be the case. So that is something that has been established by courts, and so the more abusive activities—or, I should say, unfair and deceptive activities and constant harassing phone calls or otherwise contacts, that is still precluded and will be.

Senator VAN HOLLEN. So my understanding—and correct me if I am wrong—at least the current drafts of this rule would actually make it easier for debt collectors to sort of harass people, things like text messaging and instant messaging. Is that true?

Ms. KRANINGER. Not harassing contacts, because that, again, continues to be precluded. What we are trying to at least support is clarity around how consumers can be contacted and letting consumers, frankly, dictate how they would like to be contacted. There are a measure of consumers who would prefer a text to a phone call or would prefer an email to a phone call. And so it is using the contact mechanism that the consumer used with their creditor before that we are trying to provide some clarity around. No final decision has been made on what that threshold is. It is very much something that we got a lot of comments on, which I welcome. And so we are poring through those comments.

Senator VAN HOLLEN. All right. As you said, if the purpose is to prevent harassment, people can be harassed via text message as well as they can by phone calls.

Let me just close—I see I have just a few seconds left—by asking you either to get back to us on the issue of zombie debt—this is debt where it is past the statute of limitations, but my understanding is the way the current rule is shaping up, you would open the door to people who are coming after debtors for zombie debts. So if you could get back to me on that issue, it is something that we are following closely.

Chairman CRAPO. Thank you.

Senator JONES.

Senator JONES. Thank you, Mr. Chairman. Thank you, Director Kraninger, for being with us today. I appreciate it.

You know, I know that there have been a number of my colleagues that asked about the payday lending situation here and the payday lending rule, but it is so important to my State. And I know

you have got a lot of other things on your plate as Director, but that is just so important, I do not want to let it go.

In Alabama, there are more payday and title lenders in my State than we have got hospitals, high schools, movie theaters, county courthouses combined. That is a significant number. They can charge up to 456 percent APR, and Alabamans paid more than \$100 million in fees for these payday lenders just last year. Even before the coronavirus, three-fourths of American workers were living paycheck to paycheck with little or no savings.

So I want to pick up kind of where we went off—and you have touched on it, and we have had some questions about it, where we left off in March about the ability to repay, which has now been removed from your rule. When I asked about that in March, you said, “Well, Senator, in fairness this is a proposed rescinding of the underwriting provisions, and so I cannot give you a fulsome articulation of a decision on that because it is an ongoing rulemaking process.”

Well, the rule was finalized July 7th, as you know, so I would like to give you this chance to give a fulsome response as to how the payday lending rule that does not include a review of the ability to pay is going to affect 200,000 people in Alabama that now get these payday loans and how it will not keep them from spiraling into a financial death spiral.

Ms. KRANINGER. Senator, thank you for that. I know you are interested, and I would tell you that we continue to supervise and enforce particularly UDAP requirements against payday lenders, because there are bad actors in this market, as I have said, as there are in every market. So that is the important action that will continue, that has continued, and has actually affected the enforcement actions that relate to activities in Alabama and entities in Alabama.

But with respect to the rule, the mandatory underwriting provisions were particularly onerous. The access to small dollar products in general is something that consumers clearly have demonstrated a need and demand for. And so what we are trying to do is promote competition in this space, make it clear that we want banks and credit unions, fintech companies, to be offering small dollar credit options to consumers so they have the ability to access those types of products in a responsible way, and also that consumers understand the tradeoffs of the products that are available to them in the marketplace. So we are engaging in disclosure testing around this.

I would say a lot of the research that is in the full rulemaking record demonstrates that there are a number of consumers who do understand their engagement with payday products. Again, the data showed that you had a significant portion of borrowers who paid within the term of the loan, so within that payday loan. There were a number of consumers who defaulted on those loans very pointedly early in the process, which, again, demonstrates some knowledge and understanding of the product as a rational decision based on where they might be financially.

Senator JONES. Can I follow up on that real quick? Because I know that there is like the credit union—and I am running out of time. The credit unions have this payday alternative program. But

they require the credit unions to look at somebody's ability to pay to see what risk would be associated with that. So if a consumer who has no ability to pay but yet needs the money, that is not a real—that is a false choice for them, it would seem. So I am not sure the movement that way and the competition is really competing with folks who just really need the money. I appreciate your answer. I may follow up to get a more complete answer in writing since I am running out of time.

The other thing I want to ask real quick, in the CARES package, we deferred student loan obligations to September 30th. We had hoped that this virus would be on the downside. You know, we had deadlines coming up like this week concerning unemployment and those things, but we put the deadline off for student loans a little bit longer knowing the financial hardships. But now this virus is still with us. It is still a serious problem. Would you support extending what we have done on the moratorium for student loans? Would you support extending that for a period of time beyond September 30th?

Ms. KRANINGER. Senator, I appreciate what you are asking. I tend to try to stay out of these particular—giving particular feedback on particular legislation. I defer to Congress' judgment on that, and we will carry out anything that Congress pushes, passes, and the President signs.

Senator JONES. All right. Thank you.

Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

That concludes the questioning. Are there any other Senators logged in I am not aware of who have not asked questions yet?

[No response.]

Chairman CRAPO. All right. Well, Director Kraninger, I appreciate you being with us today. That does conclude the questioning for the hearing. And for Senators who wish to submit questions for the record, those questions are due to the Committee by Wednesday, August 5. And, Director, we ask that you respond to those questions as promptly as you can.

Again, we thank you for being here. I thank you for your service, and this hearing is adjourned.

[Whereupon, at 11:33 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 July 2, the CFPB issued its Spring 2020 Semiannual Report, which outlines the CFPB's significant work between October 2019 and March 2020, including rulemakings and supervisory and regulatory activities.

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

Director Kraninger last appeared before this Committee on March 10, 3 days before President Trump declared a national State of emergency related to the COVID-19 outbreak.

Shortly thereafter, the CARES Act was signed into law, which included measures to help families directly, provide aid to small businesses, and to stabilize our markets.

In implementing the CARES Act, the CFPB has taken important actions related to mortgage origination and servicing, consumer credit reporting, and data reporting to further address the economic impact of the ongoing pandemic.

The CFPB has also announced several policies and valuable educational initiatives intended to help consumers take steps to protect their finances during the COVID-19 emergency, and to ensure that regulated entities can take reasonable and prudent steps to assist communities impacted by the coronavirus.

I commend Director Kraninger and her staff for taking these steps to help consumers, families, and small businesses as they continue to weather this global coronavirus pandemic.

Last month, the Supreme Court issued a ruling on *Seila Law v. CFPB* that found the agency's structure, led by a single director only able to be removed "for cause," is unconstitutional.

The Court's decision on this case is consistent with what many in Congress have long said: The CFPB's structure lacks sufficient accountability and transparency.

I continue to advocate for establishing a bipartisan board of directors to oversee the CFPB; subjecting the CFPB to the annual appropriations process, similar to other Federal regulators; and establishing a safety-and-soundness check for the prudential regulators.

On July 7, the CFPB finalized a rule rescinding the mandatory underwriting provisions of its Small Dollar Loan rule.

The availability of short-term, small dollar credit is essential to millions of Americans.

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.

The changes made by the 2020 Small Dollar Loan final rule carefully balances ensuring the widespread availability of credit to all Americans while preserving strong protection for all consumers.

During this hearing, I look forward to hearing more about the impact of the COVID-19 emergency on consumers and the financial marketplace; key COVID-19 response initiatives undertaken by the CFPB in recent months; additional regulatory and legislative changes that can further support the economy; and Director Kraninger's priorities for the CFPB in the upcoming work period.

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, Mr. Chairman, for holding this virtual hearing, and thank you, Director Kraninger, for participating in this hearing remotely to practice social distancing and to prevent the potential spread of coronavirus, which is still spreading, and is still taking the lives of hundreds more Americans every day.

Across the country, in big cities and small towns alike, Americans are calling for their Government to work for them. Nearly everyone has had their lives upended by this pandemic—but this disease is not spreading in a vacuum.

You know, Ms. Kraninger, that workers have seen their wages stagnate for years, while Washington shovels more tax cuts to their wealthy friends and the largest corporations.

Families' expenses have only grown—the cost of housing, childcare, prescription drugs has all gone up, leaving 40 percent of Americans unable to come up with \$400 in an emergency.

Black and Brown Americans have never had their hard work pay off like it should, and live every day with systemic racism that threatens their health and their safety and their lives.

From Jim Crow to redlining, you know that Black families have never had the same freedom and opportunity to choose where they live. And they've watched this Administration dismantle a critical element of the Fair Housing Act.

We have the widest homeownership gap in 50 years. As the Urban Institute put it: "The gap in homeownership rate between Black and White families in the United States is bigger today than it was when it was legal to refuse to sell someone a home because of the color of their skin."

The racial wealth gap has actually increased: the average White family now has 10 times the wealth of the average Black family.

Director Kraninger you know that Black and Brown consumers disproportionately lack access to basic financial services, forcing them to rely on risky and costly alternatives.

This leads to so-called reverse redlining—where companies target minority communities for exploitative loans and other abusive financial products.

That's why it's easier to find a payday lender than a bank branch in communities of color.

For years, American workers and families have watched the people who are supposed to serve them look out for the biggest corporations, while their financial problems continued to mount.

People are angry and they're frustrated.

Americans watch CEOs pay themselves, while laying off workers. They see corporations scam people and get away with it, while people of color spend their entire lives paying for one wrong move. They're told to pull themselves up by their bootstraps, while Wall Street gets handouts and bailouts.

Americans feel like no one is on their side. Especially in this Administration.

That's where the Consumer Financial Protection Bureau is supposed to come in. Your job, Director Kraninger, is to look out for everyone else—the workers and families without lobbyists, who don't have wealth and connections to throw around. That's why we created the agency.

And in a moment when Americans of all ages and backgrounds are demanding justice for our Black and Brown neighbors and accountability for the corporations that exploit them, you have the power to actually do something about it.

The CFPB has the tools, the resources, and a legal requirement to root out discrimination in lending and protect communities of color from shady financial products that strip away their wealth.

Under Director Cordray, the Bureau wielded these tools to hold banks, credit card companies, and other corporations accountable when they engaged in illegal discrimination, returning more than \$500 million to Black, Latinx, and Asian Americans.

Under Director Kraninger and Acting Director Mulvaney, the Consumer Bureau did not bring a single case of illegal discrimination for more than 2½ years.

Sadly, that's about what we would expect from a president who seems to have made it his mission to roll back civil rights protections, and openly uses race to divide us.

But we might have hoped that in this moment of national crisis, when more than 150,000 Americans have lost their lives and 30 million have lost their jobs, President Trump and his appointees would rise to the occasion.

Instead Director Kraninger—like other Trump appointees—you have exploited the coronavirus pandemic to roll back protections for American families, instead of strengthening them:

- During the pandemic, Americans have reached out in record numbers seeking the Consumer Bureau's help. We've seen an 86 percent increase in complaints about credit reporting. But instead of cracking down, Director Kraninger announced the CFPB would do nothing to punish banks, debt collectors, and other corporations that make mistakes on consumers' credit reports.
- Millions of Americans have fallen behind and missed mortgage payments because of the president's failure to get this pandemic under control. But instead of helping struggling homeowners, the Consumer Bureau weakened requirements that banks and lenders contact homeowners to help them avoid foreclosure.
- Families have been forced to turn to credit cards to make ends meet. And the CFPB, the agency that's supposed to look out for them, has made it easier—easier, not harder—for these credit card companies rip off consumers, making it easier for credit cards to hide their terms and true price.

Director Kraninger also decided that a worldwide pandemic is the right time to push consumers into predatory payday loans.

- In March, the Consumer Bureau released guidance encouraging banks to get into the payday loan business.
- In May, the Consumer Bureau released information on how banks that offer payday loans can apply for prospective immunity from Bureau oversight or enforcement.
- And in July—despite extensive evidence of a corrupted rulemaking process and bicameral calls for an Inspector General investigation—the Consumer Bureau released a new payday rule that eliminated the basic requirement that payday lenders make sure a consumer can pay back the loan.

Director Kraninger has even gone so far as to tell financial firms that it will give them a pass when they break the law, so long as they make a “good faith” effort to comply.

This is exactly why most people think our system is broken.

If your utility payment is withdrawn before your paycheck clears, and you overdraw your account, the bank doesn’t waive the fee because you made a “good faith” effort to deposit that check.

We have one system for corporations and the wealthy and the well-connected, one where you get away with just about anything—and a different one for everyone else, where your “good faith” effort never seems to be enough.

Director Kraninger, we didn’t need a Supreme Court decision to tell us you would not be independent from President Trump.

I’ve got to hand it to you, you’ve done exactly the job he asked of you—you have protected a system where corporations play by one set of rules, with a different set for everyone else.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF KATHLEEN L. KRANINGER

DIRECTOR, CONSUMER FINANCIAL PROTECTION BUREAU

JULY 29, 2020

Chairman Crapo, Ranking Member Brown, and distinguished Members of the Committee, thank you for the opportunity to present the Consumer Financial Protection Bureau’s (Bureau’s or CFPB’s) most recent Semi-Annual Report to Congress.

Today, I am happy to present the Bureau’s Spring 2020 Semi-Annual Report (October 1, 2019–March 31, 2020) to Congress and the American people in fulfillment of our statutory responsibility and commitment to accountability and transparency. My testimony is intended to highlight the contents of this Semi-Annual Report (Report).

I remain committed to strengthening the Bureau’s ability to use all of the tools provided by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), and I remain resolved that the most productive use of Bureau resources is the prevention of harm to consumers in concert with our many partners. The Bureau’s mission, as you are aware, is to ensure access to fair, transparent, and competitive markets for consumers, and we are committed to executing the mission through:

- Empowering Consumers and Turning Financial Education into Action,
- Ensuring Clear Rules of the Road,
- Ensuring a Culture of Compliance, and
- Holding Bad Actors to Account and Deterrence through Enforcement.

Preventing harm to consumers, I believe, is the most effective, efficient way to carry out our mission of ensuring consumer access to a fair, transparent and competitive market. To me, prevention of harm comes through helping consumers gather financial know-how, fostering a culture of industry compliance where consumers know their rights and industry knows their responsibilities and limitations, and maintaining a back stop of enforcement.

Clearly, the COVID–19 pandemic had a profound impact on the Bureau’s work during the reporting period, one that will continue well into the future. These remain challenging times facing our Nation and the world. Yet the uncertainty and dramatic change underscore the importance of the Bureau’s mission on behalf of American consumers. Further, this Report and my testimony today give me the

opportunity to highlight the fantastic work of our incredibly talented and dedicated staff in facing this emergency.

Under the banner of “Safety First, Mission Always,” the professionals at the CFPB tirelessly work *to protect, promote, and preserve the financial well-being of the American consumer*.

To further our statutorily driven objectives, we have teamed, and will continue to work, with our stakeholders, particularly our Federal partners, to ensure consumers are armed with accurate facts and helpful warnings in this unprecedented time.

Since the first days of the pandemic, the Bureau has taken swift action to protect consumers and ensure financial institutions have the direction and flexibility to work with their customers in need. Those actions range from efforts to empower older Americans, to guidance offered about how to avoid potential scams related to the virus, to roadmaps of what relief is available to renters and mortgage holders under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) legislation. In April, the Bureau worked with Federal partners to launch a new mortgage and housing assistance website.¹ The Bureau also released timely information on new programs aimed at helping struggling consumers during this time. These programs include stimulus payments;² student loan payment suspension;³ mortgage forbearance;⁴ and the paycheck protection program.⁵ Additionally, the Bureau has established a centralized webpage with information on how consumers can protect their finances during the pandemic.⁶ Trusted, authoritative Government sources are critical conduits for the distribution of information to the public. As such, I am proud to note that as of this month, over 3.1 million users have accessed our educational web content in response to COVID-19.

The Bureau also has taken a number of actions to provide guidance to the financial industry to ensure their resources are aimed at assisting consumers in need.⁷ The Bureau has and will continue to actively engage with regulated entities, consumer advocates, State partners, and other stakeholders to ensure we are providing appropriate flexibilities to support consumers during this time.⁸

During this emergency, the mechanisms of rulemaking, our supervisory examinations, enforcement of Federal consumer financial law, and the handling of consumer complaints have continued. The Bureau also has developed “Prioritized Assessments,” which consist of high-level inquiries designed to obtain information from entities to assess the impacts on consumer financial product markets due to pandemic-related issues. These Assessments will allow the Bureau to identify potential risk to consumers across a large number of entities, while continuing to reduce the burden on institutions and allowing examiners to continue to work safely from their home-duty stations. The Bureau is monitoring the marketplace in real time and coordinating on an ongoing basis with fellow Federal and State regulators in order to take swift action when we identify companies or individuals that violate the law to take advantage of the pandemic and resulting economic uncertainty. While so many aspects of our daily life were effectively shut down this spring, the Bureau’s efforts on behalf of impacted consumers never slowed.

I am uniquely proud to share with you our semiannual report and welcome your questions and thoughts about our efforts outlined here, and our mission overall.

Empowering Consumers and Turning Financial Education into Action

As I have said before, the Bureau cannot be everywhere, with everyone, at every transaction—nor should it try to be. Therefore, empowering consumers to help themselves, protect their own interests, and choose the financial products and serv-

¹ See <https://www.cfpb.gov/housing/>.

² See <https://www.consumerfinance.gov/about-us/blog/guide-covid-19-economic-stimulus-checks/>.

³ See <https://www.consumerfinance.gov/about-us/blog/what-you-need-to-know-about-student-loans-and-coronavirus-pandemic/>.

⁴ See <https://www.consumerfinance.gov/about-us/blog/guide-coronavirus-mortgage-relief-options/>.

⁵ See <https://www.consumerfinance.gov/about-us/blog/help-small-businesses-during-covid-19-pandemic/>.

⁶ See <https://www.consumerfinance.gov/coronavirus/>.

⁷ See <https://www.ffiec.gov/press/PDF/FFIEC%20Statement%20on%20Pandemic%20Planning.pdf>; https://files.consumerfinance.gov/f/documents/cfpb_interagency-statement_small-dollar-lending-covid-19_2020-03.pdf; https://files.consumerfinance.gov/f/documents/cfpb_hmda-statement_covid-19_2020-03.pdf; https://files.consumerfinance.gov/f/documents/cfpb_data-collection-statement_covid-19_2020-03.pdf; and https://files.consumerfinance.gov/f/documents/cfpb_supervisory-enforcement-statement_covid-19_2020-03.pdf.

⁸ See Section 3.4 of the Report for the items released in response to COVID-19 after the reporting period ending on March 31, 2020.

ices that best fit their needs is essential to preventing consumer harm and building financial well-being.

To carry out its financial education mandate, the Bureau seeks to enhance the financial knowledge and skills of all Americans, from childhood to later life, so that individuals can effectively use these skills to build their financial well-being. The Bureau is employing a three-part strategy to accomplish this task. The three elements of the strategy are:

- Providing financial education to the public, directly and by expanding and augmenting the local delivery of financial education;
- Sharing research on effective financial education and financial well-being with financial educators and others; and
- Addressing needs for inclusion and financial security of servicemembers and veterans, older Americans, traditionally underserved consumers and communities, and students.

During the previous year, the Bureau has continued to put thought into action and made strides in consumer education. A few key examples outlined in the Report are:

*Start Small, Save Up Initiative.*⁹ The Start Small, Save Up initiative aims to increase opportunities for Americans to save and achieve their financial goals. Through Start Small, Save Up, the Bureau is working to help consumers build emergency savings over the next few years by working with employers to prioritize emergency savings and automated solutions in the workplace; engaging with partners to highlight emergency savings products that work and make more accessible products available; and partnering with trusted community institutions to tailor savings solutions to unique audiences. The Start Small, Save Up initiative includes a robust research and evaluation component to ensure the Bureau is learning about its own efforts, as well as the efforts of others who are also working toward a similar goal of helping consumers save. The Bureau launched a series of saving resources including the CFPB Savings Boot Camp, a multiweek email course to guide people through the fundamentals of saving. The Bureau also released the fourth in a series of booklets for social services providers to talk with people about money topics that are important to them: “Building your Savings? Start with Small Goals.” The booklet contains colorful, engaging tools to support people in setting savings goals, preparing for the unexpected, finding a place to save, and making the most of tax services providers, financial coaches, and financial educators. The Bureau also hosted a convening with several financial institutions to engage them in a dialog about helping consumers and their workforce build emergency savings, exploring new research opportunities, understanding successful ways to market savings solutions to consumers, and seeking opportunities to collaborate with the Bureau on these efforts.

*Convening Communities To Build Elder Fraud Prevention and Response Networks Report.*¹⁰ This report describes the Bureau-facilitated convenings in Florida, Oklahoma, Tennessee, Montana, and Oregon, which informed our efforts during the reporting period and sparked the creation of new elder fraud prevention and response networks or the enhancement of existing networks. The lessons learned from these pilot convenings can help other communities develop networks that improve coordination and collaboration between responders and service providers to protect older people from financial harm. Although outside of the reporting period, in June 2020, the Bureau built upon this effort and released an online resource to help communities form networks to increase their capacity to prevent and respond to elder financial abuse.¹¹ The Elder Fraud Prevention and Response Networks Development Guide (Networks Development Guide) offers planning tools, templates, and exercises to help communities create a collaborative network to fight elder fraud or refresh or expand an existing network. We hope this resource will help launch networks in fighting elder financial exploitation in communities where networks do not currently exist. For those communities with an existing network, the Networks Development Guide can help to refresh or realign its priorities and activities or expand the diversity of its membership to include new stakeholders. We encourage the use of the

⁹ See <https://www.consumerfinance.gov/start-small-save-up/>.

¹⁰ See <https://www.consumerfinance.gov/data-research/research-reports/convening-communities-build-elder-fraud-prevention-and-response-networks/>.

¹¹ See <https://www.consumerfinance.gov/practitioner-resources/resources-for-older-adults/elder-protection-networks/>.

guide by communities across the Nation to build their capacity to prevent and respond to elder financial exploitation.

Misadventures in Money Management for Active Duty Servicemembers. The Bureau made Misadventures in Money Management (MiMM) available for active duty servicemembers reporting to their first service station. MiMM is an online training that engages servicemembers with real life financial choices in a fun and interactive manner and provides a just-in-time financial curriculum. MiMM is also available to future servicemembers in the Delayed Entry Program (DEP), as well as future leaders in the Junior Reserve Officers' Training Corps (JROTC) and Reserve Officer Training Corps (ROTC).

Ensuring Clear Rules of the Road

Another tool for preventing consumer harm is rulemaking and guidance—articulating clear rules of the road for those we regulate. Rules that promote competition, increase transparency, and preserve fair markets for financial products and services. The Spring 2020 Report includes information on significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year. In addition, the Spring 2020 Report includes a plan for rules, orders, and other initiatives we expect to undertake during the upcoming period. I would like to highlight just a few of our activities in this space.

*Request for Information, Proposed Rule, and Final Rule: Remittances.*¹² In April 2019, and December 2019, respectively, the Bureau issued a Request for Information (RFI) and a Notice of Proposed Rulemaking (NPRM) on remittance transfers. Although outside of the reporting period, it is worth noting that in May 2020, the Bureau issued a final rule, which allows certain banks and credit unions to continue to provide estimates of the exchange rate and certain fees under certain conditions, where otherwise they generally would have had to provide exact amounts due to the expiration of a statutory exception on July 21, 2020. The final rule also increases the annual threshold that determines whether an entity makes remittance transfers in the normal course of its business and is subject to the Remittance Rule from 100 to 500 remittance transfers. Entities making 500 or fewer transfers annually in the current and prior calendar years will not need to comply with the Rule. This increase will reduce the burden on over 400 banks and almost 250 credit unions that send a relatively small number of remittances—less than .06 percent of all remittances.

Debt Collection Notices of Proposed Rulemaking. In May 2019, the Bureau issued an NPRM, which would prescribe rules under Regulation F to govern the activities of debt collectors, as that term is defined under the Fair Debt Collection Practices Act (FDCPA).¹³ The Bureau's proposal would, among other things, address communications in connection with debt collection; interpret and apply prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection; and clarify requirements for certain consumer-facing debt collection disclosures. The proposal builds on the Bureau's research and pre-rulemaking activities regarding the debt collection market; the conduct of debt collectors remains a significant source of complaints to the Bureau. The Bureau expects to take final action in October 2020 with regard to the May 2019 NPRM. The Bureau has also engaged in testing of time-barred debt disclosures that were not addressed in the May 2019 proposal. In February 2020, after completing the testing, the Bureau issued a supplemental NPRM related to time-barred debt disclosures.¹⁴

*Advance Notice of Proposed Rulemaking: Home Mortgage Disclosure Act.*¹⁵ In May 2019, the Bureau issued an Advance Notice of Proposed Rulemaking (ANPR), seeking information to determine whether to propose changes to the data points that the Bureau's 2015 Home Mortgage Disclosure Act (HMDA) rule added to Regulation C or revised to require additional information. The ANPR sought information regarding the costs and benefits of these data points. Additionally, the Bureau solicited comments relating to the requirement that institutions report certain business-

¹² See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-request-information-remittance-rule/>; <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-notice-proposed-rulemaking-remittance-rule/>; and <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-final-remittance-rule/>.

¹³ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-proposes-regulations-implement-fair-debt-collection-practices-act/>.

¹⁴ See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-supplemental-nprm-on-time-barred-debt-disclosures/>.

¹⁵ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-proposes-changes-hmda-rules/>.

commercial-purpose transactions under Regulation C. The Bureau expects to issue an NPRM following up on the ANPR later this year.

*Final Rules: Home Mortgage Disclosure (Regulation C)—2019 Final Rule and 2020 Final Rule.*¹⁶ In May 2019, the Bureau issued an NPRM to reconsider the thresholds for reporting data about closed-end mortgage loans and open-end lines of credit under the Bureau’s 2015 HMDA rule. In October 2019, the Bureau issued the first of two final rules amending these thresholds. The October 2019 final rule amended Regulation C to adjust the threshold for reporting data about open-end lines of credit by extending to January 1, 2022, the current temporary threshold of 500 open-end lines of credit. The Bureau also incorporated into Regulation C the interpretations and procedures from the interpretive and procedural rule that the Bureau issued on August 31, 2018, and implemented further Section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). Although just outside of the reporting period, it is worth noting that, in April 2020, the Bureau issued a second final rule adjusting Regulation C’s institutional and transactional coverage thresholds for closed-end mortgage loans and open-end lines of credit. Effective July 1, 2020, the final rule permanently raises the closed-end coverage threshold from 25 to 100 closed-end mortgage loans in each of the two preceding calendar years. Effective January 1, 2022, when the temporary threshold of 500 open-end lines of credit expires, the final rule sets the permanent open-end threshold at 200 open-end lines of credit in each of the two preceding calendar years.

*Final Rule: Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date; Correcting Amendments.*¹⁷ In June 2019, the Bureau issued this final rule to delay the August 19, 2019, compliance date for the mandatory underwriting provisions of the regulation promulgated by the Bureau in November 2017 governing Payday, Vehicle Title, and Certain High-Cost Installment Loans. Compliance with the mandatory underwriting provisions was delayed by 15 months to November 19, 2020. The Bureau also made certain corrections to address several clerical and nonsubstantive errors it identified in other aspects of the rule.

*Advance Notice of Proposed Rulemaking and Notices of Proposed Rulemaking: Ability-to-Repay and Qualified Mortgages.*¹⁸ In July 2019, the Bureau issued an ANPR asking for information relating to the expiration of the temporary Government-Sponsored Enterprise (GSE) provision (GSE Patch) of the Bureau’s Ability-to-Repay and Qualified Mortgage Rule. Under the GSE Patch, while the GSEs operate under the conservatorship or receivership of the FHFA, mortgages that are eligible for purchase or guarantee by one of the GSEs and that satisfy certain statutory criteria relating primarily to features of the mortgage are generally deemed to be Qualified Mortgages (QMs). This provision is scheduled to expire in January 2021. The Bureau’s ANPR sought information to determine whether to propose changes in the General QM loan definition considering that expiration. Although outside of the reporting period, it is worth noting that in June 2020 the Bureau issued an NPRM to propose amendments to the General QM loan definition that would remove the General QM loan definition’s 43 percent debt-to-income (DTI) limit and that would instead establish a pricing threshold (i.e., the difference between the loan’s annual percentage rate and the average prime offer rate for a comparable transaction) for loans to qualify as General QM loans. General QM loans would still have to meet the statutory criteria for QM status, including restrictions related to loan features, upfront costs, and underwriting. The Bureau also issued a second NPRM that proposed to extend the GSE Patch until the effective date of the final amendments to the General QM loan definition to help ensure a smooth and orderly transition away from the GSE Patch by (among other things) allowing the Bureau to complete this rulemaking and to avoid any gap between the expiration of the GSE Patch and the effective date of the proposed alternative. The Bureau did not propose to amend the provision stating that the Temporary GSE QM loan category would expire if the GSEs exit conservatorship. Finally, the Bureau is considering adding a new “seasoning” definition of QM, which would be proposed in a separate NPRM. This definition would create an alternative pathway to QM safe-harbor

¹⁶ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-issues-final-hmda-rule-provide-relief-smaller-institutions/>; <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-final-rule-raising-data-reporting-thresholds-under-hmda/>.

¹⁷ See <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/payday-vehicle-title-and-certain-high-cost-installment-loans-delay-compliance-date-correcting-amendments/>.

¹⁸ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-releases-qualified-mortgage-anpr/>; see also <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-steps-address-gse-patch/>.

status for certain mortgages when the borrower has consistently made timely payments for a specified period.

*Assessment of Significant Rule: TRID Rule (the Truth in Lending Act and Real Estate Settlement Procedures Act).*¹⁹ In November 2019, the Bureau publicly initiated the assessment of the TRID rule by requesting public comment on its plans to conduct the assessment. 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. Under Section 1022(d)(2), assessment reports must be published not later than 5 years of the effective date of the significant rule or order. As part of its assessment, the Bureau intends to address the TRID rule's effectiveness in meeting the purposes and objectives of Title X of the Dodd-Frank Act, the specific goals of the rule, and other relevant factors. The public was invited to comment on the feasibility and effectiveness of the assessment plan, recommendations to improve the assessment plan, and recommendations for modifying, expanding, or eliminating the TRID rule, among other questions.

Business Lending Data (Regulation B). The Bureau is working to develop rules to implement Section 1071 of the Dodd-Frank Act. Section 1071 amended the Equal Credit Opportunity Act (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 resumed pre-rulemaking activities on Section 1071. In November 2019, the Bureau conducted a symposium on small business loan data collection. In addition, the Bureau has developed, and earlier this month started conducting, a survey of lenders to obtain estimates of one-time costs lenders of varying sizes would incur to collect and report data pursuant to Section 1071. The Bureau's next step will be the release of materials in advance of convening a panel 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 hear from representatives of small businesses on which Bureau rules to implement Section 1071 may impose costs.

Although also outside of the reporting period, the Bureau recently took several notable steps in our ongoing rulemaking activity.

*Notice of Proposed Rulemaking: Amendments to Regulation Z to Facilitate Transition From LIBOR.*²⁰ In June 2020, the Bureau released a NPRM concerning the anticipated discontinuation of LIBOR, including proposing examples of replacement indices that meet Regulation Z standards for both open-end and closed-end credit products. Some consumer credit contracts use LIBOR as a reference rate. This proposed rule would facilitate creditors for home equity lines of credit (HELOCs) (including reverse mortgages) and card issuers for credit card accounts transitioning existing accounts away from LIBOR if certain conditions are met to an alternative index on or after March 15, 2021, well in advance of LIBOR's anticipated expiration at the end of 2021. The proposed rule also would address change-in-terms notice provisions for HELOCs and credit card accounts and how they apply to the transition away from LIBOR, to ensure that consumers are informed of the replacement index and any adjusted margin. The Bureau's work is also designed to facilitate compliance by open-end and closed-end creditors and to lessen the financial impact to consumers by providing examples of replacement indices that meet Regulation Z standards. The proposed rule also would address how the rate reevaluation provisions applicable to credit card accounts apply following the transition from LIBOR to a replacement index, to facilitate compliance by card issuers. Commencing a notice-and-comment rulemaking will enable the Bureau to facilitate compliance by creditors with Regulation Z as they transition away from LIBOR.

*Notice of Proposed Rulemaking: Higher-Priced Mortgage Loan Escrow Exemption.*²¹ In July 2020, the Bureau released a proposal to amend Regulation Z, which implements the Truth in Lending Act (TILA), as mandated by section 108 of the EGRRCFA. The amendments would exempt certain insured depository institutions and insured credit unions from the requirement to establish escrow accounts for certain higher-priced mortgage loans. 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 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

¹⁹ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-to-assess-integrated-mortgage-disclosure-rule/>.

²⁰ See <https://www.consumerfinance.gov/about-us/newsroom/cfbp-facilitates-libor-transition/>.

²¹ See <https://www.consumerfinance.gov/about-us/newsroom/cfbp-issues-proposed-rule-escrow-exemptions-high-priced-mortgage-loans/>.

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, codified at 15 U.S.C. 1639d, directs 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. In anticipation of future rulemaking activity, the Bureau conducted a preliminary analysis of the number of lenders potentially impacted by implementation of Section 108 of EGRRCPA. The Bureau released the analysis in late summer 2019 and it showed that a limited number of additional lenders would be exempt under Section 108 of EGRRCPA once implemented by rule. The comment period for the July proposed rule is 60 days from its upcoming publication in the Federal Register, and the Bureau plans to consider the comments and move expeditiously to issue a final rule providing the new exemption.

*Final Rule: Payday, Vehicle Title, and Certain High-Cost Installment Loans, Revocation.*²² Earlier this month, the Bureau issued a final rule concerning small-dollar lending in order to maintain consumer access to credit and competition in the marketplace. The final rule rescinds the mandatory underwriting provisions of the 2017 rule after reevaluating the legal and evidentiary bases for these provisions and finding them to be insufficient. The final rule does not rescind or alter the payments provisions of the 2017 rule. In addition, the Bureau denied a petition for rulemaking from a provider asking to exclude debit cards from the Payment Provisions of the 2017 rule and issued a statement on the Bureau's approach to the payment provisions for loans large enough to exceed the Regulation Z coverage threshold.

Ensuring a Culture of Compliance

Another tool for the prevention of harm is the Bureau's supervisory authority, which can keep violations of laws and regulations from happening in the first place. Supervision is the heart of this agency—something underscored by the percentage of our personnel and resources dedicated to conducting exams. I am focused on ensuring we use this tool as effectively and efficiently as possible and that we apply it in a consistent way. Heading trouble off at the pass may not grab big headlines, but it will prevent a lot of headaches for consumers and industry.

During the period covered by the Spring 2020 Report, the Bureau published three issues of *Supervisory Highlights*.²³ *Winter 2020*, covering supervisory findings in the areas of debt collection, mortgage servicing, small-dollar lending, and student loan servicing; *Consumer Reporting Special Edition*, covering supervisory findings in the consumer reporting area; and *Summer 2019*, covering supervisory findings in the areas of automobile loan origination, credit card account management, debt collection, furnishing, and mortgage origination.

In addition, 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 14 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. In the current reporting period, the Bureau issued more 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.

Holding Bad Actors To Account and Deterrence Through Enforcement

Education, rulemaking, and supervision alone will not prevent every violation. A purposeful enforcement regime can foster compliance, deter unlawful conduct, help prevent consumer harm, and right wrongs. Public, decisive action against wrongdoers sends a clear message to the marketplace—one that should deter unlawful behavior and support a level playing field—all while reaching a just outcome for harmed consumers. However, I am also committed to ensuring that we move as expeditiously as possible to resolve enforcement matters, whether through public action or a determination that a particular investigation should be closed.

²² See https://www.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-19_092019.pdf.

²³ See Winter 2020, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-21_2020-02.pdf; Consumer Reporting Special Edition, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-20_122019.pdf; Summer 2019, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-19_092019.pdf.

During the period covered by the Spring 2020 Report, the Bureau brought, or continued ongoing litigation in, numerous public enforcement actions for violations of Federal consumer financial law. These activities included: an action against a bank for violating the Consumer Financial Protection Act's (CFPA) prohibition against unfair and abusive acts or practices, as well as TILA and the Truth in Savings Act and their implementing regulations;²⁴ three actions against brokers of contracts offering high-interest credit to veterans, many of whom were disabled, and to other consumers for violating the CFPA's prohibition against deceptive and unfair acts or practices and against providing substantial assistance to deceptive and unfair acts or practices of others;²⁵ an action against a bank for violating TILA and its implementing Regulation Z, including TILA provisions passed under the Fair Credit Billing Act (FCBA) and the CARD Act;²⁶ an action against certain entities and individuals for violating the Fair Credit Reporting Act (FCRA), the CFPA, and the Telemarketing Sales Rule (TSR) by wrongfully obtaining consumer report information, charging unlawful advance fees, and engaging in deceptive acts and practices in connection with the marketing and sale of student loan debt relief products and services;²⁷ an action against a company and its owner for violating the CFPA by misrepresenting the true cost of credit for loans for airline tickets to servicemembers and their families, failing to provide certain required disclosures about the terms of credit in violation of TILA and Regulation Z, and failing to disclose the total costs of purchasing airline tickets through financing in the course of telemarketing the loans in violation of the TSR;²⁸ an action against a company for engaging in deceptive practices in violation of the CFPA by overcharging servicemembers and their families for a debt-cancellation product that was offered in connection with loans for airline tickets, and for violating Regulation V, which implements FCRA;²⁹ an action against an employment background screening company for violating FCRA;³⁰ an action against debt relief companies for engaging in deceptive practices and charging unlawful advance fees in connection with the marketing and sale of student loan debt relief services to consumers;³¹ an action against a debt collection company and its owner for violating the CFPA, FCRA, Regulation V, and the FDCPA;³² an action against a foreclosure relief services company, its CEO, and its auditor, for engaging in deceptive and abusive acts and practices and charging unlawful advance fees in connection with the marketing and sale of financial advisory and mortgage assistance relief services to consumers;³³ an action against a debt-collection company for violating the FDCPA and CFPA;³⁴ an action against a remittance transfer services provider for violating the Remittance Transfer Rule under Electronic Fund Transfer Act (EFTA), and the CFPA;³⁵ an action against a credit reporting agency for engaging in unfair and deceptive practices in connection with a data breach that impacted approximately 147 million consumers;³⁶ an action against a company set up to hold

²⁴ See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-files-suit-against-fifth-third-for-allegedly-opening-unauthorized-accounts-enrolling-consumers-in-unauthorized-products/>.

²⁵ See <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/candy-kern-fuller-howard-sutter-iii-and-upstate-law-group-llc/>; <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/snyder-et-al/>; <https://www.consumerfinance.gov/about-us/newsroom/cfpb-arkansas-state-ag-settle-brokers-high-interest-credit-offers/>.

²⁶ See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-action-against-citizens-bank/>.

²⁷ See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-settles-monster-loans-thomas-chou-sean-cowell-and-related-companies/>; see also <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-action-against-monster-loans-lend-tech-loans-and-student-loan-debt-relief-companies/>.

²⁸ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-settles-military-travel-lender-and-servicer/>.

²⁹ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-settles-military-travel-lender-and-servicer/>.

³⁰ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-settles-employment-background-screening-company/>.

³¹ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-announces-action-against-student-loan-debt-relief-operation/>.

³² See <https://www.consumerfinance.gov/about-us/newsroom/bureau-files-suit-against-fair-collections-outsourcing-and-michael-e-sobota/>.

³³ See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-files-suit-andrew-lehman-michael-carrigan-proposed-settlement/>.

³⁴ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-settles-asset-recovery-associates/>.

³⁵ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-settles-maxitransfers-corporation/>.

³⁶ See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-ftc-states-announce-settlement-with-equifax-over-2017-data-breach/>.

and manage private student loans for providing substantial assistance to unfair acts and practices;³⁷ an action against a mortgage lender for violating HMDA and Regulation C by submitting mortgage-loan data for 2014 to 2017 that contained errors;³⁸ an action against a mortgage servicer for violating the CFPB, the Real Estate Settlement Procedures Act, and TILA;³⁹ an action against a debt collection law firm for violating the FDCPA and CFPB;⁴⁰ an action against a company for violating the TSR by requesting and receiving payment of prohibited upfront fees for their credit repair services and for violating the TSR and CFPB by making deceptive representations or substantially assisting others in doing so;⁴¹ and an action against a student loan servicing company for engaging in unfair practices in violation of the CFPB by failing to adjust in a timely manner principal balances of student loans made under the Federal Family Education Loan Program.⁴²

In addition to the actions taken above, the Bureau referred four matters to the U.S. Department of Justice (DOJ) about discrimination pursuant to Section 706(g) of the ECOA. The referrals involved redlining in mortgage origination based on race and/or national origin, discrimination in mortgage origination based on receipt of public assistance income, and discrimination in auto origination based on race and national origin. Like other Federal bank regulators, the Bureau is required to refer matters to the DOJ when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.

During the reporting period, the Bureau continued to pursue ongoing litigation, as well as implementation and oversight of compliance with the pending public enforcement orders that were entered by Federal courts or issued by the Bureau's Director in prior years.

Activities and Data Supporting All of the Tools

The mission of the Bureau is to protect consumers, which, as I have discussed today, we carry out through education, regulation, supervision, and enforcement. These tools are all provided in the Dodd-Frank Act, and I am determined to use the Bureau's capabilities to achieve the best results for American consumers. That includes using research, market monitoring, stakeholder outreach, and the complaint process to inform the use of our tools. Complaints, along with other inputs, give us insight into consumer experiences in the marketplace that we analyze and use to improve our mission execution. Related to the pandemic, the Bureau has experienced record numbers of complaints that underscore this point. In March 2020, we saw a notable increase in inquiries related to trouble making mortgage payments. Those inquiries also highlighted concerns about when deferred payments would be due after the CARES Act forbearance period. The complaints, in addition to stakeholder feedback from the mortgage industry and consumer advocates among others, led the Bureau to work expeditiously with our interagency colleagues to address the lump sum payment issue and the concerns regarding consumer confusion around CARES Act forbearance options.

During the reporting period, we also continued to roll out enhancements to the complaint database announced in September 2019. Those enhancements included integration of financial information and resources into the complaint process to help address questions and better inform consumers before they submit a complaint, as well as modification of disclaimers to provide better context to the published data. Although outside of the reporting period, it is worth noting that in April 2020 and July 2020, respectively, the Bureau unveiled a geospatial and trends view. The new trends and map views build upon the existing capability to filter and search, and emphasize aggregation and analysis of information, while continuing to make all the underlying data available for closer examination. These new capabilities allow users to gain deeper insight into changes in the location, type, and volume of complaints over time, which provides valuable context into consumers' experiences in the financial marketplace.

³⁷ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-settles-student-cu-connect-cuso-over-itt-private-loan-program/>.

³⁸ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-settles-freedom-mortgage-corporation/>.

³⁹ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-settles-bfi-financial-services/>.

⁴⁰ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-files-suit-against-forstergarbus-llp/>.

⁴¹ See <https://www.consumerfinance.gov/about-us/newsroom/bureau-files-suit-against-lexington-law-pgx-holdings-and-related-entities/>.

⁴² See <https://www.consumerfinance.gov/about-us/newsroom/bureau-settles-conduent-education-services/>.

While the Bureau publishes complaint data and reports on complaint trends annually in the Consumer Response Annual Report, here is the data for the period April 1, 2019, through March 31, 2020. The Bureau received approximately 372,700 consumer complaints.⁴³ This is an approximately 9 percent increase from the prior reporting period.⁴⁴ Consumers submitted approximately 84 percent of these complaints through the Bureau's website and 7 percent via telephone calls. Referrals from other state and Federal agencies accounted for 6 percent of complaints. Consumers submitted the remainder of complaints by mail, email, and fax. The Bureau sent approximately 304,200 (82 percent) of complaints received to companies for review and response.⁴⁵ 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 typically 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-up actions, and a categorization of the response. Companies' responses describe a range of relief. Examples of relief include correcting inaccurate data provided or reported in consumers' credit reports; stopping harassing calls from debt collectors; correcting account information; issuing corrected documents; restoring account access; and, addressing formerly unmet customer service issues. Ninety-nine percent of complaints sent to companies received timely responses.

Legislative Reforms

Earlier this year, the Bureau requested that Congress advance proposed legislation⁴⁶ that would authorize the Bureau to award whistleblowers who report violations of Federal consumer financial law.⁴⁷ The proposal would amend Title X of the Dodd-Frank Act and provide authority to establish a whistleblower award program. The incentive created for employees to report wrongdoing to the Bureau will assist in advancing enforcement cases, especially as it relates to fair lending violations. Under the proposed legislation, in cases where a whistleblower provides voluntary information that leads to a successful enforcement action, the Bureau will be able to pay an award based on a percentage of the monetary sanctions collected in the action. The legislative proposal was part of a suite of initiatives to advance one of my key priorities: prevention of consumer harm.

In addition, in 2019, the Bureau requested that Congress provide us with clear legal authority to supervise financial institutions for Military Lending Act compliance. As part of that request, the Bureau transmitted proposed legislative language that would achieve this goal. I continue to stand ready to work with Members of this Committee to provide the Bureau with this authority to assist in our work to prevent harm to our servicemembers and their families. The Bureau continues to use its education and enforcement tools in this space, but the authority to supervise would make these efforts even more effective.

Conclusion

My testimony today does not attempt to cover all the things the Bureau does to meet our mission. The full Report, which is enclosed with my testimony, covers more than I can highlight in the time I have today. As reflected in my opening message in the Report, I want to close my testimony today by commending the work of all Bureau employees. During this global health emergency, our team truly rose to the occasion as they grappled with challenges in their own lives, protecting their health and the health of their loved ones, and working from home. In the midst of

⁴³This 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 and does not publish complaints in the Consumer Complaint Database until the company responds, confirming a commercial relationship with the consumer, or after it has had the complaint for 15 days, whichever comes first. For more information on our complaint process refer to the Bureau's website at <https://www.consumerfinance.gov/complaint/process>.

⁴⁴The prior reporting period, October 1, 2018, to September 30, 2019, reported 342,500 consumer complaints. See Consumer Fin. Prot. Bureau, Semi-Annual Report Fall 2019 (Feb. 2020), available at https://files.consumerfinance.gov/f/documents/cfpb_semi-annual-report-to-congress-fall-2019.pdf.

⁴⁵The Bureau referred 13 percent of the complaints it received to other regulatory agencies and found 5 percent to be incomplete. At the end of this period, 0.4 percent of complaints were pending with the consumer and 0.4 percent were pending with the Bureau. Percentages in this section of the report may not sum to 100 percent due to rounding.

⁴⁶See https://www.consumerfinance.gov/documents/8627/cfpb_whistleblower-proposed-statutory-text_2020-03.pdf.

⁴⁷See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-key-steps-prevent-consumer-harm-proposes-whistleblower-award-program/>.

COVID-19, the Bureau staff continue to be focused on protecting consumers in the financial marketplace. That effort entails ensuring consumers have information on their rights, protections, and options as well as ensuring financial institutions are in compliance with Federal consumer financial law. We will continue to monitor the evolving landscape across all the markets we regulate. And lest I forget, the work of this Committee helps all of us at CFPB meet our mission. I look forward to our continued work in the next year on behalf of American consumers.

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

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN
FROM KATHLEEN L. KRANINGER**

Preemption

Q.1. Since you became Director, has the OCC consulted with the CFPB regarding a preemption determination under section 25b of the National Bank Act?

A.1. The OCC has not consulted with the Consumer Financial Protection Bureau (Bureau) regarding a preemption determination under section 25b of the National Bank Act. In addition, the Bureau is not aware of anyone raising OCC preemption determinations that were subject to the consultation requirements of section 25b.

Payday Lending

Q.2.a. On March 9, 2020, the Bureau joined other financial regulators to issue a joint statement encouraging “responsible” small-dollar lending in response to COVID-19.¹ The statement did not provide any guidelines on what the Bureau considers a “responsible” small-dollar loan, such as an interest rate cap, a prohibition on reborrowing, or require the lender to determine whether the consumer has the ability to repay the loan.

Does the Bureau have any specific parameters or characteristic for assessing what constitutes a “responsible” small dollar loan? If so, please identify each parameter or characteristic.

A.2.a. The March 9, 2020, statement, which predated the declaration on March 13, 2020, of an emergency by the President due to the COVID-19 pandemic, was not focused on small-dollar loans. Rather, in that joint statement the Federal financial institution regulators and state regulators encouraged financial institutions to meet the financial needs of customers and members affected by the pandemic.

Subsequently, on March 26, 2020, the Bureau signed on to a “Joint Statement Encouraging Responsible Small-Dollar Lending in Response to COVID-19,” along with a number of other Federal agencies, recognizing the potential for the pandemic “to adversely affect the customers and operations of banks, savings associations and credit unions (referred to in the statement collectively as “financial institutions”). The statement specifically encouraged financial institutions to offer responsible small-dollar loans to both consumers and small businesses. In the statement, the agencies stated that they “recognize the important role that responsibly offered small-dollar loans can play in helping customers meet their needs for credit due to temporary cashflow imbalances, unexpected expenses, or income short-falls during periods of economic stress or

¹ https://files.consumerfinance.gov/f/documents/cfpb_interagency-statement_small-dollar-lending-covid-19_2020-03.pdf.

disaster recoveries.” The focus of the March 26 joint statement, which is relatively brief, is on small-dollar lending by financial institutions.

The March 26 joint statement is broad enough to encompass a range of consumer and financial institution circumstances and a range of statutory authorities. Neither the Bureau nor the other financial regulators that issued the statement have defined what a “responsible” small-dollar loan would be pursuant to this statement. The joint statement provides, in part, that “The current regulatory framework allows financial institutions to make responsible small-dollar loans. Such loans can be offered through a variety of loan structures that may include, for example, open-end lines of credit, closed-end installment loans, or appropriately structured single payment loans.”

Q.2.b. Does the Bureau consider a loan that a consumer does not have the ability to repay “responsible”?

A.2.b. Please see response to Q.2.a.

Q.2.c. Is there an interest rate above which the Bureau would not consider a small-dollar loan “responsible”? Does the bureau consider a loan with a 100 percent APR, 1,000 percent, or 10,000 percent APR “responsible”?

A.2.c. Please see the response to Q.2.a. In addition, the Bureau notes that section 1027(o) of the Dodd-Frank Act expressly precludes the Bureau from “establish[ing] a usury limit applicable to an extension of credit offered or made by a covered person to a consumer, unless explicitly authorized by law.”

Q.2.d. The Bureau’s statement “encourages” financial institutes to consider workout strategies that “mitigat[] the need to reborrow.” Does the Bureau consider a loan “responsible” if a consumer cannot repay the loan and must reborrow?

A.2.d. Please see the response to Q.2.a. In addition, the joint statement describes small-dollar lending by financial institutions during the COVID–19 emergency and emphasizes that “[f]or all products, financial institutions should offer loans in a manner that is consistent with safe and sound practices, provides fair treatment of consumers, and complies with applicable statutes and regulations, including consumer protection laws.” The Bureau and other joining agencies recognize in the statement that there may be situations where the consumer must reborrow.

Q.2.e. Does the Bureau believe a loan product that requires multiple periods of reborrowing is a “responsible” product?

A.2.e. Please see the response to Q.2.d.

Q.3.a. On April 30, 2020, the New York Times published an internal memorandum written by a CFPB economist who worked on the payday rulemakings. That memorandum that contains detailed concerns regarding the conduct of your political appointees during the payday rulemaking process. The memorandum is detailed—it includes dates, specific individuals, and supporting emails and memoranda.

Have you taken any steps to investigate the concerns set forth in the memorandum? If so, please describe, including whether you have taken any disciplinary or other action against any individual.

A.3.a. The memorandum presents the author's opinions and views about many different Bureau employees and many different actions by them. It is not clear from the question which employees, if any, would be subject to disciplinary action for what conduct described in the memorandum. Moreover, if the agency has taken disciplinary action against any individual related to the memorandum, any such action would be legally protected from disclosure except in certain circumstances.

As Director, I am proud of the staff of the Bureau and continually impressed by their dedication to the agency's mission. Within any organization, there will be differing opinions and viewpoints among staff and with any major decision of the Bureau, as well as countless subsidiary decisions, there are often views and ideas competing for consideration. Staff at the Bureau know that I welcome these competing views as this results in better decisions. Bureau staff also know that the decision regarding the agency's action, after considering the best advice and analysis the staff brings forward, rests with me as the Director.

Q.3.b. One of the listed concerns is that the Bureau's front office "predetermine[] . . . the course of action for the NPRMs" (notices of proposed rulemakings). Do you contend that it is appropriate to predetermine a course of action prior to concluding the rulemaking process under the Administrative Procedures Act? Please respond with a "Yes" or "No" and the reasons for the response.

A.3.b. Under the Administrative Procedure Act, an agency must formulate a proposed rule and then seek public comment on it. An agency therefore must decide what issues to include in a Notice of Proposed Rulemaking (NPRM) for comment, such as decisions the Bureau made as to the issues on which to seek comment through the 2019 NPRM. After considering the relevant matter in the rulemaking record, including that which is provided through public comments, an agency makes decisions on these issues as necessary and appropriate to issue a final rule. The Bureau did not determine the outcome of the payday rulemaking process, that is, whether to revoke the rule's mandatory underwriting provisions, until after it considered the comments and other relevant matter. Specifically, the Bureau determined the outcome of the rulemaking when it finalized its 2020 Payday Rule on July 7, 2020, with the rule published in the Federal Register on July 22, 2020. I maintained an open mind throughout the rulemaking process as to whether and what final rule the Bureau might issue.

When the Bureau chooses to employ its rulemaking authority, it engages in a serious and thorough deliberative process and consults broadly with other appropriate Federal agencies, state counterparts, and the Bureau's many stakeholders. As required by law, the Bureau considers the benefits and costs of any rulemaking on consumers and market participants, including, as specifically required by its organic statute, "the potential reduction of access by consumers to consumer financial products or services resulting from such a rule." When the Bureau publishes an NPRM,

it includes its assessment of the benefits and costs of the proposed rule. That assessment is publicly available as part of the NPRM and the Bureau solicits feedback on its assessment, as well as the policy and legal judgments underlying any proposal, in the form of public comments. Those comments were considered and addressed in the final rule. The Bureau followed this process here and believes that the merits of its analysis should be judged on the basis of the final rule itself.

Q.3.c. According to the memorandum, the CFPB did not engage in any cost-benefit analysis to support the decision to rulemaking to reconsider the 2017 Payday Rule. Did the CFPB engage in cost-benefit analysis to support the rulemaking to reconsider the 2017 Payday Rule? If not, what is the Bureau's reason for not doing so?

A.3.c. Please see the response to Q.3.b.

Q.3.d. According to the memorandum, Anthony Welcher (one of your political appointees) informed industry participants at the Financial Services Center of American Annual Conference in Las Vegas on October 4, 2019, that the Bureau would be revoking the ability-to-repay provisions of the 2017 Payday Rule. According to the memorandum, at the time the Bureau was also telling Congress that the Bureau had not made a decision on whether to revoke the ability-to-repay provisions of the 2017 Payday Rule.

Did Mr. Welcher disclose to attendees at the Financial Services Center of American Annual Conference in Las Vegas on October 4, 2019, that the Bureau would be revoking the ability-to-repay provisions of the 2017 Payday Rule?

A.3.d. This annual conference took place in October 2018 before I became Director in December 2018. I do not have knowledge of what Mr. Welcher may have said at the conference and he is no longer on staff at the Bureau.

Q.3.e. On what date did the Bureau decide that it would revoke the ability-to-repay provisions of the 2017 Payday Rule?

A.3.e. After considering comments from the public on its NPRM, the Bureau finalized its 2020 Payday Rule, which revoked the mandatory underwriting provisions of the 2017 Payday Rule, on July 7, 2020. The rule was published in the Federal Register on July 22, 2020.

Q.3.f. Do you contend that it was appropriate for Mr. Welcher to disclose to conference attendees that the Bureau had decided to revoke the ability-to-repay provisions of the 2017 Payday Rule? Please respond with a "Yes" or "No" and the reasons for the response.

A.3.f. Please see the response to Q.3.d.

Q.4.a. During my questioning at the July 29, 2020, hearing, you did not answer certain questions I asked about the payday rule-making process. The questions below do not ask whether any particular conduct occurred, but instead ask for the Bureau's position on requirements under the Administrative Procedures Act.

Under the Administrative Procedures Act, should the CFPB determine the outcome before it begins the rulemaking process—yes or no?

A.4.a. Under the Administrative Procedure Act, an agency formulates a proposed rule and then seeks public comment on it. An agency issues a final rule after considering the relevant matter in the rulemaking record, including that which is provided through public comments. The Bureau did not determine the outcome of the payday rulemaking process, that is, whether to revoke the rule’s mandatory underwriting provisions, until after it considered the comments and other relevant matter. Specifically, the Bureau determined the outcome of the rulemaking when it finalized its 2020 Payday Rule on July 7, 2020, with the rule published in the Federal Register on July 22, 2020.

Q.4.b. Under the Administrative Procedures Act, should the CFPB ignore research that reaches a conclusion that the agency head disagrees with—yes or no?

A.4.b. No, and the Bureau considered all the relevant research of which it was aware in proposing the final rule and in issuing the final rule. See 2019 NPRM: Payday, Vehicle Title, and Certain High-Cost Installment Loans, 84 FR 4252, 4281 (Feb. 14, 2019), and 2020 Final Rule: Payday, Vehicle Title, and Certain High-Cost Installment Loans, 85 FR 44382, 44431 (July 22, 2020).

Q.4.c. Under the Administrative Procedures Act, should the CFPB ignore comments from the public—yes or no?

A.4.c. No, and the Bureau considered all of the approximately 197,000 public comments submitted in response to the 2019 NPRM before deciding to issue the 2020 Final Rule (85 FR 44382, 44431 (July 22, 2020)).

Q.5.a. The OCC recently reaffirmed a 2003 Advisory Letter stating that in its experience “a departure from fundamental principles of loan underwriting generally forms the basis of abusive lending without a determination that a borrower can reasonably be expected to repay the loan.”²

Do you agree with the OCC that it is abusive to make a loan without a determination that a borrower can reasonably be expected to repay the loan? If yes, explain how you are ensuring that lenders determine that a borrower can reasonably be expected to repay the loan. If no, explain why you do not believe that all lenders should determine that a borrower can repay the loan?

A.5.a. The cited passage from 2003 OCC guidance relates to that agency’s exercise of its statutory responsibilities in supervising national banks, with an emphasis on issues associated with mortgage lending. It does not analyze the specific set of issues regarding small-dollar credit products that were relevant to the Bureau’s 2020 Payday Rule. The preamble to the Bureau’s rule explains the basis for the Bureau’s decision, under its statutory framework, to revoke the mandatory underwriting provisions for small-dollar lending. Among other reasons, revoking those provisions ensures that consumers have access to credit and ensures competition in that market. The Bureau is committed to ensuring that consumers can make well-informed choices among the small-dollar products available to them. To assist in achieving that objective, the Bureau

²<https://occ.gov/news-issuances/Federal-register/2020/nr-occ-2020-97a.pdf>.

announced that it will undertake new research focusing on whether and how additional information on payday loans might improve consumer understanding.

Q.6. You have repeatedly talked about the importance of consumer choice and disclosure. At the July 29, 2020, hearing, you stated the Bureau was “enabling consumers to understand products.” What concrete steps have you taken to ensure that consumers understand payday products?

A.6. The Bureau has several consumer education resources about payday loans. Payday loans are one of the featured topics under the “Consumer Tools” section of the Bureau’s homepage. Within the payday loans page, consumers can learn how payday loans work, how to assess if a payday loan is a good option for the individual’s circumstances, typical costs and fees associated with a payday loan, how to resolve common issues, and consumers’ rights associated with payday loans.

The Bureau has also published more than 30 “Ask CFPB” questions about payday loans. “Ask CFPB” is a series of commonly asked questions and answers about financial topics that are presented in an easy to understand manner. Additionally, there is a section on payday loans in the Bureau’s Your Money, Your Goals toolkit that explains how payday loans work and how to calculate the costs and fees associated with the loan. Your Money, Your Goals is a suite of financial empowerment tools and resources that social services staff and volunteers who work with economically vulnerable consumers can use to build their own financial skills and confidence and help the people they serve better manage their finances.

Q.7. When the CFPB finalized the 2020 Payday Rescission rule, the CFPB press release indicated that the Bureau would be starting a research project on payday lending disclosures. Please provide details as to the number of staff working on that project, what their mandate is, and what the expected timeframe is, and what, if anything, staff have learned to date?

A.7. Several researchers and other Bureau staff in the Division of Research, Markets, and Regulation are working on the payday disclosure research. The proposed research focuses on whether and how additional information on payday loans might improve consumer understanding. The current disclosure testing timeline anticipates a completion date for the qualitative testing in 2021. The Bureau has no findings to share at this time given cognitive interviews (formal testing) have not yet started, though the Bureau anticipates issuing the Federal Register notice for a 30-day public comment period this fall.

Debt collection

Q.8. The CFPB has the authority under the FDCPA to prohibit debt collectors from engaging in any conduct “the natural consequence of which is to harass, oppress, or abuse.” Given the current economic crisis, why hasn’t the CFPB considered emergency relief to halt certain debt collection activities? Please state whether the CFPB will pursue the following (and if not, explain why not).

A.8. The Bureau will continue to use all of its tools to address the acts and practices of debt collectors that violate the law and cause injury to consumers. On March 20, 2020 (and updated on June 17, 2020), the Bureau published information for consumers specific to debt collection and the potential economic impact of coronavirus.³ Much of the other substantial support the Bureau has given consumers is intended at least in part to help them take steps that would help them manage their credit and prevent their debts from going into collection.

The Bureau is currently finishing a major update of consumer protections in debt collection. The Bureau issued an NPRM on May 7, 2019, and received over 14,000 comments in response. The proposal would provide consumers with specific protections against harassment by debt collectors and straightforward options to address or dispute debts. Among other things, the NPRM proposal would establish clear, bright-line limits on the number of calls debt collectors may place to reach consumers on a weekly basis; clarify how collectors may communicate lawfully using technologies, such as voicemails, emails and text messages, that have developed since the Fair Debt Collection Practices Act (FDCPA) passage in 1977; and require collectors to provide additional information to consumers to help them identify debts and respond to collection attempts.

The Bureau issued a Supplemental NPRM on February 21, 2020. The proposal would prohibit collectors from using nonlitigation means (such as calls) to collect on time-barred debt unless collectors disclose to consumers during the initial contact and on any required validation notice that the debt is time-barred. Consumer research conducted by the Bureau found that a time-barred debt disclosure helps consumers understand that they cannot be sued if they do not pay. That can help consumers make better informed decisions whether to pay the debt or not.

In accordance with the Administrative Procedure Act, the Bureau has carefully considered comments received on the May 2019 proposed rule that would prescribe rules under Regulation F to govern the activities of debt collectors, as that term is defined under the FDCPA and expects to issue a final rule in October 2020. In December 2020, the Bureau also plans to issue a final rule on its supplemental proposal issued in February 2020, which addressed time-barred debt disclosures, and any remaining proposed issues. The Bureau extended the deadline for comments on that proposal to August 4, 2020, in light of the COVID-19 pandemic.

Q.8.a. Issue an interim rule or guidance banning collectors from threatening or filing collection lawsuits?

A.8.a. Please see the response to question 8.

Q.8.b. Issue an interim rule or guidance banning in-person debt collection during the pandemic?

A.8.b. Please see the response to question 8.

Q.8.c. Issue an interim rule or guidance prohibiting bank account or wage garnishment during the pandemic?

³ <https://www.consumerfinance.gov/about-us/blog/coronavirus-and-dealing-debt-tips-help-ease-impact/>.

A.8.c. Please see the response to question 8.

Q.8.d. Issue an interim rule or guidance prohibiting garnishment or offset of CARES Act Economic Impact Payments?

A.8.d. Please see the response to question 8.

Q.8.e. Issue an interim rule or guidance prohibiting car repossessions so that people can drive to doctors and do not need to risk their lives on public transportation (if public transport is even available)?

A.8.e. Please see the response to question 8.

Q.8.f. Issue an interim rule or guidance prohibiting repossessions of mobile homes and other personal property used as a dwelling while stay-at-home orders are in effect?

A.8.f. Please see the response to question 8.

Q.9.a. The CFPB has received record-setting levels of complaints, especially involving debt collection.

What are the top issues raised in consumers' debt collection complaints since March 1?

A.9.a. From March 1, 2020, through August 31, 2020, the Bureau received approximately 266,100 complaints, including approximately 41,000 about debt collection. (For the same period in 2019, the Bureau received approximately 184,300 complaints, including approximately 40,300 complaints about debt collection.)

For debt collection complaints submitted from March 1, 2020, through August 31, 2020, consumers submitted approximately 21,100 complaints about attempts to collect debt not owed and approximately 7,700 complaints about written notification of debt. These top issues are consistent with other complaints for the same period in 2019.

Q.9.b. How does the proposed debt collection rule address the issues raised in these complaints since March 1?

A.9.b. As noted in the response to Q.9.a., the top issues raised in consumers' debt collection complaints since March 1, 2020, have been largely consistent with the complaints historically raised by consumers. The Bureau considered and incorporated concerns raised in consumer complaints when evaluating and issuing the proposed debt collection rule and continues to consider further feedback, including over 14,000 public comments, in its rulemaking activities.

Q.9.c. Will the CFPB reopen the comment period on the debt collection rule in light of any lessons learned from the pandemic?

A.9.c. In accordance with the Administrative Procedure Act, the Bureau has carefully considered comments received on the May 2019 proposed rule that would prescribe rules under Regulation F to govern the activities of debt collectors, as that term is defined under the FDCPA and expects to issue a final rule in October 2020. In December 2020, the Bureau also plans to issue a final rule on its supplemental proposal issued in February 2020, which addressed time-barred debt disclosures, and any remaining proposed issues. The Bureau extended the deadline for comments on that proposal to August 4, 2020, in light of the COVID-19 pandemic.

Q.9.d. What other steps is the CFPB taking to address the top issues for debt collection complaints during the pandemic?

A.9.d. The Bureau routes consumers' complaints about financial products and services—and any documents they provide—directly to financial companies, and works to get consumers a timely response, generally within 15 days. Where appropriate, the Bureau refers consumer complaints to other Federal agencies including debt collection complaints submitted about depository institutions with less than \$10 billion in assets and complaints submitted about telecommunications companies, homeowners' associations, and landlords.

On March 20, 2020, the Bureau posted a comprehensive guide for consumers who are concerned about dealing with debt and debt collectors during the pandemic. The guide was updated on June 17th. The guide describes for consumers the rights they have under the FDCPA, outlines steps consumers can take to manage debt during the pandemic, provides links to the Bureau's preexisting sample letters that consumers can use to communicate with debt collectors, and warns consumers about protecting themselves against debt collection scams. The guide is one of a number of resources created for consumers to help them manage and protect their finances during the pandemic.

In addition to the Bureau's education tools, we continue to monitor the market for law violations. We also continue to process comments on our NPRM on time-barred debt as well as continue to work on our final rule on debt collection.

Q.9.e. Will the CFPB provide any guidance to debt collectors warning them about risks to consumers?

A.9.e. In accordance with the Administrative Procedure Act, the Bureau has carefully considered comments received on the May 2019 proposed rule that would prescribe rules under Regulation F to govern the activities of debt collectors, as that term is defined under the FDCPA and expects to issue a final rule in October 2020. The Bureau intends to continue its debt collection work through enforcement, supervision, and rulemaking. In addition, the Bureau's supervisory findings in examinations of larger participants in the consumer debt collection market are regularly reported to the public through Supervisory Highlights.

Q.10. Has the CFPB reassessed the proposed debt collection rule in light of consumer complaints since March 1?

A.10. The Bureau's proposed debt collection rule focuses on debt collection communications and disclosures, as well as addressing related practices by debt collectors. The Bureau closely follows issues raised in consumer complaints that relate to topics covered by the proposed debt collection rule. As noted above, the complaints to the Bureau concerning debt collection during the pandemic raise issues that are consistent with issues raised in prepandemic complaints, and the Bureau reviewed prepandemic complaints closely for information relevant to the rulemaking. As such, no reassessment in light of the pandemic complaints was necessary. The Bureau will continue to consider feedback and other information in reviewing the proposed rules as it moves forward toward final rules.

Q.10.a. Has the CFPB received complaints about collection activities involving various forms of electronic communications? If so, what actions is the CFPB taking in response to these complaints?

A.10.a. The Bureau’s complaint submission process is designed to centralize the collection of, monitoring of, and response to complaints about consumer financial products and services.⁴ When submitting complaints to the Bureau, consumers identify the issue—and when applicable, the sub-issue—that best describes the problem they experienced and provide their description of what happened.

The Bureau takes several actions in response to complaints. The Bureau routes complaints directly to financial companies and works to get consumers a timely response. The Bureau also analyzes and shares complaint data. These analyses support the Bureau’s work to supervise companies, enforce Federal consumer financial laws, propose rules, spot and assess emerging issues, and develop tools that help empower consumers to make informed financial decisions.

Q.10.b. Has the CFPB received complaints about debt collector communications with employers? If so, what actions is the CFPB taking in response to these complaints?

A.10.b. From March 1, 2020, through August 31, 2020, consumers submitted approximately 200 debt collection complaints to the Bureau in which they identified debt collectors contacting their employers as the sub-issue that best describes their problem with debt collectors. The Bureau takes the same actions described in 10(a) in response to these complaints.

Q.10.c. Has the CFPB received complaints about the collection of time-barred debt? If so, what actions is the CFPB taking in response to these complaints?

A.10.c. From March 1, 2020, through August 31, 2020, consumers submitted approximately 900 debt collection complaints to the Bureau in which they identified debt collectors threatening to sue them for very old debt as the sub-issue that best describes their problem with debt collectors. The Bureau takes the same actions described in the response to question 10(a) in response to these complaints.

Q.10.d. Has the CFPB received complaints about wage or bank garnishment involving time-barred debt? If so, what actions is the CFPB taking in response to these complaints?

A.10.d. A keyword search of the database for terms related to wage garnishment (e.g., garnishment) returns approximately 100 keyword matches for debt collection complaints where consumers described garnishment for very old debts for data from March 1, 2020, through August 31, 2020. The Bureau takes the same actions described in the response to question 10(a) in response to these complaints.

⁴ 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).

COVID-19 response

Q.11. What research has the CFPB undertaken on the repercussions of COVID-19 on the consumer financial markets or on consumers?

A.11. On May 1, 2020, the Bureau published a report on the effects of the pandemic on credit applications, examining how the pandemic shaped the demand for credit in the early weeks of the crisis.⁵ The Bureau also released a report on August 31, 2020, on the pandemic's early effects on consumer credit. Both reports rely heavily on the Consumer Credit Panel.⁶ As economic conditions evolve, we anticipate issuing additional research reports that track the impact of the pandemic on consumers and consumer financial markets using the Consumer Credit Panel. Also, the Bureau is fielding two waves of the Making Ends Meet survey during the pandemic, one wave in May, and the other wave this fall. This survey is linked to the Consumer Credit Panel and will provide additional insights into how the pandemic is affecting consumers.

Q.11.a. Why has this not been a bigger priority at the CFPB?

A.11.a. This has been a Bureau priority, as illustrated by the research described above. The Bureau welcomes feedback on the research agenda described above, as well as suggestions for other research.

Q.11.b. How is the CFPB using the Consumer Credit Panel in making policy decisions during COVID, if at all?

A.11.b. The Consumer Credit Panel has been a resource the Bureau has relied upon for several years in its policy decisions, including during the pandemic. With the Consumer Credit Panel, we are able to monitor consumer credit markets with short lags, as well as to keep abreast of the status of the financial health of consumers. Findings from the data inform many of the decisions the Bureau takes.

Q.12. I wrote to you in May seeking additional information on the Borrower Protection Program (BPP) that CFPB and the Federal Housing Finance Agency (FHFA) announced in April. Unfortunately, several of my questions were not fully answered in your response. Please respond to the following questions.

Q.12.a. Has the CFPB requested or will the CFPB request information on race, ethnicity, and other protected classes under the Equal Credit Opportunity Act from FHFA under the BPP to facilitate oversight of fair lending requirements in mortgage servicing? If not, why not?

A.12.a. Based on my understanding of the data that the FHFA possesses, the Bureau has not requested borrower-level information, including with respect to race, ethnicity, and other protected classes.

Q.12.b. Has the CFPB requested or will the CFPB request information on servicemember status from FHFA under the BPP to

⁵<https://www.consumerfinance.gov/data-research/research-reports/covid-19-early-effects-credit-applications/>.

⁶<https://www.consumerfinance.gov/data-research/research-reports/special-issue-brief-early-effects-covid-19-pandemic-on-consumer-credit/>.

facilitate compliance with the Servicemembers Civil Relief Act? If not, why not?

A.12.b. The Bureau did not request and does not plan to request such information. The Bureau does not have oversight or enforcement responsibilities as to the Servicemembers Civil Relief Act.

Q.12.c. Has the CFPB begun any prioritized assessments based on the information received under the BPP? If not, why not?

A.12.c. Supervision's efforts conducting Prioritized Assessments and the Bureau's receipt and evaluation of information under the BPP are both ongoing. The results of this analysis and the monitoring of any trends will help the Bureau determine whether any follow-up work at particular institutions is warranted. Such follow-up work could be under the Prioritized Assessment framework or could involve more in-depth supervisory work.

Q.12.d. Is the CFPB using FHFA data for any purpose other than determining whether to conduct prioritized assessments? If not, why not?

A.12.d. This servicer-specific forbearance data supplements other sources so the Bureau can better monitor how servicers are handling these forbearances, informing ongoing risk-assessments that might inform future examinations and other supervisory work, as well as our market monitoring activities. In addition, through the Bureau's Government Portal, FHFA can securely view near real-time information about consumer complaints in a user-friendly format that allows simple identification of complaints referred to the Bureau or another Federal regulator or agency and other archived complaints.

Q.13. The HUD and Federal Housing Finance Agency Inspectors General found that many mortgage servicer websites had incomplete, inconsistent, and incorrect forbearance information. Has the Bureau taken any steps to penalize servicers that are not in compliance with the CARES Act forbearance requirements?

A.13. Supervision is engaging in work to assess the information servicers are providing to borrowers about forbearances during this crucial time period consistent with their responsibilities under the law. We do not comment on Enforcement investigations, and we have not announced any public actions to date on this topic.

Q.14. On April 1, 2020, the Bureau issued guidance regarding furnishers' responsibilities under the CARES Act.⁷ That guidance announced that "in response to staffing and resource constraints on lenders and credit bureaus due to the pandemic," the Bureau "does not intend to cite in an examination or bring an enforcement action against firms who exceed the deadlines to investigate such disputes as long as they make good faith efforts during the pandemic to do so as quickly as possible."

Q.14.a. What evidence did the Bureau have that lenders and credit bureaus were suffering from "staffing and resource constraints?"

A.14.a. The Bureau has indicated that it will consider the unique challenges that furnishers and consumer reporting agencies (CRAs)

⁷ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-credit-reporting-guidance-during-covid-19-pandemic/>.

face due to the COVID–19 pandemic and that these challenges may depend on a company’s size, sophistication, and the type of business in which it engages. As the Bureau noted, furnishers include a wide variety of businesses that vary in size and sophistication and can range from small retailers to very large financial services firms. The Bureau, through its market monitoring function, is in frequent contact with lenders and creditors to better understand the impact of the pandemic and other market influences on consumers.

Q.14.b. Please identify each lender, credit bureau, or trade association that submitted information that lenders and credit bureaus were suffering from “staffing and resource constraints.”

A.14.b. The Bureau has been engaged with financial institutions and trade associations from almost every market as well as consumer advocates and other stakeholders most of whom have identified staffing, operational, and resource constraints resulting from the pandemic. Letters written to the Bureau by the National Association of Federally Insured Credit Unions and the Credit Union National Association are on their websites. The topic has also been discussed in our advisory board and council meetings and other public events by affected entities.

Q.14.c. Has the Bureau determined that lenders and credit bureaus continue to have “staffing and resource constraints” that justify the relief the Bureau provided to lenders and credit bureaus from responding to consumers disputes with the statutorily required time period?

A.14.c. We are continuously monitoring the situation through our supervisory, stakeholder engagement, and market monitoring functions.

Q.14.d. What guidance, if any, has the CFPB provided to furnishers and credit reporting companies about what constitutes a “good faith effort”?

A.14.d. The Bureau has stated that furnishers and CRAs remain responsible for conducting reasonable investigations of consumer disputes in a timely fashion and that it will evaluate individually the efforts and circumstances of each furnisher and CRA in determining if it made good faith efforts to investigate disputes as quickly as possible. The Bureau has indicated that it will consider the unique challenges that furnishers and CRAs face due to the COVID–19 pandemic and that these challenges may depend on a company’s size, sophistication, and the type of business in which it engages. As the Bureau noted, furnishers include a wide variety of businesses that vary in size and sophistication and can range from small retailers to very large financial services firms.

Q.14.e. Since April 1, for each month, how many consumer complaints has the Bureau received that lenders and credit bureaus have not timely responded to credit reporting disputes?

A.14.e. From April 1, 2020, to August 31, 2020, consumers have submitted 5,900 credit reporting complaints about investigations that took more than 30 days. See below for a breakdown by month.

Sub-issue	April 2019	May 2019	June 2019	July 2019	August 2019	Total
Investigation took more than 30 days	232	178	153	332	194	1,089
Percent of total monthly credit reporting complaints	1.9%	1.4%	1.2%	2.3%	1.3%	1.6%

Sub-issue	April 2020	May 2020	June 2020	July 2020	August 2020	Total
Investigation took more than 30 days	738	1,306	1,053	1,272	1,536	5,905
Percent of total monthly credit reporting complaints	3.2%	5.1%	4%	4.5%	5.3%	4.5%

On March 26, 2020, the Bureau announced that it was postponing some data collections “to allow companies to focus on responding to consumers in need and making changes to its supervisory activities to account for operational challenges at regulated entities.” This includes: “Quarterly information reporting by certain mortgage lenders as required under the Home Mortgage Disclosure Act (HMDA) and Regulation C”; “Reporting of certain information related to credit card and prepaid accounts under the Truth in Lending Act, Regulation Z, and Regulation E”; “A survey of financial institutions on the cost of compliance in connection with pending rulemaking on Section 1071 of the Dodd-Frank Act”; and “A survey of firms providing Property Assessed Clean Energy financing to consumers for the purposes of implementing Section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act.”

Q.15.a. For each data collection that was suspended, what evidence supports the Bureau’s contention that postponing data collection was necessary?

A.15.a. The Bureau received comments from a number of trade associations that the COVID-19 pandemic was impacting their member organizations’ ability to function. Standard operating procedures such as call-centers and other centralized staffing were severely impacted, when companies moved staffs to remote working conditions. This was not an option for all companies and all markets.

The Bureau provided needed flexibility to enable financial companies to work with customers in need as they respond to the COVID-19 pandemic. As part of this effort, the Bureau postponed data collections from industry on certain Bureau-related rules to allow companies to focus on responding to consumers in need and made changes to its supervisory activities to account for operational challenges at regulated entities. Some of the data collections discussed above (HMDA quarterly reporting, TILA reporting) were not suspended, since they are required by statute/rule, and instead the Bureau provided supervisory/enforcement flexibility. These flexibilities are temporary and targeted to support consumers by allowing financial companies to focus their resources on assisting consumers.

The Bureau has resumed certain data collections, including the survey of financial institutions on the cost of compliance in connection with pending rulemaking on Section 1071 of the Dodd-Frank Act. Additionally, the Bureau has taken initial steps to field the survey of firms providing Property Assessed Clean Energy financing to consumers for the purposes of implementing Section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act.

Q.15.b. Please identify each entity that requested such postponement.

A.15.b. Letters written to the Bureau by the National Association of Federally Insured Credit Unions and the Credit Union National Association are on their websites. The topic has also been discussed in our advisory board and council meetings and other public events by affected entities.

Q.15.c. What evidence supports the Bureau's contention that postponing data collection would allow companies to focus on responding to consumers and making changes to supervisory activities?

A.15.c. The Bureau received anecdotal comments from industry indicating that postponing data collection requirements would allow entities to focus limited resources on serving their customers. Examples cited were Home Mortgage Disclosure Act (HMDA) and Regulation C requirements that can be resource intensive for those entities required to satisfy the data reporting requirements of HMDA. In response to this feedback, the Bureau announced that it will not expect quarterly HMDA reporting in order to provide supervised financial institutions with flexibility, reduce administrative burden, and allow each institution to focus its time and attention on serving its customers.

Some entities stated that due to business conditions brought by the pandemic, there was not enough time to timely resolve error disputes (Reg E) and requested an extension to three or four billing cycles to resolve error disputes and inquiries. Another concern of both trade associations and individual card issuers was the ability of companies to issue timely resolution to billing disputes. They identified the challenge of accurate billing during the pandemic. Due to limited staff, lenders may need more than the Reg Z required 10-day acknowledgment. Industry requested the Bureau provide a safe harbor for good faith efforts to comply.

Q.16.a. The Equal Credit Opportunity Act applies to lending to small businesses and the Bureau has supervisory and enforcement authority under the ECOA.

How many examinations has the Bureau conducted to date with respect to whether lenders complied with the ECOA in implementing the PPP?

A.16.a. Information regarding specifics about the number of institutions the Bureau is assessing or plans to assess is confidential supervisory information (CSI), and the Bureau cannot comment on such CSI. I can say that the Bureau is committed to using its supervisory authorities and resources to fulfill its mission on a risk-prioritized basis. The Bureau's supervision program reviewed and analyzed current pandemic-related market developments to determine where COVID-19-related issues are most likely to pose a risk to consumers. As a result of that review, the Bureau launched a new supervisory effort, called Prioritized Assessments, to focus on where it believes the risks are highest to consumers who have lost jobs or income and have trouble making loan payments that are due. The Bureau is also prioritizing markets where Congress provided special provisions to help consumers or small businesses in the CARES Act. Accordingly, the Bureau is deploying some of its resources—on a risk-assessed basis—to Prioritized Assessments of institutions participating in the PPP in order to evaluate fair lending compliance risks.

Q.16.b. Will you commit to making this a priority for examinations for the remainder of this year?

A.16.b. The Bureau is committed to using our supervisory authority to prevent violations of Federal consumer financial law and consumer harm, including in the context of small business lending. Please see the response to Q.16.a.

Q.17. As Senator Menendez made clear, there are indications that there are racial disparities emerging in access to mortgage forbearances. Please explain what actions the CFPB is taking to determine if there are differences in access to forbearance or post-forbearance outcomes by race, gender, national origin.

A.17. During the pandemic, the Bureau continues to be committed to enforcing fair lending laws in all markets under our jurisdiction. We are monitoring the marketplace in real-time and coordinating on an ongoing basis with Federal and state agencies and regulators. Specifically, regarding fair lending, the Bureau continues to enforce the Equal Credit Opportunity Act (ECOA). In doing so, we are monitoring the market for potential illegal activity in high-risk areas, including discrimination in the provision of forbearance, mortgage modifications or other accommodations. Currently, the Bureau is conducting Prioritized Assessments, which focus in part on mortgage servicing. Implemented in response to COVID-19 pandemic, Prioritized Assessments are specifically designed to obtain real-time information from entities that operate in markets posing elevated risk of consumer harm due to pandemic-related issues.

Q.18.a. The CFPB has promised mortgage servicers that it will not enforce the loss mitigation rules provided they are making a good faith effort to assist borrowers during the pandemic.

What guidance, if any, has the CFPB provided to mortgage servicers about what constitutes a “good faith effort”?

A.18.a. On April 3, 2020, the Bureau, along with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Conference of State Banking Supervisors issued the Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the COVID-19 Emergency and the CARES Act (Joint Statement). The Joint Statement acknowledges that the COVID-19 emergency could pose temporary business disruptions and challenges for mortgage servicers, including staffing challenges and high call volumes, that could impede servicers’ ability to assist consumers at this critical time. To provide flexibility during this time, the Joint Statement indicates that the agencies do not intend to take supervisory or enforcement action against servicers for delays in sending certain required notices or in taking certain required actions, provided that servicers are making good faith efforts to send these notices or take these actions within a reasonable time. The Bureau has not provided separate guidance to mortgage servicers about what constitutes a “good faith effort.”

The Bureau is conducting Prioritized Assessments including of mortgage servicers. Through Prioritized Assessments, the Bureau is expanding its supervisory oversight to cover a greater number of institutions than our typical examination schedule allows, gaining a greater understanding of industry responses to pandemic-related challenges, and helping ensure that entities are attentive to practices that may result in violations of Federal consumer financial law or consumer harm. To better understand these risks and better ensure institutions comply with their obligations, the Bureau sent Prioritized Assessments to a range of mortgage loan servicers. Each of the mortgage servicers that we selected for a Prioritized Assessment received targeted information requests covering information necessary to help us better understand how servicers are communicating repayment options to consumers, to analyze operational risk at servicers in executing on forbearance programs, and to review servicers’ furnishing activities.

Importantly, while we are willing to work with companies in a temporary and targeted manner to help them help their customers, we will not tolerate those who would exploit the current crisis at the expense of consumers. We are committed to vigorously enforcing consumer financial law in all markets under our jurisdiction and the pandemic does not change that.

Q.18.b. Can you identify any actions a servicer would take that would be inconsistent with the CFPB’s interpretation of good faith efforts?

A.18.b. The Bureau does not anticipate issuing public guidance on the definition of “good faith efforts,” which is dependent on particular facts and circumstances. Supervision is currently conducting Prioritized Assessments and the Bureau’s receipt and evaluation of information is ongoing now. The results of this analysis and the monitoring of any trends will help the Bureau determine whether any follow-up work at particular institutions is warranted.

Q.19.a. Senator Menendez asked you about your coronavirus webpage, and why it only offers a venue for housing discrimination complaints at HUD, but is silent on the ability of the CFPB to take fair lending complaints under ECOA.

Do you believe the CFPB have the ability to take fair lending complaints under ECOA?

A.19.a. Yes, the Bureau is able to, and does, take fair lending complaints under ECOA. Consumers' complaints support the Bureau's work to supervise companies and enforce Federal consumer financial laws, including ECOA. The Bureau handles complaints about consumer financial products and services, including with respect to potential discrimination under ECOA. The Bureau has previously provided the public with information on warning signs for discrimination and encouraged consumers to submit a complaint to the Bureau if the consumer believes that a lender has discriminated against the consumer.⁸ When consumers submit complaints, the Bureau asks them to identify the consumer financial product or service with which they have a problem. Consumers describe what happened and are prompted to include dates, amounts, and actions they have taken or actions of the company about which they are submitting a complaint. Consumers can attach supporting documentation to their complaint, which often helps companies assess issues raised by consumers.

The Bureau also shares consumer complaint information with prudential regulators, the Federal Trade Commission, other Federal agencies, and state agencies to inform their work.

Q.19.b. Do you agree that ECOA covers mortgage servicers?

A.19.b. Yes, to the extent that they are "creditors" under ECOA and its implementing regulation, Regulation B. ECOA and Regulation B apply to all creditors and prohibit discrimination in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to contract), receipt of public assistance income, or exercise in good faith of any right under the Consumer Credit Protection Act. (12 CFR 1002.2(z), 1002.4(a)). Credit transactions encompass "every aspect of an applicant's dealings with a creditor regarding an application for credit or an existing extension of credit."

Q.19.c. Will the CFPB take fair lending complaints?

A.19.c. Consumers can submit complaints about consumer financial products and services, including fair lending issues.

Q.19.d. Why is the CFPB's signature coronavirus response, the joint webpage with HUD and FHFA, silent on lending discrimination?

A.19.d. The Bureau continues to accept complaints from consumers involving fair lending issues. Information on how to file complaints with the Bureau, with direct links to our complaint intake system, is provided in the content on many of the Bureau's webpages, including our main webpage for consumer resources related to the coronavirus pandemic.⁹

⁸<https://www.consumerfinance.gov/fair-lending/>.

⁹<https://www.consumerfinance.gov/coronavirus/>.

We have also clarified on the interagency Mortgage and Housing Assistance portal that borrowers are protected by Federal law against lending discrimination.

Q.20. Do you think lending discrimination was a factor in PPP lending? Why or why not?

A.20. The Bureau takes seriously our responsibility for enforcement of the Equal Credit Opportunity Act and Regulation B, which includes fair lending in the small business lending market. Recognizing the risks of consumer harm during the pandemic, the Bureau is engaged in Prioritized Assessments across product lines and entities, including small business lending. It is notable that the Bureau also supported the Small Business Administration (SBA) and the Department of the Treasury (Treasury) in promoting awareness of the PPP and its benefits, particularly outreach to minority-owned small businesses and financial institutions. As part of that support, a senior executive with extensive knowledge of mission-focused small business lending and lenders was detailed to SBA soon after the launch of the program to help advise the agency on how to best use this channel to reach underserved small businesses. The advice provided helped inform Treasury and SBA on program enhancements they made which ultimately helped to lower the average PPP loan size and more actively engage Community Development Financial Institutions, Minority Depository Institutions and other mission lenders.

Q.21. What steps, if any, has the CFPB taken to mitigate the harm done to small business owners of color who were unable to access Paycheck Protection Program loans?

A.21. Please see the response to Q.21.b.

Q.21.a. Does the CFPB agree that it has jurisdiction over PPP lenders?

A.21.a. The Bureau is responsible for providing oversight and enforcement of certain Federal laws intended to ensure fair, equitable, and nondiscriminatory access to credit for both individuals and communities. These Federal laws include ECOA, which prohibits creditors from discriminating on a prohibited basis in any aspect of a credit transaction against any applicant. This statute is an enumerated consumer law over which the Bureau has supervisory, enforcement, and rulemaking authority. While the Bureau has authority to supervise large banks for compliance with ECOA, we do not have authority to assess compliance of smaller banks.

Lenders that fit the definition of a creditor under ECOA, and its implementing regulation, Regulation B, must comply with the statute and the regulation, whether they provide consumer credit or business-purpose credit, including credit extended to small businesses. Accordingly, ECOA protects business owners, including applicants to the PPP, from discrimination on the basis of race, color, national origin, sex, and other protected characteristics.

Q.21.b. When did the CFPB first become aware of the racial disparities in PPP lending?

A.21.b. The Bureau takes seriously our responsibility for enforcement of the Equal Credit Opportunity Act and Regulation B, which includes fair lending in the small business lending market. Recog-

nizing the risks of consumer harm during the pandemic, the Bureau is engaged in Prioritized Assessments across product lines and entities, including small business lending. It is notable that the Bureau also supported SBA and the Treasury in promoting awareness of the PPP and its benefits, particularly outreach to minority-owned small businesses and financial institutions. As part of that support, a senior executive with extensive knowledge of mission-focused small business lending and lenders was detailed to SBA soon after the launch of the program to help advise the agency on how to best use this channel to reach underserved small businesses. The advice provided helped inform Treasury and SBA on program enhancements they made which ultimately helped to lower the average PPP loan size and more actively engage Community Development Financial Institutions, Minority Depository Institutions and other mission lenders.

Q.21.c. What steps, if any, has the CFPB taken to address those racial disparities?

A.21.c. Please see the response to question Q.21.b.

Fair Lending

Q.22.a. During your testimony on July 29, 2020, you stated that there were “challenges” to bringing fair lending actions.

Aside from the whistleblower program, what is the CFPB doing to bring fair lending cases?

A.22.a. The Bureau uses a risk-based approach to prioritize fair lending enforcement activity. This approach helps ensure that the Bureau focuses on areas that present substantial risk of credit discrimination for consumers. The prioritization process incorporates a number of factors, including: emerging developments and trends, tips and leads from industry whistleblowers, advocacy groups, and Government agencies; supervisory and enforcement history; consumer complaints; and results from analysis of HMDA and other publicly available data. In recent years, one key area in which the Bureau is focusing its fair lending enforcement efforts has been addressing potential discrimination in mortgage lending, including the unlawful practice of redlining. In bringing enforcement actions, the Bureau engages in research, issues subpoenas, and holds investigational hearings. The Bureau has independent litigating authority and can file cases administratively or in Federal court alleging violations of fair lending laws under the Bureau’s jurisdiction. Like other Federal bank regulators, the Bureau refers matters to the Department of Justice when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.

Q.22.b. What hurdles has the CFPB identified to bringing more fair lending cases?

A.22.b. Because credit discrimination is often hidden or even unintentional, it is difficult to identify. The Bureau’s mission is to ensure all consumers have access to consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive. The Bureau will continue to fulfill that mission while exploring ways to increase access to credit for all. The Bureau is committed to fair lending and will continue to vigorously enforce fair lending laws within our

jurisdiction. To further strengthen our fair lending enforcement, the Bureau has asked Congress for the authority to compensate whistleblowers who can provide information allowing us to take swift action against companies for violating the law. While discriminatory policies can be challenging and time consuming to uncover in an examination or investigation, an employee with first-hand knowledge can be a key source of information to help the Bureau identify and address fair lending violations.

Q.22.c. Has the CFPB hired any additional attorneys or economists to conduct fair lending investigations?

A.22.c. As of August 2020, Enforcement has an allotted headcount of approximately 150 full-time employees including over 80 line attorneys to conduct its work, including fair lending investigations. In addition, Enforcement has economists and obtains outside experts as needed in its fair lending investigations. Enforcement attorneys are generalists who can participate in the investigation of any potential violation of Federal consumer financial law, including those focused on fair lending. The resources Enforcement deploys on any particular matter is dependent on a number of factors, including the facts and circumstances of that particular investigation.

Q.22.d. What does the CFPB believe accounts for the persistence of lending discrimination in the market and what steps is the CFPB taking to reduce its persistence?

A.22.d. I welcome discussion and evaluation of the possible cause or causes of the persistence of lending discrimination in the market. The Bureau will continue to enforce fair lending laws in our jurisdiction to prevent and deter such lending discrimination. The Bureau uses the tools Congress has provided—education, regulation, supervision, and enforcement—to carry out its fair lending responsibilities.

Q.23.a. Director Kraninger, you referenced the CFPB blog on fair lending during the July 29, 2020, hearing. In that blog the CFPB identified consumer education and skills building tools as part of the CFPB's response to fair lending.

Do you believe consumers have an obligation to protect themselves from discrimination in the market?

A.23.a. The Bureau plays an important role in informing consumers of their rights in the consumer financial marketplace. The purpose of ECOA and its implementing regulation, Regulation B, is to promote the availability of credit to all creditworthy applicants without regard to race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract); to the fact that all or part of the applicant's income derives from a public assistance program; or to the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The regulation further prohibits creditor practices that discriminate on the basis of any of these factors. To further the intended purpose of ECOA and Regulation B, the Bureau continues to enforce fair lending laws within our jurisdiction. The Bureau uses the tools Congress provided—education, regulation, supervision, and enforcement—to carry out its fair lending responsibilities.

Q.23.b. How do the CFPB's skill building tools address discrimination?

A.23.b. Specifically, the Bureau has several resources to educate and engage consumers on issues related specifically to lending discrimination. The Bureau's educational offerings are available online and in print. The Bureau has a webpage solely dedicated to fair lending that provides information on ECOA and how consumers are protected under the law.¹⁰ The website serves as a hub for information on the Bureau's fair lending efforts, providing access to recent blog posts, reports, press releases regarding fair lending public enforcement actions and other resources to help educate and empower consumers. The Bureau has also directly addressed fair lending concerns in three recent blog posts, pertaining to the importance of fair and equitable access to credit for minority and women-owned businesses,¹¹ Bureau resources available in languages other than English,¹² as well as Special Purpose Credit Programs,¹³ which are intended to meet the credit needs of underserved communities.

The Bureau developed brochures on lending discrimination for consumers (in both English and Spanish)¹⁴ and for organizations that work with consumers (also in both English and Spanish).¹⁵ Because lending discrimination is frequently hidden, it can be difficult to identify. The brochures describe potential warning signs and offer specific tips on how consumers can help protect themselves from discrimination. Due to its popularity, the Bureau is currently translating the English and Spanish-language ECOA brochures into Chinese, Vietnamese, Tagalog, Korean, French Creole, Arabic, and Russian.

Further, HMDA data may be used to help identify potential fair lending risks. The Bureau hosted three (3) webinars on HMDA for community groups and consumer advocates. These skill-building webinars provided background information on HMDA, including the types of mortgage transactions and the specific data points reported under the law, and a live step-by-step demonstration on how to use our HMDA Data Browser.

The Bureau regularly engages in direct outreach with consumers and other stakeholders, including civil rights organizations, community groups, consumer advocates, industry, academia, and other Government agencies, to educate them about fair lending and access to credit issues.

Q.23.c. What is different about the CFPB's approach to consumer education from prior efforts at consumer education that have failed to eradicate lending discrimination?

¹⁰ <https://www.consumerfinance.gov/fair-lending/>.

¹¹ <https://www.consumerfinance.gov/about-us/blog/fair-equitable-access-credit-minority-women-owned-businesses/>.

¹² <https://www.consumerfinance.gov/about-us/blog/cfpb-multilingual-resources-webinar/>.

¹³ <https://www.consumerfinance.gov/about-us/blog/expanding-access-credit-underserved-communities/>.

¹⁴ https://files.consumerfinance.gov/f/documents/201703_cfpb_handout_ECOA_consumers.pdf and https://files.consumerfinance.gov/f/documents/201601_cfpb_handout_ECOA_consumers-Spanish.pdf.

¹⁵ https://files.consumerfinance.gov/f/documents/201703_cfpb_handout_ECOA_helping_consumers.pdf and https://files.consumerfinance.gov/f/documents/201601_cfpb_handout_ECOA_helping_consumers-Spanish.pdf.

A.23.c. The Bureau uses all the tools Congress provided—education, regulation, supervision, and enforcement—to carry out its fair lending responsibilities. Financial education helps consumers make better informed financial decisions. To that end, the Bureau has published consumer-facing materials that educate consumers and practitioners on the warning signs of discrimination.¹⁶ The Bureau’s approach to financial education is grounded in research on building blocks and drivers of financial well-being as well as the principles of effective financial education. Bureau research shows that financial skill, along with financial behavior are important factors in individual financial well-being. The Bureau’s tools for consumers and financial educators are designed to help consumers understand how to find, process and use relevant financial information, and take actions to reach their financial goals. These resources include steps to take; and questions to ask to help empower consumers to navigate the financial marketplace, including information about lending discrimination and how to submit a complaint to the Bureau.

Q.23.d. What measurable impact, if any, does the CFPB expect its consumer education to have on lending discrimination? How will the CFPB measure that impact to ensure it is wisely dedicating its resources to such efforts?

A.23.d. The Bureau uses all the tools Congress provided—education, regulation, supervision, and enforcement—to carry out its fair lending responsibilities. Financial education helps consumers make better informed financial decisions. The Bureau’s education tools are grounded in research about effective financial education. The Bureau hopes consumers will use its educational tools to help identify their own financial best interests and to help overcome opaqueness, discrimination, misrepresentations, or other obstacles to obtaining them. We monitor usage of the resources and work to ensure the information is available to consumers and organizations that work with consumers. For example, the Bureau’s ECOA brochure is available in Spanish and English and is being translated in seven other languages, due to its high demand.

Student Lending

During your March 10, 2020, testimony before the Senate Committee on Banking, Housing, and Urban Affairs, you described a “pilot” program with the Department of Education to conduct the Bureau’s first examination of a servicer of federally held student loans in more than 2 years. The Department of Education (Department) also has described this joint examination as a “pilot” program. During a staff briefing on July 24, 2020, Brian Schneider, the Bureau’s Associate Director for the Division of Supervision, Enforcement, and Fair Lending, reiterated that the joint examination was just a “pilot” and that the Bureau and Department had not re-established the Memorandum of Understanding necessary for the Bureau to examine servicers of federally held student loans (Supervisory MOU). Yet, during your testimony before the House Financial Services Committee on July 30, 2020, you stated that the Bureau is “unencumbered” by the Department of Education in car-

¹⁶ See generally, <https://www.consumerfinance.gov/fair-lending/>.

rying out supervisory examinations of servicers of federally held student loans.

Q.24.a. Has the Bureau reestablished the Supervisory MOU with the Department?

A.24.a. The Bureau has not entered into a new Supervisory MOU with the Department of Education. Supervision is coordinating with the Department of Education on supervisory work at student loan servicers covering Federal loans. The Bureau generally considers the number of supervisory engagements in a particular product line confidential supervisory information and has only provided the total number of supervisory events in a given fiscal year rather than any subset associated with a particular product line or law (with the exception of fair lending).

This quarter, our supervisory work includes Prioritized Assessments to obtain information from student loan servicers and other entities that operate in markets posing elevated risk of consumer harm due to pandemic-related issues.

Through Prioritized Assessments, the Bureau is expanding its supervisory oversight to cover a greater number of institutions than our typical examination schedule allows, gain a greater understanding of industry responses to pandemic-related challenges, and help ensure that entities are attentive to practices that may result in violations of Federal consumer financial law or consumer harm. To better understand these risks and better ensure institutions comply with their obligations, the Bureau sent Prioritized Assessments to a number of student loan servicers.

Each of the student loan servicers that we selected for a Prioritized Assessment received targeted information requests covering information necessary to help us better understand how servicers are communicating repayment options to consumers, to analyze operational risk at servicers in executing on programs designed to help consumers manage financial difficulties, and to review student loan servicers' furnishing activities. We are coordinating with the Department of Education on this effort and look forward to evaluating the responses we receive related to both private and federally owned loans.

Q.24.b. As of July 30, 2020, was the Bureau under any restrictions from the Department in accessing borrower loan or other information necessary to conduct complete and comprehensive examinations of servicers of federally held student loans?

A.24.b. Please see the response to Q.24.a.

Q.24.c. Has the Department agreed to allow the Bureau access to all information required for the Bureau to conduct complete and comprehensive supervisory examinations of servicers of federally held student loans?

A.24.c. Please see the response to Q.24.a.

Q.24.d. If yes, please provide a copy of the MOU or any other document that memorializes the Department's agreement.

A.24.d. Please see the response to Q.24.a.

Q.24.e. Aside from the “joint” examination that the Bureau previously disclosed, is the Bureau currently examining any other servicers of federally held student loan?

A.24.e. Please see the response to Q.24.a.

Q.24.f. Does the Bureau have any other examinations of servicers of federally held student loans scheduled during 2020?

A.24.f. Please see the response to Q.24.a.

Task Force/Advisory Committees

Q.25. During Director Cordray’s tenure there was considerable controversy over the Bureau’s advisory committees. Director Cordray chose to follow the Federal Advisory Committee Act even before Congress amended the Dodd-Frank Act to apply FACA to the Bureau. Yet when you created a Task Force on Consumer Financial Laws you made its members employees of the Bureau at considerable cost so that you could get around the Federal Advisory Committee Act. What are the reasons for your decision to establish the Taskforce outside of the requirements of FACA?

A.25. The Taskforce is an intragovernmental committee and not subject to the Federal Advisory Committee Act (FACA). It would not be appropriate for me to comment further as the Taskforce’s creation is now the subject of active litigation.

Q.26. Please state how much the CFPB has compensated each Taskforce member for each month since January, as well as total expected compensation for their tenure as Taskforce members.

A.26. Four Taskforce members—Howard Beales, Thomas Durkin, William MacLeod, and Jean Noonan—are Bureau hires designated as Special Government Employees. These individuals serve in expected service positions and are on intermittent work schedules. Their Special Government Employee (“SGE”) designations reflect the Bureau’s determination at the time of their appointments that they would serve no more than 130 days during the ensuing 365 consecutive days. Their total compensation will depend on the number of hours they ultimately work and the amount of work required to complete the Taskforce’s objectives. The compensation of these individuals is:

Taskforce Member	January	February	March	April	May	June	July	August
Howard Beales	-	\$6,224.40	\$5,809.44	\$5,809.44	\$5,809.44	\$13,278.72	\$5,809.44	\$4,979.52
Thomas Durkin	-	\$10,339.00	\$12,898.76	\$10,374.00	\$10,788.96	\$17,843.28	\$9,129.12	\$4,979.52
William MacLeod	-	\$3,008.46	\$4,045.86	\$2,749.11	\$5,083.26	\$16,053.77	\$3,786.51	\$3,112.20
Jean Noonan	-	\$ 2,397.12	\$7,990.40	\$4,794.24	\$5,593.28	\$11,985.60	\$5,593.28	\$5,593.28

Month of Pay	Hours YTD	Compensation YTD	Remaining Work (Hours)*	Remaining Compensation*
Howard Beales	460.00	\$47,720.40	580	\$60,169.20
Thomas Durkin	736.00	\$76,352.64	304	\$31,430.56
William MacLeod	364.75	\$37,839.17	675.25	\$70,050.44
Jean Noonan	440.00	\$43,947.20	600	\$62,244.00

The remaining work (hours) and remaining compensation columns are based on their SGE designations noted above, assuming a standard 8-hour work day.

The Bureau's Taskforce also includes Todd Zywicki. Mr. Zywicki was assigned to the Bureau under the Intergovernmental Personnel Act, and the Bureau will not provide any compensation to Mr. Zywicki. The Bureau will reimburse Mr. Zywicki's permanent employer George Mason University for Mr. Zywicki's labor at the Bureau. Mr. Zywicki will be on an intermittent schedule and is anticipated to work approximately 200 days at 8 hours each day, for a total of 1,600 hours for the term of his agreement. This is approximately 75 percent of a full-time schedule of 2,080 working hours in a year.

His hourly rate to be paid to the university is \$141.84.

Taskforce Member	January	February	March	April	May	June	July	August
Todd Zywicki	\$3,404.16	\$7,943.04	\$14,751.36	\$24,963.84	\$23,261.76	\$24,963.84	\$20,242.96	\$22,127.04

Month of Pay	Hours YTD	Compensation YTD	Remaining Work (Hours)*	Remaining Compensation*
Todd Zywicki	1,000.00	\$141,658.00	600	\$85,104.00

*The remaining work (hours) and remaining compensation columns address possible remaining hours given the work schedule limitations of Mr. Zywicki's term noted above.

Q.27. In my February 5, 2020, and March 4, 2020, letters to you, I raised concerns that you had only selected individuals for the Taskforce who represent payday lenders and other financial institutions or have pressed deregulatory viewpoints to the exclusion of consumer and civil rights advocates.

Q.27.a. Does the Bureau contend that the Taskforce has a "fairly balanced membership," as that term is used in 41 C.F.R. § 102-3.60(b)(3)—yes or no?

A.27.a. The Taskforce is composed of individuals of varying professional backgrounds and experiences, including past public service within the Federal Government advocating for fair, competitive, and transparent markets that work for all consumers. As noted in response to question 25, the Taskforce is not subject to FACA, including its requirement of a "fairly balanced membership." It would not be appropriate for me to comment further as the Taskforce's creation is now the subject of active litigation.

Q.27.b. If yes, please explain.

A.27.b. Please see the response to Q.27.a.

Q.27.c. If no, please explain why the Bureau does not believe it needs to select a "fairly balanced membership" for the Taskforce.

A.27.c. Please see responses to Q.25.a. and Q.27.a.

Q.28. Howard Beales, one of the Taskforce members, has worked for a consulting firm hired by industry and provided services to a payday lender that the Bureau had sued for servicing and collecting on loans up to 448 percent Annual Percentage Rate (APR) that the Bureau alleged were void under state law. Mr. Beales argued that such loans were not "predatory" but instead were "beneficial to consumers."

Do you agree with Mr. Beales that loans with a 448 percent APR are "beneficial to consumers"?

A.28. As I have previously stated, I established the Taskforce to objectively and independently evaluate the current regulatory framework for Federal consumer financial law. Given the independent nature of the Taskforce, the views and opinions of the Taskforce members do not necessarily reflect those of the Bureau. However, it is a matter of public record that Dr. Beales' professional career demonstrates a commitment to protect and serve consumers which is consistent with the Bureau's mission. Notably, during his tenure as Director of the Bureau of Consumer Protection at the Federal Trade Commission (FTC), Dr. Beales was instrumental in establishing the national Do Not Call Registry, obtained the largest redress orders in FTC history, and attacked high-volume fraud. His Federal service, integrity, and dedication to improving the lives of consumers makes him a valued addition to the Taskforce.

Q.29.a. The CFPB advisory committees established during your tenure appear to be overwhelming White and male and not representative of the population of the United States.

For each of the advisory committees (Taskforce on Federal Consumer Financial Law, the Consumer Advisory Board, the Academic Research Council, the Community Bank Advisory Council, and the Credit Union Advisory Council), please provide demographic information about committee members.

A.29.a. As noted in response to Q.25., the Taskforce is not an advisory committee. The Bureau strives to ensure the Consumer Advisory Board (CAB), the Community Bank Advisory Council (CBAC), the Credit Union Advisory Council (CUAC), and the Academic Research Council (ARC) reflect a balanced membership. Pursuant to the Federal Advisory Committee Act (FACA), the advisory committees must be fairly balanced in its membership in terms of the points of view represented and the functions to be performed. The advisory committee membership represents geographic and demographic diversity as well as broad socio-economic member perspectives. On a yearly basis, the Federal Reserve Banks (FRB) provide CAB candidate referrals to the Bureau in order to meet Dodd Frank's requirements. Per the statute, not fewer than six members shall be appointed to the CAB upon the recommendation of the FRB Presidents on a rotating basis. Overall, 40 percent of the advisory committee membership is female, and the leadership of the committees also includes women and African Americans engaged in the consumer finance marketplace. Year after year, the Bureau strives to have a diverse advisory committee program. Our Office of Minority and Women Inclusion (OMWI) is a regular participant in internal deliberation meetings to identify highly qualified new advisory committee members and OMWI also assists with outreach initiatives to ensure the Bureau has a diverse candidate pool of applicants. Advisory committee membership composition changes annually, here is the current composition by cohort.*

Advisory Committee	Fiscal Year	Male	Female	White	Black or African American	Hispanic or Latino	Asian	Two or more races
CAB	FY20	66.7%	33.3%	66.7%	25.0%	-	8.3%	-
	FY21	41.7%	58.3%	50.0%	25.0%	8.3%	8.3%	8.3%
CBAC	FY20	50.0%	50.0%	87.5%	12.5%	-	-	-
	FY21	62.5%	37.5%	87.5%	12.5%	-	-	-
CUAC	FY20	62.5%	37.5%	75.0%	25.0%	-	-	-
	FY21	62.5%	37.5%	75.0%	12.5%	12.5%	-	-
ARC	FY20	57.1%	42.9%	100%	-	-	-	-
	FY21	71.4%	28.6%	85.7%	14.3%	-	-	-

**Numbers may not add up to 100% due to rounding*

Q.29.b. Please identify the individual who selects members of the advisory committee.

A.29.b. Ultimately, I make these selections. Prior to opening the application window for the advisory committee vacancies, the Bureau engages with internal teams and offices across the Bureau for outreach purposes, including OMWI. Applicants for the vacancies on the advisory committee go through an extensive review process by Division leadership, a cross-Bureau selection committee and interviews, and are subject to a Personnel Security vetting process. The OMWI Director also served as a member of the cross-Bureau Selection Committee, which provides recommendations to me as the Director. The composition of the advisory committees is at my discretion as the Director, within the statutorily established parameters outlined in the response to Q.29.a.

Q.29.c. Please describe what efforts, if any, the CFPB has in place to ensure representation of racial and ethnic minorities on its advisory committees.

A.29.c. The Bureau strives to ensure membership of the advisory committees reflects balanced points of view, aligns with statutory membership requirements laid out in the Dodd-Frank Act, and represents geographic and demographic diversity as well as broad socio-economic perspectives. The Bureau's OMWI actively participates on the cross-Bureau Selection Committee, which is tasked with identifying highly qualified candidates for the Bureau's advisory committees for recommendation of appointment to the Director.

Prior to the annual application window opening for vacancies on the advisory committees, a needs assessment is conducted to determine what gaps will exist at the end of the following term. This assessment takes into consideration statutory knowledge, gender, race/ethnicity, region and in the case of community banks and credit unions, asset size, to ensure there is a wide-range of experiences, views and expertise. This representation is based on the charter of the respective advisory committee, and the membership balance plans, and external outreach is conducted with the above in mind. In addition, the Bureau engages OMWI for outreach purposes.

Diversity and Inclusion/Hiring

Q.30. What steps are you taking to ensure a diverse and inclusive workforce?

A.30. The Bureau continues its commitment to ensure a diverse and inclusive workforce as part of the drive to achieve the Bureau's mission. Having a diverse and inclusive workforce helps to ensure that regulations and policies developed by the Bureau are of the highest quality and are relevant for all consumers. The Bureau's diversity and inclusion strategy is based on Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Executive Order No. 13583—Establishing a Coordinated Governmentwide Initiative to Promote Diversity and Inclusion in the Federal Workforce, the updated Governmentwide Diversity and Inclusion Plan issued by the Office of Personnel Management (OPM) in 2016, and on existing regulations and guidance from the Equal Employment Opportunity Commission (EEOC).

Recruitment and Outreach

The Bureau participates in diversity-focused recruitment and outreach activities. We include members of our Employee Resource Groups (ERGs) and our Diversity and Inclusion Council of Employees (DICE) on the teams of employees that represent the Bureau at recruitment and outreach events. Specifically, in 2020, we are virtually participating in the Ascend National Convention and Career Fair, the largest gathering of Pan-Asian business leaders and professionals in North America, and the Prospanica National Conference and Career Expo, an association of Hispanic MBAs and business professionals. The Bureau has implemented a digitally focused recruitment strategy using the eQuest tool to access diverse websites and job boards. Access to these diversity sites will allow the Bureau to post positions specifically to diversity and inclusion networks, increase our visibility, and broaden talent pipelines.

Strategic Planning

OMWI works with Bureau leaders to develop and implement a Diversity and Inclusion Strategic Plan for each Division that includes a focus on workforce diversity, workplace inclusion, and supplier diversity. The divisional plans ensure that a culture of diversity and inclusion is integrated into daily Bureau operations. Each Division, or large office, has a designated Diversity and Inclusion point of contact to lead the effort within their division. OMWI conducts meetings with each Division to review divisional data and explore demographic gaps when compared to relevant standards (Division, Bureau or governmentwide) and to analyze and evaluate employee experience on inclusion in the workplace. OMWI works with each Division to prioritize and explore strategies and recommendations to address the identified priority areas and monitors the implementation and results of the diversity and inclusion strategic plans.

Inclusion at the Bureau

The Bureau continues to engage in a broad array of programs and initiatives to promote an inclusive work environment, foster

equity, collaboration, innovation, and greater productivity. The Bureau recognizes heritage events and commemorative observances to raise cultural awareness and foster an environment of cultural intelligence. ERGs, Bureau recognized networks of employees with similar interests, backgrounds and experiences, and DICE are available to employees and play an active role in supporting the Bureau in hiring, retaining, and developing its diverse workforce.

In March 2020, the Bureau created a professional-quality promotional video explaining what Equal Employment Opportunity (EEO) means at the Bureau. In the video, Bureau Senior and Executive leaders discuss and underscore the organization's commitment to a discrimination-, harassment-, and retaliation-free work place. We state that all employees are, and will be, treated equally under the law and pledge to enforce civil rights protections for all employees and applicants. The video was shared with all Bureau employees via the Bureau's intranet, and in the weekly newsletter, to convey the Bureau's commitment to inclusivity.

Racial Equity

Under my leadership along with the OMWI, the Bureau developed and implemented a forward-leaning action plan shortly after the death of George Floyd on May 25, 2020, to provide staff and management with tools and resources to assist them in dealing with the events that followed. The OMWI collaborated with its peers to plan and deliver a Federal multifinancial agencies OMWI webcast titled "Beyond Words: Race, Work, and Allyship amid the George Floyd Tragedy" on June 24. As a follow-up, I invited National Credit Union Administration Chairman Rodney Hood to speak to all Bureau employees in a virtual discussion on racial equity issues, which was held on July 10.

OMWI created and provided racial equity learning resources to all Bureau employees that addressed specific racial issues such as bias and allyship, as well as management-focused guidelines and resources for addressing racial issues in the workplace. In addition, the Bureau launched a series of OMWI Dialogues centered around a variety of racial equity themes and topics open to all employees, and regularly posts quickly accessible learning resources on our intranet, that are also available to all employees.

Q.31. What is the racial and gender composition of the heads of Offices and Divisions now? How has that changed from when you were confirmed?

A.31. The racial and gender composition of heads of the Bureau's Offices and Divisions are 46.7 percent Women and 35.0 percent Minorities (8.3 percent Asian, 21.7 percent Black and 5.0 percent Hispanic). The diversity for the heads of Offices and Divisions has increased since I was confirmed.

At the time of my confirmation on December 6, 2018 the Bureau's Offices and Divisions heads were comprised of 44.4 percent Women and 28.6 percent Minorities (9.5 percent Asian, 12.7 percent Black and 6.4 percent Hispanic). The overall percentage of minorities increased and specifically with the representation of Black employees as heads of divisions/offices.

Q.32. What recruiting has the Bureau done for the new Associate Director of Research, Markets, and Regulations? What, if any steps, did the CFPB take to ensure a diverse pool from which to select the new Associate Director of RMR?

A.32. In addition to a public announcement posted on USAJobs from July 17, 2020–July 30, 2020, the Office of Human Capital worked with the Division of Research, Markets, and Regulations to create a recruitment flyer with a direct link to the job announcement and distributed it to diversity organizations and networks. We ran recruitment campaigns on LinkedIn, Indeed, Google, Bing, Yahoo, and several other digital media. We also reached out to many diversity organizations and networks including Hispanic Federation, African American Federal Executive Association, National Association of Asian American Professionals, National Society for Hispanic Professionals, Veterans One Stop, as well as LGBTQ and Disability organizations.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR TOOMEY
FROM KATHLEEN L. KRANINGER**

Q.1. Director Kraninger, I was pleased to see the Supreme Court hold in *Seila Law v. CFPB* that the CFPB’s leadership by a single director, removable only for cause, is unconstitutional for violating the separation of powers. Besides the fact that the President can now remove the director for cause, what are the implications of this decision for the CFPB?

A.1. The Supreme Court made clear that the statutory restriction on the President’s authority to remove the Director was unconstitutional, but that the Bureau’s authorities otherwise remain intact. The Bureau continues to carry out its statutory mission.

Q.2. My understanding is that the CFPB held a symposium on July 29th on the use of cost-benefit analysis at the CFPB. Will the CFPB now submit its regulations to OIRA for approval, which would include a cost-benefit analysis component?

A.2. On July 29, 2020, the Bureau held a symposium on cost-benefit analysis in consumer financial protection regulation, including its use and agency incentives as well as methodological and subject matter considerations. The Bureau is committed to following the Consumer Financial Protection Act and all other applicable laws. Section 1022 of that Act requires that the Bureau, in prescribing a rule under the Federal consumer financial laws, consider, among other things, “the potential costs and benefits to consumers and covered persons . . . resulting from the rule.” 12 U.S.C. § 5512(b)(2)(A)(i). The Bureau is currently in the process of assessing the consequences of the Supreme Court’s decision in *Seila Law* on the Bureau’s operations.

Q.3. Now that you serve at the pleasure of the President, shouldn’t the agency that you direct follow his executive orders including 12866, which requires cost-benefit analysis in rulemaking, and 13771, which requires agencies to repeal two existing regulations for every new regulation? Will you provide us an update on where you are in the planning process for bringing the agency into compliance with all executive orders?

A.3. The Bureau is committed to following the Consumer Financial Protection Act and all other applicable laws. Section 1022 of that Act requires that the Bureau, in prescribing a rule under the Federal consumer financial laws, consider, among other things, “the potential costs and benefits to consumers and covered persons . . . resulting from the rule.” 12 U.S.C. § 5512(2)(A)(i). The Bureau is currently in the process of assessing the consequences of the Supreme Court’s decision in *Seila Law* on the Bureau’s operations.

Q.4. Does the CFPB intend to consult with DOJ and the White House Counsel’s Office on important legal matters? For example, earlier this month, the CFPB ratified the large majority of its existing regulations and other regulatory actions that the CFPB took or finalized between January 2012 through the end of last month. This ratification was necessary because during that period, the CFPB operated under an unlawful structure.

Q.4.a. Did the CFPB consult with the DOJ or the White House Counsel’s Office before ratifying all of these actions?

A.4.a. The Bureau collaborates with the Department of Justice, other Federal agencies, and the White House Counsel’s Office on matters of mutual concern. It would not be appropriate to comment on any specific matter.

Q.4.b. The Supreme Court didn’t opine about ratification of prior actions. Your agency issued a document that intended to ratify these actions, but it’s far from clear to me that the director has the authority to do that. This could be unlawful because an action taken by an unconstitutional agency should be a nullity that cannot be fixed. There have to be a consequence for a bad act. What gives the you, as opposed to the President, the authority to ratify past actions?

A.4.b. I ratified the relevant regulatory actions after the Supreme Court made clear that I am fully accountable to the President. Under well-established case law, such a ratification resolves any constitutional defect in these prior regulatory actions. It is also worth emphasizing that consumers, the business community, State and local governments, and other individuals and entities all relied upon the validity of these actions in organizing their activities over a period of 8 years. The ratification was important in order to avoid public uncertainty, which could have interfered with markets for consumer financial products and services.

Q.5. Now that you serve at the pleasure of the President as head of the CFPB, will you submit your budget to OMB for approval? Will you engage in the normal budgeting process for other departments and agencies?

A.5. The Bureau is committed to following the Consumer Financial Protection Act and all other applicable laws. We will appropriately evaluate any requests from the Office of Management and Budget.

Q.6.a. The President’s budget request seeks to have the CFPB funded through the regular appropriations process.

Do you support that request?

A.6.a. The Bureau is committed to following the Consumer Financial Protection Act and all other applicable laws in fulfilling its

mission to protect American consumers. The Bureau will adhere to any legal changes regarding its funding provisions.

Q.6.b. The President could hypothetically order you to request zero dollars from the Federal Reserve for FY2021, which would offer Congress a choice: shut the agency down or fund it through appropriations. If the President made such an announcement, would you support him in that effort?

A.6.b. The Bureau is committed to following the Consumer Financial Protection Act and all other applicable laws. The Bureau will adhere to any legal changes regarding its funding provisions.

I appreciate your leadership in directing the CFPB to release clarifying January 2020 guidance on the definition of “abusive” under Section 1031. However, I would like further clarity on this issue. Earlier this year, I asked you in a question for the record if the CFPB intended for the guidance to be a standard for all new lawsuits filed after the guidance’s issuance. In response you said that the “Policy Statement describes certain aspects of how the Bureau intends to approach its use of the abusiveness standard in its supervision and enforcement matters going forward.” You also explained that the CFPB does not foreclose a later rulemaking on abusive practices.

Q.7.a. Can you promise me now that the CFPB will follow its January 2020 guidance on abusive practices for the remainder of your time as CFPB Director?

A.7.a. I remain committed to the Policy Statement and it will continue to guide how the Bureau approaches its use of abusiveness in its supervision and enforcement matters going forward.

Q.7.b. Has the CFPB fully followed this guidance after its issuance?

A.7.b. Since the Bureau clarified certain aspects of how it intends to approach its use of the abusiveness standard, that policy has guided Bureau decisions about its use of abusiveness in its supervision and enforcement matters.

Q.8. I understand that CFPB may issue a rulemaking to implement Section 1071 of Dodd-Frank, which generally requires financial institutions to collect and compile demographic data and other information on small business lending. I’m very concerned about this requirement. The CFPB should be a consumer bureau, not a business bureau, and this requirement could prove to be unwieldy for small financial institutions. Can you provide a status update on where the CFPB is on this rulemaking?

A.8. As part of its rulemaking process, the Bureau is exploring potential ways to implement section 1071 in a balanced manner with a goal of obtaining and publishing small business lending data that achieves the statutory objectives without unnecessarily affecting the cost or availability of credit to small businesses and while minimizing burden and unintended consequences on financial institutions and small businesses.

The next step in the Bureau’s rulemaking process was the release of materials in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA), in con-

junction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy. These materials 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. The information and feedback obtained during the SBREFA process will help inform the Bureau's policymaking leading to a notice of proposed rulemaking.

As set forth in the settlement agreement entered in *California Reinvestment Coalition v. Kraninger*, the Bureau agreed to release an outline of proposals under consideration as part of the small business review process by September 15, 2020, and met that deadline. The Bureau also agreed to convene a SBREFA panel no later than October 15, 2020 (or, if panel members are not available to convene, as soon as practicable thereafter). Pursuant to 5 U.S.C. § 609, the SBREFA panel is required to complete its report within 60 days of the panel's convening.

Q.9. I have long advocated for the regulatory agencies to use guidance documents properly. As you know, I led the effort to invalidate the CFPB's Indirect Auto Lending Guidance using the Congressional Review Act, which was possible because the CFPB violated requirements under this Act when it issued its guidance. I believe that agencies should never sidestep the APA's notice and comment rulemaking process by issuing guidance that imposes legally binding requirements on the public. I am worried that your agency may have too many guidance documents from Director Cordray's tenure that are still in effect. When I asked you earlier this year in questions for the record on whether your agency was reviewing its guidance documents, you said that the CFPB was "currently considering a number of issues related to its guidance documents."

Q.9.a. Can you provide a status update on this issue?

A.9.a. I can provide two updates on the Bureau's efforts to ensure that guidance documents do not exceed their appropriate role under the Administrative Procedure Act. The first relates to compliance aids. The Bureau issues compliance aids that are intended to provide useful information to regulated entities, as they navigate complying with applicable rules and statutes. These can include resources like small entity compliance guides, summaries of regulation changes, flowcharts, and frequently asked questions. Earlier this year, I issued a Policy Statement on Compliance Aids. Among other points, the policy statement makes clear that the Bureau does not intend "to use Compliance Aids to make decisions that bind regulated entities," and that regulated entities "are only required to comply with the underlying rules and statutes." 85 Fed. Reg. 4579 (Jan. 27, 2020).

In addition to compliance aids, another type of Bureau guidance is supervisory guidance, of which the Indirect Auto Lending Bulletin was an example. The Bureau announced in its Spring 2020 regulatory agenda that it is cooperating with other supervisory agencies to jointly propose a rule on the role of supervisory guidance. As the agenda noted, this includes providing additional clarity that supervisory guidance cannot "create binding legal obligations for the public."

Q.9.b. Does the CFPB plan to rescind any Cordray-era guidance documents?

A.9.b. In addition to the Bureau’s efforts, discussed above, to comprehensively address the role of these entire categories of guidance, I am certainly open to reconsidering specific guidance documents when concerns are raised about them.

Q.10. You have expressed interest in guidance for industries where the CFPB’s position is unclear, particularly after a previous CFPB director’s practice of guidance through enforcement. Could you give us a status update on the issuance of guidance for industries that have requested further clarification, particularly with tribal lending and other industries affected by dramatic swings in Bureau policies?

A.10. The Bureau believes that providing clear and useful guidance to regulated entities is an important aspect of facilitating markets that serve consumers. At our website we provide extensive regulatory guidance and compliance resources, as well as information and guidance about the supervisory process.¹ In particular, in June 2020, I initiated a new advisory opinion program to address regulatory uncertainty in the Bureau’s existing regulations, by allowing allow entities seeking to comply with regulatory requirements to submit a request where uncertainty exists.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR MENENDEZ FROM KATHLEEN L. KRANINGER**

Q.1. As more indebted consumers begin to face delinquency or default during the COVID–19 pandemic, it’s only a matter of time before we see financially insecure Americans suffer abuse and harassment by some debt collectors.

Director Kraninger, considering the rise in unemployment, financial insecurity, and debts, are you planning on releasing new guidance on what constitutes “unfair and unconscionable,” debt collection practices during the COVID–19 pandemic, including prohibiting debt collectors from starting new debt collection lawsuits or garnishing wages?

A.1. In accordance with the Administrative Procedure Act, the Bureau has carefully considered comments received on the May 2019 proposed rule that would prescribe rules under Regulation F to govern the activities of debt collectors, as that term is defined under the FDCPA and expects to issue a final rule in October 2020. In December 2020, the Bureau also plans to issue a final rule on its supplemental proposal issued in February 2020, which addressed time-barred debt disclosures, and any remaining proposed issues. The Bureau extended the deadline for comments on that proposal to August 4, 2020, in light of the COVID–19 pandemic.

Q.2. On March 10th, you informed this Committee that the CFPB and Department of Education would soon begin a “joint” examination of a Federal student loan servicer, finally restarting the CFPB’s supervision over the largest student loan companies, after

¹<https://www.consumerfinance.gov/policy-compliance/guidance/>.

failing for more than 2 years to oversee the vast majority of the student loan serving market.

Can you give us an update on how this has been handled? How many examinations have you conducted? How many are planned?

A.2. Supervision is coordinating with the Department of Education on supervisory work at student loan servicers covering Federal loans. The Bureau generally considers the number of supervisory engagements in a particular product line confidential supervisory information and has only provided the total number of supervisory events in a given fiscal year rather than any subset associated with a particular product line or law (with the exception of fair lending).

Q.3. In response to a Question for the Record by HELP Committee Ranking Member Murray, Secretary DeVos stated that “In general, FSA considered this first joint exam to be a pilot; it therefore does not currently have any associated monitoring agreements” with the CFPB. It appears that you have taken the position that ED should preapprove all CFPB oversight on a case-by-case basis.

Given that there is no formal agreement between CFPB and ED to allow for ongoing, routine supervision, how does CFPB determine when and whether to examine a student loan servicer? In the absence of an agreement, how can CFPB exercise its duty under Dodd-Frank to respond to emerging risks and conduct independent risk-based examinations in the second-largest market for consumer credit?

A.3. The Bureau determines when and whether to examine a student loan servicer through its risk prioritization process and then consults with the Department of Education to determine the specifics of the coordination. Bureau examiners conduct our supervisory work under the supervision and direction of managers and executives of the Bureau consistent with the Bureau’s risk prioritization process and our authorities.

Q.4. The CFPB recently released two proposed rules to redefine the definition of a “Qualified Mortgage” (QM) and to temporarily extend the sunset date for the GSE Patch. The Bureau is proposing to extend the Patch until the effective date for the new QM definition which would be “six months after publication in the Federal Register.”

Q.4.a. Did the CFPB consider a longer timeline for implementation?

A.4.a. In its NPRM, the Bureau proposed to set an effective date for the Patch to expire 6 months after the final General QM amendments are published in the Federal Register. However, in the proposal, the Bureau requested comment on an appropriate implementation period for changes to the General QM definition and will appropriately consider those comments in determining the implementation period for any final rule.

Q.4.b. Is a 6-month timeframe enough time for stakeholders to analyze and implement the new standards?

A.4.b. In the proposal, the Bureau requested comment on an appropriate implementation period for changes to the General QM definition and will appropriately consider those comments in determining the implementation period for any final rule.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN
FROM KATHLEEN L. KRANINGER**

Actions of the Bureau during the COVID-19 Pandemic

Q.1. In April, the CFPB jointly issued guidance with the other banking regulators that said that they will not take supervisory or enforcement action against mortgage servicers for delaying early intervention and loss mitigation notices or “good faith efforts” to establish live contact with delinquent borrowers.

Q.1.a. Please describe how the Bureau evaluates whether or not an effort to establish contact was made in “good faith.”

A.1.a. The Bureau’s evaluation of “good faith” is dependent on the particular facts and circumstances before it. Supervision is currently conducting Prioritized Assessments and the Bureau’s receipt and evaluation of information is ongoing now. The results of this analysis and the monitoring of any trends will help the Bureau determine whether any follow-up work at particular institutions is warranted.

Q.1.b. Will the Bureau take enforcement actions when a servicer does not make any type of effort to contact a borrower?

A.1.b. While the Bureau is mindful of challenges faced by institutions, we will not hesitate to take public enforcement action when appropriate against companies or individuals that engage in unfair, deceptive, or abusive acts or practices, discriminate, or otherwise violate Federal consumer financial protection laws.

Q.2. On April 1, 2020, the CFPB announced that it will not cite in an examination or bring an enforcement action against lenders or credit bureaus who exceed under the Fair Credit Reporting Act to investigate disputes alleging incorrect credit reporting. In June, the Bureau also released a set of FAQs for furnishers and credit reporting agencies that specified that the guidance does not “give furnishers or consumer reporting agencies an unlimited time beyond the statutory deadlines to investigate disputes before the Bureau would take supervisory or enforcement action.”

Q.2.a. How much time is the CFPB giving furnishers and lenders to investigate disputes beyond statutory deadlines?

A.2.a. Supervision is conducting Prioritized Assessments designed to obtain real-time information from entities that operate in markets that pose elevated risks of consumer harm due to pandemic-related issues. This includes risks related to violations of Federal consumer financial law, including the Fair Credit Reporting Act. If Supervision or Enforcement finds that a furnisher has not responded within statutory timeframes, we would then make a fact-based determination as to whether the furnisher is making good faith efforts to investigate disputes as quickly as possible. Supervision’s Prioritized Assessment work is still in progress.

Q.2.b. Does that amount of time differ for different furnishers and lenders? If so, please describe how the Bureau determines the appropriate extent to which these lenders can violate the law, including all factors it evaluates in each individual circumstance.

A.2.b. Supervision continues to conduct Prioritized Assessments. As noted above, if Supervision or Enforcement finds that a fur-

nisher hasn't responded within statutory timeframes, we would then make a facts-based determination as to whether the furnisher is making good faith efforts to investigate disputes as quickly as possible.

Rulemaking

Q.3. Last month, the Bureau released its final version of the Payday, Vehicle Title, and Certain High-Cost Installment Loans rulemaking (Payday Rule), which rescinded the mandatory underwriting provisions in the 2017 final rule.

The final rule states “the Bureau believes that some borrowers taking out payday loans may experience additional defaults under this final rule than they would under the 2017 Final Rule.” Does the Bureau believe there will be more defaults than if the mandatory underwriting provisions were in place? If so, by how much?

A.3. As stated in the text of the 2020 Final Rule, “the Bureau does not know the prevalence of the possible increased defaults nor can it provide an estimate of the total potential cost per default to consumers.” See 85 FR 44382 at 44439.

Q.4. The final rule states “to the extent eliminating the Mandatory Underwriting Provisions will increase the number of payday and vehicle title loans and length of loan sequences relative to the 2017 Final Rule, doing so likely will increase the frequency of delinquencies and lead consumers to incur costs associated with those delinquencies.”

Q.4.a. Did the Bureau provide an estimate as to the frequency of delinquencies and the costs customers incurred?

A.4.a. The Bureau did not provide an estimate as to the frequency of delinquencies and the costs consumers incurred.

Q.4.b. If not, describe the efforts the Bureau took in its attempt to develop such an estimate.

A.4.b. As the Bureau explained in its cost-benefit analysis with the final rule, the Bureau lacks representative data that could be used to analyze all effects of the final rule. Absent these data, portions of the analysis rely, at least in part, on qualitative evidence provided to the Bureau in previous comments, responses to RFIs, and academic papers; general economic principles; and the Bureau's experience and expertise in consumer financial markets. As such, many of the benefits, costs, and impacts of the final rule are presented in general terms or ranges (as they were in the section 1022(b)(2) analysis of the 2017 Final Rule), rather than as point estimates. Defaults are one of the effects of the rule the Bureau lacked data to even attempt to estimate.

Q.5. A memo written by a staff economist at the Bureau detailed an unprecedented political interference in the rulemaking process, including the manipulation of the agency's own research by political appointees.

Q.5.a. When were you first made aware of this memo?

Q.5.a. I am familiar with the memo but am not sure precisely when I became aware of it. It was published by the New York Times on April 29, 2020.

Q.5.b. When this memo was brought to your attention, what actions did you take in response to it?

A.5.b. At the end of April, we were finishing up the final rule, which we released on July 7, 2020. Unfortunately the reporting in the New York Times story did not represent the robust process the Bureau engaged in to develop the 2019 NPRM much less the Bureau's process to consider public comments and finalize the rule.

Q.5.c. Public reporting suggested that the Bureau was originally planning on releasing the final rule the week of April 29th. Was the memo a factor in delaying the release nearly 3 months?

A.5.c. The memo was not a factor in the timing of the release. Between the end of April and the release of the final payday rule on July 7th, the Bureau was engaged in several actions related to pandemic relief as well as a number of other regulatory and enforcement actions.

Q.5.d. Were any changes made to the text of the final rule during the time period between the memo being brought to your attention and the release of the rule in July? If so, please identify and describe in detail each of those changes.

A.5.d. It is not appropriate to discuss predecisional changes to and internal deliberations concerning rulemakings. But I would note that the published final rule references events that took place after April 29, 2020, including (1) the issuance on May 20, 2020, of the second interagency statement on small-dollar lending by the OCC, FDIC, NCUA and the Board and (2) the Bureau's May 22, 2020, issuance of a No-Action Letter and template facilitating small-dollar lending by depository institutions to the Bank Policy Institute, as well as the Bureau's determination to deny a pending petition for additional rulemaking on small-dollar lending.

Q.6. Which political appointees assisted with developing this proposal? For each individual, please include exactly what part of the proposal they worked on, including their specific input in the process.

A.6. Many individual staff members from a range of disciplines, including career staff and political appointees, work on each of our rulemakings. The contribution and engagement of individuals varies depending on their role and function in the Bureau. Engagement by individuals with competing perspectives and insights—regardless of their status as career staff or political appointee—is critical to ensuring a thorough and informed discussion. As Director, I welcome this engagement, because rigorous policy evaluation and development generate better decisions and outcomes. Ultimately, of course, the final decision rests with me as the Director.

Q.7. In response to Section 1073 of the Dodd-Frank Act, the CFPB developed a final rule on remittance transfers (Remittance Rule) to require that consumers who send money abroad are presented with the costs, including the fees and exchange rates used. However, banks and remittance providers have still been able to evade full transparency by indicating that consumers will pay low fees, but can then drastically raise the exchange rate based on the initial estimate.

Do you believe that the current regulations in place are sufficient to provide consumers with the transparency regarding the total cost of sending money?

A.7. In its report assessing the Remittance Rule, published in October 2018, the Bureau reviewed the available evidence for the Remittance Rule’s effectiveness in meeting the purposes and objectives of title X of the Dodd-Frank Act (including that consumers are provided with timely and understandable information to make responsible decisions about financial transactions) and the specific goals stated by the Bureau.¹ The assessment concluded that the information consumers received about the price of a remittance transfer before the Rule became effective varied from provider to provider. Because consumers generally now receive the disclosures required by the Rule, in at least some cases consumers are now receiving more information than they did before the Rule took effect. In a survey of remittance transfer consumers by a consumer advocacy group cited in the assessment report, 59 percent recalled that the Rule-required disclosures included information about fees and 63 percent recalled that the disclosures included an exchange rate. The Bureau notes that there are significant challenges in accurately determining what consumers do with these disclosures and that some of the available evidence is conflicting.

Q.8. Has the Bureau considered, in recent or past deliberations, adopting the simple “total cost” (upfront fees + exchange rate markup) model included in the new EU transparency rules and supported by international organizations like the World Bank and others?

A.8. Section 1073 of the Dodd-Frank Act creates a new section 919 of EFTA and requires remittance transfer providers to provide specific pieces of information about a remittance transfer to consumers. That information includes the amount of currency that will be received by the designated recipient of a remittance transfer, using the value of the currency into which the funds will be exchanged; the amount of fees charged for the remittance transfer; and the exchange rate to be used for the transfer. The disclosures the Bureau adopted in the Remittance Rule generally reflect what the statutory framework set forth. The Bureau encourages entities seeking to improve consumer disclosures to use the Bureau’s Trial Disclosure Program Policy (TDP Policy), through which entities may conduct in-market testing of alternative disclosures for a limited time upon permission by the Bureau.² Section 1032(e) of the Dodd-Frank Act gives the Bureau the authority to provide certain legal protections for entities to conduct trial disclosure programs, as outlined in the TDP Policy.

Operations

Q.9. 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.

¹The assessment report is available at: https://files.consumerfinance.gov/f/documents/bcfp_remittance-rule-assessment_report_corrected_2019-03.pdf.

²<https://www.consumerfinance.gov/about-us/newsroom/bureau-issues-policies-facilitate-compliance-promote-innovation/>.

A.9.

Last Name	First Name	Title	Pay Band	EOD Date	Total Salary
Kraninger	Kathleen	Director Consumer Financial Protection Bureau	EX02	12/11/2018	\$183,100.00
Czwartacki	John	Chief Communications Officer	82	04/29/2018	\$239,595.00
Duke	Andrew	Policy Associate Director (EA)	90	02/03/2019	\$259,500.00
Edwards	Olivia	Executive Assistant	41	12/17/2018	\$75,800.00
Garibay	Marisol	Deputy Assistant Director Communications	81	01/17/2019	\$219,042.00
Kirellis	Althea	Associate Director Office of Equal Opportunity and Fairness	90	05/21/2018	\$259,500.00
Sutton	Kirsten	Chief of Staff and Special Assistant	90	02/04/2018	\$259,500.00
Pahl	Thomas	Deputy Director	90	04/23/2018	\$259,500.00
Watkins*	Paul	Assistant Director Office of Innovation	81	07/16/2018	\$219,042.00
Carnemark	Karla	Deputy Chief of Staff	82	05/26/2019	\$239,595.00
Stalzer	Jennifer	Administrative Specialist	52	01/05/2020	\$112,904.00

*Separated from the Bureau on August 14, 2020

Q.10. Does the CFPB have plans to hire additional political appointees? If so, please provide position descriptions and salary ranges for their jobs.

A.10. The Bureau does not currently have any pending requests with OPM for additional political appointees.

Q.11. 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 2019, CFPB’s ranking dropped 20 points, from 79.9 to 58.4, putting it in the lower quartile of all Midsize Agencies.

Q.11.a. 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 2017Q1 to present.

A.11.a.

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	FY20 Q2	FY20 Q3	FY20 Q4
CONSUMER EDUCATION & ENGAGEMENT DIVISION	81	83	81	83	84	81	218	210	209	206	205	204	198	192	192	191
CONSUMER ED & ENGAGEMENT DIVISION FRONT OFFICE	15	15	15	17	17	17	18	17	16	18	15	15	14	12	14	16
CONSUMER ENGAGEMENT	12	14	13	13	14	14	13	14	13	13	14	14	14	12	12	11
CONSUMER RESPONSE							136	136	136	132	129	127	124	122	116	116
FINANCIAL EDUCATION	17	16	16	16	16	15	15	13	14	15	17	17	17	17	18	17
FINANCIAL EMPOWERMENT OFFICE OF COMMUNITY AFFAIRS	11	10	10	11	11	11	11		10	10	9	9	11	10	10	9
OLDER AMERICANS SERVICE MEMBER AFFAIRS	8	12	11	11	11	10	11	11	11	10	10	10	8	8	10	10
STUDENT, CONSUMER OFFICE	12	11	11	10	10	9	10	9	9	9	9	8	7	7	8	8
STUDENTS	6	5	5	5	5	5	4					2	2	4	4	4
OFFICE OF THE DIRECTOR	35	35	35	34	31	37	38	35	37	51	52	54	55	61	73	74
OFFICE OF THE DIRECTOR FRONT OFFICE	18	14	14	13	10	15	16	11	14	13	12	15	15	18	23	24
COMMUNICATIONS OFF OF LEGISLATIVE AFFAIRS										4	4			2	3	4
OFFICE OF INNOVATION									1	1	3	4	4	4	6	7
STRATEGY OFFICE	4	6	6	6	6	7	7	8	6	6	4	4	4	3	5	5
OFFICE OF EQUAL OPPORTUNITY & FAIRNESS	13	15	15	15	15	15	15	16	15	27	29	29	29	31	35	34
OFF OF FAIR LENDING AND EO	2	3	3	3	3	3	3	5	4	6	6	6	6	6	7	7
										9	9	8	9	10	11	11

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	FY20 Q2	FY20 Q3	FY20 Q4
OFF OF MIN & WOM INCLUS OFFICE OF CIVIL RIGHTS	5	5	5	5	5	5	5	5	5	6	7	6	6	7	7	7
EXTERNAL AFFAIRS DIVISION	39	42	43	44	42	46	41	37	33	30	31	34	35	37	34	34
EXTERNAL AFFAIRS DIVISION FRONT OFFICE	13	14	8	10	9	12	10	11	8	9	9	9	9	9	9	9
ADVISORY BOARDS (ABC)				5	5	5	6	5	5	4	4	5	5	5	4	4
COMMUNICATIONS	7	7	7	6	6	6	4	3	2							
COMMUNITY AFFAIRS	6	6	6	6	5	6	6									
FINANCIAL INSTITUTIONS INTERGOVERNMENTAL AFFAIRS	5	6	6	6	6	6	6	6	6	6	5	5	5	6	6	6
LEGISLATIVE AFFAIRS OFF OF COMMUNICATIONS PUB ENGAGEMENT & CMUNITY LIAISON	2	2	3	4	4	5	4	2	2	2	4	4	4	3	3	3
	6	7	8	7	7	6	5	4	4	3	3		5	6	7	6
									6	6	6	6	6	6	7	6
LEGAL DIVISION	75	81	79	78	79	78	76	71	71	70	67	67	67	67	68	69
LEGAL DIVISION FRONT OFFICE	11	11	11	11	11	11	11	11	11	11	10	10	8	9	9	9
GENERAL LAW & ETHICS	22	25	25	25	25	25	24	22	22	22	21	22	22	22	22	22
LAW AND POLICY	26	27	27	26	26	24	24	21	22	22	21	21	21	21	22	23
LITIGATION & OVERSIGHT	16	18	16	16	17	18	17	17	15	15	14	16	15	15	15	15
OPERATIONS DIVISION	452	463	457	459	454	448	298	288	285	275	275	278	281	281	286	287
OPERATIONS DIVISION FRONT OFFICE	5	6	7	7	8	7	6	5	6	11	12	12	13	8	6	7
CHIEF DATA OFFICER														16	13	13
CHIEF FINANCIAL OFFICER	35	35	34	35	35	35	35	35	35	35	35	36	36	36	36	36
CONSUMER RESPONSE	143	144	143	141	143	143										
HUMAN CAPITAL	58	58	58	59	55	54	54	55	54	53	54	56	56	57	55	55
PROCUREMENT	22	23	23	23	23	23	23	23	22	21	21	20	21	21	20	20
PROJECT MANAGEMENT CHIEF EXPERIENCE OFFICER	10	9	8	8	6	6	5	5							8	12
																11
ADMINISTRATIVE OPERATIONS	26	28	29	28	29	28	27	27	27	26	24	25	17	17	20	22
ADMINISTRATIVE OPERATIONS ADMIN	7	6	7	7	8	8	7	6	6	5	4	5	6	7	10	11
OPERATION-RECORDS & FOIA ADMIN	5	7	7	7	7	6	7	8	8	8	7	9				
OPERATIONS-FACILITIES ADMIN	6	7	7	7	7	7	7	7	7	7	7	7	7	6	6	6
OPERATIONS-SECURITY	8	8	8	7	7	7	6	6	6	6	6	4	4	4	4	5
TECHNOLOGY & INNOVATION	153	160	155	158	155	152	148	138	136	129	129	129	122	121	124	123
TECHN & INNOVATION-FELLOWS	34	32	31	24	8	7	4	3	3	2	1	1				
TECHN & INNOVATION-PRIVACY	4	3	3	3	3	3	3	2	2							
OTHER PROGRAMS	29	30	27	25	27	26	20	17	17	17	17	18	18	20	20	33
ADMINISTRATIVE ADOUCATION DIRECTOR'S FINANCIAL ANALYSTS	3	3	3	3	3	3	3	2	2	2	2	2	2	2	2	2
OMBUSMAN	22	23	20	18	19	18	12	10	10	10	11	11	11	13	13	26
RESEARCH, MARKETS, & REGULATIONS DIVISION	4	4	4	4	5	5	5	5	5	5	5	5	5	5	5	5
RESEARCH, MARKETS, & REG DIV FRONT OFFICE CARDS, PAYMT & DEP MKTS	165	167	168	167	166	163	159	148	143	138	137	140	140	139	144	145
COINS CRED, PYMTS, & DEP MKTS	12	11	11	9	9	10	10	9	9	9	10	10	8	7	7	5
LEND, COLLECT & REPORT MKT	8	8	8	10	10	10	10	8	8	8	7	7				
MORTGAGE MARKETS	10	11	11	11	12	12	12	11	12	10	11	11				
REGULATIONS	7	7	8	8	8	8	8	6	6	5	5	6	6	6	6	5
RESEARCH	75	74	76	74	72	69	68	65	61	60	59	58	60	62	66	67
SMALL BUSINESS LEND MKTS	47	50	48	49	49	50	46	44	43	42	41	44	44	43	44	47
SUPERVISION, ENFORCEMENT, & FAIR LENDING DIVISION	6	6	6	6	6	4	5	5	4	4	4	4	4	4	3	3
SUPERVISN, ENFRMNT, & FAIR LEND DIVISION FRONT OFFICE	738	770	761	751	750	738	716	698	687	661	644	629	624	620	636	635
ENFORCEMENT FAIR LENDING AND EQUAL OPPORT	8	7	8	6	9	10	10	9	9	10	10	9	9	10	11	10
SUPERVISION POLICY EXAMINATIONS	146	153	152	152	151	148	145	141	140	139	138	138	140	143	146	146
SUPERVISION	36	37	37	35	35	34	31	30	26							
SUPERVISION	47	48	45	45	44	48	47	47	48	51	49	46	49	47	46	50
SUPERVISION	501	525	519	513	511	498	483	471	464	461	447	436	426	420	433	429
SUPERVISION	43	51	53	53	53	46	43	41	39	42	41	40	39	38	41	40
MIDWEST REGION SUPERVISION	105	110	107	105	105	106	103	102	99	98	94	88	84	82	83	81
NORTHEAST REGION SUPERVISION	111	121	118	117	116	114	113	110	109	107	99	98	98	97	101	102
SOUTHEAST REGION SUPERVISION	120	121	119	119	120	117	116	114	113	113	111	111	109	109	107	105
WEST REGION	122	122	122	119	117	115	108	104	104	101	102	99	96	94	101	101
Bureau Total	1614	1671	1651	1641	1633	1617	1566	1504	1482	1448	1428	1424	1418	1417	1453	1468

Q.11.b. What is CFPB's plan to improve morale among staff?

A.11.b. 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 decisionmaking. Further, I am committed to leading a diverse, productive, effective workforce.

I engage regularly with employees through Bureau-wide all-hands sessions; regular meetings with Division and Office teams; visits to Bureau regional staff (albeit virtually now); and weekly "office hours" to provide updates on Bureau priorities, recognize individual and team efforts and achievements, and continue to gather staff feedback. This effort has been well-received by employees, as indicated through direct communication they make with me and through leadership. The Annual Employee Survey (AES) is also an important source of that feedback that I carefully review and consider.

The Bureau's overall engagement composite score from the 2019 AES increased by 6.7 points over 2018. This increase led the Partnership for Public Service to designate the Bureau as the most improved agency among mid-sized agencies for 2019. This progress is noteworthy, but fostering an engaged workforce is an ongoing responsibility.

Below are several steps I am taking to build and maintain an engaged workforce:

- I instituted several initiatives to ensure the health, safety, and well-being of the Bureau's staff during the COVID-19 pandemic, which included:
- Directing that all examination activity of Bureau-supervised institutions be conducted offsite, from examiners' home duty stations, through January 2, 2021.
- Managing the agency's operating status and posture starting with mandatory telework through the current maximum telework position, which includes providing appropriate safety conditions to support voluntary return to the office for those who seek that option. This position is in place through January 2, 2021.
- Instituting additional workplace flexibilities that will continue through January 2, 2021, which include:
 - Authorizing employees to use administrative leave if they are unable to perform work at home or at their home duty station and (1) School or daycare closures result in a lapse in childcare, which requires one to provide care or (2) Other reasons one identifies as related to COVID-19 such as providing care for another family member in order to prevent exposure/spread of COVID-19, taking any required sanitation measures, etc.
 - Providing up to 2 weeks (80 hours) of emergency paid sick leave in accordance with the Emergency Paid Sick Leave Act.
- Providing Bureau employees with updates on prevention measures, workplace flexibilities, telework options and best practices, and notifying staff of the floor and wing location of affected staff through a variety of communication channels.

- Creating several ways to hear from our employees through NTEU engagements, a COVID-19 Bureau advisory group, a Pandemic Inquiries Inbox, leadership involvement, and through our Employee Resources Groups. Additionally, we have maintained a frequent cadence of communicating with FIRREA and other Federal agencies for situational awareness and alignment, where possible.
- The regional offices (New York, Chicago, San Francisco, and Atlanta) will soon open to their staff who desire to work in the office—mirroring the policies, procedures, and posture at headquarters.
- Shortly after I became Director, I established a Workforce Effectiveness Committee (WEC) to ensure that the Bureau takes a holistic, consistent approach to considering workforce-related issues. Since then, I have charged the WEC to focus on engagement as its highest priority. Issues and programs that the WEC has advised on include: the use of Employee Resources Groups and the Bureau's Mentoring for Success Program; review and consultation on the Bureau's Barrier Analysis results and compensation review; and the implementation of IdeaBox for capturing staff ideas and providing feedback.
- I created a Customer Experience Office to focus 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 toward the Bureau's mission. The award is the Bureau'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 Bureau management.
- I approved a succession planning process that will aid Bureau leaders to: optimize our current workforce; invest in workforce development to meet long-term needs; build a healthy management pipeline; and attract and retain a diverse and inclusive workforce responsive to the needs of our varied stakeholders.
- I approved the launch of Mentoring for Success, a three-part program that includes: 1) leadership speaker series; 2) small group discussions, and 3) mentor/protege pairs. The program is open to all Bureau employees.

- The Bureau completed the consolidation of all Washington, DC-based staff from two office buildings into one to increase the effectiveness of the organization and to significantly improve collaboration across all teams and divisions.
- I have directed our Office of Human Capital and Office of Equal Opportunity and Fairness to develop new and better tools to assist managers in exercising their workforce responsibilities. Recent examples include:
 - An Organization Improvement Action Guide which offers practical tips and tools for gathering, assessing, and responding to employee feedback, including linkages to AES categories and items and an action planning template and sample.
 - A three-part series for managers on how to manage employees remotely as the Bureau contends with COVID-19, including how to promote self-care for themselves and employees, and tips on how to effectively work virtually.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR CORTEZ MASTO FROM KATHLEEN L. KRANINGER**

Q.1. How many forensic accountants and other professionals who can trace illegally gotten gains does the Bureau have on staff? Do you have enough staff with the experience and ability to track financial transactions during investigations?

A.1. Enforcement has two forensic accountants and six financial investigators, all of whom have the experience and ability to track financial transactions including tracing illegally gotten gains.

Q.2. Does the Consumer Bureau have the ability to work with other agencies like the FBI, IRS, and others to find hidden accounts that may hold ill-gotten funds? If so, how are those collaborations working? Does the Bureau refer cases or work collaboratively on cases?

A.2. Enforcement effectively collaborates with numerous other Federal agencies, including the Federal Bureau of Investigation and has not encountered any issues with those relationships.

Q.3. Last month, the Consumer Bureau settled with three companies¹ involved in contract for deed contracts.

Q.3.a. Why did the Bureau only fine the three companies \$45,000?

A.3.a. The Bureau imposed a \$25,000 civil money penalty against Harbour Portfolio Advisors, LLC and a \$10,000 penalty against National Asset Advisors, LLC and National Asset Mortgage, LLC jointly, which will be paid to the Bureau and deposited into the Civil Penalty Fund created by the Dodd-Frank Act. The Consumer Financial Protection Act of 2010 provides a framework for determining the amount of civil money penalties. Under the Consumer Financial Protection Act of 2010, the Bureau must take into consideration a number of factors in determining the amount of civil money penalties, including the size of financial resources and good

¹ https://files.consumerfinance.gov/f/documents/cfpb_harbour-portfolio-advisors-et-al_consent-order_2020-06.pdf.

faith of the institution, along with the gravity of the violation, the severity of the risks to or losses of consumers, any history of previous violations, and other matters as justice requires. The Bureau took into account all of these factors in this matter.

Q.3.b. It has been 30 days since the consent order. Have the companies submitted and instituted the compliance plan as required in the consent order?

A.3.b. The Bureau monitors defendants' compliance with final orders by verifying information received from defendants and assessing whether they are adhering to applicable requirements. Details specific to a particular consent order are confidential.

BUREAU OF CONSUMER FINANCIAL PROTECTION | SPRING 2020

Semi-Annual Report of the Bureau of Consumer Financial Protection



Message from the Director

July 2, 2020

To say that we are living in challenging times would be an understatement. In fact, it's fair to say that no one saw the global pandemic crisis and its economic impacts coming in October 2019, which is the beginning of this report's covered period. Yet the uncertainty and dramatic change underscore the importance of the Bureau's mission on behalf of American consumers.

Further, this report gives me the opportunity to highlight the fantastic work of our incredibly talented, dedicated staff in facing the crisis.



Under the banner of "Safety First, Mission Always," the professionals at the CFPB tirelessly work

To protect, promote, and preserve the financial well-being of the American consumer.

To further our statutorily-driven objectives (many of which are detailed below), we have teamed with our stakeholders, particularly our federal partners, to ensure consumers were armed with accurate facts and helpful warnings in this unprecedented time.

Since the first days of the pandemic, countless joint statements, virtual co-appearances, and shared broadcasts to stakeholders with our prudential partners and others have been published. That is in addition to the dozens of Bureau efforts to directly engage consumers with the right information, at the right time. We have prepared consumers for the evolving options available to consumers to help them navigate the consequences of the temporary shutdown of the economy.

From efforts to empower elder Americans, to guidance offered about how to avoid potential scams related to the virus, to roadmaps of what relief is available to renters and mortgage holders under the CARES Act legislation, we worked hard to ensure consumers had the tools to cut through any confusion.

Our team truly rose to the occasion as they battled their own significant every day challenges of closed schools and daycare facilities, maintained their own good health, and maximized telework with all our offices shut down. And then some.

Supervisory examinations continued, consumer complaints were processed, and the mechanisms of rulemaking and enforcement of consumer law continued. While much of our economy was effectively shut down, our efforts on behalf of impacted consumers never slowed.

So I am uniquely proud to share with you our semiannual report and welcome your questions and thoughts about our efforts outlined here and our mission overall.

Sincerely,

A handwritten signature in blue ink that reads "Kathleen L. Kraninger". The signature is fluid and cursive, with the first name being the most prominent.

Kathleen L. Kraninger

Table of contents

Message from the Director	1
Table of contents.....	3
1. Significant problems faced by consumers in shopping for or obtaining consumer financial products or services.....	6
1.1 First-time homebuyers	6
1.2 Public records, credit scores, and credit performance.....	8
2. Justification of the budget request of the previous year	10
2.1 Fiscal year (FY) 2020 spending through the end of the second quarter of FY 2020.....	10
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.....	13
3.1 Significant rules.....	14
3.2 Less significant rules	16
3.3 Significant initiatives	17
3.4 Plan for upcoming initiatives	42
3.5 Plan for upcoming rules	50
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	58

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.....	62
5.1 Supervisory activities.....	62
5.2 Enforcement activities.....	62
6. Actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions.....	84
7. Assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law.....	85
8. Analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau.....	87
8.1 Fair lending supervision.....	87
8.2 Fair lending enforcement.....	89
8.3 Fair lending outreach.....	90
8.4 Fair lending coordination.....	92
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).....	94
9.1 Increasing workforce diversity.....	95
9.2 Increasing contracting diversity.....	97
9.3 Diversity within the Bureau contractors' workforces.....	98
Appendix A: Addendum.....	100

2019 Annual Report to Congress on the Secure and Fair Enforcement for
Mortgage Licensing Act of 2008 (SAFE Act)100

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

During the reporting period of this Semi-Annual Report, the Bureau released a Market Snapshot on First-time Homebuyers¹ that looks at consumers purchasing their first home between 2002 and 2018 and investigates the ease of first-time homeownership by comparing recent and historical market trends. The snapshot reveals a different set of challenges faced on the road to homeownership following the financial crisis in 2007–2009. The Bureau also released a Quarterly Consumer Credit Trends (qCCT): Public Records, Credit Scores, and Credit Performance.² The qCCT provides a retrospective on the removal of tax liens and civil judgments from credit reports that began in July 2017. Credit scores are widely used as an indicator of consumers' relative creditworthiness, which can impact consumers' ability to obtain financial products or services.

1.1 First-time homebuyers

Most American households desire to own a home. However, for households attempting to make the transition from renting to owning, shifts in the housing and mortgage markets can play a large role in whether they can afford to buy a home. Unlike most repeat buyers, first-time buyers do not have the benefit of accumulated home equity or an existing investment that generally insulates homeowners from rising housing costs. As a result, rising home values can disproportionately affect first-time buyers. Additionally, renters do not benefit from a credit history that reflects

¹ See <https://www.consumerfinance.gov/data-research/research-reports/market-snapshot-first-time-homebuyers/>.

² See <https://www.consumerfinance.gov/data-research/research-reports/quarterly-consumer-credit-trends-public-records-credit-scores-and-credit-performance/>.

monthly mortgage payments, and many times their rental history will not be reflected in their credit history either.

The Market Snapshot on First-time Homebuyers investigates the prevalence and ease of first-time homeownership by comparing current and historical market trends. Specifically, the Bureau looks at the credit characteristics and product usage of first-time buyers, the demographics of first-time buyers, and where first-time buyers are able to buy. The analysis in this report primarily relies on the National Mortgage Database (NMDb), a nationally representative, five percent sample of all outstanding, closed-end, first-lien, 1–4 family residential mortgages. The NMDb is jointly funded and managed by the Federal Housing Finance Agency (FHFA) and the Bureau; its purpose is to inform and educate federal agencies about lending products and mortgage market health.

First-time buyers after the financial crisis face disparate sets of challenges on the road to attaining homeownership. New buyers enter a market that is limited in inventory and has shifted to borrowers with higher credit scores. As home prices remain relatively affordable for median-income households nationwide, credit scores, buyer demographics, and location play key roles in determining when first-time buyers enter the housing market.

Key findings include:

- First-time homebuyers have consistently accounted for about half of all home purchase mortgages since 2002.
- Generally, first-time buyers obtain mortgages at the same age they did before the financial crisis. However, when broken down by race and ethnicity, black borrowers become first-time buyers noticeably later. In 2018, the median first-time black borrower was six years older than the median non-Hispanic white borrower. In 2002, the age gap between black and white first-time borrowers was just two years.
- Loans insured or guaranteed by the Department of Agriculture (USDA loans) have become an increasingly important source of credit for rural first-time borrowers. In 2018, USDA loans accounted for 17 percent of loans originated for rural first-time buyers, compared to five percent of the entire first-time borrower market.
- Home affordability varies significantly by region and housing market. Rural borrowers have lower debt-to-income ratios (DTIs) and lower credit scores than their urban counterparts. Borrowers in some affordable Metropolitan Statistical Areas (MSAs) buy their first home around the same age as they did prior to the financial crisis. Borrowers in

expensive MSAs are typically older and their median age at the time of purchase has continued to increase since the financial crisis.

1.2 Public records, credit scores, and credit performance

Credit scores are widely used as an indicator of consumers' relative creditworthiness. The ability of scores to accurately distinguish individuals' creditworthiness depends in large part on the accuracy and completeness of the information underlying the scores. Inaccurate credit reports can prevent consumers from getting credit that they need and can lead to consumers getting credit for which they have a relatively high likelihood of default. Inaccurate credit reports can also create costs for lenders, who benefit from accurate assessments of risk when conducting underwriting and pricing.

This new report follows the Bureau's February 2018 qCCT report,³ which found that new reporting standards for public records resulted in the removal of all civil judgments and almost half of tax liens from consumer credit reports in July 2017. This ninth qCCT report uses the Bureau's Consumer Credit Panel (CCP) to look at the National Consumer Assistance Plan (NCAP) public records provision's effects on the relationship between credit scores and consumers' credit performance. This report first illustrates the changes in public record reporting since the February 2018 qCCT report and then examines differences in scores for consumers who had a lien or judgment and those who did not. It then considers the differences in average delinquency rates between consumers who had a lien or judgment and those who did not by credit score category and whether this relationship changed after the implementation of the NCAP public record provision.

The report uses data from the Bureau's CCP, a longitudinal, nationally representative sample of approximately five million de-identified credit records maintained by one of the three nationwide consumer reporting agencies.

³ See <https://www.consumerfinance.gov/data-research/research-reports/quarterly-consumer-credit-trends-public-records/>.

Key findings include:

- Since the February 2018 qCCT report, the National Consumer Reporting Associations (NCRAs) have taken further steps to remove public records. Almost half of tax liens survived the July 2017 removals, but by April 2018, none remained. Bankruptcies are now the only type of public record on NCRA credit reports.
- Consumers with public records tended to have lower scores than those without. In June 2017 (before NCAP's changes took effect), half of consumers with judgments or liens had Deep Subprime scores (below 580).
- Consumers with judgments or liens had a much higher overall delinquency rate than those without, but this difference is smaller when looking at consumers in the same credit score group.
- Looking within credit score categories, the difference in delinquency rates between consumers with judgments or liens and those without stays largely constant across time periods. This evidence suggests that the public records provision of the NCAP did not have a large effect on the relationship between credit scores and consumers' credit performance.

2. Justification of the budget request of the previous year

The Bureau's Annual Performance Plan and Report, and Budget Overview, 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 (FY) 2020 spending through the end of the second quarter of FY 2020

2.1.1 Bureau fund

As of March 31, 2020, the end of the second quarter of FY 2020, the Bureau had spent approximately \$301.1 million⁴ in FY 2020 funds to carry out the authorities of the Bureau under Federal consumer financial law, including approximately \$159.5 million for employee compensation and benefits. There were 1,421 Bureau employees on board at the end of the quarter.⁵

⁴ This amount includes commitments, new 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.

⁵ This figure reflects the employees on board during pay-period 06, calendar year 2020.

TABLE 1: FY 2020 SPENDING EXPENSE CATEGORY

Expense Category	Fiscal Year 2020
Personnel Compensation	\$112,007,000
Benefit Compensation	\$47,168,000
Benefit Compensation – Former Employees	\$357,000
Travel	\$5,824,000
Transportation of Things	\$110,000
Rents, Communications, Utilities & Misc.	\$9,492,000
Printing and Reproduction	\$1,810,000
Other Contractual Services	\$107,492,000
Supplies & Materials	\$2,630,000
Equipment	\$13,964,000
Land and Structures	\$204,000
Total (as of March 31, 2020)	\$301,058,000

2.1.2 FY 2020 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, 2020, the Bureau had received the following transfers for FY 2020. The amounts and dates of the transfers are shown below.⁶

⁶ Current year spending in excess of funds received is funded from the prior year's unobligated balance.

TABLE 2: FUND TRANSFERS

Funds Transferred	Date
\$223.3M	October 01, 2019
\$97.8M	January 02, 2020
\$321.1M	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 period⁷

⁷ 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.

3.1 Significant rules⁸

The Bureau issued four significant notices of proposed rulemaking during the preceding year:

- Proposed Rule: Home Mortgage Disclosure (Regulation C)⁹
- Proposed Rule: Debt Collection Practices (Regulation F)¹⁰
- Supplemental Proposed Rule: Debt Collection Practices (Regulation F)¹¹
- Proposed Rule: Remittance Transfers under the Electronic Fund Transfer Act (Regulation E)¹²

The Bureau issued two significant final rules:

⁸ 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.

⁹ <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/home-mortgage-disclosure-regulation-c/>. Additional activity has occurred with this matter since the end of this reporting period. In October 2019 the Bureau finalized this rule. More information can be found here: <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/home-mortgage-disclosure-regulation-c-2019-final-rule/>.

¹⁰ <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/debt-collection-practices-regulation-f/>.

¹¹ <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/debt-collection-practices-regulation-f-supplemental-proposal-time-barred-debt/>.

¹² <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/remittance-transfers-under-electronic-fund-transfer-act-regulation-e/>. Additional activity has occurred with this matter since the end of this reporting period. In May 2020 the Bureau finalized this rule. More information can be found here: <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/remittance-transfers-under-electronic-fund-transfer-act-regulation-e/>.

- Final Rule: Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date; Correcting Amendments.¹³ The Bureau issued this final rule in June 2019 to delay the August 19, 2019 compliance date for the mandatory underwriting provisions of the regulation promulgated by the Bureau in November 2017 governing [Payday, Vehicle Title, and Certain High-Cost Installment Loans](#). Compliance with the provisions finalized in 2017 was delayed by 15 months to November 19, 2020. The Bureau also made certain corrections to address several clerical and non-substantive errors it identified in other aspects of the rule.
- Final Rule: Home Mortgage Disclosure (Regulation C)–2019 Final Rule.¹⁴ The Bureau amended Regulation C to adjust the threshold for reporting data about open-end lines of credit by extending to January 1, 2022, the current temporary threshold of 500 open-end lines of credit. The Bureau also incorporated into Regulation C the interpretations and procedures from the interpretive and procedural rule that the Bureau issued on August 31, 2018 and implemented further Section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA).

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 <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/home-mortgage-disclosure-regulation-c-2019-final-rule/>.

3.2 Less significant rules¹⁵

- Final Rule: Availability of Funds and Collection of Checks (Regulation CC).¹⁶
- Final Rule: Truth in Lending (Regulation Z) Threshold Adjustments.¹⁷
- Final Rule: Appraisals for Higher-Priced Mortgage Loans Exemption Threshold Adjustments.¹⁸
- Final Rule: Consumer Leasing (Regulation M) Annual Threshold Adjustments.¹⁹
- Final Rule: Fair Credit Reporting Act Disclosures.²⁰
- Final Rule: Home Mortgage Disclosure (Regulation C) Adjustment to Asset-Size Exemption Threshold.²¹

¹⁵ This list includes less significant rules, and it is not comprehensive. This list may exclude certain non-major rules, proposed rules, procedural rules, and other miscellaneous routine rules. 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/>.

¹⁶ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/availability-funds-and-collection-checks-regulation-cc/>.

¹⁷ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/truth-lending-regulation-z-threshold-adjustments/>.

¹⁸ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/appraisals-higher-priced-mortgage-loans-exemption-threshold-adjustments/>.

¹⁹ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/consumer-leasing-regulation-m-adjustments/>.

²⁰ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/fair-credit-reporting-act-disclosures/>.

²¹ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/home-mortgage-disclosure-regulation-c-adjustment-asset-size-exemption-threshold/>.

- Final Rule: Truth in Lending Act (Regulation Z) Adjustment to Asset-Size Exemption Threshold.²²

3.3 Significant initiatives

- *Research Reports*. During the reporting period, in addition to the Home Mortgage Disclosure Act (HMDA) data reports and the Credit Card Market Report, the Bureau released the following research reports:
 - *Quarterly Consumer Credit Trends: Timing of Applications for Consumer Credit*. This report explores the relationship between fluctuations in consumers' credit scores and the timing of consumers' applications for credit.²³
 - *Data point: Credit card revolvers*. This report studies patterns of revolving and repayment of credit card accounts in the United States and examines how often balances are revolved on an account, or borrowed, how long balances are revolved, and how regularly they are paid down.²⁴
 - *Market Snapshot: Third-Party Debt Collections Tradelines Reporting*. This report provides a basic overview of third-party debt collections credit reporting tradelines.²⁵

²² <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/truth-lending-act-regulation-z-adjustment-asset-size-exemption-threshold/>.

²³ <https://www.consumerfinance.gov/data-research/research-reports/quarterly-consumer-credit-trends-timing-applications-consumer-credit/>.

²⁴ <https://www.consumerfinance.gov/data-research/research-reports/data-point-credit-card-revolvers/>.

²⁵ <https://www.consumerfinance.gov/data-research/research-reports/market-snapshot-third-party-debt-collections-tradelines-reporting/>.

- *Planning for tax-time savings.* This report presents the results of a large-scale field experiment that the tax preparation company H&R Block conducted in collaboration with the Bureau. The field experiment investigated whether customers could be encouraged, through consumer communications with and without the offer of a small financial incentive, to use a savings feature on a prepaid card to save a portion of their tax refunds from all sources, including state and federal refunds.²⁶
- *Credit Characteristics, Credit Engagement Tools, and Financial Well-Being.* This report presents results from a joint research study by the Bureau and Credit Karma. The purpose of the study is to examine how consumers' subjective financial well-being relates to objective measures of consumers' financial health, specifically, consumers' credit report characteristics. The study also seeks to relate consumers' subjective financial well-being to consumers' engagement with financial information through educational tools.²⁷
- *Quarterly Consumer Credit Trends: Consumer Bankruptcy, BAPCPA, and the Great Recession.* This report explores how the volume and types of bankruptcy filings have changed throughout the period 2001–2018, which includes the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) and the Great Recession. The report considers changes in the attributes of bankruptcy filers by analyzing credit scores and the amount of debt consumers hold prior to bankruptcy.²⁸

²⁶ <https://www.consumerfinance.gov/data-research/research-reports/planning-tax-time-savings/>.

²⁷ <https://www.consumerfinance.gov/data-research/research-reports/credit-characteristics-credit-engagement-tools-financial-well-being/>.

²⁸ <https://www.consumerfinance.gov/data-research/research-reports/quarterly-consumer-credit-trends-consumer-bankruptcy-bapcpa-great-recession/>.

- *Market Snapshot: Background Screening Reports.* This report describes the background screening industry; how background screening reports, including criminal history information, are generated; how screening reports are used by employers; challenges related to accuracy and dispute resolution, and developments in the market. While background screening reports can include various types of information and be used for several purposes, this paper focuses on reports used for employment purposes that include criminal history information.²⁹
- *Data Point: Servicer Size in the Mortgage Market.* This data point compares borrower characteristics at mortgage servicers of different sizes and explores the role servicers of each size play in the mortgage market.³⁰
- *Data Point: Borrower Experiences on Income-Driven Repayment.* This data point describes which student loan borrowers use income-driven repayment (IDR) and how their delinquencies on student loans and other credit products evolve as they transition onto IDR plans. The report follows borrowers throughout their first year on IDR and shows how some borrowers continue to pursue lower payments while others transition back to standard repayment.³¹
- *Quarterly Consumer Credit Trends: Public records, credit scores, and credit performance.* This report looks at the NCAP public records provision's effects on the relationship between credit scores and consumers' credit performance for consumers who had a civil judgment or tax lien removed from their credit report and those who did not.³²

²⁹ <https://www.consumerfinance.gov/data-research/research-reports/market-snapshot-background-screening-reports/>.

³⁰ <https://www.consumerfinance.gov/data-research/research-reports/data-point-servicer-size-mortgage-market/>.

³¹ <https://www.consumerfinance.gov/data-research/research-reports/data-point-borrower-experiences-income-driven-repayment/>.

³² <https://www.consumerfinance.gov/data-research/research-reports/quarterly-consumer-credit-trends-public-records-credit-scores-and-credit-performance/>.

- *Report to Congress: 2019 College credit card agreements.* The Credit Card Accountability Responsibility and Disclosure Act (CARD Act or Act) requires the Bureau to submit to Congress, and to make available to the public, an annual report that lists information submitted to the Bureau concerning agreements between credit card issuers and institutions of higher education or certain organizations affiliated with such institutions in connection with the issuance of credit cards. This report refers to these agreements as “college credit card agreements” or simply “agreements.” Affiliated organizations include fraternities, sororities, alumni associations, or foundations affiliated with or related to an institution of higher education. This is the tenth annual report pursuant to the CARD Act.³³
- *Data Point: Small Business Lending and the Great Recession.* This Data Point article uses Community Reinvestment Act (CRA) and Census data to track the evolution of small business lending before, during, and after the Great Recession. Considering the important role that small businesses play in the American economy, this report helps explain their lending experiences during this critical time period. This report looks at lending across county and state geographies and different types of depository institutions. This report finds that while there was substantial variation in small business lending growth during the Pre-period (2004–2007), virtually all counties were affected similarly by the Great Recession (2008–2009). Overall, small business lending growth was weak during the Recovery (2010–2017).³⁴
- *Disclosure of Time-Barred Debt and Revival: Findings from the CFPB’s Quantitative Disclosure Testing.* This report presents the results of a large-scale

³³ <https://www.consumerfinance.gov/data-research/research-reports/2019-college-credit-card-agreements/>.

³⁴ https://files.consumerfinance.gov/f/documents/cfpb_data-point_small-business-lending-great-recession.pdf.

- The [fourth symposium](#), held on February 26, 2020, focused on consumer access to financial records and elicited a variety of perspectives on the current and future state of the market for services based on consumer-authorized use of financial data, as well as considerations for policymakers.
- *A Review of Youth Financial Education: Effects and Evidence.*³⁷ This literature review was issued to help education policymakers, program leaders, financial educators, and academic researchers make evidence-informed policy, programming, and resourcing decisions about school-based financial education.
- *Financial Well-Being of Veterans report.*³⁸ The Bureau's review of the data about veterans in the financial well-being survey found that veterans reported higher levels of financial well-being than the average U.S. adult. However, the analysis also found that veterans, like other U.S. adults, have financial experiences that are negatively associated with financial well-being. The analysis suggests that for veterans, as for the general population, there is a pathway from financial skill to financial well-being.
- *Request for Information: Remittances.* In April 2019, the Bureau issued a Request for Information (RFI) seeking information on two aspects of the Bureau's Remittance Rule.³⁹ First, the Bureau asked for information to determine whether to propose changes to the Rule given the impending expiration of a temporary exception, which permits depository institutions under certain circumstances to estimate certain fees and other costs when providing disclosures. Second, the Bureau asked for information to determine whether to

³⁷ <https://www.consumerfinance.gov/data-research/research-reports/review-youth-financial-education-effects-and-evidence/>.

³⁸ <https://www.consumerfinance.gov/data-research/research-reports/financial-well-being-veterans/>.

³⁹ <https://www.consumerfinance.gov/about-us/newsroom/cfbp-issues-request-information-remittance-rule/>.

propose changes to the Rule's safe harbor for determining whether a provider is engaged in providing remittances in the normal course of business.⁴⁰

- *Advance Notice of Proposed Rulemaking: Home Mortgage Disclosure Act.* In May 2019 the Bureau issued an Advance Notice of Proposed Rulemaking (ANPR) seeking information to determine whether to propose changes to the data points that the Bureau's 2015 HMDA rule added to Regulation C or revised to require additional information. The ANPR sought information regarding the costs and benefits of these data points.⁴¹ Additionally, the Bureau solicited comments relating to the requirement that institutions report certain business- or commercial-purpose transactions under Regulation C.
- *Convening Community to Build Elder Fraud Prevention and Response Networks report.*⁴² This report describes the Bureau-facilitated convenings in Florida, Oklahoma, Tennessee, Montana, and Oregon, which have sparked the creation of new elder fraud prevention and response networks or have enhanced existing networks. The lessons learned from these pilot convenings can help other communities develop networks that improve coordination and collaboration between responders and service providers to protect older people from financial harm.
- *Section 610 Review of Significant Rules.* In May 2019 the Bureau published a plan for the review of rules which have a significant economic impact on a substantial number of small entities.⁴³ These reviews are required by Section 610 of the Regulatory Flexibility Act. The

⁴⁰ Additional activity has occurred with this matter since the end of this reporting period. See Remittance in Section 3.5.

⁴¹ <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/home-mortgage-disclosure-regulation-c-data-points-and-coverage-extension-comment-period/>.

⁴² <https://www.consumerfinance.gov/data-research/research-reports/convening-communities-build-elder-fraud-prevention-and-response-networks/>.

⁴³ <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/plan-review-business-rules-purposes-regulatory-flexibility-act/>.

Bureau invited public comment on its plan. Concurrently with the publication of this plan, the Bureau launched a Section 610 review of a rule regulating overdraft services which the Board of Governors of the Federal Reserve System (FRB or Board) adopted in 2009 and invited public comment with respect to the review of that rule.⁴⁴ The Bureau subsequently completed its review of the rule regulating overdraft services. After considering the statutory review factors, including a review of public comment, the Bureau has determined that the rule should continue without change at this time. The Bureau believes that there is a continued need for this rule, which does not overlap with other Federal or State rules and which likely preserves a valuable consumer choice. The overdraft rule is not complex, and no aspect of the rule was identified as presenting a unique burden or cost to small entities. Commenters also overwhelmingly supported continuing the 2009 rule without change.

- *Statement on Collection of Demographic Information by Community Development Financial Institutions.*⁴⁵ In June 2019, the Bureau issued a statement regarding Certified Community Development Financial Institutions (CDFIs) receiving Federal financial assistance from the U.S. Department of the Treasury's Community Development Financial Institutions Fund (CDFI Fund). The statement explains that CDFIs receiving Federal financial assistance from the CDFI Fund may collect demographic information on the individuals the CDFI serves, consistent with the Equal Credit Opportunity Act (ECOA) and its implementing Regulation B.
- *Fair Lending Annual Report.*⁴⁶ In June of 2019, the Bureau published the Fair Lending Annual Report describing the Bureau's fair lending activities in innovation, outreach,

⁴⁴ <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/overdraft-rule-review-pursuant-regulatory-flexibility-act/>.

⁴⁵ https://files.consumerfinance.gov/f/documents/20190627_cfpb_statement-on-collection-demographic-information.pdf.

⁴⁶ https://files.consumerfinance.gov/f/documents/201909_cfpb_corrected-2018-fair-lending_report.pdf.

prioritization, guidance and rulemaking, supervision, and enforcement for calendar year 2018.

- *Reporting of Suspected Elder Financial Exploitation by Financial Institutions.*⁴⁷ In 2016, the Bureau released an Advisory for Financial Institutions, which includes a comprehensive set of voluntary recommendations for preventing and responding to elder financial exploitation. In July 2019, the Bureau updated the advisory, building on earlier recommendations and its recent research on Suspicious Activity Reports (SARs) on Elder Financial Exploitation (EFE). The update provides new information about reporting EFE based on federal and state law changes. The new analysis of current laws aims to help financial institutions in their efforts to combat elder fraud.
- *Advance Notice of Proposed Rulemaking: Ability-to-Repay and Qualified Mortgages.* In July 2019 the Bureau issued an ANPR asking for information relating to the expiration of the temporary Government-Sponsored Enterprise (GSE) provision of the Bureau's Ability-to-Repay and Qualified Mortgage Rule. Under that provision, mortgages which are eligible for purchase or guarantee by one of the GSEs and which satisfy certain statutory criteria relating primarily to features of the mortgage are generally deemed to be Qualified Mortgages (QMs). This provision is scheduled to expire in January 2021, and the Bureau's ANPR sought information to determine whether to propose changes in the general definition of QM considering that expiration.⁴⁸
- *Credit Card Market Report.* Every two years, the Bureau reports on the state of the consumer credit card market.⁴⁹ The report for 2019 covered how consumers use cards, the

⁴⁷ <https://www.consumerfinance.gov/data-research/research-reports/reporting-suspected-elder-financial-exploitation-financial-institutions-update-2016-advisory-and-recommendations/>.

⁴⁸ <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/qualified-mortgage-definition-under-truth-lending-act-revolution-z/>.

⁴⁹ In 2009, the 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.

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 CARD Act, and innovation in the credit card market.⁵⁰

- *Home Mortgage Disclosure Act Data Release.* Every year, on behalf of the Federal Financial Institutions Examination Council (FFIEC), the Bureau releases data on mortgage lending transactions at U.S. financial institutions covered by the HMDA. Covered institutions include banks, savings associations, credit unions, and mortgage companies. The loan-level HMDA data covering previous-year lending activity are submitted to the Bureau by March 1st of each year. Modified loan-level data are released by March 31st, and other data products including a national dataset and Aggregate and Disclosure Reports are released in the Summer of each year.⁵¹ In August 2019, the Bureau released two reports along with this HMDA data. The first Data Point article is an annual series of Bureau articles describing mortgage market activity over time. It summarizes the historical data points in the HMDA data, as well as recent trends in mortgage and housing markets.⁵² The second Data Point article analyzes data points introduced beginning with the 2018 HMDA data and provides observations about the nation's mortgage market based on those new or revised data points.⁵³ Public access to HMDA data is also made available through the HMDA Data Browser,⁵⁴ allowing custom selections of the data to be summarized and downloaded. To develop the HMDA Data Browser, the Bureau used structured usability testing in Summer 2019 with both internal and external users, including nine community and consumer groups, in order to test designs and data outputs, understand end user

⁵⁰ <https://www.consumerfinance.gov/data-research/research-reports/the-consumer-credit-market-2019/>.

⁵¹ <https://ffiec.cfb.gov/data-publication/>.

⁵² <https://www.consumerfinance.gov/data-research/research-reports/data-point-2018-mortgage-market-activity-and-trends/>.

⁵³ <https://www.consumerfinance.gov/data-research/research-reports/introducing-new-revised-data-points-hmda/>.

⁵⁴ <https://ffiec.cfb.gov/data-browser/data/2019?category=states>.

behavior, and survey user needs and expectations.⁵⁵ Bureau subject matter experts also met with Senate Banking Committee senior staff in June 2019 to describe the HMDA Data Browser and other details of HMDA Data Products. In order to assess what other improvements may best serve the needs of HMDA users, the Bureau will continue to conduct outreach to users and make further improvements. On November 6, 2019, Bureau staff participated in a call with approximately 10 local community organizations, who are members of the National Reinvestment Coalition (NCRC), to discuss the availability of certain HMDA aggregate and disclosure (A/D) reports and the accessibility of the HMDA Data Browser.

- *Consumer Complaint Database.* In September 2019, the CFPB announced that it will continue the publication of consumer complaints, data fields, and narrative descriptions through the Bureau's Consumer Complaint Database while making several enhancements to the information available to users of the database. The Bureau already made changes to its website to:
 - More prominently display disclosures making it clear that the Consumer Complaint Database is not a statistical sample of consumers' experiences in the marketplace;
 - Highlight the availability of answers to common financial questions for consumers to help inform them before they submit a complaint; and
 - Encourage consumers to contact the financial company directly to get answers to their specific questions.

⁵⁵ Additional activity has occurred with this matter since the end of this reporting period. On June 2 and June 10, 2020, the Bureau conducted webinars entitled, "Publications and Tools for the HMDA Data User," which provided an overview of HMDA publications and tools, a demo of the HMDA Data Browser using examples, and highlights of various publicly-available resources that users may find helpful. Approximately 80 consumer and community groups participated in the webinars.

To further enhance the database in 2020, the Bureau will:

- Build and launch dynamic visualization tools including geospatial and trend views based on recent complaint data to help users of the database understand current and recent marketplace conditions; and
 - Emphasize features for aggregation and analysis while continuing to make all the underlying data available for analysis.⁵⁶
- *Trial Disclosure Programs.*⁵⁷ In September 2019, the Bureau issued its revised Policy to Encourage Trial Disclosure Programs (Policy). Because the Bureau had not permitted a single trial disclosure program under the original 2013 version of the Policy, the Bureau determined revisions were necessary. The Bureau voluntarily sought public comment on the revised Policy proposal in September 2018 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 gave each comment careful consideration and adopted several of the suggested changes designed to improve the Policy. The Bureau is now accepting applications under the revised Policy.
- *No-Action Letters.*⁵⁸ In September 2019, the Bureau issued its revised Policy on No-Action Letters. The Bureau determined that revisions to the original 2016 Policy were necessary because the Bureau had issued only one No-Action Letter under the 2016 Policy. The revised Policy brings the Bureau's program more in line with certain features of No-Action Letter programs successfully operated by other Federal agencies. The Bureau voluntarily sought comment during a 60-day comment period on a two-part proposal to (i) revise the 2016 Policy on No-Action Letters and (ii) create a Product Sandbox. The Bureau received approximately 30 distinct comment letters from a broad array of stakeholders; including

⁵⁶ More information can be found here: <https://www.consumerfinance.gov/about-us/newsroom/director-kavanaughers-speech-national-consumer-empowerment-conference/>.

⁵⁷ https://files.consumerfinance.gov/f/documents/cfpb_final-policy-to-encourage-tdp.pdf.

⁵⁸ https://files.consumerfinance.gov/f/documents/cfpb_final-policy-on-no-action-letters.pdf.

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. Upon careful consideration of comments received, the Bureau elected to separate the two-part proposal into distinct final policies—the revised Policy on No-Action Letters and the Policy on the Compliance Assistance Sandbox (discussed below). The Bureau is now accepting applications for No-Action Letters (NALs) under the revised Policy and has granted two NALs and three NAL Templates under the revised Policy to date.

- *Compliance Assistance Sandbox.*⁵⁹ In September 2019, the Bureau issued its Policy on the Compliance Assistance Sandbox (CAS Policy). The Bureau proposed the CAS Policy to address stakeholder demand for forms of compliance assistance that provide greater protection from liability than is provided by NALs. Under the final CAS Policy, innovators can apply for an approval that provides a safe harbor from liability for conduct compliant with the law under certain statutes within the Bureau’s jurisdiction. The Bureau is now accepting applications for approvals under the CAS Policy.
- *Tech Sprints Request for Information.*⁶⁰ In September 2019, the Bureau issued an RFI seeking comments and information. The comment period closed on November 8, 2019, and the Bureau received 19 comments in response to its RFI. The feedback identified an interest in organizing Tech Sprints in the areas of HMDA, supervision data sharing and submission, automated compliance, third-party technology providers/bank-fintech partnerships, consumer disclosures, and regulations. The information provided will help the Bureau identify how stakeholders can work together to create a regulatory environment (1) that allows flexible, efficient, and effective innovation to flourish; (2) where new and/or emerging risks can be identified and managed effectively; and (3) where consumers have

⁵⁹ https://files.consumerfinance.gov/f/documents/cfpb_final-policy-on-cas.pdf.

⁶⁰ https://files.consumerfinance.gov/f/documents/cfpb_rfi_tech-sprints.pdf. For additional information, see *infra* Section 8.3.1.

the appropriate level of protection and suitable access to the benefits of technological advancement. The Bureau expects to announce its first Tech Sprints later in 2020.⁶¹

- *ACFIN.*⁶² The American Consumer Financial Innovation Network (ACFIN) is now a network of nineteen federal and state officials and regulators seeking to facilitate consumer-beneficial innovation. Launched in September 2019 by the Bureau and seven state partners, ACFIN benefits consumers by enabling federal and state officials to coordinate efforts to facilitate innovation and further shared objectives such as competition, consumer access, and financial inclusion. ACFIN members hold joint Office Hours programs and share information on innovation-related matters, as appropriate. ACFIN members may also coordinate on NALs or Sandbox trials.
- *GFIN.*⁶³ The Bureau is also a coordinating member of the Global Financial Innovation Network (GFIN), an organization of over 50 regulatory agencies worldwide working together to support financial innovation in the interest of consumers. Formally launched in January 2019, GFIN seeks to: (a) act as a network of regulators to collaborate and share experiences on innovation in respective markets, including emerging technologies and business models; (b) provide a forum for joint policy work and discussions; and (c) give firms an environment that allows for trials of cross-border solutions. The Bureau now participates in two GFIN workstreams: one related to cross-border testing and another related to regulatory and supervisory technology.
- *Your Money, Your Goals.*⁶⁴ In FY 2020, the Bureau's financial empowerment program for front-line staff and volunteers entered its eighth 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 to provide training and

⁶¹ 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/tech-sprints/>.

⁶² <https://www.consumerfinance.gov/policy-compliance/innovation/american-consumer-financial-innovation-network/>.

⁶³ <https://www.consumerfinance.gov/policy-compliance/innovation/global-financial-innovation-network/>.

⁶⁴ <https://www.consumerfinance.gov/practitioner-resources/your-money-your-goals/>.

technical assistance to help an annual cohort of organizations build capacity to integrate Your Money, Your Goals tools and information into their work. From 2013 through September 2019, more than 30,000 front line staff and volunteers have been trained to use Your Money, Your Goals with the individuals they serve. The suite of educational resources 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 four issue-focused booklets, “Behind on bills?”, “Debt getting in your way,” “Want credit to work for you?” and “Building Your Savings?”

- *Measuring Youth Capability.*⁶⁵ To effectively teach the building blocks of financial capability, it is helpful to gauge what students know, understand, and can do. The Bureau released the “Youth financial capability survey” to highlight the attitudes, skills, and habits a young person has by measuring their development of three interconnected building blocks of financial capability: executive function, financial habits and norms, and financial knowledge and decision-making skills. Alongside the survey, the Bureau issued a teacher guide to help teachers administer, score, and analyze the survey.
- *Start Small, Save Up Initiative.*⁶⁶ The Start Small, Save Up initiative aims to increase people’s opportunities to save and achieve their own savings and financial goals. Through Start Small, Save Up, the Bureau is working to help consumers build emergency savings over the next few years by working with employers to prioritize emergency savings and automated solutions in the workplace; engaging with partners to highlight emergency savings products that work and make more accessible products available; and partnering with trusted community institutions to tailor savings solutions to unique audiences. The Start Small, Save Up initiative includes a robust research and evaluation component to ensure the Bureau is learning about its own efforts, as well as the efforts of others who are also working toward a similar goal of helping consumers save. The Bureau launched a series of saving resources including the CFPB Savings Boot Camp, a multi-week email course to guide people through the fundamentals of saving. The Bureau also released the fourth in a series of booklets for social services providers to talk with people about money

⁶⁵ <https://www.consumerfinance.gov/data-research/research-reports/measuring-youth-financial-capability/>.

⁶⁶ <https://www.consumerfinance.gov/start-small-save-up/>.

topics that are important to them: “Building your Savings? Start with Small Goals.” The booklet contains colorful, engaging tools to support people in setting savings goals, preparing for the unexpected, finding a place to save, and making the most of tax services providers, financial coaches, and financial educators. The Bureau also hosted a convening with several financial institutions to engage them in a dialogue about helping consumers and their workforce build emergency savings, exploring new research opportunities, understanding successful ways to market savings solutions to consumers, and seeking opportunities to collaborate with the Bureau on these efforts.

- *Tax Time: An opportunity to Start Small and Save Up.*⁶⁷ As part of the research and evaluation component of the Start Small, Save Up initiative, the Bureau issued this paper highlighting findings about saving during tax time. Specifically, the paper highlights how liquid savings contribute to financial stability; examples of how Volunteer Income Tax Assistance programs creatively used Bureau tools, resources and technical assistance to encourage savings; and recommendations on strategies that can be employed to increase people’s interest and commitment to saving during the tax preparation process.
- *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. Under Section 1022(d)(2), assessment reports must be published not later than five years of the effective date of the significant rule or order.
 - *TRID Integrated Disclosure Rule (the Truth in Lending Act and Real Estate Settlement Procedures Act).* In November 2019, the Bureau publicly initiated the assessment of the TRID rule by requesting public comment on its plans to conduct the assessment. As part of its assessment, the Bureau intends to address the TRID rule’s effectiveness in meeting the purposes and objectives of Title X of the Dodd-Frank Act, the specific goals of the rule, and other relevant factors. The public was

⁶⁷ <https://www.consumerfinance.gov/data-research/research-reports/tax-time-opportunity-start-small-save-up/>.

invited to comment on the feasibility and effectiveness of the assessment plan, recommendations to improve the assessment plan, and recommendations for modifying, expanding, or eliminating the TRID rule, among other questions.⁶⁸

- *Financial well-being by state.*⁶⁹ In 2015, the Bureau released its first report on financial well-being based on in-depth interviews with adults ages 18 and older across the United States. Building on that effort, this report provides the first state-by-state description of the financial well-being of adults in the United States, as measured by the CFPB Financial Well-Being Scale. The report is based on public data from the Financial Industry Regulatory Authority Investor Education Foundation 2018 National Financial Capability Study State-by-State Survey. The report highlights important patterns found in the distribution of scores by state and age.
- *Statement on Alternative Data in Underwriting.*⁷⁰ In December 2019, the Bureau, the FRB, the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the National Credit Union Administration (NCUA) (collectively “the agencies”) issued a joint statement on the use of alternative data in underwriting by banks, credit unions, and non-bank financial firms. The purpose of the statement was to provide guidance on the use of alternative data in underwriting and, to the extent firms are using or contemplating using alternative data, to encourage responsible use of such data.
- *CFPB-FTC Workshop on Accuracy in Consumer Reporting.* On December 10, 2019, the Bureau cohosted, with the FTC, a workshop to examine issues affecting the accuracy of

⁶⁸ <https://www.consumerfinance.gov/about-us/newsroom/bureau-to-assess-integrated-mortgage-disclosure-rule/>.

⁶⁹ <https://www.consumerfinance.gov/data-research/research-reports/financial-well-being-state/>.

⁷⁰ <https://www.consumerfinance.gov/about-us/newsroom/federal-regulators-issue-joint-statement-use-alternative-data-credit-underwriting>.

traditional credit reports as well as employment and tenant background screening reports.⁷¹

- *CFPB Research Conference.* On December 12-13, 2019, the Bureau hosted its fourth research conference, which featured research from a range of disciplines and approaches that can inform the topic of consumer finance.⁷²
- *Financial Literacy Annual Report.*⁷³ The Bureau reports annually on its statutory mission to conduct financial education programs and to ensure consumers receive timely and understandable information to make responsible decisions about financial transactions. The 2019 report highlights the Bureau's financial education programs and initiatives.
- *Taskforce on Federal Consumer Financial Law.* The Director established the Taskforce on Federal Consumer Financial Law and appointed five members in January 2020 to examine ways to harmonize and modernize Federal consumer financial laws. The Taskforce will examine the existing legal and regulatory environment facing consumers and financial services providers and report to the Director its recommendations for ways to improve and strengthen consumer financial laws and regulations. The Taskforce will produce new research and legal analysis of consumer financial laws in the United States, focusing specifically on harmonizing, modernizing, and updating Federal consumer financial 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. In March 2020, the Bureau issued an RFI seeking input from the public to help identify areas of consumer protection for the Taskforce to focus its research and analysis.

⁷¹ The agenda for that workshop is available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-panels-for-cfpb-ftc-accuracy-in-consumer-reporting-workshop/>. The video and transcript from that workshop are available at <https://www.ftc.gov/news-events/events-calendar/accuracy-consumer-reporting-workshop/>.

⁷² The agenda for the conference is available at <https://www.consumerfinance.gov/data-research/cfpb-research-conference/2019-cfpb-research-conference/agenda/>.

⁷³ <https://www.consumerfinance.gov/data-research/research-reports/2019-financial-literacy-annual-report/>.

- *Consolidation of Bureau Headquarters.* The Bureau has finalized the consolidation of all Washington, DC-based staff from two office buildings into one to increase effectiveness of the organization and to significantly improve the collaboration across all teams and divisions. Approximately 900 Bureau personnel moved between November 13, 2019 and January 17, 2020.
- *Abusiveness Policy Statement.* On January 24, 2020, the Bureau published a Policy Statement with respect to the manner in which the Bureau intends to apply the abusiveness provision of the Dodd-Frank Act in its supervisory and enforcement work. This Policy Statement provided much needed guidance to the market with respect to the Bureau's approach to this novel provision of the Dodd-Frank Act.⁷⁴
- *Office of the Chief Experience Officer.* The Bureau established the Office of the Chief Experience Officer. This office will focus 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.
- *Office of the Chief Data Officer.* The Bureau established the Office of the Chief Data Officer. This office will lead the Bureau's data strategy and facilitate the effective management, use, sharing, and protection of Bureau data assets to meet the Bureau's statutory requirements and enable the Bureau to achieve its mission. The OCDO will also facilitate implementation of the Foundations for Evidence-Based Policymaking Act and Federal Data Strategy requirements and milestones.
 - The CDO joined the CDO Council and its Governance Working Group, recently launched by the Office of Management and Budget, in order to establish government-wide data management best practices; encourage inter-agency data sharing; improve access to government data assets; and identify new technology solutions for the collection and use of data.
- *Memorandum of Understanding (MOU) with the Department of Education (Department).* The CFPB and the Department reestablished the MOU regarding complaints on January 31,

⁷⁴ https://files.consumerfinance.gov/f/documents/cfpb_abusiveness-enforcement-policy_statement.pdf

2020. The new complaints MOU provides a framework for the Bureau and the Department of Education to facilitate increased collaboration and to bring their complementary areas of subject matter expertise to bear on student loans in order to have better outcomes for consumers. More specifically, the new complaints MOU provides for the sharing of information about complaints and borrower characteristics. It provides for the sharing of analysis, recommendations, and data analytics tools, and provides for regular meetings between the Bureau and the Department of Education regarding complaints. With the new complaints MOU, the Department of Education will have near real-time access to the Bureau's complaint database. Additionally, the new MOU directly addresses and balances the respective roles and responsibilities of both the Bureau and the Department of Education with respect to federal and private student complaints.

- *Responsible Business Conduct Bulletin.* On March 6, 2020, the Bureau amended and reissued its responsible business conduct bulletin to clarify its approach to responsible conduct and to reiterate the importance of such conduct. The bulletin articulates that the Bureau intends to favorably consider responsible conduct, along with other relevant factors, in addressing violations of Federal consumer financial law in supervisory and enforcement matters.⁷⁵
- *Evolutions in Consumer Debt Relief Convening.* On March 10, 2020, the Bureau held a convening on consumer debt relief. The event explored options for consumers facing unmanageable unsecured debt and limited credit options.⁷⁶
- *Outreach.* From April 2019 to March 2020, the Director engaged with a broad range of the Bureau's stakeholders. In April, she delivered her inaugural speech at the Bipartisan Policy Center in Washington, DC, at which she announced a symposia series over the coming year. The Director's inaugural speech was followed by speaking engagements during this period in Los Angeles, CA; Denver, CO; San Antonio, TX; New Orleans, LA; Chicago, IL; Milwaukee, WI; Arlington, VA; Las Vegas, NV; New York, NY; Marco Island, FL; Salt Lake City, UT; and Washington, DC. She also participated in a wide array of events and meetings

⁷⁵ https://files.consumerfinance.gov/f/documents/cfb_bulletin-2020-01_responsible-business-conduct.pdf

⁷⁶ <https://www.consumerfinance.gov/about-us/events/archive-past-events/evolutions-in-consumer-debt-relief-event/>.

with Bureau stakeholders in these cities as well as in Austin, TX; St. Louis, MO; Asheville, NC; Bristol, TN; Orange County, CA; Oklahoma City, OK; Little Rock AR; and Baton Rouge, LA. In May, the Bureau held a field hearing on debt collection in Philadelphia, PA, that was open to the public and featured testimony from experts, practitioners, and advocates. Additionally, at CFPB Headquarters in Washington, DC, the Bureau held two Hill Day events, one with Members of Congress in May followed by another with Congressional Staffers in September. In May, the Bureau had a conference call meeting with the Academic Research Council (ARC.) In June, the Bureau hosted the members of the Consumer Advisory Board (CAB), the Community Bank Advisory Council (CBAC), and the Credit Union Advisory Council (CUAC) for their in-person meetings. In October, the Bureau held in-person meetings of the CAB, CBAC, CUAC, and the ARC. In the Fall of 2019, the Bureau hosted a Financial Well-Being Conference, its annual Research Conference, and it participated in a joint workshop on accuracy in consumer reporting with the Federal Trade Commission. In the winter of 2020, the Bureau hosted a Start Small, Save Up Financial Institution and Trade Association Convening, an Evolutions in Debt Relief Convening, and it participated in a Financial Readiness Network event with the Department of Defense.

- *Misadventures in Money Management for Active Duty Servicemembers.* The Bureau made Misadventures in Money Management (MiMM) available for active duty servicemembers reporting to their first service station. MiMM is an online training that engages servicemembers with real life financial choices in a fun and interactive manner and provides a just-in-time financial curriculum. MiMM is also available to future servicemembers in the Delayed Entry Program (DEP), as well as future leaders in the Junior Reserve Officers' Training Corps (JROTC) and Reserve Officer Training Corps (ROTC).
- *Managing Someone Else's Money guides.*⁷⁷ The Bureau made its Managing Someone Else's Money guides available for co-branding so that banks, credit unions, legal services

⁷⁷ <https://www.consumerfinance.gov/cobrandMSEM>.

programs, area agencies on aging, and other service providers can add a logo to the covers of the booklets by following a few steps listed on the Bureau's website. These guides provide practical guidance to the millions of Americans who manage money and property for someone unable to do so independently.

- *Classroom Activities for Teaching the Building Blocks of Financial Capability.*⁷⁸ The Bureau launched a set of activities for middle school teachers to incorporate lessons into the classroom that support the development of financial skills. The middle school activities are available alongside the activities for high school teachers that were launched in late 2018. 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](https://www.consumerfinance.gov) includes 191 specific classroom activities for teachers to use with their students.
- *COVID-19 Pandemic Response.*
 - *COVID-19 Consumer Information.*⁷⁹ At the onset of the COVID-19 pandemic, the Bureau published a collection of consumer education resources to help consumers protect themselves financially during the health crisis. Shortly after, the Bureau created a landing page to organize the frequent COVID-19 related resources and updates to previously released content. Topics covered include mortgages, credit reporting, debt collection, student loans, frauds and scams, and more. A number of materials have been made available in a number of languages other than English.
 - *Response to Ensure Safety of Staff During COVID-19 Pandemic.* The Bureau instituted several initiatives to ensure the health, safety, and well-being of the Bureau's staff during the COVID-19 pandemic. These include:

⁷⁸ <https://www.consumerfinance.gov/practitioner-resources/youth-financial-education/teach/activities/>.

⁷⁹ <https://www.consumerfinance.gov/coronavirus/>.

- Directing that all examination activity of Bureau-supervised institutions be conducted off-site, from examiners' home duty stations, indefinitely until further notice starting March 16.
 - Implementing a mandatory telework policy for all CFPB employees, regardless of work location, indefinitely until further notice starting March 16.
 - Instituting additional workplace flexibilities allowing employees to utilize administrative leave if the employees are unable to telework/work and (1) school or daycare closures result in a lapse in childcare, which requires one to provide care or (2) other reasons one identifies as related to COVID-19 such as providing care for another family member in order to prevent exposure/spread of COVID-19, taking any required sanitation measures, etc.
 - Providing Bureau employees with updates on prevention measures, workplace flexibilities, telework options and best practices, and keeping staff informed through a variety of communication channels.
 - Creating several ways to hear from our employees through National Treasury Employees Union engagements, a COVID-19 Bureau advisory group, a Pandemic Inquiries Inbox, leadership involvement, and through our Employee Resources Groups. Additionally, we have maintained a frequent cadence of communicating with FIRREA and other federal agencies for situational awareness and alignment, where possible.
- The Bureau took action to protect consumers and provide industry with needed flexibility.⁸⁰

⁸⁰ See Section 3.4 for the items released in response to COVID-19 after the reporting period ending on March 31, 2020.

- Interagency Statement on Pandemic Planning⁸¹
 - Joint Statement Encouraging Responsible Small-Dollar Lending in Response to COVID-19⁸²
 - Statement on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act⁸³
 - Statement on Supervisory and Enforcement Practices Regarding Bureau Information Collections for Credit Card and Prepaid Account Issuers⁸⁴
 - Statement on Bureau Supervisory and Enforcement Response to COVID-19 Pandemic⁸⁵
- *Other Guidance Documents.* The Bureau also issued the following guidance documents over the past year:⁸⁶
 - ECOA Baseline Review Examination Procedures⁸⁷

⁸¹ <https://www.ffiec.gov/press/PDF/FFIEC%20Statement%20on%20Pandemic%20Planning.pdf>

⁸² https://files.consumerfinance.gov/f/documents/cfpb_interagency-statement_small-dollar-lending-covid-19_2020-03.pdf

⁸³ https://files.consumerfinance.gov/f/documents/cfpb_hmda-statement_covid-19_2020-03.pdf

⁸⁴ https://files.consumerfinance.gov/f/documents/cfpb_data-collection-statement_covid-19_2020-03.pdf

⁸⁵ https://files.consumerfinance.gov/f/documents/cfpb_supervisory-enforcement-statement_covid-19_2020-03.pdf

⁸⁶ The Bureau posts many documents relating to compliance and guidance on its website at <https://www.consumerfinance.gov/policy-compliance/guidance/>. For the purpose of this Semi-Annual Report, the term "guidance" is used informally to refer broadly to documents that could serve to inform and advise regulated entities.

⁸⁷ https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_ecoa-baseline-exam-procedures_2019-04.pdf

- HMDA Examination Procedures.⁸⁸
- Statement on Collection of Demographic Information by Community Development Financial Institutions.⁸⁹
- Summer 2019 *Supervisory Highlights*.⁹⁰
- Automobile Finance Examination Procedures.⁹¹
- October 2019 Annual Report of the CFPB Private Education Loan Ombudsman.⁹²
- *Supervisory Highlights: Consumer Reporting Special Edition*.⁹³
- Annual Reports to Congress on the TILA, EFTA, and CARD Act.⁹⁴
- Winter 2020 *Supervisory Highlights*.⁹⁵

⁸⁸ https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_hmda-exam-procedures_2019-04.pdf

⁸⁹ https://files.consumerfinance.gov/f/documents/20190627_cfpb_statement-on-collection-demographic-information.pdf

⁹⁰ https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-19_092019.pdf

⁹¹ https://files.consumerfinance.gov/f/documents/201908_cfpb_automobile-finance-examination-procedures.pdf

⁹² https://files.consumerfinance.gov/f/documents/cfpb_annual-report_private-education-loan-ombudsman_2019.pdf

⁹³ https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-20_122019.pdf

⁹⁴ https://files.consumerfinance.gov/f/documents/cfpb_tila-efta-card-act-annual-report_2019.pdf and https://files.consumerfinance.gov/f/documents/cfpb_semi-annual-report-to-congress_fall-2019.pdf. The TILA, EFTA, CARD Act Report containing 2019 calendar year information will be included in the Bureau's Fall 2020 SAR.

⁹⁵ https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-21_2020-02.pdf

- Consumer Reporting, Larger Participants Examination Procedures.⁹⁶
- Education Loan Examination Procedures.⁹⁷

3.4 Plan for upcoming initiatives

- *Office of Servicemember Affairs Annual Report.*⁹⁸ The Office of Servicemember Affairs (OSA) has an important mandate to educate and protect our Nation's servicemembers, veterans, and their families given the unique challenges they face in their daily lives. This annual report highlights the education and engagement, compliant monitoring, cross-agency coordination, and research done by the OSA and the Bureau in Fiscal Year 2019.
- *Consumer Complaint Database.* In April, the CFPB will launch a geospatial view to the Bureau's Consumer Complaint Database. With this addition, database users will now be able to view complaints by state with a U.S. map visualization.⁹⁹ In July, the CFPB will launch trends analytics tools to provide visualizations of complaints trends over time.
- *Elder Fraud Prevention and Response Networks Development Guide.* The Bureau will release an Elder Fraud Prevention and Response Networks Development Guide that

⁹⁶ https://files.consumerfinance.gov/f/documents/cfpb_consumer-reporting-larger-participants_procedures_2020-02.pdf

⁹⁷ https://files.consumerfinance.gov/f/documents/cfpb_education-loan-servicing-exam-manual_2020-02.pdf

⁹⁸ <https://www.consumerfinance.gov/data-research/research-reports/office-servicemember-affairs-annual-report-fy-2019/>.

⁹⁹ 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/cfpb-enhances-consumer-complaint-database/>.

provides step-by-step materials to help communities form or enhance networks to increase their capacity to prevent and respond to elder fraud.¹⁰⁰

- *Taskforce on Federal Consumer Financial Law.* The Taskforce is committed to a robust dialogue with the public and Bureau stakeholders. In March 2020, the Taskforce held a listening session with representatives from various consumer advocacy and trade groups. The session helped shape the RFI to assist the Taskforce that was issued by the Bureau in March 2020 with a comment period closing on June 1, 2020. The Taskforce intends to also engage in a public hearing in July 2020. Finally, the Taskforce intends to participate in a publicly available listening session with the Bureau's four advisory committees, which will take place in the fall of 2020. The group also intends to engage with federal and state regulatory partners before delivering its final report in early 2021.
- *Symposia Series.* The Bureau plans to hold a symposium on cost-benefit analysis in July 2020. A future symposium will address implementing the ECOA. The symposia series will be open to the public and webcast on the Bureau's website.¹⁰¹
- *Research Reports.* The Bureau plans to publish several research reports in the second half of FY 2020, including:
 - Mortgage Market Activity and Trends based on 2019 HMDA data.
 - Quarterly Consumer Credit Trend reports on debt settlement trends and patterns of mortgage credit inquiries and credit scores.
 - Results from the Bureau's Making Ends Meet survey, which will provide a deeper understanding of how often U.S. consumers have difficulty making ends meet, how they cope with these shortfalls, and the subsequent effects of financial difficulty.

¹⁰⁰ 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/cfcb-tool-helps-communities-prevent-and-respond-to-elder-fraud/>.

¹⁰¹ 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/>.

- Savings-related research on evidence-based strategies and innovations to promote savings.
- *Outreach.* During Summer 2020, the Bureau will virtually host a Youth Financial Education Research Convening, a Youth Financial Education Learning Cluster with national organizations, and a Child Savings Convening. In September 2020, the Bureau will hold meetings with the members of the CAB, CBAC, CUAC, and the ARC. Regarding upcoming speaking engagements, the Director plans to virtually participate in the National Association of Realtors' Regulatory Issues Forum and the Mortgage Bankers Association's State of the Industry event, both scheduled to take place in May.
- *Coordination with the Department of Education (Department).* The CFPB and the Department are establishing coordination protocols regarding oversight of compliance obligations. The protocols will be designed to coordinate efforts to oversee regulated entities and protect consumers.
- *COVID-19 Pandemic Response.*
 - *COVID-19 Consumer Information.*¹⁰² The Bureau will continue to provide timely content and updates to help consumers protect and manage their finances during the coronavirus pandemic. Resources for consumers will include webpages, guides, blogs, videos, and more.
 - *Unified Housing Website.* The Bureau will launch a federal interagency housing website with the Department of Housing and Urban Development (HUD) and FHFA. For consumers who are concerned about how they will pay their mortgage or rent because of the coronavirus, the website will be a one-stop-shop to find accurate information about relief options available to them—especially those under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).¹⁰³

¹⁰² <https://www.consumerfinance.gov/coronavirus/>.

¹⁰³ Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/>.

- *Continued Response to Ensure Safety of Staff During Summer 2020.* The Bureau will continue to monitor and update its workforce flexibilities to ensure the health, safety, and well-being of the Bureau's staff during the COVID-19 pandemic. The Bureau will also develop safety protocols and procedures to determine when and how staff will re-enter its buildings. Effective on July 8, 2020, the Bureau will begin a phased return to work at its headquarters location allowing staff that want to work from the building the opportunity to do so in a safe and secure manner.
- *COVID-19 Response to Data Collection.* The Bureau will continue to collect data and use information to identify market and consumer experience trends to provide insights into the issues facing consumers and inform the publication of tools and materials designed to help consumers protect themselves financially during the COVID-19 pandemic.
- *COVID-19 related NAL Templates.* The Bureau issued two Templates under its innovation policies to provide increased regulatory certainty. Using the first NAL Template, mortgage servicers seeking to assist struggling borrowers to avoid foreclosure and engage in loss mitigation efforts would be able to apply for their own NAL. To further competition in the small-dollar lending space and facilitate robust competition that fosters access to credit, the Bureau also approved a NAL Template that insured depository institutions can use to apply for a NAL covering their small-dollar credit products. The NAL template includes important protections for consumers who seek small-dollar loan products.
- *COVID-related Guidance:* The Bureau will take action to protect consumers and provide industry with needed flexibility:

- Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act.¹⁰⁴
- The Bureau's Mortgage Servicing Rules FAQs related to the COVID-19 Emergency.¹⁰⁵
- Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the COVID-19 Emergency and the CARES Act.¹⁰⁶
- Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (Revised).¹⁰⁷
- Statement on Supervisory and Enforcement Practices Regarding the Remittance Rule in Light of the COVID-19 Pandemic.¹⁰⁸

¹⁰⁴ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_credit-reporting-policy-statement_cares-act_2020-04.pdf.

¹⁰⁵ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-rules-covid-19_faqs.pdf.

¹⁰⁶ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_interagency-statement_mortgage-servicing-rules-covid-19.pdf.

¹⁰⁷ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_interagency-statement_loan-modifications-reporting-covid-19_2020-04.pdf.

¹⁰⁸ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_policy-statement_remittances-covid-19_2020-04.pdf.

- Interpretive Rule: Treatment of Pandemic Relief Payments Under Regulation E and Application of the Compulsory Use Prohibition.¹⁰⁹
- Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus.¹¹⁰
- Bulletin 2020-02 – Compliance Bulletin and Policy Guidance: Handling of Information and Documents During Mortgage Servicing Transfers.¹¹¹
- Statement on Supervisory and Enforcement Practices Regarding Certain Filing Requirements Under the Interstate Land Sales Full Disclosure Act and Regulation J.¹¹²
- The Bureau’s Mortgage Origination Rules FAQs related to the COVID-19 Emergency.¹¹³

¹⁰⁹ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_interpretive-rule_pandemic-relief-payments-reg-e.pdf.

¹¹⁰ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_interagency-statement_real-estate-transactions-covid-19.pdf.

¹¹¹ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_policy-guidance_mortgage-servicing-transfers_2020-04.pdf.

¹¹² Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_ilsa_relief-statement-covid-19_2020-04.pdf.

¹¹³ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_mortgage-origination-rules_faqs-covid-19.pdf.

- Interpretive Rule: Application of Certain Provisions in the TILA-RESPA Integrated Disclosure Rule and Regulation Z Right of Rescission Rules in Light of the COVID-19 Pandemic.¹¹⁴
- Application of Certain Provisions in the TILA-RESPA Integrated Disclosure Rule and Regulation Z Right of Rescission Rules in Light of the COVID-19 Pandemic.¹¹⁵
- The Bureau's Equal Credit Opportunity Act and Regulation B FAQs Related to the COVID-19 Emergency.¹¹⁶
- Statement on Supervisory and Enforcement Practices Regarding Regulation Z Billing Error Resolution Timeframes in Light of the COVID-19 Pandemic.¹¹⁷
- Payments and Deposits Rules FAQs related to the COVID-19 Pandemic.¹¹⁸

¹¹⁴ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_tila-respa-integrated-disclosure_rescission-pandemic-interpretive-rule.pdf.

¹¹⁵ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_tila-respa-integrated-disclosure_rescission-pandemic-interpretive-rule.pdf.

¹¹⁶ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_eoca-regulation-b_faqs-covid-19.pdf.

¹¹⁷ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_statement_regulation-z-error-resolution-covid-19_2020-05.pdf.

¹¹⁸ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_faqs_payments-deposits-rules-covid-19_2020-05.pdf.

- Open-End (not Home-Secured) Rules FAQs related to the COVID-19 Pandemic.¹¹⁹
- Joint release with the Conference of State Bank Supervisors (CSBS): Consumer Relief Guide on borrowers' rights to mortgage payment forbearance and foreclosure protection under the federal CARES Act.¹²⁰
- Statement on Supervisory and Enforcement Practices Regarding Electronic Credit Card Disclosures in Light of the COVID-19 Pandemic.¹²¹
- Statement on Supervisory and Enforcement Practices Regarding Electronic Credit Card Disclosures in Light of the COVID-19 Pandemic.¹²²
- Joint guidance, with the CSBS, to mortgage servicers to assist in complying with the CARES Act provisions granting a right to forbearance to consumers impacted by the COVID-19 pandemic.¹²³

¹¹⁹ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_faqs_open-end-rules-covid-19_2020-05.pdf.

¹²⁰ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_csbs_consumers-forbearance-guide_2020-05.pdf.

¹²¹ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_e-sign-credit-card_statement_2020-06.pdf.

¹²² Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_e-sign-credit-card_statement_2020-06.pdf.

¹²³ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfpb_csbs_industry-forbearance-guide_2020-06.pdf.

- *Other Guidance Documents.*¹²⁴
 - Reverse Mortgage Servicing Examination Procedures¹²⁵

3.5 Plan for upcoming rules

The Bureau published its Spring 2020 Rulemaking Agenda as part of the Spring 2020 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget.¹²⁶ As an independent regulatory agency, the Bureau voluntarily participates in the Unified Agenda. Among other things, the Unified Agenda lists the regulatory matters that the Bureau reasonably anticipates having under consideration during the period from May 1, 2020, to April 30, 2021.¹²⁷ Not included in this report, the Bureau's Rulemaking Agenda also includes long-term actions.¹²⁸

During the reporting period, the Bureau will be engaged in several 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 and the Bureau's mission 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 2020 Unified Agenda:

¹²⁴ The Bureau posts many documents relating to compliance and guidance on its website at <https://www.consumerfinance.gov/policy-compliance/guidance/>. For the purpose of this Semi-Annual Report, the term "guidance" is used informally to refer broadly to documents that could serve to inform and advise regulated entities.

¹²⁵ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: https://files.consumerfinance.gov/f/documents/cfbp_reverse-mortgage-servicing-examination-procedures_2020-06.pdf.

¹²⁶ <https://www.consumerfinance.gov/about-us/blog/spring-2020-rulemaking-agenda/>.

¹²⁷ <https://www.consumerfinance.gov/policy-compliance/rulemaking/regulatory-agenda/>.

¹²⁸ Additional activity has occurred with this matter since the end of the reporting period. More information can be found here: <https://www.consumerfinance.gov/about-us/blog/spring-2020-rulemaking-agenda/>.

- *Business Lending Data (Regulation B).* 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 resumed pre-rulemaking activities on Section 1071. In November 2019, the Bureau conducted a symposium on small business loan data collection. In addition, the Bureau is working to conduct a survey of lenders to obtain estimates of one-time costs lenders of varying sizes would incur to collect and report data pursuant to Section 1071. The Bureau's next step will be the release of materials in advance of convening a panel 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 hear from representatives of small businesses on which Bureau rules to implement Section 1071 may impose costs.
- *Property Assessed Clean Energy (PACE) Financing.* Section 307 of the EGRRCPA amends the Truth in Lending Act (TILA) to mandate that the Bureau prescribe certain regulations relating to PACE financing. 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. In March 2019, the Bureau issued an ANPR on PACE financing to facilitate the Bureau's rulemaking process. The Bureau is continuing to engage with stakeholders and collect information for the rulemaking, including by pursuing quantitative data on the effect of PACE on consumers' financial outcomes.

Proposed rules for the upcoming period, as reflected in the Spring 2020 Unified Agenda:

- *Higher-Priced Mortgage Loan Escrow Exemption.* Prior to the enactment of the Dodd-Frank Act, the FRB 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, codified at 15 U.S.C. 1639d, directs 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. In anticipation of future rulemaking activity, the Bureau conducted a preliminary analysis of the number of lenders potentially impacted by implementation of Section 108 of EGRRCPA. The Bureau released the analysis in late summer 2019 and it showed that a limited number of additional lenders would be exempt under Section 108 of EGRRCPA once implemented by rule. The Bureau expects to issue a Notice of Proposed Rulemaking (NPRM) in summer 2020.

- *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. In its 2015 final rule to implement the Dodd-Frank Act amendments to HMDA, the Bureau adopted a balancing test to use to determine whether and how HMDA data should be modified prior to its disclosure to the public in order to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purposes. The Bureau sought comment in 2017 on its proposed application of the balancing test to the 2018 data to be collected and reported by lenders and issued final policy guidance in late 2018. After consideration of stakeholder comments urging that the Bureau issue a legislative rule with its determinations concerning the disclosure of loan-level HMDA data, the Bureau decided to commence such a rulemaking. Commencing a rulemaking to develop legislative rules will enable the Bureau to adopt a more definitive approach to disclosing HMDA data to the public in future years after considering new information concerning the privacy risks and benefits of disclosure of the HMDA data. The Bureau expects to issue an NPRM in late summer 2020. This timing corresponds with the Bureau's expected timing for issuing a proposed rule addressing HMDA data points, so that stakeholders can concurrently consider and comment on collection and reporting of data points and public disclosure of those data points.
- *Home Mortgage Disclosure Act (Regulation C) Data Collection and Reporting Requirements.* The Bureau announced in December 2017 that it intended to open a rulemaking to reconsider various aspects of a 2015 final rule that amended regulations implementing the HMDA. The Bureau issued an ANPR in May 2019 soliciting comment on certain data points in the 2015 final rule that were added to Regulation C or revised to require additional information, and on coverage of certain business or commercial purpose loans. The Bureau expects to issue an NPRM in late summer 2020 to follow up on the May 2019 ANPR. This timing corresponds with the Bureau's expected timing for issuing a proposed rule addressing the public disclosure of HMDA data in light of consumer privacy interests, so that stakeholders can concurrently

consider and comment on the collection and reporting of data points and public disclosure of those data points.

- *Qualified Mortgage Definition Under the Truth in Lending Act (Regulation Z).* In July 2019, the Bureau issued an ANPR to solicit information about possible amendments to the qualified mortgage provisions of Regulation Z. With certain exceptions, Regulation Z requires creditors to make a reasonable, good faith determination of a consumer's ability to repay any residential mortgage loan, and loans that meet Regulation Z's requirements for QMs obtain certain protections from liability. One QM category is the General QM category. To fit within the General QM category, residential mortgage loans must comply with the ATR-QM Rule's prohibitions on certain loan features, its points-and-fees limits, and its underwriting requirements. Additionally, the ratio of the consumer's total monthly debt to total monthly income (DTI ratio) must not exceed 43 percent. The rule further requires creditors calculate, consider, and verify debt and income for purposes of determining the consumer's DTI ratio using the standards contained in Appendix Q of Regulation Z. A second category of QMs covers certain loans that are eligible for purchase or guarantee by either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation (government-sponsored enterprises or GSEs). Under Regulation Z, this category of QMs (Temporary GSE QM loans or GSE Patch) is scheduled to expire no later than January 10, 2021 or when the GSEs exit conservatorship of the FHFA, whichever occurs earlier. The Bureau is planning to propose in June 2020 amendments to the General QM loan definition that would remove the General QM loan definition's 43 percent DTI limit and that would instead establish a pricing threshold (i.e., the difference between the loan's annual percentage rate and the average prime offer rate for a comparable transaction) for loans to qualify as QMs. General QM loans would still have to meet the statutory criteria for QM status, including restrictions related to loan features, up-front costs, and underwriting. The Bureau also expects to propose in June 2020 to extend the GSE Patch until the effective date of the final amendments to the General QM loan definition to help ensure a smooth and orderly transition away from the GSE Patch by (among other things) allowing the Bureau to complete this rulemaking and to avoid any gap between the expiration of the GSE Patch and the effective date of the proposed alternative. Finally, the Bureau is considering adding a new "seasoning" definition of QM, which would be proposed in a separate NPRM. This definition would create an alternative pathway to QM safe-harbor status for certain mortgages when the borrower has consistently made timely payments for a specified period.

- *Amendments to Regulation Z to Facilitate Transition From LIBOR.* Some consumer credit contracts use the London Interbank Offering Rate (LIBOR) as a reference rate. This rule would facilitate creditors for home equity lines of credit (HELOCs) (including reverse mortgages) and card issuers for credit card accounts transitioning existing accounts away from LIBOR if certain conditions are met to an alternative index beginning around December 2020, well in advance of LIBOR's anticipated expiration at the end of 2021. The rule also would address change-in-terms notice provisions for HELOCs and credit card accounts and how they apply to the transition away from LIBOR, to ensure that consumers are informed of the replacement index and any adjusted margin. The Bureau's work is also designed to facilitate compliance by open-end and closed-end creditors and to lessen the financial impact to consumers by providing examples of replacement indices that meet Regulation Z requirements. The rule also would address how the rate re-evaluation provisions applicable to credit card accounts apply following the transition from LIBOR to a replacement index, to facilitate compliance by card issuers. Commencing a notice-and-comment rulemaking will enable the Bureau to facilitate compliance by creditors with Regulation Z as they transition away from LIBOR. The Bureau expects to issue an NPRM in May 2020.¹²⁹
- *Amendments to FIRREA Concerning Appraisals (Automated Valuation Models).* The Bureau is participating in interagency rulemaking processes with the FRB, OCC, the FDIC, NCUA, and FHFA (collectively, the Agencies) to develop regulations to implement the amendments made by the Dodd-Frank Act to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) concerning appraisals. The FIRREA amendments require implementing regulations for quality control standards for automated valuation models (AVMs). These standards are designed to ensure a high level of confidence in the estimates produced by the valuation models, protect against the manipulation of data, seek to avoid conflicts of interest, require random sample testing and reviews, and account for any other such factor that the Agencies determine to be appropriate. The Agencies will continue to work to develop a proposed rule to implement the Dodd-Frank Act's AVM amendments to FIRREA.

¹²⁹ 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/cfb-facilitates-libor-transition/>.

Final rules for the upcoming period as reflected in the Bureau's Spring 2020 Unified Agenda:

- *Debt Collection Rule.* In May 2019, the Bureau issued an NPRM, which would prescribe rules under Regulation F to govern the activities of debt collectors, as that term is defined under the FDCPA. The Bureau's proposal would, among other things, address communications in connection with debt collection; interpret and apply prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection; and clarify requirements for certain consumer-facing debt collection disclosures. The proposal builds on the Bureau's research and pre-rulemaking activities regarding the debt collection market; the conduct of debt collectors remains a significant source of complaints to the Bureau. The Bureau expects to take final action in October 2020 with regard to the May 2019 NPRM. The Bureau has also engaged in testing of time-barred debt disclosures that were not addressed in the May 2019 proposal. In February 2020, after completing the testing, the Bureau issued a supplemental NPRM related to time-barred debt disclosures.¹³⁰
- *Remittance Transfers.* Section 1073 of the Dodd-Frank Act contains a temporary exception to its requirements that remittance transfer providers disclose exact amounts for remittance transfers. The exception permits certain insured depository institutions and insured credit unions in certain circumstances to estimate certain required disclosures. As mandated by statute, this exception will expire on July 21, 2020. After completing an assessment in October 2018 of the Remittance Rule and issuing, in April 2019, an RFI to gather information related to the expiration of the temporary exception and information related to the scope of the Remittance Rule's coverage, the Bureau issued an NPRM in December 2019. In the NPRM, the Bureau proposed to increase a safe harbor threshold under which a person is deemed not to be providing remittance transfers in the normal course of business, from 100 per year to 500 per year. The Bureau also proposed changes to mitigate the effects of the expiration of the statutory temporary exemption, by allowing certain insured institutions to continue to estimate

¹³⁰ See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-supplemental-nprm-on-time-barred-debt-disclosures/>.

the exchange rate and covered-third party fees under certain circumstances. Finally, the Bureau solicited comment on a permanent exception permitting remittance transfer providers to use estimates for transfers to certain countries and the process for adding countries to the safe harbor countries list maintained by the Bureau. In May 2020, the Bureau expects to take final action on the December 2019 NPRM.¹³¹

- *Payday, Vehicle Title, and Certain High-Cost Installment Loans.* 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 Bureau issued an NPRM in February 2019 that proposed to revoke provisions of the rule concerning the mandatory underwriting of covered short-term and longer-term balloon payment loans, including payday and vehicle title loans, and related reporting and recordkeeping requirements. That rulemaking remains pending. Under the proposed rule, the regulations would no longer: (1) identify as an unfair and abusive practice a lender making a covered short-term or longer-term balloon-payment loan, including payday and vehicle title loans, without reasonably determining that consumers have the ability to repay those loans according to their terms; (2) prescribe mandatory underwriting requirements for making the ability-to-repay determination, or exempt certain loans from the mandatory underwriting requirements; and (3) include definitions or impose reporting and recordkeeping requirements relating to the mandatory underwriting requirements.
- *Home Mortgage Disclosure Act (Regulation C).* The Bureau announced in December 2017 that it intended to open a rulemaking to reconsider various aspects of a 2015 final rule that amended regulations implementing HMDA. The Bureau issued an NPRM in May 2019 to seek comment on thresholds for collecting and reporting data with respect to open-end lines of credit as well as on thresholds for collecting and reporting data with respect to closed-end mortgage loans. The NPRM also proposed to clarify partial HMDA exemptions created by the EGRRCPA by incorporating into Regulation C an interpretive and procedural rule that the Bureau issued in August 2018 as well as implementing further Section 104(a) of the EGRRCPA. In August 2019, the Bureau reopened the comment period for certain aspects of the proposed

¹³¹ Additional activity has occurred with this matter since the end of the reporting period. In May 2020, the Bureau issued the final rule. More information can be found here: <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/remittance-transfers-under-electronic-fund-transfer-act-regulation-e/>.

rule. The reopened comment period gave interested parties an opportunity to review the Bureau's annual overview of residential mortgage lending based on the HMDA data financial institutions collected in 2018, as requested by a variety of stakeholders, before they submitted their comments. The Bureau determined that it would issue two final rules at different times to address different aspects of the NPRM. The Bureau issued the first final rule in October 2019. It finalized the proposed two-year extension of the 500-loan temporary threshold for collecting and reporting data on open-end lines of credit and incorporated into Regulation C the EGRRCPA partial exemption provisions. The Bureau intends to issue a second final rule in April 2020 that will address the proposed changes to the permanent thresholds for collecting and reporting data on open-end lines of credit and closed-end mortgage loans.¹³²

¹³² Additional activity has occurred with this matter since the end of the reporting period. In April 2020, the Bureau issued the final rule. More information can be found here: <https://www.consumersfinance.gov/policy-compliance/rulemaking/final-rules/regulation-c-home-mortgage-disclosure-act/>.

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, 2019, through March 31, 2020, the Bureau received approximately 372,700 consumer complaints.¹³³ This is an approximately nine percent increase from the prior reporting period.¹³⁴ Consumers submitted approximately 84 percent of these complaints through the Bureau's website and seven percent via telephone calls. Referrals from other state and federal agencies accounted for six percent of complaints. Consumers submitted the remainder of

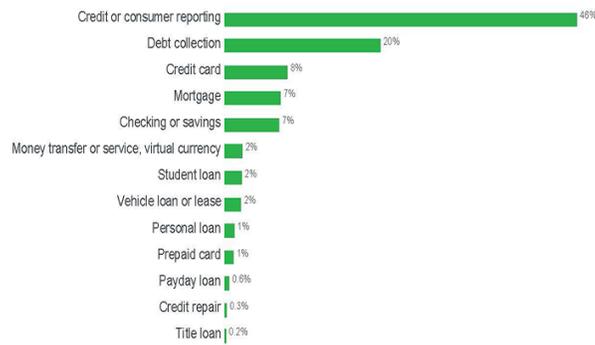
¹³³ This analysis excludes multiple complaints submitted by a given consumer on the same issue and whistleblower tips. The Bureau does not verify all the facts alleged in complaints and does not publish complaints in the Consumer Complaint Database until the company responds, confirming a commercial relationship with the consumer, or after it has had the complaint for 15 days, whichever comes first. For more information on our complaint process refer to the Bureau's website at <https://www.consumerfinance.gov/complaint/process>.

¹³⁴ The prior reporting period, October 1, 2018, to September 30, 2019, reported 342,500 consumer complaints. See Consumer Fin. Prot. Bureau, *Semi-Annual Report Fall 2019* (Feb. 2020.), available at https://files.consumerfinance.gov/f/documents/cfpb_semi-annual-report-fa-2019-vss_fall-2019.pdf.

complaints by mail, email, and fax. The Bureau sent approximately 304,200 (82 percent) of complaints received to companies for review and response.¹³⁵ 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 typically 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-up actions, and a categorization of the response. Companies' responses describe a range of relief. Examples of relief include correcting inaccurate data provided or reported in consumers' credit reports; stopping unwanted calls from debt collectors; correcting account information; issuing corrected documents; restoring account access; and, addressing formerly unmet customer service issues. Ninety-nine percent of complaints sent to companies received timely responses.

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, credit card, mortgage, and checking or savings accounts are the most-complained-about consumer financial products and services.

¹³⁵ The Bureau referred 13 percent of the complaints it received to other regulatory agencies and found five percent to be incomplete. At the end of this period, 0.4 percent of complaints were pending with the consumer and 0.4 percent were pending with the Bureau. Percentages in this section of the report may not sum to 100 percent due to rounding.

FIGURE 1: CONSUMER COMPLAINTS BY PRODUCT

Consumer Response analyzes consumer complaints, company responses, and consumer feedback to assess the accuracy, completeness, and timeliness of company responses so that the Bureau, other regulators, consumers, and the marketplace have relevant information about consumers' challenges with financial products and services. Consumer Response uses a variety of approaches to identify trends and possible consumer harm. Examples include:

- Reviewing cohorts of complaints and company responses to assess the accuracy, timeliness, and completeness of an individual company's responses to complaints sent to them for response;
- Conducting text analytics to identify emerging trends and statistical anomalies; and
- Visualizing data to highlight geographic and temporal patterns.

The Bureau used these approaches to understand the experiences consumers were having in the financial marketplace as a result of the coronavirus pandemic following the President's declaration of national emergency on March 8, 2020. For example, the Bureau initially used its search-based capabilities to identify approximately 1,100 complaints mentioning keywords such as "COVID," "coronavirus," "pandemic," or "CARES Act" for analysis.

These coronavirus analyses, like other complaint analyses conducted throughout the year, support the Bureau's work to supervise companies, enforce Federal consumer financial laws, propose rules, and develop tools that help empower consumers to make informed financial decisions.

The Bureau also shares consumer complaint information with prudential regulators, the FTC, other federal agencies, and state agencies.

Complaints give us insights into problems people are experiencing in the marketplace and help us regulate consumer financial products and services under existing Federal consumer financial laws, enforce those laws judiciously, and educate and empower consumers to make informed financial decisions. The Bureau also publishes complaint data and reports on complaint trends annually in Consumer Response's Annual Report to Congress.¹³⁶

¹³⁶ From April 1, 2019, to March 31, 2020, the Office of Consumer Response contributed to the Office of Servicemember Affairs' Annual Report (published on April 3, 2020, but covers October 1, 2018, to September 30, 2019), and the Bureau's Fair Debt Collection Practices Act Annual Report. The Bureau also publishes the Consumer Response Annual Report, which provides a more detailed analysis of complaints. These reports can be viewed at <https://www.consumerfinance.gov/data-research/research-reports>.

5. List, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year

5.1 Supervisory activities

The Bureau's supervisory activities with respect to individual institutions are non-public. The Bureau has, however, issued numerous supervisory guidance documents and bulletins during the preceding year. These documents are listed under Section 3.3 of this Report as issued guidance documents undertaken within the preceding year.

5.2 Enforcement activities¹³⁷

The Bureau was a party in the following public enforcement actions from April 1, 2019, through March 31, 2020, detailed as follows and listed in descending chronological order by filing or issue

¹³⁷ Enforcement activity summaries are current as of March 31, 2020, and do not include activities that occurred after the reporting period.

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.

Bureau of Consumer Financial Protection v. Fifth Third Bank, National Association (N.D. Ill. 1:20-cv-01683). On March 9, 2020, the Bureau filed a lawsuit in federal district court in the Northern District of Illinois against Fifth Third Bank, National Association (Fifth Third). The Bureau alleges that for several years Fifth Third, without consumers' knowledge or consent: opened deposit and credit card accounts in consumers' names; transferred funds from consumers' existing accounts to new, improperly opened accounts; enrolled consumers in unauthorized online-banking services; and activated unauthorized lines of credit on consumers' accounts. The Bureau alleges that Fifth Third violated the Consumer Financial Protection Act's (CFPA) prohibition against unfair and abusive acts or practices as well as the TILA and the Truth in Savings Act and their implementing regulations. The Bureau seeks an injunction to stop Fifth Third's unlawful conduct, redress for affected consumers, and the imposition of a civil money penalty. The case remains pending.

Bureau of Consumer Financial Protection; South Carolina Department of Consumer Affairs; and the State of Arkansas *ex rel.* Leslie Rutledge, Attorney General v. Candy Kern-Fuller, Howard Sutter III, and Upstate Law Group LLC (D.S.C. 6:20-cv-00786-DCC). On February 20, 2020, the Bureau, the South Carolina Department of Consumer Affairs (South Carolina), and Arkansas Attorney General Leslie Rutledge filed a lawsuit in federal district court in the District of South Carolina against Candy Kern-Fuller, Howard Sutter III, and Upstate Law Group LLC. The Bureau alleges that the defendants worked with a series of companies that brokered contracts offering high-interest credit to consumers, primarily disabled veterans, and violated the CFPA's prohibition against deceptive acts or practices and against providing substantial assistance to deceptive and unfair acts or practices of others. The Bureau specifically alleges that the defendants committed deceptive acts or practices by collecting on the contracts brokered by the companies, including by filing suit when consumers failed to make payments, and representing, expressly or impliedly, that consumers are legally obligated to make payments in accordance with the terms of their contracts when, in fact, the contracts are void from inception and consumers are not obligated to make payments. The Bureau seeks an injunction, redress to consumers, and the imposition of civil money penalties. The case remains pending.

Bureau of Consumer Financial Protection v. Citizens Bank, N.A. (D.R.I. 1:20-cv-00044). On January 30, 2020, the Bureau filed a lawsuit in federal court in the District of Rhode Island against Citizens Bank, N.A. (Citizens), alleging violations of TILA and its implementing Regulation Z,

including TILA provisions passed under the Fair Credit Billing Act (FCBA) and the CARD Act. The Bureau alleges that Citizens systematically violated TILA and Regulation Z by failing to properly manage and respond to consumers' credit card disputes and fraud claims. The Bureau also alleges that Citizens violated TILA and Regulation Z by not providing credit counseling to consumers as required by law. The Bureau seeks, among other remedies, an injunction against Citizens and the imposition of civil money penalties. The case remains pending.

Bureau of Consumer Financial Protection v. Monster Loans, Lend Tech Loans, and Associated Student Loan Debt-Relief Companies (C.D. Cal. 8:20-cv-00043). On January 9, 2020, the Bureau filed a lawsuit in federal court in the Central District of California against Chou Team Realty, LLC f/k/a Chou Team Realty, Inc., d/b/a MonsterLoans, d/b/a Monster Loans; Lend Tech Loans, Inc.; Docu Prep Center, Inc., d/b/a DocuPrep Center, d/b/a Certified Document Center; Document Preparation Services, LP, d/b/a DocuPrep Center, d/b/a Certified Document Center; Certified Doc Prep, Inc.; Certified Doc Prep Services, LP; Assure Direct Services, Inc.; Assure Direct Services, LP; Direct Document Solutions, Inc.; Direct Document Solutions, LP; Secure Preparation Services, Inc.; Secure Preparation Services, LP; Docs Done Right, Inc.; Docs Done Right, LP; Bilal Abdelfattah a/k/a Belal Abdelfattah a/k/a Bill Abdel; Robert Hoose; Eduardo "Ed" Martinez; Jawad Nesheiwat; Frank Anthony Sebreros; David Sklar; Thomas "Tom" Chou; Sean Cowell; Kenneth Lawson; Cre8labs, Inc.; XO Media, LLC; and TDK Enterprises, LLC. The Bureau alleges that many of the Defendants violated the Fair Credit Reporting Act (FCRA) by wrongfully obtaining consumer report information and that, in connection with the marketing and sale of student loan debt relief products and services, certain defendants charged unlawful advance fees and engaged in deceptive acts and practices. The Bureau also alleges that certain entities and individuals are liable as Relief Defendants because they received profits resulting from the illegal conduct. The Bureau seeks an injunction against defendants, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. In March 2020, one of the defendants filed a motion to dismiss for failure to join a necessary party. That motion and the case remain pending.

In the Matter of Edmiston Marketing, LLC d/b/a Easy Military Travel, and Brandon Edmiston (2019-BCFP-0011) (not a credit union or depository institution). On November 25, 2019, the Bureau issued a consent order against Edmiston Marketing, LLC, also known as Easy Military Travel, and Brandon Edmiston, the owner and operator of Easy Military Travel. The Bureau found that Easy Military Travel and Edmiston violated the CFPA by misrepresenting the true cost of credit for loans for airline tickets. The Bureau also found that Easy Military Travel failed to provide

certain required disclosures about the terms of credit in violation of TILA and Regulation Z. The Bureau also found that Easy Military Travel and Edmiston failed to disclose the total costs of purchasing airline tickets through financing in the course of telemarketing the loans in violation of the Telemarketing Sales Rule (TSR). The consent order issued against Easy Military Travel and Edmiston requires restitution to servicemembers and their families who paid the hidden finance charges by imposing a suspended judgment in the amount of \$3,468,224. The consent order also requires Easy Military Travel and Edmiston to pay a civil money penalty of \$1 and prohibits them from future consumer lending targeted to servicemembers and their families. The suspension of the payment for restitution, as well as the \$1 civil penalty, are based on Easy Military Travel's and Edmiston's inability to pay more based on sworn financial statements submitted to the Bureau.

In the Matter of USA Service Finance, LLC (2019-BCFP-0010) (not a credit union or depository institution). On November 25, 2019, the Bureau issued a consent order against USA Service Finance, LLC (USASF). The action was filed concurrently with the consent order issued against Edmiston Marketing, LLC, also known as Easy Military Travel and Brandon Edmiston, the owner and operator of Easy Military Travel. The Bureau found that USASF engaged in deceptive practices in violation of the CFPA by overcharging servicemembers and their families for a debt-cancellation product that was offered in connection with the Easy Military Travel loans for airline tickets, which USASF purchased and serviced. The Bureau also found that USASF violated Regulation V, which implements FCRA, because it never established, reviewed, or updated any written policies or procedures regarding the accuracy and integrity of the consumer information it furnished to consumer reporting agencies. The consent order issued against USASF requires it to provide redress to borrowers who were overcharged for the debt-cancellation product, including paying \$54,625 in restitution to borrowers with no outstanding balance on their loans and issuing additional restitution in the form of account credits to borrowers with outstanding balances. The consent order also requires USASF to pay a civil money penalty of \$25,000 to the Bureau. The consent order prohibits USASF from collecting on or selling the loans purchased from Easy Military Travel. The consent order also requires USASF to establish and update reasonable written policies and procedures for the accuracy and integrity of consumer information it furnishes to consumer reporting agencies.

Bureau of Consumer Financial Protection v. Sterling Infosystems, Inc. (S.D.N.Y. 1:19-cv-10824). On November 22, 2019, the Bureau filed a proposed stipulated judgment with Sterling Infosystems, Inc. (Sterling), a privately-held Delaware corporation headquartered in New York, which was entered by the court on November 26, 2019. Sterling's primary business is to prepare

background screening reports on individual job applicants to assist employers in employment-making decisions. The Bureau alleged that Sterling violated the FCRA by (1) failing to employ reasonable procedures to ensure the maximum possible accuracy of the information about consumers it included in the consumer reports it prepared; (2) failing to maintain strict procedures to ensure that public record information about consumers that it included in consumer reports it prepared was complete and up to date or notify consumers, at the time that such information was reported, of the fact that public record information was being reported; and (3) reporting criminal history information and other adverse information about consumers outside of the reporting period allowed by the FCRA. The stipulated final judgment and order requires Sterling to pay \$6 million in monetary relief to affected consumers and a \$2.5 million civil money penalty to the Bureau. The stipulated judgment also includes injunctive relief to prevent the claimed illegal conduct from recurring.

Bureau of Consumer Financial Protection; State of Minnesota, by its Attorney General, Keith Ellison; State of North Carolina, *ex rel.* Joshua H. Stein, Attorney General; and The People of the State of California, Michael N. Feuer, Los Angeles City Attorney v. Consumer Advocacy Center Inc., d/b/a Premier Student Loan Center; True Count Staffing Inc., d/b/a SL Account Management; Prime Consulting LLC, d/b/a Financial Preparation Services; Albert Kim, a/k/a Albert King; Kaine Wen, a/k/a Wenting Kaine Dai, Wen Ting Dai, and Kaine Wen Dai; and Tuong Nguyen, a/k/a Tom Nelson (C.D. Cal. 8:19-cv-01998-JVS-JDE). On October 21, 2019, the Bureau filed a complaint and sought a temporary restraining order and preliminary injunction in federal court in the Central District of California against Consumer Advocacy Center Inc., d/b/a Premier Student Loan Center (Premier); True Count Staffing Inc., d/b/a SL Account Management (True Count); Prime Consulting LLC, d/b/a Financial Preparation Services (Prime); Albert Kim; Kaine Wen; and Tuong Nguyen. The Bureau alleges the debt relief companies operate as a common enterprise and have engaged in deceptive practices and charged unlawful advance fees in connection with the marketing and sale of student loan debt relief services to consumers. The Bureau also alleges the individuals substantially assisted the student loan debt relief companies. The court granted the request for the temporary restraining order on October 21, 2019. The court granted the Bureau's request for a preliminary injunction on November 15, 2019. The Bureau's complaint seeks an injunction against defendants, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of a civil money penalty. The complaint also names several relief defendants and seeks disgorgement of those relief defendants' ill-gotten gains. The case remains pending.

Bureau of Consumer Financial Protection, and South Carolina Department of Consumer Affairs v. Katharine Snyder, Performance Arbitrage Company, Inc., and Life Funding Options, Inc. (D.S.C. 6:19-cv-02794-DCC). On October 1, 2019, the Bureau and the South Carolina Department of Consumer Affairs (South Carolina) filed a lawsuit in federal district court in the District of South Carolina against Katharine Snyder, Performance Arbitrage Company, Inc., and Life Funding Options, Inc. The companies, owned and operated by Snyder, were brokers of contracts offering high-interest credit to veterans, many of whom are disabled, and to other consumers. The Bureau alleges that the companies and their owner violated the CFPB's prohibition against deceptive acts or practices. The Bureau and South Carolina specifically allege that Snyder and her companies misrepresented to consumers that the contracts the companies broker are valid and enforceable when, in fact, the contracts are void under federal and state law; misrepresented to consumers that the product is a sale of payments and not a high-interest credit offer; and failed to inform consumers of the products' interest rates. The Bureau seeks an injunction against Snyder and her companies, as well as damages, redress to consumers, and the imposition of a civil money penalty. The Bureau's investigation was conducted in partnership with South Carolina. The case remains pending.

Bureau of Consumer Financial Protection v. FCO Holding, Inc., Fair Collections & Outsourcing, Inc., Fair Collections & Outsourcing of New England, Inc., FCO Worldwide, Inc., and Michael E. Sobota (D. Md. No. 8:19-cv-02817-GJH). On September 25, 2019, the Bureau filed a complaint in federal court in the District of Maryland against Maryland-based debt collectors FCO Holding, Inc. and its subsidiaries, Fair Collections & Outsourcing, Inc., Fair Collections & Outsourcing of New England, Inc., and FCO Worldwide, Inc. The Bureau also named Michael E. Sobota, the chief executive officer, president, director, and owner of FCO Holding, Inc. as a defendant. The Bureau alleges that FCO violated the FCRA and Regulation V by failing to maintain reasonable policies and procedures regarding the accuracy and integrity of the information it furnishes, including the handling of consumer disputes, failing to conduct reasonable investigations of certain consumer disputes, and furnishing information that was alleged to have been the result of identity theft before it made any determination of whether the information was accurate. The Bureau also alleges that FCO and Michael Sobota violated the FDCPA when FCO represented that consumers owed certain debts when, in fact, FCO did not have a reasonable basis to assert that the consumers owed those debts. The Bureau seeks an injunction, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of a civil money penalty. On November 20, 2019, the defendants filed a motion to dismiss the complaint and/or stay the proceedings, which the Bureau opposed. The court has not ruled on that motion. The case remains pending.

Bureau of Consumer Financial Protection v. Certified Forensic Loan Auditors, LLC, Andrew Lehman, and Michael Carrigan (C.D. Cal. No. 2:19-cv-07722). On September 6, 2019, the Bureau filed a complaint in federal court in the Central District of California against Certified Forensic Loan Auditors, LLC (CFLA), Andrew Lehman (Lehman), and Michael Carrigan (Carrigan). The Bureau alleges that CFLA and Lehman have engaged in deceptive and abusive acts or practices and have charged unlawful advance fees in connection with the marketing and sale of financial advisory and mortgage assistance relief services to consumers. CFLA is a foreclosure relief services company, and Lehman is CFLA's president and CEO. The Bureau alleges that Carrigan, who was the Company's sole auditor, provided substantial assistance to CFLA and Lehman. Concurrent with the complaint, the Bureau and Carrigan filed a proposed stipulated final judgment and order to resolve the substantial assistance claims against Carrigan, which the court entered on October 29, 2019. Among other things, that order bans Carrigan from providing mortgage assistance relief services or consumer financial products and services and imposes a \$493,000 civil money penalty, all but \$5,000 of which is suspended based on his limited ability to pay more based on sworn financial statements. In November 2019, the Bureau filed an amended complaint. Certain defendants filed a motion to dismiss the amended complaint as well as a motion to stay the action. The court denied the motion to stay. The motion to dismiss and the case remain pending.

In the Matter of Financial Credit Service, Inc., d/b/a Asset Recovery Associates (File No. 2019-BCFP-0009) (not a credit union or depository institution). On August 28, 2019, the Bureau issued a consent order against Asset Recovery Associates (ARA), a debt-collection company headquartered in Illinois. ARA, also known as Financial Credit Service, Inc., collects debts from consumers throughout the United States. The Bureau found that ARA violated the FDCPA by threatening to sue or arrest consumers even though it did not intend to take such action, falsely representing to consumers that company employees were attorneys, threatening to garnish consumers' wages or place liens on their homes even though it did not intend to do so, and representing that consumers' credit reports would be negatively affected if they did not pay, even though ARA does not report consumer debts to credit-reporting agencies. The Bureau found that these false statements were also deceptive, in violation of the Consumer Financial Protection Act of 2010 (CFPA). Under the terms of the consent order, ARA will pay at least \$36,800 in restitution to affected consumers and a \$200,000 civil money penalty to the Bureau. The consent order also prohibits ARA from continuing to engage in this conduct and requires ARA to record calls with consumers to help ensure collectors do not make false statements in the future.

In the Matter of Maxitransfers Corporation (File No. 2019-BCFP-0008) (not a credit union or depository institution). On August 27, 2019, the Bureau issued a consent order against Maxitransfers Corporation (Maxi), which provides remittance transfer services that allow consumers to send money overseas electronically. From October 2013 until May 2017, Maxi sent approximately 14.5 million remittance transfers for consumers in the U.S. The Bureau found that Maxi violated the Electronic Fund Transfer Act (EFTA) and the Remittance Rule by using inaccurate language in certain required disclosures, failing to provide other required disclosures altogether, and not maintaining all the required error resolution policies and procedures. The Bureau also found that Maxi violated the CFPA by stating to consumers that it was not responsible for errors made by its third-party payment agents when in fact under the Remittance Transfer Rule a provider is liable for any violation by an agent when such agent acts for the provider. The consent order requires Maxi to pay a civil money penalty of \$500,000 and prohibits Maxi from stating that it is not responsible for the acts of its agents. The consent order also requires Maxi to take steps to improve its compliance management to prevent future violations of the CFPA, EFTA, and the Remittance Transfer Rule.

Bureau of Consumer Financial Protection v. Andrew Gamber, Voyager Financial Group, LLC, BAIC, Inc., SoBell Corp (E.D. Ark. No. 4:19-cv-00565-BSM). On August 14, 2019, the Bureau filed a proposed stipulated judgment with Andrew Gamber, Voyager Financial Group, LLC, BAIC, Inc., and SoBell Corp., which the court entered on September 4, 2019. The companies were brokers of contracts offering high-interest credit to veterans and other consumers and were owned and operated by Gamber. The Bureau alleged that Gamber and his companies misrepresented to consumers that the contracts the companies facilitate are valid and enforceable when, in fact, they are void under federal and state law; misrepresented to consumers that the product is a sale of payments and not a high-interest credit offer; misrepresented to consumers when they will receive their funds; and failed to inform consumers of the applicable interest rate on the credit offer. The order bans the defendants from the industry and imposes a judgment for \$2.7 million in redress. Under the order, full payment of the redress judgment will be suspended upon paying \$200,000 towards redress, and upon paying \$1 for a civil money penalty to the Bureau, and \$75,000 to the State of Arkansas. The Bureau filed this complaint in coordination with the Office of the Arkansas Attorney General.

Bureau of Consumer Financial Protection v. Equifax, Inc. (N.D. Ga. No. 1:19-cv-03300-TWT). On July 22, 2019, the Bureau, the FTC, and 48 states, the District of Columbia, and Puerto Rico entered into a global settlement with Equifax that provides up to \$700 million in monetary relief

and penalties. The Bureau filed a stipulated judgment in federal district court in the Northern District of Georgia, which the court entered on July 23, 2019. The Bureau alleged that Equifax engaged in unfair and deceptive practices in connection with the 2017 data breach of Equifax's systems, which impacted approximately 147 million consumers. The settlement with the Bureau provides up to \$425 million in monetary relief to consumers, a \$100 million civil money penalty, and other relief.

Bureau of Consumer Financial Protection v. Student CU Connect CUSO, LLC (S.D. Ind. No. 1:19-cv-02397-JRS-DLP). On June 14, 2019, the Bureau filed a complaint against Student CU Connect CUSO, LLC (CUSO) along with a proposed stipulated judgment, which the court entered on June 20, 2019. CUSO was set up to hold and manage private loans for students at ITT Technical Institute. The Bureau alleged that CUSO provided substantial assistance to ITT Educational Services, Inc. (ITT) in engaging in unfair acts and practices. Under the terms of the stipulated judgment, CUSO must stop collecting on all outstanding CUSO loans, discharge all outstanding CUSO loans, and ask all consumer reporting agencies to which CUSO furnished information to delete tradelines relating to CUSO loans. The order also requires CUSO to provide notice to all consumers with outstanding CUSO loans that their debt has been discharged and is no longer owed and that CUSO is seeking to have the relevant tradelines deleted. The total amount of loan forgiveness is estimated to be \$168 million. Forty-four states plus the District of Columbia have also settled with CUSO.

In the Matter of Freedom Mortgage Corporation (File No. 2019-BCFP-0007) (not a credit union or depository institution). On June 5, 2019, the Bureau issued a consent order against Freedom Mortgage Corporation (Freedom), which has its principal place of business in Mount Laurel, New Jersey. The Bureau found that Freedom violated the HMDA and Regulation C by submitting mortgage-loan data for 2014 to 2017 that contained errors. The Bureau found that Freedom reported inaccurate race, ethnicity, and sex information and that much of Freedom's loan officers' recording of this incorrect information was intentional. The consent order requires Freedom to pay a civil money penalty of \$1.75 million and take steps to improve its compliance management to prevent future violations.

In the Matter of Servis One, Inc., d/b/a BSI Financial Services (File No. 2019-BCFP-0006) (not a credit union or depository institution). On May 29, 2019, the Bureau issued a consent order against BSI Financial Services (BSI), a mortgage servicer headquartered in Irving, Texas. The Bureau found that BSI violated the CFPB, Real Estate Settlement Procedures Act (RESPA), and

TILA by handling mortgage servicing transfers with incomplete or inaccurate loss mitigation and escrow information; inadequately overseeing service providers; failing to promptly enter interest rate adjustment loan data for adjustable rate mortgage loans into its servicing system; and maintaining an inadequate document management system. The consent order requires BSI to pay a civil money penalty of \$200,000 and restitution estimated to be at least \$36,500. BSI must also establish and maintain a comprehensive data integrity program to ensure the accuracy, integrity, and completeness of the data for loans that it services and implement an information technology plan to ensure its systems comply with Federal consumer financial laws.

Bureau of Consumer Financial Protection v. Forster & Garbus, LLP (E.D.N.Y. No. 2:19-cv-02928). On May 17, 2019, the Bureau filed a complaint in the federal district court in the Eastern District of New York against Forster & Garbus, LLP, a New York debt-collection law firm. The Bureau alleges that Forster & Garbus violated the FDCPA by representing to consumers that attorneys were behind its lawsuits when, in fact, attorneys were not meaningfully involved in preparing or filing them. The Bureau also alleges that Forster & Garbus violated the CFPA's prohibition against deceptive acts and practices by making such representations to consumers through its lawsuits. The Bureau seeks an injunction against Forster & Garbus, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of a civil money penalty. After holding an initial status conference on September 23, 2019, the court stayed discovery. The case remains pending.

Bureau of Consumer Financial Protection v. Progrexion Marketing, Inc.; PGX Holdings, Inc.; Progrexion Teleservices, Inc.; eFolks, LLC; CreditRepair.com, Inc.; John C. Heath, Attorney at Law, PLLC, d/b/a/ Lexington Law (D. Utah No. 2:19-cv-00298-DBP). On May 2, 2019, the Bureau filed a complaint against PGX Holdings, Inc. and its subsidiaries (collectively, Progrexion) and against John C. Heath, Attorney at Law PLLC, which does business as Lexington Law, in the federal district court in the District of Utah. The Bureau alleges the defendants violated the TSR by requesting and receiving payment of prohibited upfront fees for their credit repair services. The Bureau also alleges that Progrexion and its subsidiaries violated the TSR and the CFPA by making deceptive representations in its marketing, or by substantially assisting others in doing so. The Bureau seeks an injunction, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. Defendants filed a motion to dismiss on July 19, 2019, which the court denied on February 18, 2020. The parties are currently engaged in discovery. The case remains pending.

In the Matter of Conduent Education Services, LLC (File No. 2019-BCFP-0005) (not a credit union or depository institution). On May 1, 2019 the Bureau issued a consent order against Conduent Education Services, LLC (CES), a student loan servicing company that formerly operated under the name of ACS Education Services. CES is in the process of winding down its business. The Bureau found that CES engaged in unfair practices in violation of the CFPA by failing to adjust in a timely manner principal balances of student loans made under the Federal Family Education Loan Program. The consent order requires that CES, if it has not already done so, make proper adjustments to the principal balances of the relevant loans or otherwise make restitution to borrowers or any third parties who paid off such loans. The order also requires CES to pay a \$3.9 million civil money penalty.

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, and in August 2019, the Bureau moved for entry of default judgment against all defendants, appointment of a receiver, and to transfer the action to the District of South Carolina. On October 17, 2019, the court transferred the matter to the District of South Carolina. The remaining motions and the case remain pending.

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 (Think Finance Entities). The Bureau alleged that they collect debts that were not legally owed. Specifically, the Bureau alleged that Think Finance collects on loans that are void ab initio under state laws governing interest rate caps or the licensing of lenders in seventeen states. The Bureau alleged 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. 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. On February 5, 2020, the Bureau filed a proposed stipulated final consent order against the Think Finance Entities, which the court entered on February 6, 2020. Among other things, the order prohibits the Think Finance Entities from offering or collecting on loans to consumers in any of the seventeen states if the loan violates state lending laws or assisting others in engaging in that conduct. The order also imposes a \$1 civil money penalty for each of the seven Think Finance Entities. The Bureau's consent order is a component of the global resolution of the Think Finance Entities' bankruptcy proceeding, which includes settlements with the Pennsylvania Attorney General's Office and private litigants in a nationwide consumer class action. Consumer redress will be disbursed from a fund created as part of the global resolution, which is anticipated to have over \$39 million for distribution to consumers and may increase over time as a result of ongoing, related litigation and settlements.

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 alleged that Freedom Debt Relief violated the TSR by charging advance fees and failing to inform consumers of their rights to funds they deposited with the company. The Bureau also alleged that Freedom Debt Relief violated the CFPB by charging consumers without settling their debts as promised, charging consumers after having them negotiate their own settlements with creditors, and misleading consumers about the company's fees and its ability to negotiate directly with all a consumer's creditors. On July 9, 2019, the Bureau filed a stipulated final judgment, which the court entered on the same day. The judgment requires Freedom Debt Relief to pay \$20 million in restitution to affected consumers and a \$5 million civil money penalty and enjoins it from engaging in this conduct in the future. The company also agreed to a consent order with the FDIC. The Bureau will remit \$493,500 of the \$5 million civil penalty it assessed considering the penalty that the company was ordered to pay the FDIC.

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 allowed the parties to engage in discovery. The parties are currently briefing threshold issues identified by the Court. 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. On September 5, 2019 the Court ruled on the motion to dismiss, rejecting the majority of Ocwen's arguments but requiring the Bureau to re-plead its allegations, which the Bureau did. The case was partially consolidated with a related case against Ocwen brought by the Office of the Attorney General and Office of Financial Regulation for the State of Florida. The case remains pending.

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. 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. On May 19, 2020, the Bureau and all three defendants moved for summary judgment and these motions are 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. On May 24, 2019, the Bureau moved to modify the scheduling order and for leave to file a second amended complaint, which the court denied on November 26, 2019. On December 26, 2019, the court stayed the case pending the Supreme Court's decision in *Seila Law LLC v. Consumer Financial Protection Bureau*, No. 19-7 (cert. granted Oct. 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 alleged that Douglas MacKinnon and Mark Gray operated a network of companies that harass, threaten, and deceive consumers across the nation into paying inflated debts or amounts they may not owe. The defendants asserted counterclaims against the Bureau and New York, which the court dismissed on January 8, 2018. On July 25, 2019, the Bureau and New York Attorney General filed proposed settlements, which the court approved on August 22, 2019. The final judgment and order against MacKinnon, Northern Resolution Group, and Enhanced Acquisitions bans them from the industry and requires that they pay \$40 million in redress to consumers and a \$10 million civil money penalty to each of the Bureau and New York. The final judgment and order against Delray Capital and Gray bans them from the industry and imposes a judgment for redress of \$4 million, a judgment for civil money penalties of \$1 million to the Bureau, and a judgment for civil money penalties of \$1 million to the New York Attorney General; full payment of those amounts are suspended subject to those defendants paying a \$1 civil money penalty to the Bureau and \$10,000 for consumer redress.

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. On March 20, 2020, the Fifth Circuit held in favor of the Bureau, rejecting AACC's constitutionality challenge and then, *sua sponte*, decided to rehear the matter *en banc*. The court has yet to schedule oral argument for the rehearing.

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. 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 September 29, 2017, the Ninth Circuit dismissed Gasparyan's interlocutory appeal. On March 7, 2019, after stipulation of the parties, the district court dismissed with prejudice the action against Fomichev,

and on the same day, the Ninth Circuit dismissed Fomichev's pending interlocutory appeal. 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. The Ninth Circuit dismissed T3's and the Demirchyans' pending interlocutory appeals on April 1, 2019.

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. On March 26, 2020, Respondents moved to amend their answer, to reopen the record, and to dismiss the notice of charges. 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 court lifted the stay on May 27, 2019, and 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 Hofelner (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 Hofelner, designed and marketed these loans and were responsible for the companies' operations. The Bureau and NYDFS allege that all 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 Hofelner. 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 discharged the receiver and closed the receivership on December 17, 2019.

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. On January 23, 2020, the United States Court of Appeals for the Ninth Circuit held the parties’ appeals in abeyance pending the Supreme Court’s decision in *Seila Law LLC v. Consumer Financial Protection Bureau*, No. 19-7 (cert. granted Oct. 18, 2019).

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 March 21, 2019, the court granted the Bureau’s motion for summary judgment on all 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. On August 21, 2019, the court entered a stipulated final judgment and order as to two debt collector defendants. Among other things, the August 21, 2019 stipulated judgment ordered the settling defendants to transfer all of the funds in their various bank accounts in partial satisfaction of a judgment of equitable monetary relief and damages in the amount of \$633,710, which was partially suspended based on inability to pay, permanently banned the settling them from engaging in debt collection activities, and prohibited them from making certain misrepresentations. On November 15, 2019, the court entered a stipulated final judgment and order as to another debt collector defendant. Among other things, the November 15, 2019 stipulated judgment imposed a suspended judgment of equitable monetary relief and damages in the amount of \$5,261,484, ordered the settling defendant to pay a \$1 civil penalty, permanently banned him from engaging in debt collection activities, and prohibited him from making certain misrepresentations. The suspension of the judgment and the \$1 civil penalty are based on the settling defendant's inability to pay. On February 19, 2020, the court granted the Bureau's motion for contempt against three debt collector defendants for violating the court's preliminary injunction, ordered one of the defendants to pay \$100,000 into the court's registry as a sanction, and appointed a receiver to take control of various companies owned by those defendants in order to preserve assets for consumer redress. The receiver's work is ongoing, and the case remains pending.

Consumer Financial Protection Bureau v. The Mortgage Law Group, LLP, d/b/a The Law Firm of Macey, Aleman & Searns; Consumer First Legal Group, LLC; Thomas G. Macey; Jeffrey J. Aleman; Jason E. Searns; and Harold E. Stafford (W.D. Wis. No. 3:14-cv-0513). On July 22, 2014, the Bureau filed a complaint against The Mortgage Law Group, LLP (TMLG), the Consumer First Legal Group, LLC (CFLG), and attorneys Thomas Macey, Jeffrey Aleman, Jason Searns, and Harold Stafford. The Bureau brought suit alleging 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 in April 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. On November 4, 2019, the court issued an opinion and order against the remaining defendants, imposing a total of \$21,709,022 in restitution (\$18.7 million of which TMLG is also jointly and severally liable for) and \$37,294,250 in civil money penalties. These defendants were also permanently enjoined from marketing or selling any mortgage assistance relief or debt relief products or services. Defendants filed an appeal with the Seventh Circuit on December 4, 2019, which 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 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. On August 12, 2019, the Bureau filed a stipulated final judgment and order, which the court entered on August 16, 2019, to resolve the matter. The judgment and order, among other things, includes a judgment against ITT for \$60 million and an injunction prohibiting ITT from offering or providing student loans in the future.

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; oral argument was heard on September 9, 2019.

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 three issues of *Supervisory Highlights* between April 1, 2019, through March 31, 2020.¹³⁸

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.

¹³⁸ Winter 2020, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-21_2020-02.pdf; Consumer Reporting Special Edition, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-20_122019.pdf; Summer 2019, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-19_092019.pdf.

7. Assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law¹³⁹

For purposes of the Section 1016(c)(7) reporting requirement, the Bureau determined that any actions asserting claims pursuant to Section 1042 of the Dodd-Frank Act are “significant.” The Bureau is aware of the following State actions asserting Dodd-Frank Act claims that were initiated during the April 1, 2019, through March 31, 2020, reporting period.

Commonwealth of Puerto Rico v. Equifax, Inc., No. 3:18-cv-01424 (D.P.R. Apr. 2, 2019). On April 2, 2019, the Attorney General of Puerto Rico filed an amended complaint against Equifax, Inc. The complaint alleged that Equifax, Inc. engaged in deceptive acts or practices in violation of the CFPB, 12 U.S.C. 5531(a). The complaint also asserted that Equifax, Inc. acted negligently, in violation of common law and state law, and violated Puerto Rico’s state consumer protection law. Puerto Rico voluntarily dismissed its complaint with prejudice on July 25, 2019.

People of the State of New York v. Vision Property Management, LLC; KAJA Holdings 2, LLC; RVFM 11 Series, LLC; DSV SPV 1, LLC; DSV SPV 2, LLC; DSV SPV3, LLC; Alan Investments III, LLC; Alex Szkaradek; and John Dows 1-50, No. 19-CV-7191 (S.D.N.Y. Aug. 1, 2019). On August 1, 2019, the New York Attorney General and New York Superintendent of Financial Services filed a complaint against Vision Property Management, LLC (Vision), various affiliated companies, and Alex Szkaradek, Vision’s Chief Executive Officer and Managing Member. The complaint alleges

¹³⁹ *State action summaries are current as of March 31, 2020, and do not include activities that occurred after the reporting period.*

that the parties engaged in illegal practices in the course of entering into seller-financed purchase transactions with consumers in upstate New York. These practices allegedly violated the CFPA, 12 U.S.C. 5531(a); TILA, 12 U.S.C. 1638; TILA's implementing regulation, Regulation Z, 12 C.F.R. 1026 *et seq.*; and New York state law. On January 14, 2020, the court entered a consent order against defendants in the amount of \$3.76 million.

People of the State of New York v. Pennsylvania Higher Education Assistance Agency, d/b/a FedLoan Servicing and American Education Services, No. 19-CV-9155 (S.D.N.Y. Oct. 3, 2019). On October 3, 2019, the New York Attorney General filed a complaint against Pennsylvania Higher Education Assistance Agency, d/b/a FedLoan Servicing (PHEAA) and American Education Services. The complaint alleges that defendants engaged in illegal practices related to the Public Service Loan Forgiveness (PSLF) program and income-driven repayment (IDR) options offered in the course of servicing federal student loans. These practices allegedly violated the CFPA, 12 U.S.C. § 5531(a) and New York state law.

Dana Nessel, Attorney General of the State of Michigan v. Huggy Larmar Price, in his official capacity as President/CEO of Sierra Financial, LLC d/b/a Sierra Lending, LLC, and/or Sierra Financial, and/or Tall Grass Finance and Virgil Perez, in his official capacity as Tribal Chairman of the Iipay Nation of Santa Ysabel, No. 19-CV-13078 (E.D.Mich. Oct. 18, 2019). On October 19, 2019, the Michigan Attorney General filed a complaint against Sierra Financial L.L.C. (Sierra) and the Tribal Chairman of the Iipay Nation of Santa Ysabel. The complaint alleged that defendants violated the CFPA in the course of offering, approving, and deducting payments for Sierra's loan products. The complaint also alleged the defendants violated Michigan's usury laws and that their conduct constitutes a common-law nuisance. On March 6, 2020, the Attorney General dismissed the complaint after defendants agreed to an Assurance of Voluntary Compliance.

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 enforcement¹⁴⁰ and rulemaking¹⁴¹ activities from April 1, 2019, through March 31, 2020, and continued efforts to fulfill the fair lending mission of the Bureau through supervision, interagency coordination, and outreach, from October 1, 2019, through March 31, 2020.¹⁴²

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 14 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:

¹⁴⁰ *Dodd-Frank Act § 1016(c)(5).*

¹⁴¹ *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.*

¹⁴² *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.
- 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.

In the current reporting period, the Bureau initiated 14 supervisory events, which is two fewer than the 16 fair lending supervisory events initiated during the prior reporting period. In the current reporting period, the Bureau issued more 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 2018-01,⁴⁴³ 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 pertaining to supervisory concerns related to weak or nonexistent fair lending policies and procedures, risk assessments, fair lending training, service provider oversight and/or consumer complaint response.

⁴⁴³ https://files.consumerfinance.gov/f/documents/bcftp_bulletin-2018-01_changes-to-supervisory-communications.pdf.

8.2 Fair lending enforcement¹⁴⁴

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 or state 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.¹⁴⁵

During the reporting period, the Bureau filed one fair lending public enforcement action: In the Matter of Freedom Mortgage Corporation (File No. 2019-BCFP-0007).¹⁴⁶ In addition, during this reporting period,¹⁴⁷ the Bureau referred four matters to the DOJ about discrimination pursuant to Section 706(g) of the ECOA. The referrals involved redlining in mortgage origination based on race and/or national origin, discrimination in mortgage origination based on receipt of public assistance income, and discrimination in auto origination based on race and national origin.

During the reporting period, the Bureau also continued to enforce federal fair lending laws, including ECOA and HMDA. The Bureau has a number of ongoing and newly opened fair lending investigations of institutions.

¹⁴⁴ Section 1016(c)(5) of the Dodd-Frank Act requires the Bureau to include in the semi-annual report public enforcement actions the Bureau was a party to during the preceding year, which is October 1, 2018, through September 30, 2019, for this report.

¹⁴⁵ See 15 U.S.C. § 1691e(h).

¹⁴⁶ See *supra* Section 5.2.

¹⁴⁷ October 1, 2018, through September 30, 2019.

8.3 Fair lending outreach

The Bureau is committed to hearing from and communicating directly with stakeholders in a variety of ways. The Bureau regularly engages in outreach through consumerfinance.gov, internal stakeholders, private industry, fair lending, civil rights and consumer and community advocates, academia, and other government agencies and regulators 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 policy decisions.

Outreach is accomplished through numerous channels, such as issuing compliance bulletins and statements targeted to industry; publishing press releases, blog posts,¹⁴⁸ brochures and reports regarding fair lending issues; delivering speeches, webinars, and presentations addressing fair lending and access to credit issues; and participating in smaller meetings and discussions with external stakeholders, including Federal and State regulators and agencies. During the reporting period, Bureau staff participated in 47 outreach events for 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 while considering potential fair lending risks. Some examples of the topics covered include: fair lending supervision and enforcement priorities, innovations in lending, HMDA and Regulation C, small business lending, the Bureau's RFI, access to credit for consumers with limited English proficiency,

¹⁴⁸ Additional activity has occurred with this matter since the end of this reporting period. On April 27, 2020, the Bureau's Office of Fair Lending, in conjunction with the Office of Women and Minority Inclusion and Small Business Lending Markets published a blog post related to COVID-19 regarding to access to credit for minority and women owned businesses. Patrice Alexander-Ficklin, Grady Hedgespeth, Lora McCray, Consumer Fin. Prot. Bureau, *The importance of fair and equitable access to credit for minority and women-owned businesses* (Apr. 27, 2020). More information can be found here: <https://www.consumerfinance.gov/about-us/blog/fair-equitable-access-credit-minority-women-owned-businesses>.

providing adverse action notices when using machine learning models, and the use of alternative data in credit underwriting.

8.3.1 Statement on alternative data in credit underwriting

In December 2019, the Bureau, the FRB, FDIC, OCC, and NCUA (collectively “the agencies”) issued a joint statement on the use of alternative data in underwriting by banks, credit unions, and non-bank financial firms.¹⁴⁹

The purpose of the statement was to provide guidance on the use of alternative data in underwriting and, to the extent firms are using or contemplating using alternative data, to encourage responsible use of such data.

Alternative data includes information not typically found in consumers’ credit reports or customarily provided by consumers when applying for credit. Alternative data may include cashflow data derived from consumers’ bank account records.

The statement further explains that a well-designed compliance management program provides for a thorough analysis of relevant consumer protection laws and regulations to ensure firms understand the opportunities, risks, and compliance requirements before using alternative data. As reflected in the statement, the agencies recognize that use of alternative data in a manner consistent with applicable consumer protection laws may improve the speed and accuracy of credit decisions and may help firms evaluate the creditworthiness of consumers who currently may not obtain credit in the mainstream credit system. Additionally, the agencies acknowledge that using alternative data may enable consumers to obtain access to additional products and/or more favorable pricing/terms.

¹⁴⁹ *Consumer Fin. Prot. Bureau, Federal Regulators Issue Joint Statement on the Use of Alternative Data in Credit Underwriting (Dec. 3, 2019)*, <https://www.consumerfinance.gov/about-us/newsroom/federal-regulators-issue-joint-statement-use-alternative-data-credit-underwriting/>.

8.3.2 Tech sprints request for information

In September 2019, the Bureau, through a collaboration between the Offices of Innovation, Technology and Innovation, and Fair Lending and Equal Opportunity, issued an RFI¹⁵⁰ seeking comments and information to identify opportunities to utilize Tech Sprints to encourage regulatory innovation.¹⁵¹

The comment period closed on November 8, 2019, and the Bureau received 19 comments in response to its RFI. The feedback identified an interest in organizing Tech Sprints in a variety of areas including HMDA, supervision data sharing and submission, automated compliance, third-party technology providers/bank-fintech partnerships, consumer disclosures, and regulations.

The information provided will help the Bureau identify how stakeholders can work together to create a regulatory environment (1) that allows flexible, efficient, and effective innovation to flourish; (2) where new and/or emerging risks can be identified and managed effectively; and (3) where consumers have the appropriate level of protection and suitable access to the benefits of technological advancement.

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, the Bureau coordinated its fair lending regulatory, supervisory, and enforcement activities with those of other federal agencies and state regulators to promote consistent, efficient, and effective enforcement of federal fair lending laws. This interagency engagement seeks to address current and emerging fair lending risks.

The Bureau, along with the FTC, HUD, FDIC, FRB, NCUA, OCC, DOJ, and FHFA, comprise the Interagency Task Force on Fair Lending. Currently, the Bureau chairs the Task Force, which meets

¹⁵⁰ https://files.consumerfinance.gov/f/documents/cfbp_rfi_tech-sprints.pdf

regularly to discuss fair lending enforcement efforts, share current methods of conducting supervisory and enforcement fair lending activities, and coordinate fair lending policies.

The Bureau also participates in the Interagency Working Group on Fair Lending Enforcement, a standing working group of federal agencies—with the DOJ, HUD, and FTC—that meets regularly to discuss issues relating to fair lending enforcement. The agencies use these meetings to also discuss fair lending developments and trends, methodologies for evaluating fair lending risks and violations, and coordination of fair lending enforcement efforts. In addition to these interagency working groups, the Bureau meets periodically and on an ad hoc basis with DOJ, HUD, and prudential regulators to coordinate the Bureau's fair lending work.

During the reporting period, the Bureau also chaired the FFIEC HMDA/Community Reinvestment Act Data Collection Subcommittee, a subcommittee of the FFIEC Task Force on Consumer Compliance (Task Force), that oversees FFIEC projects and programs involving HMDA data collection and dissemination, the preparation of the annual FFIEC budget for processing services, and the development and implementation of other related HMDA processing projects as directed by the Task Force.

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, CFPB continued its work to advance diversity and inclusion under the mandates of Section 342 of the Dodd-Frank Act.

The Bureau published its 2019 Annual Report of OMWI activities to Congress on March 31, 2020.¹⁵²

The Bureau continued to execute the objectives and strategies outlined in the Diversity and Inclusion Strategic Plan FY 2019–2022,¹⁵³ which complements the Bureau’s overall Strategic Plan FY 2018–2022.¹⁵⁴

¹⁵² <https://www.consumerfinance.gov/data-research/research-reports/fy-2019-office-minority-and-women-inclusion-annual-report-congress/>.

¹⁵³ <https://www.consumerfinance.gov/data-research/research-reports/cfpb-diversity-and-inclusion-strategic-plan-update-2019-2022/>.

¹⁵⁴ <https://www.consumerfinance.gov/about-us/budget-strategy/strategic-plan/>.

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:

- 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 compliance and diversity and inclusion programs, including those focused on minority and women inclusion.

9.1 Increasing workforce diversity

As of March 2020, an analysis of the Bureau's current workforce reveals the following key points:

- Women represent 50 percent of the Bureau's workforce in 2020.¹⁵⁵ with a one percent increase from FY 2019.¹⁵⁶
- Minorities (Hispanic, Black, Asian, Native Hawaiian/Other Pacific Islander, American Indian/Alaska Native, and employees of two or more races) represent 40 percent of the Bureau workforce in 2020.

¹⁵⁵ October 1, 2019–March 31, 2020.

¹⁵⁶ October 1, 2018–March 31, 2019.

- As of March 31, 2020, 13.2 percent of Bureau employees on permanent appointments identified as individuals with a disability. Of the permanent workforce, 3.3 percent of employees identified as individuals with a targeted disability. As a result, the Bureau continues to exceed the 12 percent workforce goals for employees with disabilities and two percent for employees with targeted disabilities in both salary categories as required in the Equal Employment Opportunity Commission's (EEOC) 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.
 - The Bureau had 42 new hires which included 24 (57.1 percent) women and 12 (28.6 percent) minorities.
 - The Bureau collaborated with the OCC, NCUA, and the D.C. Department of Employment Services in planning the Bureau's participation in the six-week High School Scholars Internship Program (HSSIP).⁴⁵⁷
 - The Bureau also utilized 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 of education, training, and engagement programs that ensures diversity and inclusion and non-discrimination concepts are part of the learning curriculum and work

⁴⁵⁷ The High School Scholars Internship Program (HSSIP) will be conducted virtually in June 2020.

environment. Employee resource groups, cultural education programs, and diversity and inclusion training are key components of this effort.

9.2 Increasing contracting diversity

In addition to 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 (MWOB). The Bureau's OMWI and Procurement offices collectively work to increase procurement 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.
- Annually offering MWOB vendors targeted technical assistance events on How to Do Business with the CFPB. The most recent took place in November 2019. These events include expert advice from CFPB procurement and program office professionals. The North American Industry Classification (NAICS) focused-events targeted vendors in technology and innovation and professional services and are designed to match vendor capabilities with program office requirements. Participants are informed of the Bureau's upcoming contract opportunities digitally on the Bureau's website.
- Regularly participating in national supplier diversity conferences, such as the National 8(a) Association Small Business Conference in February 2020, that help to foster business partnerships among the federal government, its U.S. prime contractors, and Minority- and Women-owned Businesses, and advocacy for women business owners and entrepreneurs.

As a result of these efforts, 21.6 percent of the \$75 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 and disbursed to MWOBs as a result of contract billing.

TABLE 3: DOLLARS SPENT TOWARD MINORITY-OWNED AND WOMEN-OWNED BUSINESSES

Dollars Spent	Percent of Total	MWOB Category
\$9,525,163	13.8%	Women Owned
\$1,037,978	1.5%	Black/African American
\$1,911,622	2.8%	American Indian/Alaskan Native
\$11,619,308	16.9%	Asian/Pacific Islander American
\$1,350,992	2.0%	Hispanic American

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 contractors' and subcontractors' workforce and diversity practices. The Bureau continues to include a GFE clause in all CFPB contracts that notifies contractors of their responsibilities under the Dodd-Frank Act.

During the review period, OMWI activated the GFE collection process. The Bureau sent requests for GFE data to a representative sample of Bureau vendors and to date has received responses from 75 percent of the vendors contacted. This increase in engagement with Bureau contractors subject to GFE, workforce diversity, and inclusion standards will help OMWI to better support contractor workforce diversity efforts. Assessing diversity of regulated entities

Per Section 342 (b) (2) (c) of the Dodd-Frank Act, the Bureau developed a process to assess the diversity policies and practices of the entities the Bureau regulates. During this reporting period, the Bureau continued its multipronged outreach strategy to financial institutions, including direct entity contact, meetings with trade organizations, and joint outreach with other federal regulators

to engage entities in the voluntary self-assessment process. The Bureau also launched an online data collection tool to collect and manage submitted self-assessment data in January 2020. The tool is accessible on the Bureau's website. The Bureau continues to encourage entities to assess their diversity and inclusion policies and practices and submit their self-assessment data to the Bureau.

APPENDIX A: ADDENDUM

2019 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 residential 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 Secretary of 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. It also transferred to the Bureau the requirement to submit an annual report to Congress on the effectiveness of the SAFE Act's provisions. This section of the Bureau's Spring 2020 Semi-Annual Report constitutes the annual SAFE Act report for 2019.

While administering the SAFE Act during 2019, the Bureau worked closely with SRR/CSBS to facilitate sharing MLO 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, 2019, there were approximately 415,978 federally registered MLOs in the NMLS&R.

The Bureau also consulted with SRR/CSBS regarding implementation of amendments to the SAFE Act made by the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA)¹⁵⁸ that took effect on November 24, 2019. The Bureau also published in the Federal Register an interpretative rule on November 19, 2019, that interprets requirements under the Bureau's Regulation Z in light of the EGRRCPA amendments to the SAFE Act.¹⁵⁹

In February 2019, Bureau staff participated in the eleventh annual NMLS User Conference and Training that provided information and training on the NMLS&R's state licensing and federal registry system related processes. Bureau staff participated in sessions concerning the EGRRCPA amendments to the SAFE Act and the Bureau's supervisory priorities. The event was open to regulatory and industry system users, education providers, consultants, and others interested in

¹⁵⁸ *Public Law 115-174, title I, sec. 106(a), 132 Stat. 1296, 1302 (2018), 1302 (2018) (codified at 12 U.S.C. 5117).*

¹⁵⁹ *Truth in Lending (Regulation Z); Screening and Training Requirements for Mortgage Loan Originators with Temporary Authority, 84 Fed Reg. 63791 (Nov. 19, 2019).*

attending, so it also provided an opportunity for Bureau staff 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. In 2019, the Bureau received approximately 40 inquiries concerning the SAFE Act through its "Submit a regulation inquiry" feature accessible on the Bureau's website. Most of the inquiries sought information about MLO licensing and registration requirements. The Bureau also maintains a SAFE Act Inquiries e-mail box to manage operational questions about the SAFE Act. The Bureau received approximately 85 emails in 2019, many of which pertained to the registration of MLOs and the use of the NMLS&R. The Bureau also continues to work with SRR/CSBS 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/CSBS and the public indicate that the system is meeting expectations and provides a comprehensive licensing and supervisory database. During 2019, all of the required states, territories, and D.C. regulators (state regulators) continued to use the NMLS&R for licensing their MLOs, 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 publicly adjudicated disciplinary and enforcement history for MLOs consistent with the statutory objectives of the SAFE Act.

All bank and non-bank mortgage origination exams conducted by the Bureau in 2019 included a review for compliance with the SAFE Act. Examiners tested for accurate licensing and registration as well as related policies and procedures. SAFE Act violations were discovered on more than one of the exams conducted.

During 2019, 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 MLOs in the NMLS&R to SRR/CSBS.