BRINGING CONSUMER PROTECTION BACK: A SEMI-ANNUAL REVIEW OF THE CONSUMER FINANCIAL PROTECTION BUREAU

HYBRID HEARING

BEFORE THE

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BRINGING CONSUMER PROTECTION BACK: A SEMI-ANNUAL REVIEW OF THE CONSUMER FINANCIAL PROTECTION BUREAU

Wednesday, October 27, 2021

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

The committee met, pursuant to notice, at 10:07 a.m., in room 2128, Rayburn House Office Building, Hon. Maxine Waters [chairwoman of the committee] presiding.

Members present: Representatives Waters, Maloney, Sherman, Meeks, Scott, Green, Cleaver, Perlmutter, Himes, Foster, Beatty, Vargas, Gottheimer, Axne, Casten, Pressley, Torres, Lynch, Adams, Tlaib, Dean, Garcia of Illinois, Garcia of Texas, Williams of Georgia, Auchincloss; McHenry, Lucas, Posey, Luetkemeyer, Huizenga, Wagner, Barr, Williams of Texas, Hill, Emmer, Zeldin, Loudermilk, Mooney, Davidson, Budd, Kustoff, Hollingsworth, Gonzalez of Ohio, Rose, Steil, Gooden, Timmons, Taylor, and Sessions.

Chairwoman WATERS. The Financial Services Committee will come to order.

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

I now recognize myself for 5 minutes to give an opening statement.

Good morning. Today, we welcome Mr. Rohit Chopra, the newly-confirmed Director of the Consumer Financial Protection Bureau (CFPB), before our committee. Mr. Chopra, you have inherited an agency that was undermined by the Trump Administration, which actively worked to reduce consumer protections and enable predatory behavior against the most vulnerable.

For example, Mick Mulvaney and Kathy Kraninger weakened the CFPB's Office of Fair Lending and Equal Opportunity. During their tenure, only a total of four CFPB fair lending enforcement actions were taken, and regulator referrals to the Department of Justice for potential Equal Credit Opportunity Act (ECOA) violations declined by 58 percent. Thankfully, their efforts to eliminate the CFPB were unsuccessful.

The CFPB was founded on the principle of protecting consumers from unfair, deceptive, or abusive acts or practices in the financial marketplace. Since its inception, the CFPB has uncovered illegal, predatory, and discriminatory conduct toward consumers, returning over $13.4 billion to over 175 million people who were taken advantage of by bad actors.

Unfortunately, at a critical time during the COVID-19 pandemic, the Trump Administration left consumers exposed. The CFPB reported earlier this year that homeowners of color continue to face significant challenges. Specifically, while Black and Latinx borrowers represent only 18 percent of all mortgage borrowers, they are nearly 3 times as likely as White borrowers to report being behind on their mortgage payment or having a mortgage in forbearance. It is critical that the CFPB provide strong oversight of mortgage servicers to ensure that they proactively work with all borrowers, providing affordable loan modifications to avoid unnecessary foreclosures.

Furthermore, the COVID-19 crisis highlighted the predatory behavior of debt collectors, as thousands of people struggled to make ends meet and keep up rent. A legal aid attorney from Texas testified that debt collectors made record profits by aggressively pursuing default judgments, and in some cases, seizing stimulus payments and unemployment benefits deposited into bank accounts.

And let's not forget the role of the CFPB in promoting responsible innovation. With the rise of financial technology, the CFPB must take action to ensure that consumers have more control over their own data and are protected from discrimination and predatory products and services. Last week, you issued orders for information from Big Tech firms operating digital payment systems to learn, among other things, how they are handling sensitive consumer data and to what extent they are following the consumer protection laws.

So, Director Chopra, I look forward to your testimony and your leadership at a revitalized CFPB that can be the strong watchdog Congress always intended to protect consumers, especially those who have experienced historical discrimination, such as people of color, women, and low-wage workers, among others.

I now recognize the ranking member of the committee, the gentleman from North Carolina, Mr. McHenry, for 5 minutes.

Mr. MCHENRY. Thank you, Madam Chairwoman, for holding the hearing today, and I am glad the committee is following up on our statutorily-required oversight hearings and holding this semi-annual review of the CFPB on time. And I want to congratulate you on that because there has been an alarming trend that the committee Democrats are scrapping these statutorily-required hearings, and I hope that we are back on track now.

Director Chopra, welcome to the committee. Thank you for being here. I know you have been in this room many times before, but this is your first time testifying. As you know, we have a lot to discuss. Over the last several months, the CFPB has issued many new and concerning rules and guidance, as well as policy statements, and revoked some important actions completed under previous leadership. The Bureau has also delayed implementation of major rulemakings, causing regulatory uncertainty. That is problematic. I would like to hear more about how the Bureau came to those conclusions and why those actions were necessary.

But I know you have only been Director for a month. None of those decisions were of your making. It was Acting Director Uejio who was calling the shots for the last 9 months, and he was unconfirmed. He acted as an unaccountable bureaucrat making those decisions, and I think the decisions were harmful to small businesses and consumers. But now we have you, a Senate-confirmed, but still wholly unaccountable under the organizational structure of the law of the CFPB, a wholly-unaccountable Democrat CFPB Director. And I think we have seen this one before. This is not new.

And as you have pointed in your statements to Bureau staff, you were there at the inception of the Bureau, one of the first employees more than a decade ago. And under the leadership of Senator Warren and former Director Cordray, you were an active participant in the CFPB's regulation by enforcement. I would hope that having witnessed the harmful impacts of that style of regulation, you would come to a different conclusion about how you will operate as Director. The Bureau's overreach was substantial at the time, but, frankly, what we have heard from you in your statements is that you, like many of the Democrats we have been dealing with here on the Hill—the Democrats seem to have learned nothing and yet forgotten nothing.

And you have made it clear in your statements that the CFPB will be basically run by Richard Cordray 2.0, and I would like to hear some differences, but so far I have yet to hear substantial differences. The main difference between now and then is that the Supreme Court has recognized what Republicans were saying, that the CFPB's leadership structure is unconstitutional. We think this is a good first step, but now it is time for Congress to rein in the Bureau and create an accountable agency.

There are a number of Republican proposals to accomplish such a goal. Take, for instance, Congressman Barr's TABS Act to make the CFPB's annual funding part of the congressional appropriations process, or Congressman Luetkemeyer's bill to make the Bureau a five-member commission. We also have Congressman Loudermilk's TAILOR Act, to tailor regulatory actions to limit the burden on institutions and give greater clarity. We also have Congressman Williams' bill to remove, "abusive," from the UDAAP, and make sure that the Bureau can't make rules of the road as they sort of go along, and Congressman Emmer's bill to require a review of all proposed and existing guidance, orders, rules, and regulations, and to create a whistleblower reward program at the CFPB.

I think there are things that we can come to terms with in this basket of Republican policy offerings here. These are simple and common-sense solutions that we should talk more about today. Instead, I know that Democrats have attached a long list of their partisan priorities to this hearing because they continue to focus on a far-left agenda, trying to pass it here in the House of Representatives and through the Senate. Republicans are more interested in getting answers about your agenda, Director Chopra, and how your decisions will impact small businesses and American families. And we want it to be different than last time—we do—and my hope is that you have a different approach than your predecessors.

Madam Chairwoman, I ask unanimous consent to insert for the record the list of Republican initiatives, in more detail, of the reforms to the Bureau—

Chairwoman WATERS. Without objection, it is so ordered.

Mr. MCHENRY. —to ensure that it actually helps consumers.

Chairwoman WATERS. Thank you.

Mr. MCHENRY. I yield back.

Chairwoman WATERS. Thank you, Ranking Member McHenry. I now recognize the gentleman from Colorado, Mr. Perlmutter, for 1 minute.

Mr. PERLMUTTER. Thank you, Madam Chairwoman. Mr. Chopra, congratulations on your appointment, and welcome back to our committee. I am excited to have a champion for consumers at the CFPB. The pandemic has produced a great deal of fear and uncertainty in our country, and having strong consumer protections during the economic recovery is critical to building back better. When consumers know they have someone on their side, it helps them have a little more faith in the economic system and their own future.

The Bureau is faced with many important issues, like helping consumers having more control over their data, ensuring lenders aren't engaged in sharp practices, and making sure student borrowers are treated fairly. Now, as is this committee's tradition with CFPB Directors, I am sure Mr. Chopra will get nothing but softball questions today, and there will be broad bipartisan agreement on the mission, scope, and structure of the Bureau. Madam Chairwoman, I look forward to hearing Mr. Chopra's testimony, and I yield back.

Chairwoman WATERS. Thank you. I want to welcome today's distinguished witness, the Honorable Rohit Chopra, Director of the Consumer Financial Protection Bureau.

You will have 5 minutes to summarize your testimony. You should be able to see a timer on the desk in front of you that will indicate how much time you have left. I would ask you to be mindful of the timer and quickly wrap up your testimony when your time has expired.

And without objection, your written statement will be made a part of the record.

Director Chopra, you are now recognized for 5 minutes to present your oral testimony.

STATEMENT OF THE HONORABLE ROHIT CHOPRA, DIRECTOR, CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Mr. CHOPRA. Thank you, Chairwoman Waters, Ranking Member McHenry, and members of the committee. I appreciate you holding this hearing today.

2021 is very different than 2020. The economy is reopening and growing, labor demand is strong, and employers have added millions of new jobs. Household spending is increasing, and demand for housing is robust. While these macro indicators are promising, the recovery has been uneven. In many parts of our country, conditions remain fragile. Many families are struggling to afford their mortgages and their rent payments. Many small businesses are facing very severe challenges to make ends meet. Many communities, especially those that have been historically disadvantaged, have not felt much of a recovery. American families now owe $15 trillion in household debt, roughly $800 billion more than at the end of 2019, before the pandemic. Over the course of 12 months, mortgage origination hit historic highs at $4.6 trillion.

The CARES Act has kept delinquency rates on mortgages and student loans at relatively low levels. However, many of the borrower forbearance programs have expired, so we lack a complete picture about distress. Many family farmers continue to confront significant challenges in staying afloat, and medical debt collections continue to grow as a concern for households. Congress has asked the CFPB to monitor market conditions to spot risks and meet other statutory objectives. Most importantly, right now I have asked staff at the CFPB to carefully monitor the mortgage market, including foreclosures. It is critical for our economy that families do not experience unnecessary hardship or errors, and that disruptions in the mortgage market do not impede a fragile recovery. We are keen on understanding how homeowners from different segments of the population are faring, including communities of color, military-connected families, older Americans, first-time homeowners, and family farmers.

Technological progress holds the potential for enormous benefits for households and the economy, particularly with respect to real-time consumer payments. In recent years, though, Big Tech has sought to gain greater control over the flow of money and data in our economy. Last week, the CFPB issued orders to dominant firms, such as Facebook, Google, Apple, and Amazon, to shed light on their payment system practices. How will these giants harvest, track, and monetize data about our spending habits? How will they decide who gets kicked off their payment platforms? We will also be studying some of the practices of Chinese tech giants, like WeChat Pay and AliPay. This effort will inform other initiatives to ensure that our evolving payments landscape is in alignment with competition, consumer protection, and our national interests.

More broadly, the CFPB intends to use its tools to promote an equitable and inclusive recovery, and given the existing economic conditions and these tools, I expect to have several areas of focus.

First, we must find ways to create more competition in markets under our jurisdiction. For example, I am concerned that many Americans could be paying lower rates on their mortgages and credit cards and earning higher rates on their savings. We plan to listen carefully to local financial institutions and nascent competitors on the obstacles they face when seeking to challenge dominant incumbents, including in Big Tech.

Second, the CFPB will sharpen its focus on repeat offenders that violate Agency and court orders, harming families and law-abiding businesses.

Third, we must work to restore relationship banking in this era of big data. Too many households and businesses have no place to turn to when they need help, especially when they face errors, problems, and other issues in their financial lives. The inability to cut through red tape and get help in one's financial life can be a major obstacle when seeking a job or when applying for credit. Preserving relationship banking is critical to our nation's resilience and recovery, particularly in these times of stress.

Thank you, again, for this opportunity to appear before you today, and I look forward to your questions.

[The prepared statement of Director Chopra can be found on page 70 of the appendix.]

Chairwoman WATERS. Director Chopra, it is refreshing to have a consumer financial protection expert leading the CFPB once again. I will now recognize myself for 5 minutes for questions.

While I know a Republican Administration would appoint individuals to run the CFPB with a different approach to consumer protection, it was appalling to watch the former and twice-impeached President appoint individuals lacking in qualifications with the sole mission to destroy the CFPB. After this effort failed, I sincerely hope my Republican colleagues will cease politicizing the CFPB and drop their efforts to undermine its work.

Director Chopra, there are many issues where the CFPB can play a meaningful role, including fair lending, payday lending, credit reporting, debt collection, student lending, and promoting responsible innovation that helps all consumers. Will you commit to not only reversing prior efforts to weaken consumer protections on many of these fronts, but reexamine ways to provide even greater protections for consumers? For example, instead of simply restoring CFPB's 2017 payday loan rule that Mick Mulvaney and Kathy Kraninger weakened, will you realize the full extent of your authority to strengthen the original rule so we can put an end to the debt trap too many borrowers, including borrowers of color, have experienced at the hands of predatory payday lenders?

Mr. CHOPRA. Thank you for the question, Madam Chairwoman. Of course, we are doing everything we can to monitor every single one of those markets carefully. There are obviously a lot of fluxes in the economy. Things are changing, and we need to make sure we are acting before it is too late and anticipate those risks. I was very affected by the foreclosures after Lehman Brothers, and I think we saw that regulators acted too late, missed some of the key smoke signals, and the results were very devastating to homeowners. And with respect to all of the issues you have raised, I am going to be looking at all of those markets carefully to see how we can make the markets more fair, transparent, and competitive as the law directs us to do.

Chairwoman WATERS. Thank you. One policy area that I believe warrants more attention by the CFPB and by Congress is mortgage servicing. As we saw during the 2008 financial crisis, shoddy mortgage servicing practices led to far too many unnecessary foreclosures, when a reasonable loan modification would have made such a difference to keep homeowners in their homes with additional benefits for their neighbors and communities. I am glad the CFPB issued a rule earlier this year to provide some safeguards for homeowners' existing forbearance during the pandemic to ensure that mortgage servicers are communicating with them about loan modification options before initiating foreclosures.

However, those enhanced protections expire at the end of the year. Data indicate that over 800,000 homeowners will still be seriously delinquent at the expiration of the Bureau's rule, approximately twice the number than at the start of the pandemic. The significant portion of those homeowners have FHA-insured loans, which are disproportionately held by borrowers of color, hit hardest by the pandemic. Moreover, money from the Homeowner Assistance

Fund will not be available to many homeowners until next year. Have you seen lenders proactively offer affordable loan modifications to help homeowners stay in their homes? Do you expect to see a significant increase in the number of foreclosures in the near future based on the data that you are analyzing right now?

Mr. CHOPRA. The issue of foreclosures is number one on my mind. What we saw a decade ago was that problems in the mortgage market rebounded through the entire financial system. And the effect on individual homeowners, and that was disproportionately those neighborhoods, historically disadvantaged, they suffered the most. As I understand it, we are closely monitoring the servicers' activities, and working with the other bank regulators to make sure we understand where there are risks of illegal foreclosures, and to make sure we are using all of our tools to stop them. The CFPB will not be successful unless it is carefully monitoring what is happening in housing and, particularly, related to foreclosures.

Chairwoman WATERS. Thank you very much. The gentleman from North Carolina, Mr. McHenry, who is the ranking member of the committee, is now recognized for 5 minutes.

Mr. MCHENRY. Director Chopra, I am going to start with the same question I asked Director Cordray in 2012, and it is about the word, "abusive." I wrote you a letter about this. Thank you for the timely response. We are off to a good start. Former Director Kraninger put out a policy statement about, "abusive," providing clarity, but you wrote in your letter that, "Articulated principles actually have the effect of hampering certainty over time" How so?

Mr. CHOPRA. I think what I intended to say there is that the way in which that policy statement was previously written, it did not actually provide clarity on the analytical framework that would be used.

Mr. MCHENRY. Is it your intention to do so?

Mr. CHOPRA. I have huge, huge aspirations to create a durable jurisprudence with respect to that, and that—

Mr. MCHENRY. Durable jurisprudence. Does that mean that the courts will define what, "abusive," is?

Mr. CHOPRA. It could be a mix. It could be a mix of, of course, our Judicial Branch interpreting statutes. It is also about how the CFPB may use rules and guidance to help articulate those standards.

Mr. MCHENRY. So, rules are very important, right? Rules are very important. Clarity for those that you are recognizing is important, and, therefore, they can follow the rules and they will know what the rulebook says. Don't you acknowledge that is important, especially on something that is a new standard?

Mr. CHOPRA. Well, without going into too much boredom—

Mr. MCHENRY. Oh, I love the boredom. Fantastic.

Mr. CHOPRA. I used to serve at the FTC, and the FTC had an unfairness standard that took some time to litigate cases, to develop rules, to develop a clear analytical framework. And I agree, we all need to make sure that we are living up to what Congress was seeking to prohibit, "abusive." There is actually much more detail on, "abusive"—

Mr. MCHENRY. Okay. So a decade in, what you are saying is, we don't yet have a standard for, "abusive?"

Mr. CHOPRA. We have a standard in the statute that has, essentially, a multi-pronged approach. The courts so far have not had too much of a difficult time, as I understand it, interpreting it. But that being said, there is a place for guidance. There is a place for litigation. There is a place for rules—

Mr. MCHENRY. And right now, what we see from your actions previously and previous Democrat Directors is that regulation is not how they are going to do it. It is going to be through enforcement. Are you going to enforce regulation or enforcement?

Mr. CHOPRA. When you say, "regulation," do you mean through the rule writing process?

Mr. MCHENRY. Right. We have a normal Administrative Procedure Act (APA) process. Do you intend to adhere to the APA in writing—

Mr. CHOPRA. We will always adhere to the Administrative Procedure Act.

Mr. MCHENRY. Thank you.

Mr. CHOPRA. But the issue of abusive rulemaking, just as a matter of statutory construction, Congress required rulemaking under that section to trigger two things. The first is State AG enforcement over national banks, and the second is FTC enforcement over nonbanks. Other sections of the law required rulemaking prior to the sections going into effect, but, as I said, I am very committed to trying to create a durable jurisprudence—

Mr. MCHENRY. Let me ask you just a couple of things for the record.

Mr. CHOPRA. Sure.

Mr. MCHENRY. Do you fully intend to cooperate with the Inspector General's investigations?

Mr. CHOPRA. All of them.

Mr. MCHENRY. Okay. And what is your view of congressional oversight?

Mr. CHOPRA. As you may know, I have appeared in many—

Mr. MCHENRY. We are Congress. We like to hear that you like it.

Mr. CHOPRA. I have appeared—

Mr. MCHENRY. Whether or not you personally like it, is kind of not relevant to the question.

Mr. CHOPRA. I have appeared many, many times. I have responded and testified many times. And I will tell you, I came from an Agency at the FTC that in many ways, in my view, had absolute contempt for Congress and ignored statutes, and letters. And I hope to be able to provide and be responsive to—

Mr. MCHENRY. So, you hope to be better than the FTC. Got it. We had the CELA litigation before the Supreme Court. In effect, the Court ruled that your Agency is, in effect, part of the Executive Branch, and it is considered part of it. My question is, is it your intention to adhere to Executive Orders issued by President Biden?

Mr. CHOPRA. Executive Orders, as I understand it, are not binding on the CFPB. There may be some other types of regulations that are required by statute to apply to all agencies regardless of if they are independent or not. It is the newest part of the Federal Reserve System and the entire Federal Reserve System—

Mr. McHENRY. Let me ask you a final question. Executive Order 12866, which was issued by President Clinton, requires significant regulatory actions to be submitted for review by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB). Do you intend to submit significant regulations?

Mr. CHOPRA. As I understand from our statute, that is not part of the process. But with respect to certain principles, we will adhere to all of the statutory requirements on rulemaking.

Mr. McHENRY. Thank you, Madam Chairwoman.

Chairwoman WATERS. Thank you. The gentlewoman from New York, Mrs. Maloney, who is also the Chair of the House Committee on Oversight and Reform, is now recognized for 5 minutes.

Mrs. MALONEY. I thank the chairwoman for yielding. Director Chopra, congratulations on your confirmation. I must say it is welcome news to, again, have a CFPB Director who is dedicated to putting consumers first.

I want to touch on two issues today. As you know, I was the author of the Credit CARD Act of 2009, which ended the unfair, deceptive, and abusive practices of the credit card industry and leveled the playing field between cardholders and credit card companies. A 2015 CFPB study estimated that this legislation alone saved consumers over $16 billion in the first years of its enactment. Other studies have shown that it saves $20 billion a year. This 2015 study was the last year CFPB reported the cumulative benefits to consumers. The 2017, 2019, and 2021 reports don't do so, and I worry that if we stop talking about the benefits of the CARD Act, and take our eye off the ball, the industry may attempt to roll back some of these important protections again or resort to its past abusive practices. So, Director Chopra, "yes," or "no," will you reinstitute CFPB's past practice of reporting the cumulative benefits for consumers of the CARD Act in future reports, as the Obama Administration did?

Mr. CHOPRA. Congresswoman, I do believe—I may be mistaken—that the CFPB is required to give a full picture of the card market, and I fully intend to make sure we report to Congress appropriately on that.

Mrs. MALONEY. Thank you. And are there any other areas of particular concern for you in today's credit card market that you believe merit further consideration by the CFPB or by Congress?

Mr. CHOPRA. I think if you look at many of the consumer complaints and you look at some other market data, obviously people are concerned about whether assessments of certain types of fees have been appropriate, whether they are actually due to system errors. I think in the credit card industry writ large, I am concerned that not enough Americans are taking advantage of moving their balances or finding lower rates. Many Americans qualify for lower rates than they might be paying, and a competitive and fair market would mean that those consumers could move or find lower rates, and that could save them a lot of money. I believe in 2019, Congresswoman, Americans paid, I think, $90 or $100 billion in credit card interest and fees, and obviously a more competitive market would be to the benefit—

Mrs. MALONEY. Wow.

Mr. CHOPRA. —of all issuers and consumers as well.

Mrs. MALONEY. Thank you. Changing gears, Director Chopra, what if I told you that I had a regular cup of coffee to sell you and it was going to cost $40? “Yes” or “no,” would you buy this cup of coffee?

Mr. CHOPRA. I have not had a cup of coffee that would be worth that much.

Mrs. MALONEY. Of course not, and I can’t imagine anyone who would say, “yes,” to that offer. Unfortunately, a $40 cup of coffee or sandwich from a bodega is too common of an occurrence today due to the abusive, unfair, and excessive overdraft fees charged by our nation’s financial institutions taking billions of dollars out of the pockets of hardworking Americans every year. That is why I have introduced, with many of my colleagues on this committee, H.R. 4277, the Overdraft Protection Act, legislation that would crack down on predatory overdraft fees and establish fair, transparent programs.

In 2012, the CFPB launched an inquiry into overdraft practices and the Bureau has published research reports which show that these fees are taking a heavy, unjustified toll out of many vulnerable consumers. And in the past 10 years, our nation’s financial institutions have drained roughly $125 billion from accountholders struggling day to day.

Director Chopra, under your leadership, what will the CFPB do to address these abusive, unfair practices in this profoundly influential driver of racial inequity?

Mr. CHOPRA. Congresswoman, as I understand the data, overdraft fees are actually disproportionately paid by a relatively small sliver of borrowers. Some of those accountholders are paying a very high amount of overdraft fees in a single calendar year. We will obviously enforce the law as written as well as any implementing regulations that have been promulgated by the Federal Reserve or the CFPB, and we will closely monitor this market to make sure it is free of unfair, deceptive practices.

Chairwoman WATERS. Thank you.

Mrs. MALONEY. Thank you, and I yield back. I hope you reinstate the studies that you have been doing. Thank you.

Chairwoman WATERS. The gentlewoman from Missouri, Mrs. Wagner, is now recognized for 5 minutes.

Mrs. WAGNER. Thank you, Madam Chairwoman, and Director Chopra, thank you for appearing before us today. I look forward to hearing from you on the CFPB’s actions over the past several months under the Biden Administration and what your priorities are as the Bureau’s new Director.

Since the CFPB’s creation, we have seen the Obama Administration put in place, frankly, egregious regulations that made it harder for Americans to qualify for mortgages, obtain an auto loan, and access other forms of credit that families depend on every day. Additionally, the CFPB has continually shunned due process in bringing enforcement cases against businesses, and is a perfect example of how a lack of proper checks and balances leads to a downward spiral of expanded power and overreach, all at the consumer's expense. The CFPB's structure and funding mechanism must be reformed to ensure accountability to the American people. Dr. Chopra, do you agree that all rulemaking should be done in compliance with Administrative Procedure Act requirements, and that the public should have the opportunity for notice and comment for any major regulatory rule changes or shifts?

Mr. CHOPRA. Congresswoman, yes. Whenever CFPB seeks to promulgate a rule, we should always, and, as I understand it, have always complied with the Administrative Procedure Act. But if there are places where you think—

Mrs. WAGNER. Not always.

Mr. CHOPRA. —we have not complied—

Mrs. WAGNER. But I am glad to hear your commitment.

Mr. CHOPRA. —I would like to hear about it. No, but I would love to hear where there are places where there hasn't been compliance so I can look into that.

Mrs. WAGNER. Wonderful, and I appreciate your commitment to following the APA. Do you agree that the Bureau should foster a better environment for consumers by rewarding companies that are self-identifying and self-reporting compliance concerns rather than seeking to punish companies and fining them when they have already taken corrective action?

Mr. CHOPRA. Based on my record, I think you will be able to see that where companies have come forward, remediated and fixed issues, these things can often be solved without public enforcement action.

Mrs. WAGNER. Good.

Mr. CHOPRA. That is a place where I want to encourage self-reporting. But, of course, where they have flagrantly violated the law and not taken steps to fix things, enforcement action is usually appropriate.

Mrs. WAGNER. Just so that we are clear, self-identifying, self-reporting concerns, I hope that we are not going to seek to punish companies and fine them when they have already taken, as I said, the corrective action and done the right thing.

Mr. CHOPRA. Yes. And, Congresswoman, in the law, under Title X, that actually relates to the factors in civil penalties assessment and good faith, all of those issues.

Mrs. WAGNER. Under the Obama Administration, we witnessed how regulation by enforcement creates uncertainty in the consumer financial markets, which, in turn, impacts consumers' ability to access innovative and affordable credit products.

Director Chopra, will you commit the CFPB, under your leadership, to clearly communicate enforcement expectations to its supervised financial services companies?

Mr. CHOPRA. That is absolutely my aspiration. I think markets work well when rules are easy to follow and easy to enforce. And I think often bright lines and bans can be one way of doing it, but we also have to enforce the law as written. We can't decide to invalidate parts of the law we don't like. Congress makes the laws, and we have to enforce them.

Mrs. WAGNER. That is the uncertainty that I think has been a question over time. Director Chopra, do you believe that the Bureau is accountable to Congress through your testimony today?

Mr. CHOPRA. That is really for you to decide about that, but I hope that all of the requirements that Congress has put in place for not just the CFPB, but the OCC and other agencies similarly-situated to us, that we are adhering to high standards.

Mrs. WAGNER. Would you agree that the CFPB should be funded through the annual congressional appropriations process similar to other financial regulatory agencies to further increase the Agency's accountability to Congress and the American people?

Mr. CHOPRA. Again, that is really a decision for Congress, but just as a factual matter, the other—

Mrs. WAGNER. What is your opinion on it? Do you have an opinion on it?

Mr. CHOPRA. The other banking regulators have a similar type of independent funding, and the CFPB is subject to the appropriations process for requests above the base budget. There are two elements of how the funding works. To date, the CFPB has not requested money above the base budget and is subject to the normal banking—

Mrs. WAGNER. My time has expired. I yield back.

Chairwoman WATERS. Thank you. The gentleman from Georgia, Mr. Scott, who is also the Chair of the House Agriculture Committee, is now recognized for 5 minutes.

Mr. SCOTT. Thank you, Madam Chairwoman. Director Chopra, let me ask you this, at the time that the CFPB Civil Penalty Fund was established in the Dodd-Frank Act, we in Congress ensured that in statute, money from this fund could be used for payments for financial literacy and financial education programs. And before this hearing, I got a chance to review the CFPB's year-end financial report, and I was very pleased to discover that there is now more than $576 million in unallocated funds within the CFPB's Civil Penalty Fund. However, while the CFPB has written policies that describe the Agency's role and the process for making financial allocations to consumer education, zero—zero—money has been allocated for financial education. So, the question I have for you is, can you explain what factors the CFPB considers when determining the allocation of funds for consumer education and financial literacy programs?

Mr. CHOPRA. Congressman, as I understand it, the Civil Penalty Fund has two purposes. The primary purpose is to redress victims where the CFPB could not recover funds. Many defendants may be judgment-proof. Scammers may have taken away the money. In those situations, where the CFPB has assessed a civil penalty, the fund can be used to make those individual families whole from the funds that were illegally taken from them.

The second part, as you say, can be used for certain financial literacy initiatives. There is a set of rules that are in place currently to make determinations. Generally speaking, it goes through a process covered by certain procurement laws, but I am happy to follow up with you with more specifics on it.

But I agree that the Civil Penalty Fund really is important to redress those victims, and, of course, the CFPB uses its own allocated budget to engage in financial education initiatives as well.

Mr. SCOTT. Thank you so much for that. Let me just say that on this Financial Services Committee, we have many Members on both sides of the aisle who are vitally concerned and would like to see us move in a direction to allocate some of this money for financial education. That is the way we protect the consumers. We arm them with education with the literacy program. That is what will help us to keep our consumers away from these predators. And so, as you have indicated, there is a clear linkage between the CFPB's ability to prevent consumers from falling victim to these scams. And I think you also agree with many of us on this committee that we will be able, as written in the law, to allocate some of this half billion dollars to educating our consumers.

With this in mind, first of all, I appreciate you extending that offer to get back with us. But, Director Chopra, can I get a clear commitment from you today that CFPB plans on using a portion of the more than $570 million in unallocated Civil Penalties Funds to support financial literacy, financial education, and consumer education programs?

Mr. CHOPRA. I totally agree with the spirit of what you are saying. I want to be upfront that because it also is used for victim redress, I think we should all have a discussion about what is the right allocation between victim redress and consumer education. As the chairwoman said, I want to make sure that if people are foreclosed upon illegally, we need to be able to use those funds to make them whole as well. So, it is a balance—

Mr. SCOTT. But you are agreeing to work with me on this, going forward?

Mr. CHOPRA. Of course.

Mr. SCOTT. Thank you. And thank you, Madam Chairwoman.

Chairwoman WATERS. The gentleman from Oklahoma, Mr. Lucas, is now recognized for 5 minutes.

Mr. LUCAS. Thank you, Madam Chairwoman. Director Chopra, last week you ordered six Big Technology firms to turn over information about how they collect, use, and store consumer data. Could you describe your intent in requesting this type of information?

Mr. CHOPRA. Yes, sir. I am very, very worried, I think, as many in the regulatory community have been, about Big Tech taking more control of the U.S. dollar and the global flow of payments. There are so many innovators who are trying to break in, and they feel that Big Tech can just turn them off. There are so many people who feel that their data is being misused and abused. Many of us have no transparency whatsoever as to how some of these firms determine how they kick people off platforms, and we have no transparency at all into a number of other issues. The orders that we have issued cover a number of topics, and I am hoping that we will be able to use that information to report to you all because I think safeguarding our nation's payment system is so critical to our economy. It is critical to small businesses. It is critical to our national security. And I want to make sure that payment system is vibrant and serving everybody.

Mr. LUCAS. Given your experience in this area, in your view, has the growing landscape of digital payment services been a net positive to consumers?

Mr. CHOPRA. Oh, innovations that heavily have been driven from mobile device adoption have been terrific for many, many businesses and consumers. The ability to be able to transfer money is more seamless than it was. But what I want to make sure is that those payment systems still adhere to consumer protection, that they don't really undermine a fast, fair, and transparent system, and that they are not squelching out innovators or kicking people off with no understanding as to why.

Mr. LUCAS. This is an example of a mass amount of information, really insightful and critical to the developers, I suspect. I have to ask, do you commit to remaining within the confines of the Bureau's statutory authority in relation to payments?

Mr. CHOPRA. Oh, of course, but, Congressman, the Electronic Fund Transfer Act, the Gramm-Leach-Bliley privacy rules that are under our jurisdiction, those are deeply implicated by these payment systems when it comes to surveillance of our payments and transactions privacy and misuse of data, squarely in our jurisdiction.

Mr. LUCAS. But let's not by un-intention create fewer options for the consumers out there.

Mr. CHOPRA. Oh no, we want more. We want more options.

Mr. LUCAS. I respect that. A proposal for the CFPB to take a role in a government-run credit reporting bureau has gained support among some of my colleagues. I am concerned that a government-run credit reporting bureau would decrease privacy and accountability.

Director, do you support the creation of a government-run credit reporting bureau? And along with that, what would you see as potential positives and negatives?

Mr. CHOPRA. I have to be blunt with you. I have not actually given much thought to this because I don't know how mechanically it would work. I know in some countries they do have that, but that would be an enormous undertaking. It would be a big mountain to move. I am much more concerned in the near term, given the pandemic, about law violations of the Fair Credit Reporting Act (FCRA), how the credit reporting agencies are investigating disputes, and to make sure that new types of credit reporting agencies are adhering to the law because there are serious privacy implications of how our data is being trafficked without our knowledge.

Mr. LUCAS. Director, it is important for financial institutions to be able to collect and close out on previous loans, which allows them the opportunity to have the resources to continue to extend credit to those who need it. Would you describe what the economic impact would be if the ability for small business and lenders to recover debts was restricted?

Mr. CHOPRA. If I am understanding the question correctly, credit reporting obviously can play a very important role in the financial ecosystem and be beneficial. Where there are severe errors and inaccuracies, there can be huge pain points for a business or a consumer to be able to move forward with their financial life. So, if you are asking whether I think we should delete everyone's credit report, the answer is no, but we want to make sure that credit reporting is adhering to all aspects of the law, including the Fair Credit Reporting Act.

Mr. LUCAS. Thank you, Madam Chairwoman.

Chairwoman WATERS. Thank you. The gentleman from Texas, Mr. Green, who is also the Chair of our Subcommittee on Oversight and Investigations, is now recognized for 5 minutes.

Mr. GREEN. Thank you very much, Madam Chairwoman, and I thank you, Mr. Director, for appearing today. I greatly appreciate the fact that you seem to take an interest in consumers in ways that, quite frankly, are beneficial to consumers.

Mr. Director, I recently introduced H.R. 5484, the Financial Compensation for CFPB Whistleblowers Act, which would create at the CFPB a whistleblower protection program modeled on the one created by Dodd-Frank at the Securities and Exchange Commission. As Facebook and its whistleblower have currently made headlines and remind us that insiders are uniquely positioned to bring large-scale corporate wrongdoing to light, I would like to know what you think about the notion of this type of action taking place through the CFPB? What do you think about whistleblowers bringing these kinds of actions to the attention of the CFPB so as to timely report fraud, abuse, and other corporate misconduct?

Mr. CHOPRA. Congressman, I have to say I do believe in the power of whistleblowers, particularly when reporting this type of fraud. Director Kraninger, my predecessor, I believe put forth a proposal around whistleblowers as well. Obviously, we will have our policy differences, but this is an area where more whistleblowers will lead to better enforcement, and a reduction of fraud. I think the SEC's model is one, but I am happy to work with you and your office to figure out how we can create an appropriate CFPB whistleblower program.

Mr. GREEN. Thank you for that comment. I would take it that you are somewhat familiar with the SEC's model. Can you tell me how that model is beneficial or some of the positives associated with it?

Mr. CHOPRA. Yes. As I understand it, there have been a number of very severe law breakings that have occurred in financial institutions, that were often alerted to authorities by employees or by those with direct knowledge. These whistleblower laws can, in some circumstances, depending on how it is crafted, provide protections for those individuals and also financial compensation. We do know that the United States has actually recovered quite a bit of money when it comes to Medicare fraud based on these whistleblower programs, and I think it is something that can be very beneficial to enforcement.

Mr. GREEN. And what about stronger protections? Do you think they are needed at this time for misconduct such that persons can report this to the CFPB to get some sort of redress?

Mr. CHOPRA. I apologize, sir. It may be just your mask or the video, but stronger protections for what specifically? I apologize. I couldn't hear.

Mr. GREEN. Do you think stronger protections are needed in the law for persons who report misconduct to the CFPB?

Mr. CHOPRA. I would need to get back to you with more specifics on that, but we want to make sure that, like other agencies, whistleblowers are not retaliated against, and have the ability to provide information and are safe in doing so.

Mr. GREEN. I will look forward to working with you. You have indicated a willingness to do so. I would like to work with you so that we can present all of that and find favor with you as well as what we are trying to accomplish here in Congress. I have always found it beneficial to be aligned with the Agency that will have to implement policies.

Mr. CHOPRA. I am happy to do so.

Mr. GREEN. Thank you very much. I yield back the balance of my time.

Chairwoman WATERS. Thank you. The gentleman from Texas, Mr. Sessions, is now recognized for 5 minutes.

Mr. SESSIONS. Madam Chairwoman, thank you very much. Director, thank you for taking the time to be with the committee this morning. We do appreciate your time and respect the role that you have.

Mr. Director, you are now engaged in rulemaking procedures about what is called Section 1071, which is known as small business lending data collection. It was important to us when Dodd-Frank was passed, and it has two overwhelming, really, reasons of what this is about, intended to do: facilitating enforcement—in other words, giving an opportunity for the data collection to match up with enforcement so you can see it—and secondly, enabling opportunities for people. Would you mind taking a minute and giving us your viewpoint of this small business lending data collection rule that you are preparing and giving us some parameters about how those people who collect the data—lenders—might gain some access of knowledge that you are thinking?

Mr. CHOPRA. Yes. Thanks for this question. The CFPB, before I arrived, proposed a rule to implement those requirements. I will tell you, I think the public was at a disadvantage during the pandemic, including with respect to the Paycheck Protection Program (PPP), by not having reliable small business data available. There are many good reasons to have that small business data, including to understand the complete picture of how our small businesses are accessing financing, but also, how we can determine trends, spot risks, and avoid discrimination.

I do want to encourage everyone to submit comments to this because I think, like the Home Mortgage Disclosure Act (HMDA) database, there will actually be certain data that may be publicly available that can be useful to local officials, to the small business community, to financial institutions, and others. I am eager to work with everybody to make sure we get this right and implement it according to the deadline established by the Court.

Mr. SESSIONS. Okay. Director, my personal feedback is that I hope we take this, and the rulemaking would be a part of this, as data and information that would enable us to do the two things that are their reasons instead of it being used as a weapon. I think that data like this needs an opportunity to be vetted and for us to understand the type of information that also could have changed dramatically from the time a loan was taken out. And as you know, during the last few years, a lot of money was rushed to small businesses without the rules in place and the knowledge of those rules, and how that data and information may have been gathered. And thenz, material pieces of the business and the loan may have changed dramatically as a result of COVID. So, it is my hope that we would use this as a tool, as an opportunity to gain more information, and work with and learn how CFPB would want to use this data, working with the industry, but not the weapon.

Mr. CHOPRA. I agree with you, sir. I agree with you.

Mr. SESSIONS. Right. That is my whole point, and I will look forward to following up with you, and you may count on me as someone who would be interested in this issue. And thank you for your time.

Madam Chairwoman, I yield back my time with the choice here that I would like to add that I think the Director was very clear and gave us good answers, and I appreciate it very much. Thank you.

Chairwoman WATERS. Thank you very much. The gentleman from Colorado, Mr. Perlmutter, who is also the Chair of our Subcommittee on Consumer Protection and Financial Institutions, is now recognized for 5 minutes.

Mr. PERLMUTTER. Thank you, Madam Chairwoman.

And again, Mr. Chopra, it is good to have you here.

Just one thought from my point of view, from my perspective. Mr. Huizenga and I, a number of years ago, had an issue where a title company in Michigan had the roof brought down on them. It was a $500,000 fine brought really out of nowhere, or it seemed that way to me.

And so, I would just like to reiterate in terms of bringing the enforcement bludgeon, that there be an effort—and this is an anecdote. It doesn't happen all the time. But I think from my point of view, I want to make sure that we have good regulations in place, that you are following them, and that you are giving businesses who might be under your jurisdiction an opportunity to correct whatever mistakes that they have made.

Can you give me sort of your philosophy on this?

Mr. CHOPRA. Yes. I have thought about this issue a lot. I think one of the things that drives me a little crazy is when Federal agencies don't focus their efforts on nationwide or systemic or severe harm. And instead—I saw this at the FTC. On one hand, the FTC is letting Facebook and Google off the hook. On the other hand, they are chasing after small businesses, and strong-arming many of them into settlements.

I believe that we should focus most of our resources on the largest firms that are engaged in nationwide harm that are really totally beyond the pale, where they clearly knew what the rules were, where they clearly knew what they were doing, or they buried their head in the sand. Focusing on larger participants in the market, I think is one of the best ways we can accomplish our mission.

I don't know about the specific case you mentioned, and in fact, I don't know the facts. It may have been very severe. I just don't know. But that is generally my philosophy.

And I think what we have seen over the past many years under both Democrats and Republicans of failures at the FTC, I don't want to repeat that at the CFPB.

Mr. PERLMUTTER. No, thank you. I appreciate your sharing that.

Let me change a little bit to the big platforms. You just mentioned some of them. In terms of Section 1033 and Dodd-Frank and the ability for the CFPB to kind of keep an eye on transparency, keep an eye on fairness, you talked about getting kicked off a platform, a payment platform or the like. Explain to us what you are talking about? And if you want to name names, I am okay with that, too.

Mr. CHOPRA. A payment system that works well is one that is open, resilient, and fast. And I think there are questions. We have seen it in the App Store context. We have seen it in other types of platforms. How are they making decisions about whom they include and whom they kick off, and how are they deciding how much to charge them?

I am worried that some of these Big Tech platforms may start competing businesses and, therefore, will want to foreclose on potential competitors. That is bad for consumers. That is bad for businesses. And we need to understand those policies.

In many cases, of course, if someone has red flags related to money laundering, if people are not eligible for other specified reasons, that may be totally appropriate. But when payment networks may be using their own business incentives to kick off consumers or businesses, we should know why.

Mr. PERLMUTTER. Okay. In the rulemaking process, in terms of this data, understanding the data and how these platforms are working, can you share where you are in the rulemaking process?

Mr. CHOPRA. You are referring to Section 1033—

Mr. PERLMUTTER. Yes.

Mr. CHOPRA. —which is about consumer control of data. As I understand it, last year there was an issuance of an Advance Notice of Proposed Rulemaking (ANPR). There have been comments collected on that. I am very eager to engage on what we know so far, because I think Section 1033 holds promise to really make sure there is a more competitive environment and that consumers have more choices and that there is not just a handful of incumbents who control everything. Competition is good here.

At the same time, we are going to need to make sure we are protecting privacy, security, and other things that are critical. So, there are a lot of issues, and we are very eager to hear from everybody on this, as we think through this tool that Congress has put into place.

Mr. PERLMUTTER. Thank you, sir.

My time has expired. I yield back.

Chairwoman WATERS. Thank you. The gentleman from Florida, Mr. Posey, is now recognized for 5 minutes.

Mr. POSEY. Thank you very much, Chairwoman Waters, for holding this hearing.

Mr. Chopra, over several Congresses, I have introduced legislation to direct the CFPB to permit regulated entities to ask the CFPB to resolve uncertainties in the interpretation of regulations and statutes by the advisory opinions available. In more recent years, I asked the previous Director, Ms. Kraninger, to implement an advisory opinion program administratively, and I am very grateful that she did do that.

And I just wonder if you could give us an update on the status of the program for advisory opinions and how it is being used, the applications and results you have obtained so far, and how you might plan to expand or improve the program as we go down the road?

Mr. CHOPRA. Yes, sir. I am only on day 12 or 13 of the job, so I don't have all of the exact information, for which I apologize. But just so you know my views, I do believe there is a role for, as you mentioned, the interpretative rules, advisory opinions, and others to be able to develop the law. In many cases, that is helpful to everybody.

At the same time, I want to be upfront that I don't think the CFPB should be picking winners and losers, crowning an individual company to be able to own a market. I think we are better off when we can go through the rulemaking process, go through interpretive rules, guidance, and advisory opinions in ways that everybody can understand and not just one individual firm that is seeking it.

Mr. POSEY. For example, when you say they have to paint the office furniture red, there are a lot of variations of the color red. And somebody might want to ask, for the benefit of many, what particular color code are you talking about?

Mr. CHOPRA. I totally agree with you. I think the more that this can be elucidated, and I think, generally speaking, I prefer pretty clear, easy to understand, easy to follow, easy to enforce rules. But of course, the CFPB has inherited an enormous number of rules from the Federal Reserve Board, and many of them are very complicated. And yes, there are places where I hear exactly what you are saying. It can be to the benefit for everybody.

Mr. POSEY. Okay, great. Thank you.

In March 2021, the CFPB noticed a rule change to postpone the compliance date for the new qualified mortgage (QM) rule to October 1, 2022. Does your postponement reflect a change in policy direction from the December 2020 rule that would replace QM loan definition's 43 percent limit on debt-to-income with a price-based approach, or is there some other explanation for the postponement?

Mr. CHOPRA. Sir, obviously, that was before me. But as I understand it, the new definitions from the general QM rule have taken effect. The aspect that was delayed was the mandatory compliance date. So, lenders can use one of multiple definitions.

And as I understand from the Federal Register Notice, it was because there were dislocations and potential disruptions in the mortgage market during the time of the pandemic, and the goal was actually to create more certainty for lenders, or at least more flexibility for lenders, on the mechanisms that they could comply with that rule in order to continue to extend mortgage credit.

With respect to the QM writ large, I am always eager to hear of places where it needs to be changed, but I want to be clear, though, that the rule has taken effect.

Mr. POSEY. I thank you for your responses. And I thank you for your appearing here.

And I see my time is about to expire, so I will yield back. Thank you.

Mr. CHOPRA. Thank you, sir.

Chairwoman WATERS. Thank you. The gentleman from New York, Mr. Meeks, who is also the Chair of the House Committee on Foreign Affairs, is now recognized for 5 minutes.

Mr. MEEKS. Thank you, Madam Chairwoman.

And thank you, Mr. Director. It is so good to see you, and I am really happy to see you because I have been here for a while, and I know when we created the CFPB, it was for consumers. We never had anything before for consumers, and somewhere in the last few years, we lost our way, and we were not focused on consumers. And it is good to see you and to hear that we are back to focusing on consumers again.

The Dodd-Frank Act gave the CFPB the authority under Section 1033 to promulgate a rule that would allow consumers full electronic access to their financial data. There is a growing need and desire for the concept of open finance. With that, open finance marketplaces are offering greater competition to financial services and products.

My question to you is, will you prioritize CFPB's Section 1033 rulemaking, and can you provide any insight into how you are going to balance the continued data access for hundreds of millions of Americans who use fintechs every day, and the need for consumer protections in the financial data access base?

Mr. CHOPRA. I appreciate the question, Congressman.

Let me just say, as a general matter, Congress has made it clear to the CFPB that we need to make sure the markets are fair, transparent, and competitive. And a competitive market means that consumers aren't locked in to a product that they want to get out of or that they want to get a lower price on or want to get a better service on.

Section 1033, I think aspirationally, could unlock more competition, could unlock more opportunities. But at the same time, we also need to make sure that banks and nonbanks are operating under the same set of rules, that there is not regulatory arbitrage. So, we are going to be looking at all these issues.

I will tell you I have studied a bit the United Kingdom's open banking system, as well as what other jurisdictions have done to create more consumer control of data and how we can harness technologies to do it, and I am very interested in seeing what we can do there.

I don't know any timelines or anything more. Again, I'm only on, I think, day 12 or 13 of the job, but I'm very, very interested in what we can unlock for businesses and consumers alike.

Mr. MEEKS. Great. And I know it is only day 12 or 13, but as I said, there are high expectations that we have, that you will be focused on consumers.

The pandemic has also highlighted the impact that access to credit has, particularly on women- and minority-owned businesses, and there is a tremendous need to increase that access. And it seems to be clear that under the Biden Administration, the CFPB is putting financial inclusion and racial equality at the forefront.

And of course, for that, I want to commend you and your colleagues.

Last month, the CFPB issued a proposed rule under the Equal Credit Opportunity Act (ECOA)that would require covered financial institutions to report small business lending data and annual reports on small businesses and the credit applications. Can you please explain how the CFPB expects to use its enforcement authority under the ECOA and how the data that it will collect will further advance these initiatives for women- and minority-owned businesses?

Mr. CHOPRA. Congressman, I am reminded that, I believe in 2013 or 2014, you invited me to Jamaica to have a town hall with you, and this issue actually came up there.

Mr. MEEKS. Absolutely.

Mr. CHOPRA. People not being able to find help or not knowing where to turn and not necessarily having access because there was not a sense of relationship banking locally, and I think we need to restore that and make sure that our markets are free of discrimination. I think the rulemaking you refer to will give the CFPB insight into whether there is any discriminatory patterns, but also macro data on what communities are being served well when it comes to small business loans.

In many ways, it is similar to the Home Mortgage Disclosure Act data collection on mortgages, but there are some important differences. But I think if we want a vibrant, growing economy across the country, regardless of neighborhood, regardless of race or ethnicity, we want to make sure small business and entrepreneurship is in people's sights and that they can access the capital to do so.

Mr. MEEKS. Thank you. My time has expired. I am excited to work with you, though, and excited that you are there.

Chairwoman WATERS. Thank you very much. The gentleman from Michigan, Mr. Huizenga, is now recognized for 5 minutes.

Mr. HUIZENGA. Thank you, Madam Chairwoman. I appreciate the opportunity.

And I know he has left, but my colleague from Colorado, Mr. Perlmutter, brought up something that was very important, and I know you may not know the details of the case. But to round it out a little bit, it was a small title company that was put in the crosshairs of the CFPB, to be made an example of to the larger companies. And at best—well, let me put it this way. At worst, their actions were in a gray area, at worst. And they literally were put in the crosshairs and levied a fine that would have bankrupted them.

And when I could not even receive a return phone call, I went to my friend and colleague across the aisle, who then, on my behalf, called and started getting some answers and had me be a part of that. And I am forever grateful for him, and hopefully, I have tried to repay that kindness.

But I want to just restate, make sure I heard what I think I heard, which is that it is not your philosophy to pound on a little guy to make sure that the message gets sent to these larger operators. Is that accurate?

Mr. CHOPRA. That is accurate. I want to be clear, though, that it doesn't mean small businesses and medium-sized businesses should not follow the law.

Mr. HUIZENGA. Correct.

Mr. CHOPRA. But it is that the Federal Government should be focused on us particularly going after the biggest harms in the market, rather than kind of picking on people. I saw this at the FTC. I was constantly distressed about the bullying of small businesses rather than willingness to take the big companies to court—

Mr. HUIZENGA. Yes.

Mr. CHOPRA. —who are well-resourced to do that.

Mr. HUIZENGA. It is really regulation through enforcement, and I am glad to hear that isn't the case. And as I said, in this particular situation, it was a shift in policy from the CFPB that was not a legislative shift. And it was, like I said, at worst, a gray area, but they decided to make an example of that.

So, moving on, I am kind of curious and concerned about whether you would agree with this notion that having wild swings in policy coming out of the CFPB or any regulator could actually cause harm, not just to the company but, by extension, to the consumer that company is trying to serve. And I just want to know if you understand those challenges implementing pretty severe and wide rule changings and swings in policy, what that might do?

Mr. CHOPRA. Yes. I think where we are is we always want to make sure that, obviously, the policies represent those that Congress has put into place and administer those laws. But I completely appreciate, particularly for our small businesses, being able to understand what they need to do to comply and that they are spending less time hiring lawyers and all of these things and focusing on their business.

Mr. HUIZENGA. So, it can really divert resources, basically, that should be going to be service the customer?

Mr. CHOPRA. Yes. And as you know, many lawyers want to put money in their own pockets by creating hysteria and creating uncertainties, and so it is important for the regulator to also be clear on what the rules are wherever we can when we are implementing the laws you pass.

Mr. HUIZENGA. Great. And this one might be a little outside your lane, but it dovetails with something that I asked Chairman Gensler. You happened to bring up large tech companies, and there are lots of concerns, I think on both sides of the aisle about this.

I would like to know, when do you think that a service provider might actually morph into becoming a utility and then has possibly a different set of regulations on that? So, just give me a little of your philosophy on what you think—and it probably is most applicable with tech firms at this point. But when do these tech firms get to be so big and powerful and direct? Because you had talked about them setting up competition to put others out of business. When do those companies become utilities in your mind?

Mr. CHOPRA. Yes. Historically, we have a number of different frameworks for this: the Communications Act; railroad regulations. I think the way our country has dealt with it is one of two ways. I think antitrust, sort of breaking up firms and making sure that they are not monopolies or abusing it, or utility-style regulation where there is a natural monopoly, like the electric company or whatever it might be.

So, you are right. It is a little bit distant from the laws that I am administering, but I think that is something that there are many places and this is something Chair Lina Khan at the FTC has described before about ways in which policymakers can approach these issues. The Communications Act obviously has a number of vehicles in which this is done, but again, some of this is a little distant from—

Mr. HUIZENGA. But you will be enforcing some of those concerns, presumably as those companies—

Mr. CHOPRA. Yes, that is right. And I will say that there are a number of firms that have a huge amount of power in the financial ecosystem. There are very few credit bureaus. Almost everyone uses the FICO score. So, we have to figure out how to make sure that they are fair, transparent, and competitive, of course.

Mr. HUIZENGA. My time has expired. Thanks.

Chairwoman WATERS. Thank you very much. The gentleman's time has expired.

The gentleman from Missouri, Mr. Cleaver, who is also the Chair of our Subcommittee on Housing, Community Development, and Insurance, is now recognized for 5 minutes.

Mr. CLEAVER. Thank you, Madam Chairwoman.

Mr. Director, congratulations, and we certainly look forward to working with you. I am going to try to squeeze three questions in, if possible.

On Tuesday, CNBC reported that Mastercard is preparing to announce that any of the thousands of banks and millions of merchants on its payment network will be able to integrate crypto into their products. Every time I see one of these statements, it causes me to tremble a little bit, because I am not sure we have successfully dealt with the whole issue of double spending of Bitcoins and spending the balance more than once, which you couldn't do if you had a dollar.

But the capitalization—I was with Mr. Meeks in New York at one of these tech companies, and they talked about the capitalization. It is now at about $2.6 trillion, with a, "t." Does that create any nervousness on your part, or do you think we have everything under control, based on Dodd-Frank?

Mr. CHOPRA. With respect to Bitcoin and the stablecoin, this is something Secretary Yellen and Chair Powell and all of the regulators have started to discuss, some of the risks that are involved, systemic risks. Obviously, there may be risks to investors or consumers. So, there is a great deal of interagency discussion about how to approach this problem because what we do—I think in many ways, Facebook's Libra proposal in 2019 was a wake-up call to all of us about really what could be the damage that is done to our dollar and to really our economy and our households.

So, I think it is really for all of us to be working with and really to be working with all of you, too, because this is something we need to make sure that vast seamless payments have so many benefits, but we need to make sure we are guarding against risks as well.

Mr. CLEAVER. In that regard, are there things that you would recommend to us that we should legislatively pursue in order to reduce the threats that we can experience, not just here at home with Mastercard, but internationally? The hoodlum governments would love to be able to create problems for us in this area.

Mr. CHOPRA. Yes. Congressman Cleaver, I know you and I have had a lot of discussions about small business loans, student loans, and I think this is a new one where there are uncertain risks, and we need to get down to the bottom of it, all of the banking regulators and securities regulators.

I am very happy to continue to work with you on that. I don't have any recommendations off the top of my head, but I think we all need to make sure that we are protecting our payment systems and flow of currency.

Mr. CLEAVER. Thank you very much.

By the way, I try not to be a Cro-Magnon or troglodytic in my attitudes about new technology. That does create some fright. But this issue is so serious to me that we may need to have ongoing dialogue, as you just suggested, to make sure that we are on top of the issues that could be born out of this amazing new technology.

You may not even be able to deal with this. If Mastercard can go in this direction, what happens if we have a flood of institutions, lending institutions going into this arena like this?

Mr. CHOPRA. Yes. I think that is really something to watch out for. With respect to the stablecoin, stablecoins are right now primarily used for speculative purposes. But one could imagine that if it starts riding the rails of some of the large networks or Big Tech companies, it could scale very, very quickly.

I apologize that I don't have all the answers for you on that, but I am attuned to really some of the places where we need to analyze and collect data. That is part of the reason that I issued those orders to the Big Tech companies, so that may be a place where certain digital currencies scale very, very quickly and globally in ways that we may not fully understand the implications.

Mr. CLEAVER. Again, congratulations, and I look forward to working with you.

Thank you, Madam Chairwoman.

Chairwoman WATERS. Thank you. The gentleman from Kentucky, Mr. Barr, is now recognized for 5 minutes.

Mr. BARR. Director Chopra, it's good to see you. Congratulations on your appointment. It's great to see you again, and I look forward to working with you during your tenure to promote consumer protection, not from a heavy-handed central planning approach, but instead, as you have described, a competitive marketplace where consumers retain access to choices.

And I was encouraged to hear you say that you want to restore relationship banking. That was really, really a positive comment in your prepared testimony and the way I think of it. And in fact, I think you used the words, "cut through red tape."

I am going to hold you to that, because I believe relationship banking and relationship lending can't happen when lenders are deterred by a regulation through enforcement approach. So, first question. Do you believe that regulated entities should know the rules of the road in advance of any supervision or enforcement action?

Mr. CHOPRA. Yes. The laws that you have passed, we should make sure that we do our best so that everyone knows what they are. I believe that we work best when laws are clear, easy to follow, and easy to enforce.

Mr. BARR. Right. And I think that will facilitate that relationship-style of lending. Let's talk about UDAAP and your predecessor, Acting Director Uejio's rescission of the Kraninger policy statement from 2020. I appreciated what you said about durability and a durable abuse of jurisprudence, but you also, in an answer to my colleague's question, talked about how the Bureau could provide some durability through interpreting or applying the abusiveness standard.

And here is where I think your immediate predecessor went wrong on rescinding the guidance, because I don't believe rescinding the Bureau's guidance promoted durability. I think it was the opposite. It created a chaotic discontinuity and unpredictability. And I think, arguably, it was arbitrary and capricious to just upend abruptly a guidance offered by Director Kraninger.

My question to you is, given the fact that Acting Director Uejio, in his rescission, did not offer an alternative interpretation of, "abusive," what, in your mind, is the correct definition of, "abusive?"

Mr. CHOPRA. There are many questions there. I will try my best to answer them, and tell me if I don't. With respect to abusive, Congress has laid out what the definition is in the multi-pronged approach. So, that exists. That is the law. And that is enforceable not just by the CFPB, the prudential banking regulators, but also State attorneys general.

Mr. BARR. Right. But Director Kraninger defined it. The problem is that market participants didn't have clarity on what the statutory language actually meant, and that is why there was this dual pleading position in there. And so, let's get a little bit more specific.

Mr. CHOPRA. Congressman, can I just say, that statement was not binding on the State attorneys general. It is not binding on the State regulators. It was not binding on the other—

Mr. BARR. Let us get to that durability piece.

Mr. CHOPRA. Yes. I think the way you build jurisprudence—there are many, many ways you do that. But particularly, you raised the issue of dual pleading.

Mr. BARR. Right.

Mr. CHOPRA. When an agency finds a violation of law and doesn't plead it, that is actually abrogating what Congress directed, and it is also bad for the development of the law.

Mr. BARR. Okay. What is the difference in your mind between abusive and unfair?

Mr. CHOPRA. Unfairness and abusive are two different frameworks. Unfairness requires an analysis of substantial injury, it requires an analysis of avoidability, and it also requires an analysis of countervailing benefits to consumers in competition.

Mr. BARR. In the interest of time, because we only have 5 minutes, I would have also asked you what is the difference between abusive and deceptive. But the point here is that in the Kraninger policy statement, she specifically said that the Bureau would avoid challenging conduct of abusive where the alleged violation relied on all or nearly the same facts as an unfairness or deception violation.

This is exactly what you are saying. You are making distinctions between the two. Ms. Kraninger was clarifying that. Why is Acting Director Uejio's rescission in any way clarifying the situation? I think the rescission is undermining durability here.

Mr. CHOPRA. I totally disagree, respectfully, with you. When we don't plead those, courts cannot analyze that. They cannot issue opinions to determine whether the conduct at hand violates—

Mr. BARR. I am running out of time. Let us work together on durability.

Mr. CHOPRA. I am very eager to create a durable—

Mr. BARR. I'm running out of time. Let's work together on that.

On civil investigative demands, are you open to guardrails on the factual predicates to initiate a CID and other parameters? A lot of regulated parties feel that this is a fishing expedition. I want to know how your Agency and your leadership intends to put guardrails on CID so it is not a fishing expedition.

Mr. CHOPRA. I am happy to review the existing policies on the issuance of civil investigative demand. While I was a Commissioner, I closely reviewed them, and often asked that changes be made to them. So, I will look at that. I take that feedback seriously.

Mr. BARR. I look forward to working with you. Thanks.

I yield back.

Chairwoman WATERS. The gentleman from Illinois, Mr. Foster, who is also the Chair of our Task Force on Artificial Intelligence, is now recognized for 5 minutes.

Mr. FOSTER. Thank you, Madam Chairwoman.

And congratulations, Director Chopra.

As you take the reins of the CFPB, you are going to have to generate a workforce plan, and particularly in the area of a high-tech workforce plan to deal with AI and related issues. And this is going to be particularly important in the context of the ongoing merger and blurring of the lines between financial services and Big Tech.

As was just pointed out, Chairwoman Waters has impaneled a task force on AI, which I am chairing, together with Ranking Member Gonzalez. And now on this whole issue, we are going to have to skate to where the puck is going here, because this transformation will happen over the coming decade. If current trends persist, soon the great majority of financial services transactions are going to be marketed and transacted online.

And actually, if Mark Zuckerberg's dreams come true, in a decade, we are all going to be wandering around in the metaverse, where we will encounter some AI avatar who is, in fact, a nonfiduciary robo-adviser. And he will be using all of Facebook's psychological profiles that they have worked up on us to figure out exactly what to say to us to gain our confidence so that they can sell us overpriced life insurance or crummy investment products, not too different than the abuses we see in the human area.

And to defend the consumer against this sort of potential abuse, you are going to need a CFPB workforce that is not overmatched against the tech companies, which means competitive salaries, among other things. What are your thoughts on how you are going to do this, and what is there that Congress can do to help you make standing up this workforce easier?

Mr. CHOPRA. I appreciate that, Congressman. And one of the things I did immediately was I appointed a chief technologist of the Bureau. I appointed Erie Meyer, who has served at several Federal agencies and has worked closely with me in the past on identifying technological talent that can enter public service, so that it is not just lawyers trying to figure all this out, but actual individuals with real experience. And not just in engineering, but in a whole host of skills related to technology.

I think one of the things that we should just understand as reality is that unless we can understand the technology that is being used, we won't be able to effectively police it. And we are never going to have the resources of the Big Tech companies. We are never going to have the resources of the big banks. We are never going to have the big resources of the credit bureaus.

But we need to make sure we have the skill sets in-house so that when new products and new markets are shifting, we actually have a data-driven way of looking at that problem and that we are looking at the right set of interventions.

When I see the problems in mortgage servicing that the chairwoman had mentioned, a lot of those problems were also related to lousy software and decisions that mortgage servicing companies a decade ago did not take to upgrade that software. The Equifax data breach was an absolute disgrace. The regulators I need to make sure that they are understanding how data is guarded, data is protected, and all of those are places that the workforce, of course, across Federal agencies is going to need to evolve.

It is an area I have discussed with the States, and with our counterparts in Europe as well. And it is an imperative for our country to be competitive.

Mr. FOSTER. Yes. Congress has to understand that there is a need for—oh, I guess a lot of people have already complained about Dr. Fauci's salary being higher than Members of Congress. And that is actually okay with us because of the extreme importance of having a certain number of really highly-skilled jobs that are paid competitive salaries to the private sector.

And this is a very tough conversation to have when you are managing a mixed workforce of traditional, scheduled Federal employees and others. So, what are the challenges there? Do you find that there is a significant number of people who made their careers and their fortunes in Silicon Valley companies who are really willing to come and spend several years, or is that really not enough, and we are going to have to do something on the salary side?

Mr. CHOPRA. Yes, it is a great question.

The experience, I think, in some places, yes, there may be people who are very financially-comfortable, who are willing to serve. Of course, at the same time, we have to guard against conflicts of interest. They may have very substantial stock holdings.

I think what you see in the financial regulatory agencies is that many, especially the lawyers, go through the revolving door and make huge amounts of money on the other end. And we are not going to be able to pay them the same. But I think what we want to be able to do is offer a good-value proposition on how they can serve the public, serve Congress, and serve the future of our markets.

And the goal is to be able to recruit those people with that in mind. But of course, you are right. On the margins, it is exactly—

Mr. FOSTER. Yes. Well, when you figure all this stuff out, let me know, okay?

Mr. CHOPRA. Yes, okay.

Mr. FOSTER. And my time is up. I yield back.

Mr. CHOPRA. Thank you, sir.

Chairwoman WATERS. Thank you. The gentleman from Texas, Mr. Williams, is now recognized for 5 minutes.

Mr. WILLIAMS OF TEXAS. Thank you, Madam Chairwoman.

Earlier, my colleague, Mr. Perlmutter, called you a champion for small business. We have something in common. I am a champion for small business. And before we get started, I have to say that I am a small business owner in Texas. And I have to tell you that in the past, your Agency, every way it turned, cost jobs on Main Street America. And you can't have competition and you can't help Main Street America by adding regulations on top of regulations.

Businesses need to know the rules of the road—we talked about that this morning—before they are hit with arbitrary enforcement actions. And under Director Cordray's supervision, the CFPB had an awful track record of issuing massive fines and penalties—we have heard about that today—for things that have never previously been deemed harmful to consumers. And I am very concerned that this practice of regulation through enforcement will once again come back under this new leadership, your leadership, and it will force market participants out of the marketplace, costing more jobs.

We are already seeing this trend in the student loan servicer space. In the CFPB's own report from the Student Loans Ombudsman, it states that four of the nine Federal student loan servicers have either stopped or announced that they are going to stop servicing Federal student loans.

This will require the largest transfer of student loans, over 16 million borrowers, with a loan volume of over $650 billion. It is the largest in the history of higher education and presents heightened risk of borrower harm. So, it will be impossible for a business to create a regulatory compliance system if they are unaware of what they are even going to avoid and what they are expected to do.

Director Chopra, do you understand that the uncertainty coming out of your Agency is causing businesses to drastically change their practices in a way that limits competition—and you have talked about how you want competition—and would ultimately harm consumers?

Mr. CHOPRA. Yes. Since about 1982 or 1983, we have seen small businesses as a proportion of total firms in the economy go on a constant decline. And there is a host of reasons for that, and I always want to figure out what is it that we can do to make sure that people can challenge the big guys, that they can enter.

You have raised the issue of regulation. It is part of the reason why I believe that we always want to aspire for laws and regulations to be easy to enforce, and easy to understand. But at the same time, I do want to be upfront with you that I think, based on my conversations with many in venture capital and others, a big reason people don't want to enter is that they think they are going to get squashed by the big guys.

That they have so little ability to be able to compete, and particularly when it comes to small financial institutions, ones that do offer relationship banking, they have a tough time doing it. And I think we need to really look at that to see what are those barriers that they face. And I take your feedback seriously about what you see as them, but I think there is a story there that we have to actually conquer together.

Mr. WILLIAMS OF TEXAS. Small businesses are what generates our economy, and we all know that. There are many rulemakings the CFPB is undertaking that have banks and Main Street America very concerned. One of the proposals is the Section 1071 data collection regime that will force banks to report demographic data on all small business loans.

This proposed rule is 918 pages long, and is a nightmare for anyone who is going to be forced to comply. One of the most laughable provisions in this terrible rule is that lenders will be forced to guess a loan applicant's race and ethnicity based on the borrower's appearance and last name, if they leave that information blank. This will force loan officers to racially profile every applicant.

I am old enough—very few in here remember the 1960s, but I was in business in the 1960s, and we couldn't ask those questions. They took those questions away because it was racist. Now, here we are back doing the very same thing.

Small businesses would be forced to have significant amounts of information on their business made public on CFPB's website. Many small businesses do not want metrics like gross annual revenue or the purpose of the loan to be accessible to the public. So, not only will this rule force sensitive information be made public, but it would add significant new compliance costs on financial institutions, which will lead to credit becoming more expensive and less available. All in the midst of serious inflationary pressure that we see today, and supply chain issues.

Instead of hiring more loan officers, businesses are going to have to hire more compliance officers. Quickly, how will you ensure that access to credit will not be hampered under this rule and will not allow for borrowers to opt out of complying with the demographic small-business information requirements in order to get a loan?

Chairwoman WATERS. You may answer.

Mr. CHOPRA. We will faithfully seek to implement the congressional directive on Section 1071. With respect to the specific issues, and I will be quick, we really need people to file comments on this so that we can actually implement the statutory directive and consider all of the issues you have raised, including with respect to privacy.

Mr. WILLIAMS OF TEXAS. Thank you, Madam Chairwoman.

Chairwoman WATERS. You are welcome. The gentleman from California, Mr. Sherman, who is also the Chair of our Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, is now recognized for 5 minutes.

Mr. SHERMAN. Director, first, I want to thank you and your staff for providing technical assistance and coordinating with us on drafting the bill to deal with the great London Interbank Offered

Rate (LIBOR) problem. We now have language that I think every consumer group that is focused on this is at least okay with, and every business group. Now, we have to work out some language with the Fed since they are the ones that are actually going to have to do the work, but your office has been very helpful.

Property Assessed Clean Energy (PACE) loans are well-intentioned in that they help people get new air conditioning systems and other that are energy-efficient. In almost every instance your predecessor came before our committee, I asked whether the CFPB was close to finishing the regulations required by statute. Since spring of 2019, the Bureau has taken no action beyond issuing an Advance Notice of Proposed Rulemaking.

Are you getting there? How close?

Mr. CHOPRA. As I understand it, the process is ongoing. I just want to be upfront with you. I know it is not optional, so we are going to do it. I need—

Mr. SHERMAN. Is the decade in which it is to be completed optional? That was a rhetorical question. For the record, please give me a definitive response—

Mr. CHOPRA. Yes.

Mr. SHERMAN. —as to when the next step is going to be completed. I don't want to nail you down—

Mr. CHOPRA. No, no, no, no, no.

Mr. SHERMAN. —unless you want to be nailed down.

Mr. CHOPRA. No, no, no. I actually—

Mr. SHERMAN. Can you give me a month, a day?

Mr. CHOPRA. I am happy to take a question for the record on that. Again, I am, I think, only on day 12 or 13. I am still making sure I understand what is in the record—

Mr. SHERMAN. I am going to count on you to actually answer definitively for the record and move on to another question.

Mr. CHOPRA. Yes, sir.

Mr. SHERMAN. Our good colleague from Florida, Mr. Posey, already asked you what the Bureau plans to do on the QM rule. I would like to follow up and ask, has the Bureau seen any market evidence or concerns since April of this year, when the QM patch was extended, I believe, that you think require another round of revisions to QM? Do you have concerns or—

Mr. CHOPRA. Yes. We did have a very robust 12 months, from July of last year to June of this year, in terms of mortgage origination. I believe it was a record.

On the other hand, it is hard to make that determination, given the flux of the economy and the recovery of the pandemic. What I have asked the staff to do is to really let me know what are we seeing in some of the more specific borrower segments and geographies so that we can identify what is going on.

And sir, as you know, Treasury and the FHFA have changed the preferred share agreement. So, obviously, there are some changes in the housing capital markets as well that is dictated by factors outside of the QM rule. But of course, QM is a key part of the mortgage market and the mortgage regulatory guidelines. I want to make sure that we are always looking at it to see whatever we can do to make sure we are promoting the objectives that Congress laid forward in Dodd-Frank on that front.

Mr. SHERMAN. I want to move on to another question, and that is, consumers are tricked into wiring usually the down payment on their house, which they have saved their whole life for, to the wrong account. They are told that is the account of the escrow agent or the title company because somebody went phishing and hacking and sent them an email that looks like that.

The reason they get away with this is because we don't have a system where you identify the person or company you are sending the money to, just the number. So, if you can convince them that Acme Escrow Company is number 12345, and that is really the account of a Nigerian prince, then your money is going to support royalty in Nigeria.

I pushed Chairman Powell on this. This week, I pushed Governor Brainard over on the Fed. It is their system, but it is your job to protect the consumers. Can you work with us to get a system like they have in Britain, so that when you wire money, you wire money to name of a person or company you are wiring money to and the account number?

Mr. CHOPRA. Yes. As I understand the standards in which wiring—it uses the SWIFT code, plus some—but as you say, it doesn't require an identifier—

Mr. SHERMAN. Right.

Mr. CHOPRA. —for a specific name. I am very happy to discuss this further with other parts of the Federal Reserve System. I take seriously that we are there to protect consumers, but the systemic answer may be, in fact—

Mr. SHERMAN. You are the one with the mission.

Mr. CHOPRA. Yes.

Mr. SHERMAN. Thank you.

Chairwoman WATERS. The gentleman from Arkansas, Mr. Hill, is now recognized for 5 minutes.

Mr. HILL. Thank you, Madam Chairwoman, and thank you for holding the hearing.

And congratulations, Director. We are glad to have you before us today in your oversight responsibility.

And just a quick note. I would say, having been in community banking for really on and off for 40 years, I have to take a little issue that it is not big bank competition. I really don't think that is the case. I think it really is the overhead cost as a percentage of assets that is a real detriment to bank formation and the smaller banks being successful and competitive on a return on equity (ROE) and return on assets (ROA) basis.

And to Mr. Williams' point, a lot of that is in the detail level of compliance and how it has even grown more dense for banks. And so really, banks under $1 billion, I think really do struggle with that. Keep that in mind as you look at your work.

And in that regard, I assume you believe that the Administrative Procedure Act (APA) is the best way for a regulatory agency to communicate with the broad public on a proposal. Is that your view?

Mr. CHOPRA. To communicate?

Mr. HILL. Yes, communicate and ask for comment and actually outline—

Mr. CHOPRA. Oh, yes.

Mr. HILL. —your legal proposals?

Mr. CHOPRA. Yes. I don't know that I would characterize it as, "best." It is the law. We have to use the Administrative Procedure Act to promulgate regulations, and it provides for notices, and a comment period.

Mr. HILL. Yes, I know what it provides. Thank you. I just wanted to make sure you are supportive of it.

And likewise, do you think that regulatory agencies should do a cost-benefit analysis to all the parties involved before a proposal becomes a final rule?

Mr. CHOPRA. In the Dodd-Frank Act, the Agency is required to consider certain issues related to benefits, costs, and other things. So, we will follow what the statute requires.

Mr. HILL. Thank you for that.

On the subject of the QM rule, I listened to Mr. Posey, and now my friend from California, Mr. Sherman, and I don't know that either got the kind of answer they are looking for out of you. So, I am going to go for three strikes here with you.

In the postponement, which was, as you say, delivered due to the pandemic, we have had a robust housing market. We have had a record number of closings. I don't see in your complaint data any spike in complaints.

My question for you is simple: Do you support the proposed change in the QM rule that was proposed by the CFPB after hours and weeks and years of work with stakeholders?

Mr. CHOPRA. I don't know, but I will take a question for the record on that. I want to make sure I understand the whole basis of it. But I just want to be clear, that rule has gone into effect.

Mr. HILL. Yes.

Mr. CHOPRA. That is now a way that people can comply.

Mr. HILL. And they have an option—I just want to know if you think it is a good compromise? It was hard to get to where we were. They have an option now, but that creates uncertainty in the market, or it certainly could. And it creates programming uncertainty for IT professionals, and for banks.

So, I think we ought to not postpone it any more and move forward, and I will ask you that for the record.

Mr. CHOPRA. Please.

Mr. HILL. And Madam Chairwoman, I would like to submit a letter to the record from the coalition, dated September of 2019, expressing their strong views.

Chairwoman WATERS. Without objection, it is so ordered.

Mr. HILL. I appreciate that.

Mr. CHOPRA. And sir—I am also keen to understand, specifically in the mortgage origination marketz, how we can stimulate more refinancings across-the-board. So, I have been asking questions about that because one of the ways that the interest rate environment can transmit to households is broadly to be able to look at, where are the impediments to refinancing?

Mr. HILL. Thank you. Well, you should look at that. But the market has driven refinancings to an all-time high, and every month my household, like the current mortgage holder got from 10 or 15 different companies, bank and nonbank alike, offering refinance assistance.

Mr. CHOPRA. And I hope almost all homeowners get that. I understand that it has been high—

Mr. HILL. Yes, I will let you do your research on that point.

Mr. CHOPRA. Okay.

Mr. HILL. But refinancing, and I would like you—I will submit a question for the record, should Fannie Mae and Freddie Mac be disproportionately buying refinance loans, or should they focus on first home mortgages? What is your view on that?

What is their mission? Helping low- and moderate-income people? Is that principally done by helping that first-time homeowner? Ginnie Mae does that. But for low- and moderate-income people, should that be an emphasis of Freddie Mac and Fannie Mae, or should they refinance Jeff Bezos' second home?

Mr. CHOPRA. As you know—

Mr. HILL. Three seconds.

Mr. CHOPRA. —the Federal Housing Finance Agency (FHFA) is not the Agency I lead. I am not the conservator of Fannie and Freddie.

Mr. HILL. Okay.

Mr. CHOPRA. But again, I am happy to take questions for the record on that.

Mr. HILL. We will do that. I yield back, Madam Chairwoman.

Chairwoman WATERS. The gentlewoman from Ohio, Mrs. Beatty, who is also the Chair of our Subcommittee on Diversity and Inclusion, is now recognized for 5 minutes.

Mrs. BEATTY. First of all, let me say thank you, Chairwoman Waters, for this hearing.

And Mr. Director, thank you for being here so early in your term, in your tenure. I want to thank you for all of your work and especially for your investment in small businesses, as I, too, am a former small business owner. As I also support our servicemembers and our veterans, I wanted to thank you and the previous Acting Director for your work, because many of us will remember that under the last Administration, veterans and servicemembers were not protected as they should have been with the CFPB.

I don't know if you or everybody has heard of or remember the, "Mulvaney discount." For you or others who have not heard of this term, the Mulvaney discount was a term that was used under the Trump Administration's leadership of the CFPB, where the CFPB would bring an enforcement action against someone who had broken our consumer protection laws, but they would drop their fine to a mere $1 because the defendant simply said, well, I can't pay the bill, or I can't pay the fine.

For example, under the CFPB in the Trump Administration, they would actually—if they found a person who had ripped off a veteran, their pension payment, they would settle that for a mere $1. And we know how our veterans and servicemembers have been out on the front lines and all of the things that affected them. So, it is very important to me, and should be to all of our Members that we don't go back to that previous Administration and what the Trump Administration with Director Mulvaney did.

So, is this a practice that you are aware of or you plan to change or continue during your Administration?

Mr. CHOPRA. Congresswoman, we will apply the civil penalty factors as Congress and the courts have directed us and have interpreted. Of course, with respect to servicemembers and veterans, I have already had a chance to speak with some other agencies about how to revitalize some of the work that we will do there. We need to make sure the Military Lending Act and other key protections are enforced.

I will share with you that there may, in fact, be some instances where the civil penalty is $1. I don't know the individual circumstances, but assessing a civil penalty against a judgment-proof defendant, if they are truly judgment proof, can open up redress under the Civil Penalty Fund. But under no circumstances will we deviate from the legislative and court-administered factors to do that.

Mrs. BEATTY. Thank you.

Let me go to another question. Under the previous Administration, I confronted the CFPB for refusing to bring enforcement actions for violation of fair lending laws. They only brought up three cases under the leadership of not only Director Mulvaney, but also under Director Kraninger. I guess my question is, you have already brought in the 10 months that you have been in there more than what they did throughout their entire Administration.

Now, give me your opinion. Do you think it is that all of a sudden, people started having these fair lending violations, or they turned a blind eye to it? Because I had a hard time believing—and after talking to some of the long-term staff over there—that and not seeing, getting an answer to that, I believe that there were some fair-lending issues going on. Can you address that?

Mr. CHOPRA. All I can do is speak for myself. I am very determined to make sure that we are administering the laws that forbid illegal discrimination. On Friday, I joined the Attorney General in a law enforcement action against Trustmark Bank for some pretty egregious discriminatory behavior.

Again, we want to make sure that we are not disadvantaging those financial institutions who follow the law, play by the rules, and treat people equally. It is not fair to them, and we need a market that is free of discrimination.

Mrs. BEATTY. Thank you so much, and we will continue to have a dialogue as we talk about fair lending. Certainly, we are having a lot of movement, thanks to our Chair, in the housing area, and we will come back and also talk about diversity and how you are moving forward with that.

Thank you, and I yield back.

Chairwoman WATERS. Thank you very much. The committee will break for a short 5-minute recess.

[brief recess]

Ms. GARCIA OF TEXAS. [presiding]. Mr. Emmer, you are now recognized for 5 minutes.

Mr. EMMER. Thank you, Madam Chairwoman. I have a lot to get to, so I am going to jump right into it.

Director Chopra, Ranking Member McHenry referred to reports that former Acting Director Uejio unlawfully removed career CFPB staff to make room for your handpicked replacements. Here is the specific allegation in case anyone missed it. This is from a story that appeared in GovExec.

On June 14, 2021, it states, "The Biden administration is taking unusual steps to ensure it can install its own hires into top career positions at the Consumer Financial Protection Bureau and push out officials who served under President Trump, according to several current and former employees. CFPB, in recent months, has offered separation incentives, including early retirement, and launched investigations into career senior executives to sideline them, targeting about a half dozen of the highest-ranked, non-political staffers at the Bureau."

These are serious allegations. If the Inspector General finds these allegations to be true, it is clear that President Biden's political team violated a law stating that discrimination based on political affiliation is prohibited. The Supreme Court held that the President can remove the Director of the CFPB for any reason or for no reason at all.

But let me be clear. The Supreme Court did not exempt the CFPB from laws that prohibit removing career civil servants based on their political affiliation.

Mr. Chopra, were you aware of the Biden Administration's plan to push out career officials who were hired during the Trump Administration?

Mr. CHOPRA. I do not believe there was a plan to do that, but—

Mr. EMMER. I just asked if you were aware.

Mr. CHOPRA. —the allegations—

Mr. EMMER. Were you aware, yes or no?

Mr. CHOPRA. I could not be aware if there wasn't a plan.

Mr. EMMER. So, it is no. Did anyone at the White House ever discuss CFPB personnel with you, sir?

Mr. CHOPRA. I was a nominee, so I was nominated, and that was through Presidential—

Mr. EMMER. Again, I am trying to be very clear, and I have a limited amount of time. Did anyone at the White House, whom I am assuming you had communications with before you were nominated, once you were nominated, and since you have been confirmed, before you were actually confirmed, did anyone at the White House ever discuss CFPB personnel with you?

Mr. CHOPRA. There has never been any discussion with the White House about career civil servants or any indications of that matter. Since I took office, I have begun—

Mr. EMMER. Thank you very much.

Mr. CHOPRA. —to get briefings—

Mr. EMMER. If I could move on to my next question.

Mr. CHOPRA. —about—

Mr. EMMER. Sir, I will reclaim my time. Did you discuss the CFPB workforce with Leandra English at any time since the election last November?

Mr. CHOPRA. No. The workforce?

Mr. EMMER. Director, I will say it again. Did you ever discuss people who work at the CFPB with Leandra English at any time since the election last November?

Mr. CHOPRA. I don't recall ever speaking to her about personnel issues.

Mr. EMMER. Thank you. Director Chopra, if there are people on your senior political team who hired or fired career staff because of their political affiliation, I expect you will take some sort of corrective action, and my question to you, sir, is, will you rehire the people who were wrongfully terminated?

Mr. CHOPRA. If there are findings of any prohibited personnel practice, we will take appropriate disciplinary action, and—

Mr. EMMER. Would you rehire anyone who was wrongfully terminated because of their political affiliation?

Mr. CHOPRA. If there is a finding of that, which I have no indication to suggest there will be—

Mr. EMMER. It is a yes or a no, sir.

Mr. CHOPRA. —I will take all the steps that I am required to under the law, including, if required, rehiring.

Mr. EMMER. I hope that—yes, thank you. I also think it will be important to know whether any of the actions in question occurred with your knowledge or at your direction. If so, I think you may need to consider whether to recuse yourself from any decisions related to this matter. If it turns out, sir, that you are implicated in the scheme to remove career staff based on their perceived political affiliations, can I have your commitment that you will recuse yourself from any decision-making related to corrective action?

Mr. CHOPRA. I will not be implicated in it because I did not engage in that behavior.

Mr. EMMER. But if you were, you would recuse yourself. Correct?

Mr. CHOPRA. On any directive about law findings, of course, I will adhere to that. But you can trust me. I did not engage in the allegations you are suggesting.

Mr. EMMER. Thank you. Will you fully cooperate with the IG's investigation in this matter?

Mr. CHOPRA. I will always cooperate with the Inspector General of the Federal Reserve System.

Mr. EMMER. Thank you. And will you instruct the Agency's political staff to cooperate with the investigation?

Mr. CHOPRA. Everyone must cooperate with the IG.

Mr. EMMER. And you will tell them that they must, right?

Mr. CHOPRA. Yes, and I have also told them that they must adhere to all ethics rules as well.

Mr. EMMER. Thank you.

Mr. CHOPRA. We need to make sure that all of those are being followed and that there are not—

Mr. EMMER. I see my time has expired. We will wait and see what the IG finds in this case. I yield back. Thank you.

Ms. GARCIA OF TEXAS. The gentleman's time has expired. We will now hear from the gentlewoman from Iowa, Mrs. Axne, who is also the Vice Chair of our Subcommittee on Housing, Community Development, and Insurance, for 5 minutes.

Mrs. AXNE. Thank you, Madam Chairwoman, and congratulations, Director Chopra, on your new position, and thank you so much for being here. And I also want to thank the CFPB for listening to me and others on this committee and finally resuming the Military Lending Act examinations that you are supposed to have been doing for a long time, to protect our servicemembers. So, thank you so much for stepping up for our servicemembers in the way that you should, and I hope that will continue. And I really hope to hear about any other issues that you find that we can be helping you with here in Congress.

Now, I do intend to ask you questions about the work that you are doing, because I think that is important for these hearings, so let me get right to it.

I know you have only been there for a couple of weeks now, but I want to check on the status and planning of a couple of other areas that I have been asking the CFPB about. First, I asked your predecessor about the student loan servicers and whether the CFPB was actually doing the exams to protect the 40 million Americans who have these student loans. I have asked that a couple of times, and never got a straight answer. I know this used to be your department. Can you give me an update on where those things are right now with the CFPB's oversight of student loan servicers?

Mr. CHOPRA. I want to be mindful of the protections in the law about confidential supervisory information, but I will share that student loan servicers, the large ones, are subject to the supervisory authority of the CFPB, and I intend to make sure we are supervising them appropriately. We will, of course, work with other regulators, including the Department of Education, to do so, but unless the law is being followed, we cannot be certain that our borrowers are going to be able to be on the road to repayment or be protected from unlawful practices.

Mrs. AXNE. Okay. Thank you for that. And what are the actual benefits—I am hoping that you can tell us—for those borrowers, of having the Agency looking out for them and actually having this oversight happen for the first time in years?

Mr. CHOPRA. I think it is important to make sure that we are protecting both the borrowers and the honest companies who are engaged in these businesses. It is not fair to the law-abiding businesses when some get a free pass. When it comes to student loans, for example, good servicing on student loans, mortgages helps avoid default, helps avoid foreclosures, and ultimately adheres to the congressional directives to the CFPB.

Mrs. AXNE. Great. Well, that will certainly help folks out. Thank you so much for that.

I have also noted that over the last couple of months, homeowners have had some new protections from foreclosures, including now they have the right to new, streamlined loan modification options because of COVID hardships. Can you walk us through what those protections are and a little bit of how you see those working so far?

Mr. CHOPRA. Yes. As I understand the amended rule, it provides a way for servicers to help transition borrowers from the forbearance programs back into repayment. This obviously can be very challenging, especially for borrowers who have been struggling during the pandemic. So, I think the win-win here is for servicers to be able to evaluate borrowers for these alternatives to foreclosure. That is good for the investors, that is good for the borrowers, and it is really good for the economy. Of course, it is a temporary rule to assist with the orderly transition, but we want to make sure we do not repeat what happened last time, which was unnecessary, avoidable, and illegal foreclosures, and there were too many of them and the effects were devastating.

I would say, Congresswoman, I am also particularly interested in farm bankruptcies, foreclosures in rural areas. I know that is of interest to you. And I think we need to understand all of the issues facing family farms. It is an area that I have worked on for many years. We cannot have a resilient and strong country without a base of thriving family farms who can afford their obligations.

Mrs. AXNE. I will tell you what, Director, you are talking my language there, so thank you so much for bringing that up. And I am currently working to get affordable housing extension, more funding through the USDA, but we need a lot of help in our rural areas, and I am so glad to hear you say that. And, of course, we want to make sure that we prevent foreclosures as much as possible, so these loan modifications are a great way to do this.

I just want to let you know this is one of my top priorities, to make sure that people can actually benefit from these programs. So, I made sure we got $100 million to support housing counselors to help walk people through this process. And I am wondering, last question, are you working with these housing counselors on those modifications to make sure that they are doing the best they can to serve Americans?

Mr. CHOPRA. Yes, housing counselors are often on the front lines of helping borrowers to not only get a home, but to keep their home. I don't have the details handy this early, but you have my commitment that we will not be forgetting about the housing counselors, and I know, firsthand, how much of a vehicle they are to really helping people when it comes to the dream of homeownership.

Mrs. AXNE. Thank you.

Ms. GARCIA OF TEXAS. The gentlewoman's time has expired. The gentleman from Georgia, Mr. Loudermilk, is now recognized for 5 minutes.

Mr. LOUDERMILK. Thank you, Madam Chairwoman. And Director Chopra, thank you for being here.

There are several topics I would like to discuss, the first being the rulemaking to implement Dodd-Frank Section 1033. As part of that, I hope the CFPB will take into account the significant progress the private sector is making on consumer data issues, specifically moving away from screen scraping of log-in credentials and transitioning to application programming interfaces (APIs). I think it would be counterproductive to impede or duplicate the work that the private sector is doing.

The question is, do you intend to build on the work that is being done in the private sector as part of Section 1033 rulemaking, and will you make sure not interfere with that work?

Mr. CHOPRA. I think that makes sense. I think the way we can realize a lot of the benefits of any Section 1033 rulemaking—and it is too early to say what the timeline would be on that—we have to look at actually what are the systems and protocols and technologies that are already in use and how are they working or not working?

I think I am, to be transparent with you, going to look at it with the eye, of course, of competition, security, and privacy. In many cases, APIs will be a huge vehicle to do so. But I take what you are saying seriously. If there is already a movement or there is development that we can learn from to help expand, I am totally on board with that, and I hear what you are saying.

Mr. LOUDERMILK. I appreciate that, because, quite frankly, it is the private sector that are innovators, not the Federal Government, and more often, the Federal Government tends to be suppressors of innovation. Anything that we can do to encourage innovation and keep things going in the right direction, I applaud.

Mr. CHOPRA. Can I add one point?

Mr. LOUDERMILK. Sure.

Mr. CHOPRA. I want to make sure that I will look at private-sector initiatives to make sure that there cannot be kind of one dominant controller of it. The more that we have an open system that people can enter, they don't need a lot of permission slips and corporate red tape to cut through, I am going to be looking at that.

Mr. LOUDERMILK. Okay. The CFPB has also proposed a rule to implement Dodd-Frank Section 1071, which will require lenders to collect and report data on the demographics of small business borrowers. I hope you will minimize the burden of these requirements. The 1071 rule proposes making the data available to the public annually, to determine what data is released, the rule proposes a balancing test to measure the risk and benefits of publicly disclosing the data.

What risks do you believe should be considered in this test?

Mr. CHOPRA. Again, I am new to the job, but I will just share my personal views on this, which is that we need to be thinking very hard always about re-identification risk. In many cases, technologies have advanced such that there are more data points that can be put together to re-identify. So, what I am going to be looking for is making sure we are implementing the objectives to make sure we are collecting this data, that it is being used to guard against discrimination and other violations, but also that any datasets we make available are still consistent with the objectives of safeguarding privacy as well.

Mr. LOUDERMILK. So far, CFPB has not accepted public comment on this issue. Will you be open to accepting public input on the balance tests before it goes into effect?

Mr. CHOPRA. I need to check on this. I thought that in the proposed rule, it did discuss implementing a balancing test, and I think we are collecting comments on all aspects of the rule. If I am mistaken, we are happy to follow up with you, but of course, all agencies need guidance when it comes to protecting data.

Mr. LOUDERMILK. Right. Our understanding is that it hasn't been done. If it hasn't, will you do that?

Mr. CHOPRA. Yes. I am definitely eager to hear views on how to make sure we are balancing that right.

Mr. LOUDERMILK. Okay. So, you will ask for public input, if it hasn't been done, before—

Mr. CHOPRA. If it hasn't been, for sure, I would want to make sure we ask for input, particularly from technology and data experts, and others.

Mr. LOUDERMILK. Okay. Last question, if I have time, in April, the CFPB issued an interim final rule regarding debt collection practices during COVID-19. The rule classified landlords as debt collectors and accused landlords of refusing to accept tenant self-attestation of hardship based on unverified anecdotal evidence from activist groups. Fortunately, that rule no longer applies because the Supreme Court struck down the CDC's illegal eviction moratorium, but it is still troubling.

I understand you were not in this position during that time period, but in any issue going forward, could we get your commitment that your policies will be based on concrete facts and data, not unverified anecdotes, especially from activist organizations?

Mr. CHOPRA. Just to be clear, you are saying that rule covered landlords?

Mr. LOUDERMILK. Yes.

Mr. CHOPRA. Okay.

Mr. LOUDERMILK. The rule classified landlords as debt collectors.

Mr. CHOPRA. That wasn't my understanding. I am happy to look into that. I understood that pursuant to the Fair Debt Collection Practices Act (FDCPA), that it was third parties collecting on behalf of landlords who are covered. But to your question, I, of course, want to make sure we are being analytically robust whenever we can.

Ms. GARCIA OF TEXAS. The gentleman's time has expired. The gentleman from Illinois, Mr. Casten, who is also the Vice Chair of our Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, is now recognized for 5 minutes.

Mr. CASTEN. Thank you, Madam Chairwoman, and thank you so much to Director Chopra for your time and your patience with all of us today. I have some questions about discriminatory lending, and I want to go through just ridiculous hypotheticals to start, so bear with me, but I want to leave enough time for the substance on the back end.

As you know, the Equal Credit Opportunity Act of 1974 prohibits lending institutions from discriminating on the basis of all of the usual protected classes—race, religion, national origin, what have you. So, I want to just start with a completely softball hypothetical.

If a lending institution was to intentionally, or unintentionally but effectively market their products to groups of people that had the practical effect of reducing minorities, certain religious groups access to loans, would that constitute a violation of the ECOA?

Mr. CHOPRA. As I am sure you know, all of us in the banking regulatory area like to avoid these types of hypotheticals, but I will try my best to answer. The Equal Credit Opportunity Act implicates not just underwriting decisions but across the entire credit transaction. So, it can affect collections, it can affect marketing and advertising. You may be aware that HUD Secretary Carson issued a complaint against Facebook for violations of the Fair Housing Act that related to some of these issues about advertising. There is some corollary between the Fair Housing Act and the Equal Credit Opportunity Act. We are happy to follow up with some of the specific regulations.

Mr. CASTEN. I appreciate the nuance, and that is the challenge of these 5-minute hearings is sometimes there is not enough time for nuance. But stipulate that there are some things that, within that nuance, are indeed problematic. Does the CFPB, under your leadership, have the authority and/or the obligation to investigate and prosecute crimes under the ECOA, of the type we just talked about?

Mr. CHOPRA. Yes.

Mr. CASTEN. Okay. And if a company was violating those, is knowledge that their marketing techniques were discriminatory a prerequisite for prosecution, or if their lending practices are discriminatory but were not intentional, does that absolve them of liability?

Mr. CHOPRA. Yes, there is jurisprudence on this. It is also in the regulation. There is disparate treatment and disparate impact, and so in the disparate impact context, you need not necessarily prove intentionality to get to liability.

Mr. CASTEN. Okay. Well, that is consistent with my understanding. Here is the substantive reason for the question. It has been brought to my attention that a number of folks in the lending industry, when they make a decision whether or not to advertise on Facebook, Facebook cannot share, and has refused to share, any information about whether the algorithms they use to boost their ad tracking are, in fact, intentionally targeting certain racial groups, certain classes of people, and could have a practical effect, especially in light of all this news over the last weeks that Facebook's algorithms have a habit of targeting and amplifying and boosting signals from White supremacist groups like the Proud Boys.

Given your prior answers, is a lender that is advertising on a platform that uses algorithms that may prove to be discriminatory, or maybe have already been proven to be discriminatory, is that lender potentially guilty of an ECOA violation?

Mr. CHOPRA. It really depends on the facts and circumstances, but, in fact, Facebook, in your hypothetical, may be liable for that.

Mr. CASTEN. And would you have the jurisdiction to pursue a claim against the platform as opposed to the lender, or both?

Mr. CHOPRA. It depends on the exact activities, but like in Secretary Carson's complaint, where Facebook was making those decisions, in your hypothetical, when a tech company like that is making the decision, they may, in fact, be liable.

Mr. CASTEN. Okay. Last, just a question for you as we sit here, if the platform cannot guarantee that their marketing channels are not in some fashion discriminatory in a way that would violate the ECOA, would you advise a lender to continue advertising on that platform?

Mr. CHOPRA. I would rather take this question for the record, because it is a complex one to answer in 9 seconds. But I am very worried about black box algorithms, that we have no accountability as to how decisions are made. This is the opposite of relationship banking, and we need to make sure that firms cannot dodge fair lending laws and anti-discrimination laws under the guise of their secret algorithm.

Mr. CASTEN. Thank you very much. I am out of time. I look forward to following up with your staff afterwards.

I yield back.

Ms. GARCIA OF TEXAS. The gentleman's time has expired. The gentleman from Tennessee, Mr. Kustoff, is now recognized for 5 minutes.

Mr. KUSTOFF. Thank you, Madam Chairwoman, and Director Chopra, congratulations on your confirmation. Thank you for being here today.

We have heard a lot, obviously, in the past several months about cryptocurrencies and digital assets. They have gotten a lot of attention. What do you see as the CFPB's role with respect to cryptocurrencies and digital assets?

Mr. CHOPRA. Depending on the laws that are implicated, obviously there is fact-based determination as to any sort of law that cryptocurrencies or digital currencies have to comply with. This is obviously something that the CFPB is working on with the other regulators, but I will tell you where digital payments is involved. The Electronic Fund Transfer Act is a key law with key consumer protections. Obviously, the Gramm-Leach-Bliley Act, the privacy provisions of that, are a key law that we enforce. This is part of the reason the Bureau issued orders to the tech companies about how they are trafficking payments, what data they are collecting, how they are using it, how they are engaged in surveillance or denial of service. All of those matter, and I think there are some intersections there with digital currencies as well.

Mr. KUSTOFF. I don't like using absolute terms, but to paraphrase what you just said, do you see the CFPB's only lane being in terms of the payments?

Mr. CHOPRA. I would need to review all of our laws. There may be certain circumstances where there may be lending involved. I need to really think through that and get back to you on it. I do want to make sure that we are guarding our payment system and taking care of the consumer protections that you all have passed.

Mr. KUSTOFF. Fair enough. In your prior position at the FTC, almost 2 years ago, in November of 2019, you commented on the FedNow Service. You may remember. I am quoting from the opening paragraph of your comment. You said you would like to outline support for the Federal Reserve's proposal to develop the FedNow service, a new round-the-clock, real-time payment system, that the proposal is a natural extension of the Federal Reserve's existing role in check clearing, wire transfers, and the automated clearing house system. That a private megabank monopoly, over our faster payment system, would suppress innovation and distort incentives in our markets, and the Federal Reserve should not cede control of the plumbing of our future payment systems to Wall Street.

And that was in your prior role. In your current role, what do you see as the CFPB's role as it relates to the FedNow Service, if any?

Mr. CHOPRA. That is a good question. I think the extent to which they are creating the FedNow Service, I think we can serve as experts on consumer protection within the Federal Reserve System. I know this is an area of great importance to our local financial institutions and community banks. The CFPB has a Community Bank Advisory Committee that I want to engage on payments issues. But obviously, our core is the consumer protection laws and there are certain places, perhaps related to fraud or error resolution, where we may have relative expertise.

Mr. KUSTOFF. Is there potential for the FedNow Service to, if you will, crowd out the private sector?

Mr. CHOPRA. I would have a tough time seeing that. I think our payments ecosystem is always going to be diverse. There are going to be many different ways in which money is transferred. I do think, from a national security perspective and global competitiveness, we need to have faster payments in our country. I think the fact that we are being beaten out when it comes to speedy payments, by China and others, is a concern for me. So, I think it is really the public sector and the private sector all have to really work to make sure that we can compete in that way.

Mr. KUSTOFF. Thank you, Director. In your prior life—and maybe in your current life also—you were a prolific tweeter, almost like a Member of Congress. On March 6th of last year, you tweeted, "It's time to end the era of lawbreaking megabanks. Their empire-building brought our economy to the brink, their scale made them too big to fail, and their executives have turned boring banking into a risky business model built to break the law."

Two questions: first, who are you talking about; and second, is it within your purview to, "end the lawbreaking megabanks?"

Mr. CHOPRA. I have to tell you, one of the things that bothers me so much is when small players break the law, they get shut down, and when the large players repeatedly break the law, it feels like nothing happens. In my testimony, I submitted one of the areas that is going to be a focus for me, which is the issue of repeat offenders. We cannot have a system where a small financial player is caught and then totally gets wiped out, while a big one gets to just pay fines over and over and over again, and the lawbreaking continues.

If we find that the regulators—not just the CFPB, but the OCC, the Federal Reserve, and others—do not have the managerial acumen and operational plans to follow Agency and Federal court orders, we have a serious problem there.

This was my experience at the FTC, where some of the largest players repeatedly violated the law and nothing happened.

Mr. KUSTOFF. Who were the lawbreaking megabanks?

Ms. GARCIA OF TEXAS. The gentleman's time has expired. The gentlewoman from Massachusetts, Ms. Pressley, who is also the Vice Chair of our Subcommittee on Consumer Protection and Financial Institutions, is now recognized for 5 minutes.

Ms. PRESSLEY. Thank you so much, and I want to express my gratitude to our Chair for her continued commitment to this issue, and congratulations to you, Director Chopra. It is good to see you. I am excited and grateful that you will be a partner at the helm of the CFPB.

I wanted to speak to you about an issue that I have been sounding the alarm on for over a year now, one I know you are very familiar with, the issue of educational redlining. Borrowers who attended an Historically Black College or University (HBCU) or other Minority Serving Institution (MSI) have faced thousands of dollars in additional charges because of these discriminatory algorithms. And we have companies like Upstart and Stride Funding who are practicing educational redlining, and continue to be engaged in this practice in the student loan market. And these companies are using information about where borrowers went to school, their major, or their parents' educational attainment to price loans or make credit decisions.

Director Chopra, what is the Bureau doing to address the risks to Black and Brown borrowers that arise from the use of algorithmic decision-making in lending and the reliance on so-called alternative underwriting criteria such as borrowers' educational background?

Mr. CHOPRA. Congresswoman, there has been a myth that algorithms can be completely neutral. In reality, many of those algorithms reinforce the biases that already exist. I joined the Attorney General on Friday to talk about how we need to make sure that there is a level of accountability on algorithmic decision-making, that we can make determinations about whether the law is being followed. And a traditional financial institution that uses more traditional methods should not be held to a standard while others get to hide behind their algorithm.

That is something that we will need to look carefully at, not just the CFPB, but others, and I would hate to see that we are reinforcing biases based on the enrollment of a particular school, particularly, as you mentioned, if they went to an Historically Black College or University (HBCU).

Ms. PRESSLEY. Thank you, Director. During the Trump Administration, the Bureau renewed a no-action letter, which allowed Upstart to act with impunity under the guise of spurring, "financial innovation." With respect to educational redlining and algorithm bias, do you agree, just one more time for the record, that discrimination is wrong, and that no regulator should make carveouts that allow people to discriminate?

Mr. CHOPRA. I, under no circumstances, believe any regulator should give a permission slip to engage in illegal discrimination.

Ms. PRESSLEY. Okay. Wonderful. That's good to hear. Transitioning to a topic that you are very familiar with, I wanted to talk with you about student debt cancellation. Again, to be clear, the most efficient way for President Biden to provide relief for millions of borrowers and families is to provide across-the-board student debt cancellation. We are approaching the mark where those payments could restart, and the fact that we would consider doing such a thing during an ongoing pandemic-induced recession is really unconscionable. As you well know, more than 4 in 10 Federal direct loan borrowers would have to be transferred to a new student loan servicer if these payments resumed.

Director Chopra, given these simultaneous risks, what is the CFPB doing, within its oversight authority, to ensure that borrowers are not harmed should these payments resume?

Mr. CHOPRA. It is very important that just like the chairwoman talked about with mortgage servicing, the resumption to repayment could be really messy, and we need to do everything we can to make sure it isn't, and the same goes for student loans. If 40 million people all need to resume payments, we will need to make sure that servicers and others are doing so in an orderly and lawful way, and I intend to use our tools to contribute to efforts to make sure that they are doing so.

Ms. PRESSLEY. Thank you for that commitment to user your oversight authority to ensure that borrowers are not harmed should these payments resume. I know, unlike President Biden, you do not personally have the authority to cancel student debt, but I do think the CFPB's job would be much easier if the President honored his promise and finally cancelled student debt. We were speaking about HBCUs a moment ago, and those presidents are using their ARPA funds to cancel student debt because this is a racial justice issue and an economic justice issue, and one I think is critical to a just recovery as well.

But, in closing, I look forward to working together to address the unprecedented student loan debt crisis and other issues that my constituents care about, like ending discriminatory lending in the housing market, debt collection harassment, and harmful credit reporting practices.

Congratulations once again, and thank you.

Mr. CHOPRA. Thank you, ma'am.

Ms. GARCIA OF TEXAS. The gentlewoman's time has expired. The gentleman from Tennessee, Mr. Rose, is now recognized for 5 minutes.

Mr. ROSE. Thank you. I want to thank Chairwoman Waters and Ranking Member McHenry for holding this hearing, and Director Chopra, thank you for appearing before us, and it is good to meet you face to face. We appreciate you being here for this annual review of the Consumer Financial Protection Bureau.

I am going to dive right in. Director Chopra, the Bureau has previously acknowledged the key role that small-dollar loans can play in helping consumers meet credit needs, usually resulting from unexpected expenses that Americans often incur. According to the spring 2021 Semiannual Report of the Bureau, what percent of consumer complaints received by the Bureau were related to short-term, small-dollar loans? Do you know, off the top of your head?

Mr. CHOPRA. I don't. I think the vast bulk of complaints, maybe even 40 to 50 percent, related to credit reporting and debt collection issues. That is by far the largest component.

Mr. ROSE. It might not surprise you then to learn that the number that the report shows is that it was 0.2 percent, or 2 in every 1,000 complaints. Given the amount of resources that the CFPB has focused on small-dollar lenders, I was surprised to learn from the Bureau's own data that only 0.2 percent of complaints received by the Bureau were attributed to short-term or small-dollar lenders.

Director Chopra, yes or no, do you believe that small-dollar lending can play a positive role in helping consumers meet their credit needs?

Mr. CHOPRA. Yes. There are many short-term liquidity products, whether it is a credit card, whether it is any sort of small-dollar loan. Of course, that plays an important role, and it would be good to see many more financial institutions offering them.

Mr. ROSE. Thank you, and I agree very much about that.

Switching topics, I wanted to discuss the Bureau's recently-proposed rule and request for public comment for small business lending data collection under the Equal Credit Opportunity Act. This proposed rule seeks to require covered financial institutions to collect and report to the Bureau data on applications for credit for small business. As several of my colleagues have noted, there is a lot of uncertainty regarding this rulemaking.

According to the proposed rule, the Bureau is aiming to create the first comprehensive database of small business credit applications in the United States. If this rule is finalized, how will the Bureau protect and safeguard the information collected and stored in this government-run database?

Mr. CHOPRA. That is a great question. I believe in the Notice of Proposed Rulemaking, there is a section on how there will be balancing to protect privacy, to protect re-identification risk. Ultimately, the Bureau is seeking to implement the statutory directive, and there is a court order to do so in a timely fashion.

As I mentioned to one of your colleagues, I think there are many ways we can look at how we can make sure we are implementing those objectives while also protecting some of the issues you have raised. In many ways, it is a similar exercise to the Home Mortgage Disclosure Act database that currently exists, that collects information on mortgage origination, but obviously there are some very important differences.

Mr. ROSE. To follow up there on the topic of information security, earlier this year, the Office of the Inspector General for the CFPB issued a memorandum entitled, “2021 Major Management Challenges for the Bureau.” I am sure you are familiar with that memorandum. The memo listed the management challenges in order of significance, and the number-one challenge listed for the Bureau was ensuring that an effective information security program is in place. The memo noted that although the Bureau is working toward implementing effective identity and access management controls, challenges to effectively safeguarding sensitive Agency data remain.

The IRS is currently trying to get their hands on account data of millions of Americans, and the CFPB also wants to collect massive amounts of data. It seems like the Biden Administration is attempting a major grab of information. Why should we trust the government to successfully protect all of this information, and can I get a commitment from you that this government-run database will not be live until there is absolute confidence in the security of the system?

Mr. CHOPRA. Almost every Federal Agency right now, because of many of the cyberattacks from state and nonstate actors, we all know the United States is a big target, and every Agency needs to be at the top of its game when it comes to protecting our cybersecurity. There are many, many ways in which every Agency needs to push forward.

I was very closely involved in a lot of the data security issues in my last job at the FTC, and I intend to make sure that we not only follow that directive, but that we are constantly looking for ways to improve.

Ms. GARCIA OF TEXAS. The gentleman’s time has expired.

Mr. ROSE. Thank you, Director Chopra, and I yield back.

Ms. GARCIA OF TEXAS. The gentleman from New York, Mr. Torres, is now recognized for 5 minutes.

Mr. TORRES. How are you, Director? Congratulations on your appointment.

Mr. CHOPRA. Thank you so much, sir.

Mr. TORRES. In his Executive Order advocating for antitrust reforms, President Biden called upon the Consumer Financial Protection Bureau to complete rulemaking on Section 1033 of Dodd-Frank, which, as you know, establishes the right of consumers to access and transfer their own financial information. What is your timetable for finalizing Section 1033 rulemaking in accordance with the President's Executive Order?

Mr. CHOPRA. I am very, very interested in making sure that consumers are not trapped or stuck in a product they do not want, that they can switch, that they have more opportunities. I think competition is something every Agency, including the CFPB, should promote. I want to be able to give you a firm timeline. Two weeks in, I can't do that. But there is a process underway. There has been an Advanced Notice of Proposed Rulemaking. We are assessing more. We are consulting experts. I have been personally trying to learn about the U.K.'s open banking system. But I really see this as a great opportunity for all of us.

Mr. TORRES. I am pleased to see that you believe, as I do, that consumer control of data is critical to competition and consumer choice, ensuring open markets. If I, as a consumer, ask a bank to share my financial information with a competing financial institution, should the bank be required to comply with that request?

Mr. CHOPRA. As a general matter, I think people need to control their personal data. I am very uncomfortable with the surveillance-style system that I think we are seeing, not just in China but also here, where companies are collecting all sorts of highly detailed information on us, sometimes without our consent, sometimes without our knowledge.

Mr. TORRES. Could I actually ask about that?

Mr. CHOPRA. Please.

Mr. TORRES. Because it brings to mind data aggregators. Is your Agency going to play a greater role in supervising and regulating data aggregators? What are your thoughts on that?

Mr. CHOPRA. In some circumstances, depending on the activities of them, there are many laws that they have to follow. There may be privacy rules. There may be—

Mr. TORRES. But general supervision and regulation.

Mr. CHOPRA. No, aggregators are a key part of something we have to look at, including to understand the Section 1033 rulemaking.

Mr. TORRES. I am going to ask you the same question that I asked the SEC Commissioner about, "neither admit nor deny settlements," and I will offer a perspective that I have heard from constituents. If you are a poor kid from the Bronx who commits a minor crime and then enters into a plea bargain, as part of the process of entering into a plea bargain, that young kid would be expected to admit wrongdoing, to plead guilty. That young kid would likely have a criminal record that would haunt him for much of his life.

But if a rich corporation defrauds millions of people out of millions of dollars, and then enters into a settlement with the CFPB, that corporation will likely enter into a settlement without ever admitting wrongdoing. That corporation can move on as if it had done nothing wrong. Financial regulators like the SEC and the CFPB essentially protect corporate bad actors from the consequences of their bad behavior, the reputational consequences of their bad behavior. Does that seem fair to you, because it seems unfair to me, and it certainly is unfair to the people I represent.

Mr. CHOPRA. No. And, in fact, in criminal law it is almost unheard of to be able to allow this kind of outright denial. One of the things that I have written about in the past and intend to explore, what is the role of findings and admissions to promote compliance, promote fairness in our markets? And I agree with you, I am uncomfortable with this sort of blanket approach of constant denials of liability.

Mr. TORRES. Are you committed to either banning the practice or radically reducing the practice?

Mr. CHOPRA. I want to talk about it with you further. There are some tradeoffs, but I do think we need a policy that actually makes it figure out when we will actually do it, because right now, I think it is overused.

Mr. TORRES. And I think you referenced that you were studying examples of open finance elsewhere in the world. Is there a country that you look to as a model for the United States?

Mr. CHOPRA. I have to tell you, I want to learn from all of those countries, but we have to do something that works for our people. We have a much more diverse country. We have a large country. I am not wanting to replicate what the Chinese or the British are doing. We need to do something that is uniquely ours and that suits our people and our financial system.

Mr. TORRES. My time is about to expire, so again, congratulations on your appointment.

Mr. CHOPRA. Thank you, sir.

Ms. GARCIA OF TEXAS. The gentleman yields back. The gentleman from North Carolina, Mr. Budd, is now recognized for 5 minutes.

Mr. BUDD. I thank the Chair, and Director Chopra, thanks for being here in person today and congratulations on your new role.

Director Chopra, under former Director Cordray, the Bureau was notorious for carrying out regulation by enforcement. Essentially, the Bureau expected financial services providers to figure out the rules based on press releases announcing enforcement actions, instead of providing ahead of time clear guidance or actual rulemakings on the front end.

In your confirmation hearing, I think it is relevant that this was your quote, "I also will commit that the CFPB and every Federal Agency should be focused on fixing harms, making it clear to market participants what is expected of them."

So, will you commit to avoiding the practice of regulation by enforcement?

Mr. CHOPRA. I always want to make sure, and I have shared with some of your colleagues, the best situation is when the law is clear, it is easy to administer, easy to follow, and easy to enforce.

I do aspire, with respect to our laws, to be able to make sure it is durable and understandable, but we will also need to enforce the law as written and how the Congress has written that statute. We do not have the ability to veto laws. We do have to administer the laws you pass, and I want to make sure that it is understandable and that we can figure out ways to do that.

Mr. BUDD. Sure, but the question is about regulation by enforcement. When there is an unknown out there, where there is a lack of clarity, where the standard that you just mentioned is not there, and then all of a sudden, there is regulation through the mechanism of enforcement—do you see any problems with that approach, regulation by enforcement?

Mr. CHOPRA. I think what I shared with one of your colleagues is that we need to go up and focus our resources against large players engaged in widescale harms. I don't believe in strong-arming small businesses into settlements to create some sort of law. I think we need to litigate more and we need to make sure that the courts are developing the law with us, so that creates more understanding and greater jurisprudence.

Mr. BUDD. But do you agree that there should be clarity ahead of time before they are attacked by regulation by enforcement? Do you think they should have a standard ahead of time, rather than some enforcement mechanism, just regulation through enforcement? All of a sudden, there is an enforcement without having clarity ahead of time.

Mr. CHOPRA. In the context of a litigation, a court would not say that a firm is liable if it did not believe it was violating the law. We also have to enforce the laws you have written, and in many cases, we can develop it further. But we can't just stop enforcing a law that you all have told us to enforce.

Mr. BUDD. Thank you. I want to shift gears. I know a lot of my colleagues have asked about this today and it has become quite popular. But you mentioned earlier today that there are interagency discussions between Fed Chairman Powell and Treasury Secretary Yellen on the regulation of cryptocurrency and stablecoins. But Chairman Powell told me, sitting at that very desk earlier this month, that he had no intention of banning or overregulating cryptocurrency.

So, Director, do you have a different view than Chairman Powell on the regulation of cryptocurrency?

Mr. CHOPRA. Sorry if I misspoke. I thought what I said to your colleagues was that the issue of virtual currency, stablecoins, cryptocurrency, is a subject of discussion across the Administration. There is a working group, the President's working group, that is covering some of these issues. So, I apologize if I misspoke earlier.

Mr. BUDD. I just want to clarify. Thank you for that, Director. As a matter of policy, is it your intention to use your regulatory authority to ban or limit the use of cryptocurrency or blockchain technology?

Mr. CHOPRA. No.

Mr. BUDD. No. I just want to make sure that we are clear, if it is your intention to regulate or ban the use of cryptocurrency or blockchain technology.

Mr. CHOPRA. Just so we are using the same—that does not mean that the CFPB should not be looking at payments, and this is part of why I issued the orders last week to collect information from the Big Tech companies—some of those laws that we administer may implicate virtual currencies. But as you have asked, no, I don't have the intention, but I do want to make sure we are administering the laws that protect our payment system.

Mr. BUDD. And that is fine, but you do not have an intention to ban or limit the use of cryptocurrency or blockchain technology, as a whole?

Mr. CHOPRA. No.

Mr. BUDD. Okay. Thank you. I yield back.

Ms. GARCIA OF TEXAS. The gentleman yields back. The gentleman from Massachusetts, Mr. Lynch, who is also the Chair of our Task Force on Financial Technology, is now recognized for 5 minutes.

Mr. LYNCH. Thank you, Madam Chairwoman. Welcome, Director Chopra. It's good to see you, and congratulations on your appointment.

I know that some of my colleagues have raised this issue previously, but I did want to talk about something that I uniquely believe that both my friends on the other side of the aisle as well as my fellow Democrats believe is important, which is that consumers own their own data and they should have control over their data. And I know that you are engaged in a rulemaking on Dodd-Frank Section 1033. Do you have a timeframe in terms of—

Mr. CHOPRA. Being 2 weeks in, I don't, but I will share with you, as I shared with others, that I think this is a real opportunity to create more competition, to create more opportunities. And I am going to be reviewing the work to date to see what we can accomplish, but I apologize that I don't have a timeline at this point.

Mr. LYNCH. Yes. I know you did—in Section 3.5 of your annual report you did have a vague reference to the ongoing comment period, but as you know, this industry is moving at light speed and we are standing still. So, I would just implore you to—

Mr. CHOPRA. Move quickly.

Mr. LYNCH. Yes, please.

Mr. CHOPRA. I hear that. I am hearing that from everybody. We want to go through and understand how to do it right. I really encourage you and others to have discussions with us on the objectives you see. I really see promoting competition, promoting choice, allowing new entrants to be able to challenge dominant players, to be able to give people more options as critical to this.

Mr. LYNCH. Yes. I am keenly interested in consumer protection, like you, and I am wondering, as we look at Section 1033 and the rulemaking, does the General Data Protection Regulation (GDPR) offer any instruction on how we handle consumers' privacy? GDPR offers the ownership and access to information, the portability of information from one institution to another, the right to be forgotten, the right to rectification. Are those elements that you would embrace, in terms of our own response?

Mr. CHOPRA. I need to give that some more thought. I think the GDPR, and frankly, other State laws in the U.S. that are about privacy and greater control of data, are something that, as you said, has been evolving. I think some of those principles about control and moving market power toward a family, so that they have more bargaining leverage, they have more ability to protect their data too, I think that is good.

Mr. LYNCH. Look, I do appreciate what the States have done and are doing. In my own State, our Secretary of State, Bill Galvin, has done a wonderful job of protecting consumers. But I do think there should be a unified baseline, and if States want to do more in their particular jurisdictions, they have that right. But I think it would be much better for a cohesive and competitive industry if we did have a common set of standards that fintech companies could adhere to, and I think it would move us all forward in a very positive way.

I am just wondering, as well, whether the Gramm-Leach-Bliley Act (GLBA) offers enough protections, from a statutory standpoint, or whether something additional is needed?

Mr. CHOPRA. No. The GLBA privacy provisions are outdated. Of course, we will enforce that law and administer it. I personally do not believe that the GLBA privacy provisions are working effectively.

Mr. LYNCH. Okay. That is great. Again, I welcome your invitation to be engaged on this issue. I wish you the very best. It is great to have you, with your background, in this position. I thank you for your willingness to serve. We have a lot of work to do.

Madam Chairwoman, I yield back.

Ms. GARCIA OF TEXAS. The gentleman yields back. The gentleman from West Virginia, Mr. Mooney, is now recognized for 5 minutes.

Mr. MOONEY. Thank you. Thank you, Madam Chairwoman, and thank you, Director Chopra, for coming here today. And congratulations on your confirmation.

In the past, the Consumer Financial Protection Bureau has taken a, "punish first and ask questions later" approach. Under former Director Cordray's leadership, enforcement actions had to be reined in after the fact by the courts. This kind of approach makes it more challenging for businesses large and small to understand the rules they need to follow. When the rules are confusing or enforced unevenly businesses, poor resources, compliance, and attorneys, it is better for everyone, consumers included, if they can use those resources to create more jobs and expand their business.

Although you are newly sworn in as Director, we know that you are not new to the CFPB. You served as Assistant Director under Mr. Cordray and helped steer the Bureau during that era. My concern is that as Director, you will take the same approach to enforcement as Mr. Cordray. Earlier today, you did commit to Ranking Member McHenry to follow a notice and comment APA rulemaking process. I was pleased to hear that, and I hope you will stick to that commitment.

So, Director, in January, the CFPB finalized a joint Agency rule clarifying that supervisory guidance is nonbinding. Do you agree that supervisory guidance does not carry the force of law, and do you commit to follow your Agency's January rule?

Mr. CHOPRA. Yes. Just to be clear, as I understand it, that was an interagency rulemaking clarifying that supervisory guidance is not enforceable in a court, does not carry the force of law. Frankly, I think that has been Agency practice forever, but it is now in regulation.

Mr. MOONEY. Okay. It's good to have that clear. Also, Director Chopra, in your testimony you mentioned that restoring relationship banking is a priority for you. Can you explain what you mean when you say that you want to emphasize relationship banking, and how would the CFPB play a role in that goal?

Mr. CHOPRA. I am very concerned that there are many situations where consumers have no place to turn in order to get help. The credit reporting industry is a great example of this, where consumers are not really the customer; they are the product. It is their data that is being bought and sold, so, those bureaus may not necessarily have the market incentive to serve consumers well, whereas many financial institutions, especially local ones that serve their communities, they have repeat business. They know their local communities.

I think we are disadvantaged as a country, the more relationship banking goes away, and I want to figure out what we can do to revitalize that so that there is a greater sense about the customer having more leverage and the institutions being more responsive to them. And I think there are some places where institutions simply are not adequately responsive to customers and their needs, and I think we all can play a role in figuring out what we should do to restore that. We need that for the resilience of our country.

Mr. MOONEY. Thank you. And you mentioned earlier choice in competition, which I think also does benefit consumers. I agree with you on that. In your testimony, you outlined a host of priorities for the CFPB under your leadership. Notice and comment rulemaking forces regulators to take their time and listen to the public before finalizing regulations, and a comment period is important for getting these rules right.

As you begin to take action on these priorities, I would remind you that Congress makes the laws, not the agencies—and you said that early in your testimony, that we make the laws and you are enforcing them—and, therefore, it is not within your power to create new policy and avoid the notice-and-comment rulemaking process. I would also echo some of my colleagues' comments today on the issue of regulation by enforcement. Before pursuing penalties, it is important to ask whether the rules are clear. If they are not, an enforcement action is not likely appropriate.

Thank you, Madam Chairwoman, and I yield back the balance of my time.

Ms. GARCIA OF TEXAS. The gentleman yields back. The gentlewoman from North Carolina, Ms. Adams, is now recognized for 5 minutes.

Ms. ADAMS. Thank you.

And to Director Chopra, thank you for being with us today. I know you were just sworn in a few weeks ago. I want to echo the sentiments of my colleagues and say it is nice to have someone like you behind the wheel of the Consumer Financial Protection Bureau.

So, Director, for 40 years, I was a professor at Bennett College in Greensboro, North Carolina, a college for women. And that is why it is so concerning to me that higher education has become so expensive for so many, to the point of putting it out of reach for many. And I do want to just commend my colleague from Massachusetts who spoke about student debt and so forth earlier.

But it is why the failures of the Public Service Loan Forgiveness (PSLF) program are at the top of my mind. Do you plan to ensure that the Bureau is committed to helping our dedicated public service workers access the student loan relief that they were promised under the Public Service Loan Forgiveness Program?

Mr. CHOPRA. Yes, ma'am. A CFPB report from many years ago underscored very severe challenges that borrowers were facing in enrolling in this statutorily-authorized program. I understand, ma'am, that there has been some changes that the Department of Education is announcing to ensure greater enrollments. But inasmuch that firms are lying to borrowers about that program to discourage them or dissuade them, that obviously can be in violation of the law.

You have my commitment that we will work with the Department of Education and others to make sure that program is meeting the directives of Congress.

Ms. ADAMS. Great. Thank you so much for that. It is an important issue, and we want to make sure that they are protected.

But let me switch gears for a moment and ask about for-profit institutions of higher education. There are plenty of good actors in the for-profit space. I want to say that. And I know that you are standing up or starting up a new enforcement unit within FSA. How do you plan to collaborate with the Education Department to hold predatory for-profit schools accountable for student outcomes?

Mr. CHOPRA. That is a great question.

To be clear, the CFPB's jurisdiction is not necessarily related to schools; it is related to the offering of financial services. In the past, the CFPB has done enforcement work in this area, particularly where those schools are offering lending products.

Recently, the Federal Trade Commission also announced some work to be able to trigger penalties and sanctions against those schools that lie about certain types of earnings representations. Obviously, we want to make sure that public resources are being used efficiently and that we are coordinating across-the-board.

There are some existing memoranda of understanding, and I will certainly look to determine whether anything needs to be updated to ensure that there is adequate cooperation with that office that you have referenced.

Ms. ADAMS. Right. The rise of interest in cryptocurrency has led to an increase in complaints submitted to the CFPB. A lot of folks in Congress are considering legislative proposals to regulate and oversee this crypto market and to protect consumers. What role does the CFPB play in overseeing crypto markets, and are there plans to work with the SEC and Chair Gensler?

Mr. CHOPRA. As I referenced to some of your colleagues, obviously, the change in the payments landscape is one that everyone is paying close attention to. Last week, the CFPB issued a set of orders to Facebook, Apple, Google, Amazon, and others to gain information on their business practices related to their payment platforms.

Of course, most of those payment platforms are primarily using the U.S. dollar. But of course, there has been discussion in the marketplace about Big Tech also offering virtual currencies. We will obviously be working with all of the regulators to make sure that our payment system is fair, fast, and competitive.

Ms. ADAMS. Okay. What types of complaints would push you to begin examining possible deceitful practices when consumers are buying, selling, and trading crypto products?

Mr. CHOPRA. We do know that there is a good amount of fraud in this marketplace. In some cases, that implicates various State law enforcement, and various Federal law enforcement. There has been an uptick in those complaints. So, I will make sure that we review them—

Ms. ADAMS. I am sorry to cut you off, sir. I am out of time, and I need to yield back. We will send it to you in writing.

Thank you, Madam Chairwoman. I yield back.

Chairwoman WATERS. Thank you very much. The gentleman from Wisconsin, Mr. Steil, is now recognized for 5 minutes.

Mr. STEIL. Thank you very much, Madam Chairwoman.

Director, thank you for being here today. I am glad we get a chance to question you early on in your tenure at the CFPB.

I want to start with a pretty straightforward question related to the limits of the Bureau's authority. Does the CFPB possess regulatory oversight over insurance products or insurance companies?

Mr. CHOPRA. There is actually, in the statute, a specific exemption—

Mr. STEIL. In Title X.

Mr. CHOPRA. —of the authority for the business of insurance. Business of insurance is defined there. So, no.

Mr. STEIL. Perfect. Thank you very much.

Let me continue on. The CFPB has UDAAP authority with the two "A's," that is Unfair, Deceptive, or Abusive Acts and Practices, as you know. But for those listening at home, I think it is important to say it.

For many years, the CFPB seemed content with the uncertain definition of the term, "abusive." Leaving the term vaguely defined allowed the Bureau to regulate by enforcement. This has created real uncertainty for businesses, and it stretched the CFPB's authority into new areas.

And I was encouraged when the CFPB issued a policy statement on January 24, 2020, providing a framework for how it would apply the abusiveness standard. In that statement, the Bureau outlined clear principles explaining how and when it would rely on abusiveness to take a regulatory or supervisory action.

I understand your predecessor, in his acting capacity, withdrew the policy statement, and so I want to build on Ranking Member McHenry's, and my colleague, Mr. Barr's, comments earlier on this issue. When he asked if you would restore the previous abusive statement or provide a new one, you suggested it wasn't necessary. Why is that?

Mr. CHOPRA. I don't think that I suggested it wasn't necessary. I think I said the abusive policy statement that was rescinded by my predecessor, I don't think it provided much of an analytical framework at all.

What it said was that it would not plead, even when they believed there was a law violation, abusive if it was also pled as unfair during certain circumstances. I don't think that is appropriate at all. That suggests that the Agency can somehow veto legislation that Congress has passed.

Congress has put forth a number of prongs that would involve prohibited abusive practice. I do, though, have a view that it is important for the CFPB to develop a durable abusive jurisprudence. There are many ways in which we can do this. But certainly, the policy statement that was issued would not accomplish that.

Mr. STEIL. You are saying there are many ways that you could do this. Are you looking to go and litigate this through the courts, or are you planning to put forward a new policy statement on this to give clarity?

Mr. CHOPRA. I think all options are on the table. There are many ways in which agencies can help develop and clarify the law. A bedrock of the American system is our common law system in our courts. Courts can review. They can issue opinions. We look at precedent. But also, administrative agencies have the ability to issue policy statements, interpretive rules, guidance, and formal rules as well.

So, I think we can look at all of those. It is going to be based on the facts and circumstances. There are certain triggers where Congress has required the CFPB to issue rules under UDAAP. One is to have State AG enforcement against national banks, and the second is for FTC enforcement against nonbanks.

But as it stands, there are many ways to do that. But I do not agree that the policy statement that was previously issued offered much clarity at all.

Mr. STEIL. We will respectfully disagree on that point, and that is okay, I suppose, for today's hearing. But I will caution that I think there is real concern for the certainty that is needed in the market to not move back to try to define this through a judicial process and regulation by enforcement. I think there are some real concerns there.

Let me shift gears once again. We have discussed the value of predicted data to make important credit and underwriting decisions. I am a big believer that more data is better, allowing us to really provide credit to underserved communities. It can also help us control risk, and get more more stable financial systems.

Do you believe that more data is helpful, that it will help those who are struggling to obtain credit?

Mr. CHOPRA. I think it depends. It often can lead to better credit decisions. What I worry about is when there is no transparency at all in how the decision was made. And then, we have a two-tiered system where the local bank serving their community is held to account, and the algorithm maker or a lender depending on that, who can't even explain sometimes how a decision was made, doesn't have to adhere to it. I don't think that is fair, but I think we want to make sure that we have an approach on how algorithms, machine learning, and AI are doing their work.

Mr. STEIL. Thank you for your testimony today. Recognizing the time, I yield back.

Mr. CHOPRA. Thank you, sir.

Chairwoman WATERS. The gentlewoman from Pennsylvania, Ms. Dean, is now recognized for 5 minutes.

Ms. DEAN. Thank you, Madam Chairwoman, for recognizing me.

And Director Chopra, we are delighted to have you here today. To echo my colleagues, thank you for coming before us, and congratulations on your confirmation and appointment to CFPB Director. I am especially thankful that the former Student Loan Ombudsman is now the Bureau Director.

I want to associate myself with Representatives Axne and Pressley and some of their remarks and questions. And to that end, some of the largest Federal student loan servicers currently servicing Federal student loan borrowers are ending or transferring their contracts with the Department of Education. They include Navient, PHEAA, and Granite State. This is in addition to the end of the CARES Act forbearance on Federal student loan payments back in January.

Given these companies' checkered records of servicing borrowers, I am worried that both of these transitions could leave borrowers confused or without proper communication tools, causing potential record-keeping mistakes or the potential for increased default.

Director Chopra, I recognize that you have only been on the job 2 weeks, but with great depth of experience, how are you and the CFPB working on plans to ensure that borrowers are protected as their loan servicers are changed?

Mr. CHOPRA. Thank you so much for this question.

Sloppy servicing, when it comes to student loans, has caused real pain for people. The errors that have been in their accounts—it has sometimes even spawned scams because people can't actually get things fixed. These bad actors come and prey upon them.

I think when it comes to large servicing transfers, we are going to have to work carefully with all of the regulators, but especially the Education Department for the Federal student loan book, because there needs to be an appropriate set of preparation for testing of moving records with fidelity. If we have systemic errors in that transfer—and I don't know, maybe there are already systemic errors with some of their books. But if it gets worse and creates more disruptions or is unfairly penalizing people, it will create a lot of hardship. And many of those are younger people who are just starting out in life.

You have my commitment that we will use our tools and work with the other agencies to make sure we limit that exposure.

Ms. DEAN. Thank you for your focus on that.

And you are absolutely right. I worry about the transfer of records that are already corrupted or inaccurate. Do you have the resources you need to make sure these transitions are made, or to monitor and review how servicers are communicating with borrowers as they leave one servicer and move to another?

Mr. CHOPRA. Resources are always very constrained, and we will have to be agile when it comes to what we are facing, especially in the mortgage and student loan market, two of our biggest markets of debt that is owed by families.

Ms. DEAN. Thank you very much for that promise.

During the Trump Administration, I was concerned, as I sat here on the Financial Services Committee, about their proposal to require the position of the Student Loan Ombudsman to be reframed as the Private Education Student Loan Ombudsman. Under your leadership, will the Student Loan Ombudsman coordinate with the Department of Education and once again provide support and guidance for all borrowers, not just private student loan borrowers?

Mr. CHOPRA. Yes. I am going to assess where we are with the activities related to our work and for students and borrowers and including the Ombudsman's Office to make sure that it is looking at the market in totality, because we need to understand the full market, not just one part of it.

Ms. DEAN. Exactly right. And again, I will echo my concern that you have the resources you need for these extraordinarily important economic tasks and oversight.

Mr. CHOPRA. I share your concern about that, and I will be sure to work with you and report back further.

Ms. DEAN. Wonderful. Thank you. That is great.

Final question: one specific instance in the private student loan space that I have been working on is the discharge of private student loans in the case of total and permanent disability of a borrower, a protection that exists for Federal student loan borrowers. This actually came to us by way of a constituent.

Would you support efforts to ensure that this type of discharge is required on private student loans, ensuring that those in a seriously dire health situation do not have to be burdened by cascading debt?

Mr. CHOPRA. Many years ago, the CFPB put together a report on the auto defaults that were occurring often when a borrower's parent or grandparent died, and they were immediately thrown into default. It was a gruesome practice that I think was totally unacceptable.

But with respect to an individual's disability or death, I think I need to look at our authorities on that. I am happy to get back to you, but I know some lenders are offering that. Others are not, and it is a huge shock to people when their parent gets a bill for the whole balance.

Ms. DEAN. Exactly. I thank you.

Madam Chairwoman, I yield back.

Chairwoman WATERS. Thank you. The gentleman from Texas, Mr. Gooden, is now recognized for 5 minutes.

Mr. GOODEN. Thank you, Madam Chairwoman.

There are countless examples of Big Tech companies shutting down competition and controlling the flow of information and free speech across the globe. Many have argued that Federal regulators and Congress missed the boat by allowing these tech companies to turn into the monopolies we have today. As one policymaker said, Big Tech companies can migrate from, "too small to care," to, "too big to ignore," to, "too big to fail," very quickly.

Around the world, Big Tech companies accounted for $700 billion of credit in 2020, which is a 40-percent increase on the prior year. Additionally, these Big Tech companies have come to account for 94 percent of mobile payments in China in just a few years.

I want to caution the financial services industry that while working with Big Tech may look appealing now, you are making a deal with the devil. Director, if Big Tech companies continue to operate unregulated in the financial services industry like they have in other sectors, do you have concerns they could eventually have a monopoly in yet another industry?

Mr. CHOPRA. Yes. I am worried that the Big Tech companies are coming for financial services, and while obviously we want technological progress and innovation, I am uncomfortable with us not knowing almost anything about what they are up to, including their data surveillance and, as you mentioned, how they decide who gets kicked off, how are they going to use their own incentives to make decisions. This is why the CFPB has issued orders to Facebook, Apple, Google, Amazon, and others. We need to understand this because this is an issue of consumer protection, systemic risk, and the protection of our country, writ large.

It is something that I hope this whole committee—I hope we can all work together on this because it is something we need to get right.

Mr. GOODEN. I agree totally, and thank you.

As a former FTC Commissioner, you bring a unique perspective to the CFPB. Do you believe Federal regulators like the FTC and the CFPB have the necessary tools to monitor Big Tech?

Mr. CHOPRA. That is a good question. I will certainly want to look at every tool we have as it relates to how they are entering into financial services. But as you know, most of those tech companies are not subject to supervision the way the banks are. So, I need to think about that more.

I will say that it is a very, very difficult circumstance I think we find ourselves in, where a new market entrant has to constantly have the fear that one of those companies will just turn them off one day. I don't think that is very good.

And when I see what is happening in China, it makes me worried. I don't think we should go in that direction.

Mr. GOODEN. Thank you.

Also, as a former FTC Commissioner, of course you are familiar with allegations that several of these Big Tech companies have abused their market dominance at the expense of their consumers and their commercial partners, which you touched on briefly.

Why, in your belief, is it appropriate to continue exploring anti-competitive conduct by Big Tech in your new role as Director, and what ability does the CFPB have to restrain anti-competitive conduct that it might find in Big Tech's payment markets?

Mr. CHOPRA. We actually have a different authority. It is a different set of laws, but many of the concerns are similar.

The Congress has directed the CFPB to make sure that markets are fair, transparent, and competitive. There are many places in the statute that suggest that competition should be one we really think about innovation. So, of course, I want to be mindful about how I comment, because I participated in the decision to file some of those lawsuits, and that litigation is ongoing with the FTC.

But there are many places where regulators should be promoting competition and innovation in ways that are good for small businesses, good for families, and not just another way for dominant firms to control more and more about our lives.

Mr. GOODEN. Thank you. And with respect to your efforts against these Big Tech monopolies, I thank you for your work.

I yield back, Madam Chairwoman.

Chairwoman WATERS. Thank you. The gentlewoman from Michigan, Ms. Tlaib, is now recognized for 5 minutes.

Ms. TLAIB. Thank you so much, Madam Chairwoman.

And thank you, Director Chopra.

In December, I think, of 2020, you all had a final debt collection rule that goes into effect on November 30th, and I am really pleased because the CFPB was established to protect consumers, to protect our residents. I know there has been a lot of questions about the business sector in these certain industries, but that is not why we created the CFPB. And so, I hope we center on the residents and the consumers as we move forward, and prioritize them.

Director, do you think all debt should be treated the same?

Mr. CHOPRA. I think the answer is no.

Ms. TLAIB. Good. Because nearly 20 percent of adults have one or more medical debt—

Mr. CHOPRA. Yes.

Ms. TLAIB. Yes, listed on their credit report. And 90 percent of bankruptcies in our country, Director, are due to medical debt. And did you know that at the height of the pandemic last year, the three largest healthcare insurance companies raked in $10.8 billion in a single quarter, while nearly 20 million of our neighbors become unemployed?

So, Director, I am worried. I am worried that the pandemic not only left my residents with emotional trauma, but economic distress that could forever alter their ability to thrive because we treat all debt the same. I am sure you know that the December 2020 rule allows for the debt collector system to send a physical or electronic message to the consumer and wait for a reasonable period of time to receive a notice of undeliverability.

And you are nodding your head because you know this is very concerning, especially because—

[Audio interruption.]

Ms. TLAIB. So, you know that these debt collectors are likely to increase their use of electronic communication to consumers. And so, Director, given that digital divide that we have in our country and has been exposed, I think, during the pandemic, what steps is CFPB taking to implement this rule in a way that protects communities like mine?

Mr. CHOPRA. Yes. I just have to share, Congresswoman, that what has happened to family balance sheets in many neighborhoods has been pretty devastating. And I think while there has been a recovery for many, many neighborhoods and households, they are still in deep debt from the struggles they face.

And I am worried about them being permanently scarred by that, and I think if we want an equitable recovery, we are going to need to take a very close look at debt collection and credit reporting.

Ms. TLAIB. Yes, and Director, you know this. Some of these emails end up in spam. Some of our folks are not—broadband Internet is not reliable. I am just really increasingly worried because they are going to check it off and say, “sent an email.”

Mr. CHOPRA. Understood.

Ms. TLAIB. And so, please, if you can follow up with my office on some of the steps you are going to take.

In addition, you know that the rule would prohibit debt collectors from bringing or threatening to bring legal action to collect a time-barred debt. Very important here. However, debt collectors often try to deceive consumers in restarting the statute of limitations. The Center for Responsible Lending has argued that the CFPB should go further and outright prohibit the revival of time-barred debt.

Director Chopra, will the CFPB implement similar protections to prohibit the revival of time-barred debt in full? Because several States, as you probably know, enacted laws stating that the partial payment or other acknowledgment of debt would not revive the statute of limitations.

Mr. CHOPRA. Yes, I am worried that some of this debt is getting bought, sold—

Ms. TLAIB. That is right.

Mr. CHOPRA. —resold, and investment vehicles are trying to monetize it by squeezing them and collecting debt that is not owed anymore. So, I want to take a look at the rule. The rule is going into effect, but as I understand it, the rule does not create any sort of safe harbor for collecting time-barred debt.

Ms. TLAIB. Yes, but we should work together to prohibit the revival of time-barred debt—

Mr. CHOPRA. Yes. I would be happy to do that.

Ms. TLAIB. —in full. Again, more States are acknowledging that.

Mr. CHOPRA. Yes.

Ms. TLAIB. So, I think we can do something much more broadly.

Mr. CHOPRA. Especially with respect to the renewal of statute of limitations.

Ms. TLAIB. That is right.

Finally, the National Consumer Law Center has suggested that CFPB's existing complaint database may not be adequate for tracking new complaints regarding electronic communications, such as receiving communication even after opting out or being unable to read or open file attachments.

Director Chopra, does the CFPB plan on adopting new debt collection complaint categories with regards to electronic communications following the December 2020 rule?

Mr. CHOPRA. I don't think there are current plans, but I would like to explore that.

Ms. TLAIB. Please do.

Mr. CHOPRA. Because that seems like a good—given those changes, we need to make sure that sometimes, people have a piece of paper. We need to make sure they can provide that evidence.

Ms. TLAIB. That is right. Yes, and thank you.

And know this, I am working hard with the chairwoman to ban medically necessary debt on people's credit reports. I think that is going to help a tremendous deal, especially with the complaints that you get. But again, people's lives are forever altered by what debt gets on these credit reports that impact employment and housing.

So, thank you, and I yield back.

Mr. CHOPRA. If I may, Madam Chairwoman? Just on the issue of medical debt on credit reports, there has been evidence in the past that it is not predictive of other performance. And I am constantly worried that a patient just feels coerced to pay while their insurance company and a hospital are in an endless doom loop, and the credit reporting system cannot be a way to extort payments out of patients.

Chairwoman WATERS. Thank you very much. The gentleman from Texas, Mr. Taylor, is now recognized for 5 minutes.

Mr. TAYLOR. Thank you, Madam Chairwoman. I appreciate it.

Director Chopra, thank you for being here. Congratulations on your confirmation.

If I could just talk to you about your enforcement perspective, you shared a little bit of that during this hearing, particularly in your statement that repeat offenders should be treated more severely, and I certainly concur with you on that point.

And the reason I ask you about that is, in my time in the Texas legislature, dealing with the Office of Consumer Credit Commissioner (OCCC), which is slightly analogous to what you do, their perspective was, if we find something going wrong, we are going to work with the business to try to fix it. If they keep doing it wrong, then we are going to hammer them.

My experience with your predecessors is that they had the opposite perspective: We are going to hammer them every time. We are not going to actually try to correct, fix, help anybody. The problem with that, at least as I see it, is that then people don't want to talk to you. They don't want to tell you what is going on because they are afraid that if they show the book, so to speak, and then you find something, you are going to hammer them.

Is it your job to put pelts on the wall, or is it your job to make the consumer space safer, to make the financial services space safer for consumers?

Mr. CHOPRA. Yes. Our job is to make it fair, transparent, and competitive, and I will share with you directly that, of course, and there are ways to resolve problems through the confidential supervisory process. Not all issues need to go to public law enforcement matters.

But I just want to put a finer point on something, which is when someone has been subject to a law enforcement order that they often have consented to or they have agreed to make certain changes, and they egregiously or don't follow it, this is a very severe problem to me.

Mr. TAYLOR. Sure.

Mr. CHOPRA. And when there is an order in place, that order is not a suggestion. It is a binding—it has the force of law, and we cannot have large players feel that these are just optional tip lists.

Mr. TAYLOR. I certainly concur with you on that point. Do you think it is fair that someone is pulled over and told, hey, the speed limit here is 20 miles an hour, and there are no signs on the road? Is that fair? There are no signs of any kind.

Mr. CHOPRA. And I totally hear your point on this, that people should not be harshly penalized for something that was not clear.

Mr. TAYLOR. Sure.

Mr. CHOPRA. And of course, we know that the law does specify a number of factors that the Bureau must adhere to when seeking those penalties. Those are reviewable by the courts, so we have to make sure that we are applying those factors fairly. And I share the view that when there is an honest desire to play by the rules, it is not appropriate to kind of harshly penalize that, and that is what the factors in the law push us to do.

Mr. TAYLOR. And I guess what I am asking is for you to allow the rules that you make to season, to have a chance for people to know about them. I have seen agencies, not yours, but I have seen agencies produce rules in the middle of the enforcement, saying, "We got you. Here is this new rule. You have never seen it before. You are seeing it now, and you are wrong."

And I think you and I would agree that is unfair to that particular—

Mr. CHOPRA. It would also—just the fact pattern you mentioned may actually be unconstitutional in that there is in the legal process, when going to court, a court will assess the entire notice issues and number of factors. So, this is why I raised with some of your colleagues the importance of the CFPB focusing on large market actors causing widespread harm.

Of course, there will be smaller players that may need to be addressed, and I am sure the enforcement docket, and there is a lot of backlog. But generally, we should be focusing those resources against those whom we know, know the rules. They know the law. They are well-resourced. They can fight in court. But going after small players, this is just I saw this too much at the FTC under Republicans and Democrats, and I just—it didn't sit well with me at all.

Mr. TAYLOR. Sure. And in my final 30 seconds, I will just share my own thought on why smaller players are having a more difficult time operating in the market. And I think, actually, Mr. Hill mentioned that in his colloquy with you is that the increased regulations as a result of Dodd-Frank have created a very difficult environment for smaller financial institutions, speaking of banks. When Dodd-Frank passed, there were about 8,500 banks in the United States. There are now about 5,000.

And that compression, that smaller group of banks, they are all bigger. The average size of banks has gone up because the only way to survive financially is to consolidate, be bigger, so that you have a bigger core of assets to handle the regulatory burden that has been thrust upon them by this body.

Madam Chairwoman, I yield back.

Chairwoman WATERS. Thank you.

Mr. CHOPRA. Thank you, sir.

Chairwoman WATERS. The gentleman from Illinois, Mr. Garcia, is now recognized for 5 minutes.

Mr. GARCIA OF ILLINOIS. Thank you, Madam Chairwoman, and Ranking Member McHenry, for holding this important hearing.

And of course, I want to thank Director Chopra for your service at the CFPB and for joining us today. I can say the CFPB is in good hands.

A financial regulatory agency focused on consumers is crucial. It is easy for other financial regulators to forget that in every loan, every refinancing, every repossession, every deposit, every fee, we are talking about a family home or the car they use to get to work or cash for groceries. The CFPB doesn't forget that, and that is critical.

Consumer data is an important issue in almost every industry, but it is particularly important for the financial industry because who knows more about you than your bank? This is one reason why the historic separation of banking and commerce has become more important in the 21st Century, not less. The trust and data access in a banking relationship is dangerous in the hands of a commercial company not only for customers, but for commercial markets and competition.

In February of this year, the FDIC issued an order subjecting ILCs to the privacy standards in the Gramm-Leach-Bliley Act, but that protection doesn't extend to their parent companies. Mr. Chopra, as you know, in other committees Congress has extensively covered just how aggressive and invasive companies like Facebook and Amazon are with customer data.

The question is, if these companies owned the bank through an ILC, would it be hard for regulators like the CFPB or the FDIC to tell if they truly kept consumer data in the bank behind a firewall, and do you think that this lack of oversight could pose a real risk to consumers and competitors?

Mr. CHOPRA. Sir, firewalls are extremely difficult to monitor in force, and once they are breached, it is almost impossible to undo. With respect to your question about, particularly tech companies getting into financial services and the unimaginable amounts of data that they collect on all of us, it would be very hard to administer that.

Mr. GARCIA OF ILLINOIS. Thank you for that succinct response.

I represent a working-class immigrant district in Chicago. Remittances mean a lot to my constituents and to their families in other countries. We know the problem with our remittance system, but cryptocurrencies are coming into the market fast.

El Salvador adopted Bitcoin as a national currency. Facebook is launching a new digital currency under the guise of sending remittances between the U.S. and Guatemala. Is the CFPB examining cryptocurrency as a consumer financial product, and what laws, rules, and regulations must be in place to protect consumers seeking services like remittances?

Mr. CHOPRA. The Electronic Fund Transfer Act and its implementing regulations, including the remittance rule that was required by Congress, govern remittance transfers. Congressman, it is obviously something that is changing very, very rapidly about how families are sending money to their families, especially those families overseas.

I think we want a remittance market that is fast, fair, and cheap. I don't have an exact answer for you at this point. It has only been 2 weeks, but I hear you loud and clear that we need to make sure we fully understand the changes in the market so that we can administer our enforcement and that we can make sure that those families are protected.

Mr. GARCIA OF ILLINOIS. Fair enough. It has only been 2 weeks. I hope to follow up on this subject with you. It affects many people and many communities throughout the country, a diverse immigrant community that is engaged in remittances very deeply.

Thank you so much, and I wish you really good luck in your position, sir.

I yield back.

Mr. CHOPRA. Thank you, sir.

Chairwoman WATERS. Thank you. The gentleman from South Carolina, Mr. Timmons, is recognized for 5 minutes.

Mr. TIMMONS. Thank you, Madam Chairwoman.

And congratulations, Director Chopra, on your recent confirmation. I hope we can find some areas to work together on to serve the American people in the coming years.

I am going to start with a question about post offices. Do you know how many complaints the CFPB has received about the United States Post Office this year? Probably not a fan.

Mr. CHOPRA. I don't. Yes.

Mr. TIMMONS. Mail delivery—we have a lot of people allegedly sending bills, but nobody is getting them. I have had some issues myself. It is an issue, I do believe. Maybe, you can look into it and get back to me.

But all of these efficiencies and, arguably, incompetence of the Post Office have resulted in many of my constituents and my colleagues' constituents across the country having late payments to creditors. I recently discovered that despite the Post Office's inability to accomplish their mission of delivering the mail in a timely manner, many people now want them to offer financial services products that would compete with the private sector.

Would you agree or would you not agree that the Post Office maybe ought to focus simply on delivering the mail to make sure that our constituents have their payments delivered on time, instead of expanding to an area that distracts from their core mission?

Mr. CHOPRA. I don't have a view on your specific question. I do know that the Post Office has been looking to change and make sure it is more financially sustainable by offering ancillary services, by leveraging their existing Post Office footprint.

I do understand that there are some places where they sell prepaid cards or where they may be helping with money orders or other sorts of transfers. But I take your point. It is not an area that I have studied very carefully.

Mr. TIMMONS. Sure. I have a gym and a yoga studio, and I really hope the Federal Government doesn't start paying to allow people to work out for free and do yoga.

But moving on to a different topic, many enforcement actions issued recently by the Bureau named company owners by name. The reason for these allegations appears to simply be the fact of ownership of a business. This would appear to penalize small business owners over public companies whose shareholders and CEOs are not being named in CFPB enforcement actions and lawsuits.

Earlier today, you talked about how enforcement actions against smaller players often kill their business while having a much more marginal impact on larger players. It would appear that you might agree this discrepancy should end. Will you commit to naming individuals only in circumstances where facts show those people actually committed unlawful acts?

Mr. CHOPRA. Yes. This is actually a very important issue. I think one of my experiences as a regulator, including at the Federal Trade Commission, which was the FTC essentially said if you are a small company, we are naming the individuals. If it is a big firm, whatever.

We took big steps to change that. I vigorously opposed the FTC settlement that gave Mark Zuckerberg in the Facebook matter an immunity clause. You have my commitment that when it comes to large financial institutions, if there is evidence to suggest that individuals were involved in directing law breaking, we will look to determine whether to name them.

Mr. TIMMONS. And conversely, perhaps stop naming individuals with small businesses unless they, in fact, were possibly—

Mr. CHOPRA. Of course. We should not name an individual unless we have reason to believe in the evidence to suggest that. And to the extent there is a discrepancy between how we are treating small businesses and big businesses, I agree that we have not paid enough attention to individual liability on large firms, and I take your point on the small firm aspect.

Mr. TIMMONS. Sure. I really do appreciate that answer.

One more question: Can you commit to publicly releasing all of the facts and data that are used to support your decisions during the rulemaking and enforcement process? That is the transparency component.

Mr. CHOPRA. I think with respect to that question, there may be places where we are not able to release all of the information. There are rules governing that, as particularly the enforcement process and supervisory process.

Here is one thing I am trying to do. For certain types of matters, in addition to just a press release, I also have been trying in certain circumstances to issue an accompanying statement that outlines some of the logic and analytical framework that was used.

We recently did an enforcement action where I explained a little bit more about the claims and counts that were in it. I agree with you on wanting to be more transparent and communicate more, but we have to respect laws and other things.

Mr. TIMMONS. Yes. Just wherever possible, helping people understand the decision-making would be helpful.

Mr. CHOPRA. Yes.

Mr. TIMMONS. Thank you for being here today.

And Madam Chairwoman, I yield back.

Mr. CHOPRA. Thank you, sir.

Chairwoman WATERS. Thank you. The gentlewoman from Texas, Ms. Garcia, who is also the Vice Chair of our Subcommittee on Diversity and Inclusion, is now recognized for 5 minutes.

Ms. GARCIA OF TEXAS. Thank you, Madam Chairwoman.

And I, too, want to add my congratulations to the Director, and I am hoping to work with you in the next couple of years as we work through some of these processes.

In my district, which is very similar to Mr. Garcia's in Chicago, financial services are not broadly used. In fact, many still rely more on credit unions, check cashing services, remittances, money orders, and still a lot of cash activity. We are a community of hard-working, diverse families who rely on critical financial services only to try usually to access credit. And as you know, access to credit is also about accumulating wealth.

So, for us, it means that without all of that closing and being able to access that credit, we will never do much about reducing the racial wealth gap. I think you have talked about that some, and the Equal Credit Opportunity Act allows institutions to develop special purpose credit programs (SPCPs), which include tailored approaches to meet the credit needs of and directly benefit economically and socially disadvantaged groups.

Again, my district is about 77-percent Latino. It is over 50-percent disadvantaged.

According to recent reports by the National Fair Housing Alliance and the National Consumer Law Center, SPCPs can be critical tools for addressing the legacy of discrimination in the mortgage market, promoting equity and inclusion, and closing the racial wealth gap.

Last December, the CFPB issued an advisory opinion promoting the use of SPCP programs among creditors. What steps has the CFPB taken to facilitate the use of these programs in the financial marketplace?

Mr. CHOPRA. It is a great question, and I share this interest completely about how we can both simultaneously increase trusts in the financial system, but also make sure that the financial system isn't widening inequities and gaps but is actually part of closing it and part of making sure that everyone can access the opportunities that they seek, particularly when it comes to housing.

I am going to ask the staff to give me more of a review of the use of special purpose credit programs. It is something I know that I will be keen to talk to the other regulators and the Treasury Department about. But I do think it is one of many ways that we can ensure there is not discriminatory lending, but also take steps to reverse some of the disgusting redlining practices of the past.

Ms. GARCIA OF TEXAS. Right. And just to be clear, you are the head of the Consumer Financial Protection Bureau, right? Emphasis on, "Consumer."

Mr. CHOPRA. That is exactly right.

Ms. GARCIA OF TEXAS. So, what are you doing to ensure that your Agency is inclusive and diverse in its practices, in its programs, and specifically, I am always concerned about financial literacy in materials from your Agency and in programming that would be reflective of the different languages spoken around the country?

Mr. CHOPRA. Yes, language—

Ms. GARCIA OF TEXAS. I just see a lot of language barriers in financial transactions.

Mr. CHOPRA. There are, and I think we should be embracing the fact that a strength of our country is having so many people from all over the world and being able to engage in commerce and banking in a way that they can understand, and that is comfortable for them. I do want to look at our authorities to be able to support those institutions who share that point of view.

Being inclusive is not just about having one brochure in Spanish. It has to go much, much further than that. I don't have a great specific answer for you right now, but I completely share in what you are saying, and I am going to think more and look into what authorities we have to advance that goal.

Ms. GARCIA OF TEXAS. Right. And within your own materials, your own implementation of some of your programs, you will work to ensure that they are reflective of the languages that are spoken in the different parts of the country?

Mr. CHOPRA. That is right. And I want to make sure in particular, I have set a goal that our consumer complaints should be broadly reflective in terms of the geographies that we serve across our country and including the languages we serve. Already, we have made—in the past, there have been more languages where consumers can call, and file complaints. I want to see how that is going.

Ms. GARCIA OF TEXAS. Thank you, and I see my time is up, so I yield back.

Chairwoman WATERS. Thank you very much. The gentleman from Massachusetts, Mr. Auchincloss, who is also the Vice Chair of the Full Committee, is now recognized for 5 minutes.

I understand that Mr. Auchincloss has left the room. At this time, I would like to thank our very distinguished witness for his testimony today.

The Chair notes that some Members may have additional questions for this witness, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to this witnesses and to place his responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

With that, this hearing is adjourned.

Thank you.

[Whereupon, at 2:03 p.m., the hearing was adjourned.]

A P P E N D I X

October 27, 2021

For Release Upon Delivery
10:00 a.m.
October 26, 2021

STATEMENT OF
ROHIT CHOPRA
DIRECTOR
CONSUMER FINANCIAL PROECTION BUREAU
Before the
COMMITTEE ON FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES
October 27, 2021

Statement Required by 12 U.S.C. §5492

The views expressed herein are those of the Director and do not necessarily reflect the views of the Board of Governors of the Federal Reserve System or the President.

Written Testimony of Rohit Chopra
Director, Consumer Financial Protection Bureau
Before the House Committee on Financial Services
October 27, 2021

Chairwoman Waters, Ranking Member McHenry, and distinguished Members of the Committee, I am pleased to appear before you today in conjunction with the Consumer Financial Protection Bureau's submission of the Semiannual Report to Congress.

Two weeks ago, I was honored to be sworn in as the Bureau's Director.

Economic Conditions

2021 is far different than 2020. The economy is reopening and growing. Labor demand is strong, and employers have added millions of new jobs. Household spending has rapidly increased, and demand for housing is robust. While these macro indicators are promising, the recovery has been uneven.

In many parts of the country and in many individual neighborhoods, conditions remain fragile. Many families continue to struggle to afford their mortgage and rent payments. Many small businesses are facing severe challenges to make ends meet. And, many communities have not felt much of a recovery, especially communities of color and neighborhoods that have been historically disadvantaged.

Household debt has started to increase at a faster rate. American families owed $15 trillion as of the end of the second quarter of this year, roughly $800 billion more than at the end of 2019. From July of 2020 through June of this year, mortgage originations, including refinancing, hit historic highs with $4.6 trillion in originations. There has been high demand for auto loans, and Americans now owe $1.4 trillion in auto debt.

The CARES Act has kept delinquency rates on mortgages and student loans at low levels. However, many of the borrower forbearance programs have expired, so we lack a complete picture about distress. Many family farmers continue to confront significant challenges and the immediate outlook for the sector remains highly uncertain. Medical debt in collections continues to grow as a concern for many households.

Market Monitoring

Congress has tasked the CFPB with monitoring market conditions to spot risks, ensure compliance with existing law, and promote competition in order to protect families and honest businesses.

Most importantly, the CFPB is carefully monitoring conditions in the mortgage market and is taking steps to minimize avoidable foreclosures. Avoiding unnecessary foreclosures and putting homeowners into repayment plans they can afford is essential. In June, the CFPB put forth an interim rule with the goal of ensuring an orderly transition back to repayment, so families do not experience unnecessary hardship and disruptions in the mortgage market do not impede the recovery. We are keen on understanding how homeowners from different segments of the population are faring, including communities of color, military-connected families, older Americans, first-time homeowners, and family farmers.

Technological progress holds the potential for enormous benefits to households and the economy, particularly with respect to real-time consumer payments. At the same time, the desire of Big Tech to gain greater control over the flow of money in the economy raises a number of questions. For example, how will these firms harvest and monetize data they collect on our transactions? What criteria will they use to decide who is removed from the platform? How will they ensure that payment systems adhere to consumer protections? Will Big Tech giants have an incentive to impede the entry of new firms seeking to offer competitive products and services?

With this in mind, the CFPB has issued orders to dominant firms such as Facebook, Google, Apple, Amazon, Square, and PayPal to shed light on some of these questions. We will also be studying some of the practices of Chinese tech giants, including services provided by WeChat Pay and AliPay. These efforts complement other work within the Federal Reserve System to ensure families and businesses can rely on a fast and reliable payments system. It will also inform other initiatives to ensure that our evolving payments landscape is in alignment with our national interest.

Given the state of today's economic conditions, the Bureau also intends to ramp up its monitoring of other markets and their impact on specific population segments.

Path Forward

The CFPB intends to faithfully and fairly administer the consumer financial laws entrusted to the agency by Congress. We must use our tools to promote an equitable and inclusive recovery. Given existing economic conditions and these tools, I expect to have several areas of focus.

First, I hope to focus attention on ways to stimulate greater competitive intensity in consumer financial markets. When I was last at the CFPB, we undertook a number of initiatives to promote student loan refinancing options for borrowers to obtain lower rates and better loan servicing. Today, there are many other places where greater competitive intensity would benefit households and businesses alike. For example, I am concerned that there is a dearth of competition in the mortgage refinance market for families with lower balance mortgages. The lack of refinancing may disproportionately affect communities of color and others that are historically disadvantaged. There is also evidence to suggest that many Americans could be paying lower interest rates on their credit cards or earning higher interest rates on their savings.

We will be keeping a close eye on practices that might impede competition, we plan to listen carefully to local financial institutions and nascent competitors on the obstacles they face when seeking to challenge dominant incumbents, including in Big Tech.

Second, I anticipate that the CFPB will sharpen its focus on repeat offenders, particularly those that violate agency or federal court orders. The agency has now entered into a substantial number of orders, largely by consent of the agency and the financial institution, and it will be critical that we closely monitor compliance with these orders. Repeat offenders that violate orders and cause ongoing harm to families and law-abiding businesses must be stopped.

The CFPB will need to work closely with state regulators and other federal banking regulators, like the Office of the Comptroller of the Currency, in order to fashion appropriate remedies for repeat offenders.

Third, we will look for ways to restore relationship banking in an era of big data. As automation and algorithms increasingly define the consumer financial services market, there is less transparency into how credit decisions are made. In some cases, these practices can unwittingly reinforce biases and discrimination, undermining racial equity.

Increasingly, households and businesses have no place to turn to when they need help, especially when they face errors and problems in their financial lives. In markets like credit reporting, consumers are not the customer and lack the leverage to get problems fixed in a timely manner. The inability to cut through red tape and get help in one's financial life can be a major obstacle when seeking a job or when applying for credit. Preserving relationship banking is critical to our nation's resilience and recovery, particularly in these times of stress.

Thank you for the opportunity to appear before you today, and I look forward to your questions.

CONSUMER BANKERS ASSOCIATION

October 26, 2021

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
4340 O'Neill House Office Building
Washington, D.C. 20151

Dear Chairwoman Waters and Ranking Member McHenry:

The Consumer Bankers Association (CBA) submits the following comments for the hearing entitled "Bringing Consumer Protection Back: A Semi-Annual Review of the Consumer Financial Protection Bureau." We appreciate the Committee's continued oversight of the Consumer Financial Protection Bureau (CFPB or Bureau) and its activities. CBA is the voice of the retail banking industry whose products and services provide access to credit to millions of consumers and small businesses. Our members operate in all 50 states, serve more than 150 million Americans and collectively hold two-thirds of the country's total depository assets.

CBA looks forward to working with Congress to ensure fairness and transparency at the CFPB, who is charged with the duty of protecting consumers financial wellbeing. In this letter, we offer legislative and regulatory suggestions to lawmakers and the Bureau for the purpose of ensuring consumers continue to have access to highly regulated financial products that enable them to achieve their financial goals. The remainder of this letter is organized into two main sections:

- Bipartisan CFPB Commission: This section discusses creating a bipartisan commission to insulate the CFPB from being a political football that is subjected to political swings with every new administration.

- Regulatory Actions: This section urges the CFPB to use the Administrative Procedures Act (APA) process to avoid rulemaking by enforcement and to write a larger participant rule to include unsecured loans by nonbank companies. The remaining subsections highlight CBA's recommendations in creating rules for Sections 1071 and 1033 of the Dodd-Frank Act.

Bipartisan CFPB Commission

Consistent consumer protection laws are necessary to ensure American families are best safeguarded. Stability between administrations and a need for transparency within regulatory agencies is vital to a fair and competitive financial services marketplace. CBA renews our long-standing call to Congress: Immediately pass legislation to put in place a bipartisan commission to bring stability and insulate the Bureau from political shifts.

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Replacing the sole director model with a bipartisan, Senate confirmed, five-person commission will depoliticize the CFPB and increase stability, accountability and transparency. The lack of certainty and long-term consistency in leadership at the Bureau adversely affects consumers, our economy, and the financial services industry. For instance, after the departure of both Directors from the two previous Administrations, the CFPB endured drastic political changes. These political shifts make it difficult for the financial services industry to plan long term, which ultimately stifles innovation, limits access to credit, and hurts consumers. As demonstrated by other government regulators, a bipartisan commission would create more certainty and stability so banks can plan and better serve consumers. Passing legislation to create a five-person, bipartisan commission at the Bureau will bring needed long term stability to.agency.

Regulatory Recommendations to Improve CFPB

CBA shares the CFPB's goal to improve the financial lives of consumers. Banks can share in this common mission when they have stable and even-handed regulatory frameworks to serve consumers. These regulatory recommendations will help ensure "financial markets work for consumers, responsible providers, and the economy as a whole:"

1. Avoid "rulemaking by enforcement" and utilize the Administrative Procedures Act (APA) to create clear, transparent rules by including supervised stakeholders in the process.
2. Amend the larger participant rule to include unsecured consumer loans so that the Bureau can supervise key nonbank financial companies in the market.
3. Expand the Section 1071 implementation timeline to 3 years and lower the covered entities threshold to $1 million in annual revenue.
4. Include sufficient security safeguards in the Section 1033 rule to protect consumer permissioned data shared throughout the data access ecosystem and require knowing, voluntary consent for the use of consumer data.

The remainder of this section provides additional context for each of these regulatory recommendations.

Use Formal Rulemaking Process and Avoid Regulation by Enforcement

The practice known as, "regulation by enforcement" leads to a lack of clear guidance and excess legal costs. Former Director Richard Cordray stated publicly on numerous occasions that companies should draw their understanding of the compliance and legal requirements of federal law by studying consent orders and other enforcement actions by the CFPB.
Enforcement actions are not, especially if they are negotiated consent orders, a fair representation of the regulator's compliance expectations of others. Operating under the concept of "regulation by enforcement", banks are forced hire additional lawyers to better understand and comply with the law – with still a number of unknown probable's they are left to decipher. Conversely, the rulemaking process, as mandated by the Administrative Procedure Act (APA)

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and the Dodd-Frank Act, demands the CFPB adhere to a strict process that invites those who are affected by a proposal to have a say in the creation of the rule, thus increasing clarity for all stakeholders. The CFPB should utilize the APA's rulemaking process to create laws and guidance for supervised financial institutions and reject "regulation by enforcement".

Amend the Larger Participant Rule to Reach Fintechs Offering Unsecured Loans

CBA urges the Bureau to add unsecured consumer loans to the larger participant rule so the Bureau can supervise key nonbank actors in that market. Financial technology companies (fintechs) increasingly provide financial products and services, but their activities are largely unsupervised by the Bureau, leaving customers vulnerable to abuse. Fintechs offering products like those offered by the nation's leading retails banks must be held to similar standards to ensure consumers are protected. The Bureau should invoke 12 U.S.C. § 5514 to extend its authority over larger participants in markets in which fintechs are becoming increasingly more prevalent with each passing year.

A failure to examine fintechs does not just contribute to an uneven playing field between fintechs and supervised entities, but more importantly, results in a continuous and growing threat of consumer harm. Consumers are best protected when entities offering similar financial products and services are subject to the same oversight. Due to the growing popularity of products offered by nonbanks in the unsecured consumer lending market, and the prior actions by the Bureau against bad actors in this market, the unsecured consumer lending market is the perfect place for the Bureau to focus its supervisory authority through the larger participant rule.

Provide Sufficient Implementation Time and a Reasonable "Small Business" Threshold

The CFPB should provide a sufficient implementation timeline for the Section 1071 rule and lower the threshold for "small business." On September 1, 2021, the CFPB issued a notice of proposed rulemaking (NPRM) requesting public comment on its proposed rule to implement Section 1071 of the Dodd-Frank Act. As we have maintained since the promulgation of Dodd-Frank, CBA and its member institutions strongly believe that the CFPB should keep top of mind that although Section 1071 mandates this rule, its implementation will not be a simple process and compliance will have to streamlined to ensure reliable data. While we continue to identify concerns with the NPRM, below are CBA's top issues to note:

- The proposed 18-month timeline is too restrictive. Lenders need at least three years to implement Section 1071 data collection requirements.
- A $5 million dollar annual gross revenue threshold is too high. We urge the CFPB to lower the threshold to $1 million dollars for covered small businesses.

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The following section provides additional analysis of CBA's observations concerning the proposed Section 1071 rule.

- First, the CFPB has proposed an extremely constrictive implementation period of just 18 months. This approach rejects the two-year deadline endorsed in the Bureau's SBREFA outline and asserts that an implementation period of less than two years is preferable given the length of time since the passage of Dodd-Frank. In doing so, the CFPB inappropriately shifts the time burdens of the delayed rulemaking from itself to covered lenders. To implement an effective 1071 data collection process, lenders will need to build completely new reporting systems, requiring great time and expense. By way of comparison, the recent changes to the HMDA reporting system, which already had a strong foundation, took the CFPB over two years to implement. FinCEN's recently promulgated Beneficial Ownership Rule (or Customer Due Diligence), which is a far less complicated data collection compared to 1071, had a three-year implementation timeframe (2015-2018). Simply put, lenders will need considerably more time than proposed to get this right.

- Secondly, while we agree with a standardized revenue-based approach, a $5 million gross annual revenue threshold is simply too high. Under the proposed rule, a business is a "covered entity" if its gross annual revenue for its preceding fiscal year is $5 million or less. As acknowledged in the NPRM, most SBREFA small entity representatives commented a majority of their small business customers were under $1 million in annual revenue. Companies that fall above the $1 million threshold often offer different structures, are more sophisticated, and data collection would bleed into separate commercial banking operations with different systems, processes, and platforms, increasing the cost of collection, but offering little insight into actual small business lending. Lower the threshold to focus on entities that are truly small businesses.

Protect Consumers Throughout the Entire Data Access Ecosystem

A strong 1033 rule will hold all data holders accountable for consumer data security and privacy, mandate consent and data minimization, and ensure any regulation provides flexibility for continued innovation. Section 1033 of the Dodd-Frank Act states, "subject to rules prescribed by the Bureau, a covered person shall make available to a consumer, upon request, information in the control or possession of the covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including information relating to any transaction, series of transactions, or to the account including costs, charges and usage data. The information is to be made available in an electronic form usable by consumers." The current framework lacks adequate safeguards to ensure consumers' personal financial information is protected when leaving a regulated and supervised financial institution. For instance, there is no regulatory framework that establishes liability for the various data holders throughout the data access ecosystem. This uncertainty leaves consumers vulnerable to bad actors.

CBA urges the CFPB to prioritize the following in the proposed Section 1033 Rule:
- Provide sufficient security safeguards for consumer access to their financial data
- Make certain consumers are provided informed consent.

The following section provides additional context regarding CBA's top priorities for a Section 1033 Rule:

- Consumers should have full awareness and control over how their data is shared and used. Currently, if consumers' data is shared with a fintech, they likely have no knowledge of how their data is used beyond the intended purpose. Consumers also commonly mistake deleting a fintech app with revoking consent.As a result, fintechs have continued, unfettered access to consumer information even after the relationship has been severed. Therefore, consumers need clarity about secondary uses. The consumer should understand any potential use cases for their permissioned data and how to delete their information. In addition, a potential reauthorization requirement would prevent data aggregators from having infinite, unfettered access to consumer data. CBA urges the proposed rule mandate knowing, voluntary consumer consent through disclosures.

- The CFPB is responsible for facilitating a safe and secure data access ecosystem. Data holders and fintechs are not subject to the same data security and privacy standards as banks. This lack of regulation leaves consumer data exposed to potential bad actors. In addition, some data holders use screen scraping techniques to access consumer permissioned data. Screen scraping does not allow banks to know which data fields are being accessed or to control the flow of access to guard against potential misuse. CBA urges the CFPB to apply a GLBA or a GLBA-like data privacy and security standard to all participants in the ecosystem. Regulation is needed to balance the consumers' right to access their data with reasonable and appropriate controls.

Conclusion

All consumers deserve consistent and equal protections regardless of financial institution or market participant. With new players entering the space every day, the world of financial services is constantly evolving. Many new stakeholders are not currently required to abide by the same rules as well-regulated banks the Bureau oversees. To ensure the most thorough consumer protection initiatives are upheld, the Bureau should strive to create a level playing field for all financial institutions. The CFPB has an obligation to apply consumer regulations equally across the board so Americans using a fintech or non-bank lender are assured the same protections as those using a well-regulated bank. CBA stands ready to work with Congress and the CFPB to implement suggested legislative and regulatory improvements to the Bureau, and we appreciate the opportunity to submit this statement for the record.

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Sincerely,

Richard Hunt
President and CEO

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September 9, 2019

The Honorable Kathleen L. Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Response to ANPR on the Qualified Mortgage Definition (RIN 3170-AA98)

Dear Director Kraninger:

Thank you for the opportunity to respond to the Advance Notice of Proposed Rulemaking (ANPR) on the Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z). We, the undersigned entities, represent a broad coalition of the nation's largest mortgage lenders,[i] consumer advocacy and civil rights organizations, and leading industry trade associations. Together, we work tirelessly to expand access to homeownership for millions of people in communities across the United States in a safe, sustainable, and transparent way.

We appreciate the efforts of the Consumer Financial Protection Bureau (CFPB or Bureau) to solicit our independent views regarding the Ability to Repay / Qualified Mortgage (ATR-QM) rule and the impact of the expiration of the Government-Sponsored Enterprise (GSE) Patch on market participants. Our companies, organizations, and members held a series of collaborative discussions with the goal of finding broad consensus around key components of the regulation to inform Bureau deliberations on a new definition for QM. We write to articulate these points of consensus and to encourage the Bureau to consider our position as it establishes the future regulatory framework governing QM. Many of the organizations participating in this coalition will also submit separate letters to present their unique perspectives for balancing risk, healthy market competition, and broad access to sustainable credit within the context of the regulatory framework.

Consensus Position

We propose the following for the ATR-QM rule, to coincide with the expiration of the GSE Patch, to preserve access to sustainable loans for creditworthy borrowers and avoid market disruption:

1. Eliminate from the general QM category the debt-to-income (DTI) ratio requirement and the associated Appendix Q;[1]
2. Maintain and enhance the existing ATR regulatory language; and
3. Maintain the existing QM statutory safe product restrictions that prohibit certain risky loan features (e.g., no terms over 30 years, no negative amortization, no interest-only payments, no balloon payments, documented and verified income, etc.) and clarify provisions related to documentation and verification of income.

The GSE Patch has provided an alternative to the DTI ratio threshold, as well as relief from the rigid requirements for verifying and calculating income, assets, and debts for DTI ratios under Appendix Q for non-W-2 wage earners.[ii] The GSE Patch has facilitated access to

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[1] Some signatories recommend that CFPB retain the DTI ratio measure, with improved standards for calculating the DTI ratio, for QM loans that are not "prime or near-prime" loans – those with a rate spread of 250/300 basis points over the Average Prime Offer Rate (APOR) or more, which carry greater risks to borrowers; see https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-a-smarter-qualified-mortgage-july2019.pdf. None of the signatories to this letter oppose this proposal.

homeownership for approximately 3.3 million creditworthy borrowers who collectively represent nearly 20 percent of the loans guaranteed by the GSEs over the last 5 years.[iii] Moreover, analysts estimate that roughly $260 billion (within a range of $200-320 billion) of 2018 total mortgage loan origination volume met the QM definition under the GSE Patch.[iv] But lending outside of the Patch and the Federal Housing Administration channel has been limited largely because of the difficulty of complying with QM's hard DTI cap and the related requirements of Appendix Q, while the Patch has provided the regulatory certainty that was far more attractive to lenders. After the Patch expires, the best way to enable fair market competition across all lending channels while also ensuring that these creditworthy individuals can be served in a safe and sound manner under the existing ATR-QM framework is to eliminate the DTI ratio for prime and near-prime loans[v] and with it Appendix Q.

Credit Risk Safeguards and Consumer Protections

The CFPB designed the original ATR-QM rule with three core components that mutually reinforce the statutory mandate for creditors to lend to consumers safely: i) ATR requires comprehensive underwriting; ii) QM establishes a set of product restrictions that reinforce the law's safeguards that consumers have the ability to repay their loans; and iii) Safe Harbor protections create an incentive for mortgage creditors to produce ATR-compliant, QM loans. These three regulatory levers collectively encourage creditors to serve customers through fully-underwritten, safe, and affordable mortgages. Because of this layered regulatory framework, the proposal described above would enable continued access to credit without introducing additional credit risk to the marketplace or disrupting access to credit.

Today, all mortgage loans must be underwritten in accordance with the ATR statute. This requirement should continue to be the bedrock of compliance, and nothing we are proposing would change that reality.[vi] We believe that consumers and creditors alike would also benefit from further clear guidance in the future on the ATR statutory underwriting requirements, including that creditor underwriting practices aimed at "equity stripping" and collateral-based lending is expressly prohibited.

The Safe Harbor measure reinforces the underwriting mandate by assuring that only loans priced as low-credit-risk transactions receive the strongest protections from legal liability. The Bureau's own assessment of the ATR-QM rule indicated the influence of this feature on creditors' lending activities. The coalition commends the CFPB for crafting this regulatory framework, which created not only a solid foundation for sound underwriting, but also a compelling incentive for creditors to originate QM loans.

Access to Credit

The Bureau has a unique opportunity to modify the ATR-QM rule to meet the needs of a changing housing market. Elimination of the DTI requirement for prime and near-prime loans[vii] would preserve access to sustainable credit for the new generation of first-time homebuyers in a safe and sustainable way and in accordance with the fundamental ATR requirements. This change is especially important for reaching historically underserved borrowers, including low- to moderate-income households, and communities of color. Household formation growth is being largely driven by communities of color throughout the nation. According to projections by the Urban Institute, in 2030 10.4 million new households will be people of color. Of these total new households, 46 percent are projected to be Hispanic, 18 percent are Black, 24 percent are other races, and only 12 percent are projected to be non-Hispanic white. If we look instead at just homeowners, Hispanics, for example, are projected to account for 56 percent of all new homeowners between 2020 and 2030.[viii] Communities of color are more likely to have lower incomes, live in multi-generational households, have thin to no traditional credit history, be self-employed and participate in the gig-economy. If the mortgage market fails to support those potential new homeowners along their home buying journey, the nation will bear the economic consequences.

By retaining the most effective aspects of the ATR-QM rule, including the core underwriting and documentation/verification requirements of ATR and the QM product feature restrictions, we believe the Bureau can act to counter the effects of systemic headwinds that face both first-time and repeat homebuyers and facilitate the responsible and steady emergence of this new generation into homeownership.

Marketplace Innovation

We believe that our proposal will also help increase competition across the marketplace, reduce systemic risk, and expand the participation of private insurers and investors with strong interest in innovative approaches to creditor decisioning that will drive enhanced, yet prudent underwriting to occur outside of the conforming conventional market.

The Bureau's five-year lookback assessment of the ATR-QM rule highlights the market impact and distortions created by the GSE Patch, which provides an exemption from the DTI limit and Appendix Q only for loans that meet the underwriting requirements of the GSEs.[ix] The Bureau's analysis shows that the GSEs maintained a consistently higher share of the market, while growth in QM loans issued as private-label securities and non-QM loans remains small. Notably, the lookback assessment indicates that the rule displaced between 63 and 70 percent of approved applications for home purchase among high-DTI borrowers seeking loans not eligible for GSE purchase from 2014-2016, despite this segment of borrowers often demonstrating greater levels of creditworthiness.[x]

The Bureau also noted that part of the GSE market share can be attributed to automated, dynamic underwriting standards.[xi] By contrast, subjecting most of the mortgage market to the rigid language of Appendix Q would cause significant market disruption and delay to consumers nationwide by stifling innovations that have improved accuracy and predictability in the mortgage loan process.

Further, a DTI ratio is not intended to be a stand-alone measure of credit risk and, on its own, is widely recognized as a weak predictor of default and one's ability to repay. DTI ratios must be considered within the context of a full set of risk factors used to underwrite the loan. These risk factors are weighed and balanced against one another to provide the creditor with a comprehensive view of the borrower's financial profile.

Under the coalition proposal, private capital providers, mortgage insurers, and lenders will have the opportunity to develop better risk analytics and models, in accordance with fair lending laws, than are possible under the constraints of the GSE Patch or Appendix Q, so long as those underwriting criteria fully satisfy ATR and QM requirements. In other words, the removal of the DTI requirement for prime and near-prime mortgages[xii] provides the marketplace with the prospect of new ways to meet consumer demand using sound, ATR-compliant underwriting and safe QM products to ensure satisfaction of the fundamental statutory and regulatory requirements.

Conclusion

In sum, the coalition advocates that the Bureau should retain among the requirements of QM the explicit Safe Harbor and product features but remove the DTI requirement for prime and near prime loans when the GSE Patch expires. We are not advocating for a pricing or rate spread indicator to serve as a substitute for a DTI ratio in the QM definition; rather we are arguing that the application of a DTI ratio threshold and Appendix Q for prime and near prime loans[xiii] is unwarranted. The Dodd-Frank Act ATR obligation requires that creditors underwrite the loan to determine the borrower's ability to repay, a requirement that the CFPB can supervise and enforce to deter irresponsible lending practices.

We believe the consensus ideas that our broad coalition has outlined can help the Bureau craft a forward-thinking QM definition that embraces the technological advances and innovation in the mortgage finance industry. These considerations would also recognize the rapidly transforming nature of our increasingly diverse economy and would help a new generation achieve homeownership. We strongly urge the Bureau to continue its engagement with all relevant stakeholders, including industry, civil rights, and consumer groups. We look forward to continuing to work with the Bureau as the Administration and Congress consider important reforms to our nation's housing finance system.

Sincerely:

[i] Lenders are referred to herein as “creditors” to align with definitions under TILA.

[ii] Non-W-2 wage earners are defined as borrowers whose employment type is self-employed, seasonal, multiple part-time / ”gig economy,” multigenerational household income, or retirees.

[iii] Goodman, Laurie, “New Data Confirm the Urgency of Addressing the Expiration of the GSE Patch,” Urban Institute, March 25, 2019, https://www.urban.org/urban-wire/new-data-confirm-urgency-addressing-expiration-gse-patch.

[iv] Carroll, Pete, “Expiration of the CFPB’s Qualified Mortgage ‘GSE Patch’ – Part 1: GSE Patch accounted for an estimated $260 billion, or 16%, of 2018 home loan originations,” CoreLogic, July 11, 2019, https://www.corelogic.com/blog/2019/07/expiration-of-the-cfpbs-qualified-mortgage-gse-patch-part-1.aspx.

[v] See footnote 1.

[vi] CFPB, 2019, “Ability-to-Repay and Qualified Mortgage Rule Assessment Report,” https://files.consumerfinance.gov/f/documents/cfpb_ability-to-repay-qualified-mortgage_assessment-report.pdf pages 36-37.

[vii] See footnote 1.

[viii] Goodman, Laurie, “New Data Confirm the Urgency of Addressing the Expiration of the GSE Patch,” Urban Institute, March 25, 2019, https://www.urban.org/urban-wire/new-data-confirm-urgency-addressing-expiration-gse-patch.

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[ix] CFPB, 2019, “Ability-to-Repay and Qualified Mortgage Rule Assessment Report,” https://files.consumerfinance.gov/f/documents/cfpb_ability-to-repay-qualified-mortgage_assessment-report.pdf, pages 10-12, 69-79, 194-196.

[x] CFPB, 2019, “Ability-to-Repay and Qualified Mortgage Rule Assessment Report,” https://files.consumerfinance.gov/f/documents/cfpb_ability-to-repay-qualified-mortgage_assessment-report.pdf, page 117.

[xi] CFPB, 2019, “Ability-to-Repay and Qualified Mortgage Rule Assessment Report,” https://files.consumerfinance.gov/f/documents/cfpb_ability-to-repay-qualified-mortgage_assessment-report.pdf, pages 10-12, 69-79, 194-196.

[xii] See footnote 1.

[xiii] See footnote 1.

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October 26, 2021

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Re: Tomorrow's Hearing: "Bringing Consumer Protection Back: A Semi-Annual Review of the Consumer Financial Protection Bureau"

Dear Chairwoman Waters and Ranking Member McHenry:

I write today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's hearing entitled "Bringing Consumer Protection Back: A Semi-Annual Review of the Consumer Financial Protection Bureau." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 127 million consumers with personal and small business financial service products. NAFCU appreciates the Committee's ongoing oversight of the Consumer Financial Protection Bureau (CFPB or Bureau) and efforts to promote financial inclusion and consumer protection. We welcome this opportunity to share our thoughts on some current issues pertinent to the CFPB.

Use of Small Entity Exemption Authority

NAFCU believes that the CFPB should utilize its statutory exemption authority to recognize the unique nature of and constraints faced by the credit union industry. Since enactment of the *Dodd-Frank Wall Street Reform and Consumer Protection* (Dodd-Frank) *Act*, the credit union industry has faced massive consolidation, with many institutions forced to close their doors or merge with other credit unions. The rate of consolidation has only increased since creation of the CFPB. A majority of credit unions that have closed or merged were smaller in asset size, and as such, could not afford to comply with all the rules promulgated by the CFPB. Therefore, it is incumbent upon the CFPB to provide some degree of regulatory relief for small entities that cannot afford to comply with complex rules and would otherwise be forced to stop offering services to members.

Although the CFPB has provided past exemptions based on an entity's asset size, such as the qualified mortgage (QM) and *Home Mortgage Disclosure Act* (HMDA) rules' small entity exemption, the CFPB could do more to recognize that not all financial institutions operate the same way by tailoring its regulations to provide exemptive relief based on those differences. NAFCU encourages the CFPB to further utilize its exemption authority under section 1022 of the Dodd-Frank Act to take into account the unique structure and characteristics of the credit union industry.

Unfair, Deceptive, or Abusive Acts and Practices (UDAAP)

Credit unions are devoting more resources to UDAAP compliance due to unclear standards and the unpredictability of enforcement, so the CFPB should issue a rulemaking to clarify its UDAAP authority. Since the enactment of the Dodd-Frank Act, NAFCU has asked for clear, transparent guidance from the CFPB on its expectations for credit unions under the law and its regulations. In January 2020, the CFPB issued a policy statement providing a framework for how the Bureau applies the "abusive" standard in UDAAP supervision and enforcement matters; however, the CFPB quickly rescinded this guidance earlier this year. NAFCU's members appreciated this guidance because the attention and resources dedicated to UDAAP compliance have continued to increase over the last few years. NAFCU members estimated a seven percent increase from last year in the number of full-time equivalent staff members devoted to UDAAP compliance over the next three years, according to NAFCU's 2020 Federal Reserve Meeting Survey.

NAFCU encourages the CFPB to continue to provide more clarity on the specific factual bases for violations. Details on and examples of the specific factual bases for violations will assist credit unions in mitigating the risks of a violation. This clarity and certainty are especially critical to providing relief at a time when credit unions are making every effort to assist their members facing difficult economic situations. Credit unions should not be unnecessarily worried about facing potential UDAAP violations during a pandemic and economic crisis due to an unclear standard and unpredictable enforcement. The CFPB should consider a UDAAP rulemaking to enhance transparency and accountability and provide the financial services industry with some predictability regarding this amorphous standard. Additionally, NAFCU asks that the CFPB work closely with the National Credit Union Administration (NCUA) to resolve questions regarding whether certain credit union powers conferred by the FCU Act may be subject to the CFPB's UDAAP authority.

Examinations

The CFPB should better coordinate with NCUA examiners to limit exam burden and streamline processes and procedures. NAFCU urges the CFPB to further enhance its coordination with the NCUA to alleviate examination burdens on credit unions that are over $10 billion and subject to examination by the both the NCUA and CFPB. These credit unions are experiencing overlapping or consecutive examinations, which poses an immense operational burden and diverts valuable resources away from credit union members. An overlapping or back-to-back examination can last well over a month and takes credit union employees away from their daily responsibilities to respond to examiner requests, impairing the credit union's ability to serve its members and communities.

The recent memorandum of understanding (MOU) between the CFPB and NCUA is an initial step, and we encourage the CFPB to make every effort to better coordinate with the NCUA to ensure examiners from both institutions are not examining a credit union simultaneously or consecutively. There should be a reasonable amount of time in between CFPB and NCUA examinations so that credit unions can quickly get back to the important business of serving their members.

The CFPB should also avoid duplication of examination functions. The recent addition of an information technology examination component in the CFPB's latest Supervision Manual suggests that such duplication may occur. The NCUA is the functional regulator charged with implementing and administering the technical safeguards provisions of the *Gramm-Leach Bliley Act* (GBLA) for credit unions. The CFPB should not seek to expand its supervisory jurisdiction by performing overlapping, IT-based examinations that are more capably executed by financial institutions' prudential regulators. However, the Bureau should continue to administer IT-based exams for nonbank fintech companies that are not regularly examined by a functional regulator such as the NCUA or Federal Deposit Insurance Corporation.

Electronic Signatures in Global and National Commerce Act (E-SIGN)
NAFCU urges the CFPB to adopt more flexible rules for the acceptance and delivery of electronic signatures and disclosures. Considering the impacts of the COVID-19 pandemic, modernizing E-SIGN would assist credit union members and alleviate compliance burdens for institutions. The current requirement for consumers to "reasonably demonstrate" access to electronic information before consenting to the receipt of electronic disclosures is cumbersome and antiquated. This delays the administrative processing of loan modifications, deferrals, fees waivers, or other service changes that, when disclosed electronically, must comply with E-SIGN.

While credit unions appreciated pandemic-related E-SIGN relief, the CFPB's statement authorizing more flexible E-SIGN procedures in June 2020 has since expired.[1] The now-rescinded supervisory statement allowed for a credit card issuer, under Regulation Z, to obtain a consumer's oral consent to electronic delivery of written disclosures through an oral affirmation of his or her ability to access and review the electronic written disclosures.[2] Credit unions were able to use this additional authority to more efficiently address the credit needs of their members. Furthermore, the Bureau has provided no indication that the use of these more flexible E-SIGN procedures increased the risk of consumer harm.

E-SIGN itself also lacks clarity regarding when a credit union must update a statement of the hardware and software requirements to access and retain electronic disclosures. Lastly, E-SIGN does not clearly state whether a member's initial E-SIGN consent is sufficient for all subsequent transactions between the credit union and the member. NAFCU urges the CFPB to allow for the delivery of electronic disclosures without having to obtain prior consent, so long as the consumer is initiating the transaction using an online service. In addition, the CFPB should clarify that a financial institution that obtains presumptive consent once may rely on it in the future for all subsequent related transactions.

Use of Larger Participants Authority to Oversee Fintechs
The CFPB should use its authority under the Dodd-Frank Act to oversee a grossly under-regulated industry of fintech companies that offers consumers a wide array of products and services digitally, across state lines, ranging from mortgage servicing to mobile payments and peer-to-peer lending. The actions taken last week by the CFPB to look at larger fintech companies operating in the payments space were a good first step.

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[1] See https://www.consumerfinance.gov/about-us/newsroom/cfpb-rescinds-series-of-policy-statements-to-ensure-industry-complies-with-consumer-protection-laws/.
[2] https://files.consumerfinance.gov/f/documents/cfpb_final-rescission_electronic-cc-discl-e-sign-consent-cons_2021-03.pdf

State-level supervision does not suffice as many fintech companies continue to grow exponentially by offering access to convenient online financial tools. The longer these companies go unchecked, the greater the risk of consumers facing a significant loss or violation of their rights. The Dodd-Frank Act grants the CFPB the authority to regulate a covered person who "is a larger participant of a market for other consumer financial products or services, as defined by [a] rule" issued in consultation with the Federal Trade Commission. This same section of the Dodd-Frank Act also grants the CFPB the authority to supervise larger participants' compliance with federal consumer financial law through periodic reports and examinations, obtain information about the activities and compliance systems used by larger participants, and detect and assess risks to consumers and to the markets for consumer financial products and services. Certain fintech companies conduct a substantial volume of transactions involving consumer financial products and services while not being subject to direct supervision by a federal financial regulator.

The CFPB should exercise its authority over larger participants in the consumer financial markets, much in the same way it did in the 2012 final rules for larger participants of the markets for consumer reporting and consumer debt collection. Should the Bureau conclude its "larger participant" authority in the Dodd-Frank Act does not authorize it to issue rulemakings and conduct examinations for fintech companies, then NAFCU would urge support for a legislative amendment to the Dodd-Frank Act to explicitly provide such authority.

Regulation E

We also believe that Congress or the CFPB should ensure that the *Electronic Fund Transfer Act* (Regulation E) has a clear error resolution mechanism that ensures that third parties are also held accountable for helping resolve the issue when a dispute arises. Credit unions shoulder unique investigative burdens when a transaction involves a mobile payment application. As mobile payment applications become more prevalent, there should be more clarity or guidance regarding the responsibilities of mobile payment platform providers to resolve disputes, especially with respect to instances of fraud. Error resolution investigations put a strain on credit union resources and in certain situations credit unions may not be the best party to investigate a dispute. We believe Congress and the CFPB should examine what protections are needed to combat app-based fraud.

CFPB Commission

NAFCU has long held the position that, given the broad authority and awesome responsibility vested in the CFPB, a five-person commission has distinct consumer benefits over a single director. Regardless of how qualified one person may be, including the current leadership of the agency, a commission would allow multiple perspectives and robust discussion of consumer protection issues throughout the decision-making process. Additionally, a commission helps ensure some continuity of expertise and rulemaking. The current single director structure can lead to uncertainty during the transition from one Presidential administration to another. The U.S. Supreme Court highlighted this fact last year when it released a decision in *Seila Law v. the Consumer Financial Protection Bureau* that found the firing of the single director only for "just cause" to be unconstitutional. It is with this in mind that we urge Congressional action on legislation to transform the structure of the CFPB from a single director to a bipartisan commission, such as H.R. 4773, the *Consumer Financial Protection Commission Act*, which is pending before the Committee.

We appreciate your leadership and ongoing focus on issues important to credit unions, and we look forward to continuing to work with the Committee and the CFPB on these topics. Should you have any questions or require any additional information, please do not hesitate to contact me or Lewis Plush, NAFCU's Associate Director of Legislative Affairs, at 703-842-2261.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the House Financial Service Committee

RHODE ISLAND COLLEGE
DEPARTMENT OF SOCIOLOGY

November 5, 2021

Chairwoman Maxine Waters
U.S. House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Waters and Members of the Committee on Financial Services,

I applaud the U.S. House Committee on Financial Services for holding its recent hearing "Bringing Consumer Protection Back: A Semi-Annual Review of the Consumer Financial Protection Bureau" (October 27, 2021). As a sociologist who studies credit scoring and alternative data initiatives, and considers the prospects for addressing racial inequality, I appreciate the invitation to submit my thoughts about consumer protection in terms of the credit scoring industry. Given that the majority of complaints received by the Consumer Financial Protection Bureau (CFPB) regards credit or consumer reporting, better regulation of the credit scoring industry is vital for consumers and for addressing the racial wealth gap.[1]

As underscored by the title of a previous hearing convened by your committee, the current U.S. credit scoring system is "a biased, broken system."[2] Documented problems include a for-profit credit scoring industry dominated by three credit reporting agencies; a lack of transparency regarding scores and algorithms; credit scores playing an increasingly substantive role in shaping socioeconomic opportunities beyond credit card approvals and small business and mortgage lending, such as applications for automobiles, apartments, or

[1] Consumer Financial Protection Bureau, *Semi-Annual Report of the Consumer Financial Protection Bureau*, Spring 2021.

[2] U.S. House Committee on Financial Services, "A Biased, Broken System: Examining Proposals to Overhaul Credit Reporting to Achieve Equity," June 29, 2021.

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private student loans; credit reporting errors that put a great deal of burden on consumers to try to fix, often without fair resolution; and a relative lack of regulation of the credit scoring industry, particularly regarding transparency, data breaches, and reporting errors.

Additionally, critiques have been raised about how credit scoring disproportionately disadvantages certain racial groups, particularly those who are Black and Latinx, and the implications for the racial wealth gap. Along with credit scores often being significantly lower for African Americans and Latinx compared to white people, there are also millions of people, a significant portion of whom are Black or Latinx and/or working-class or poor, being shut out of the credit scoring system due to being credit unscorable or credit invisible.[3]

In my statement I address alternative data, which is proposed as a solution to some of these issues. I detail some of my concerns, including the risks of alternative data on consumers and how alternative data does not address the for-profit credit scoring system or other issues requiring better regulation.

Alternative data as a proposed solution

Alternative data initiatives are touted as part of a broader agenda of financial inclusion. Regarding credit scores, financial inclusion advocates focus on credit unscorables or credit invisibles. The former have either a "thin" or "stale" credit file and the latter have no credit history with one of the three nationwide credit reporting agencies, Equifax, Experian, and TransUnion. The CFPB estimates 19 million adults as credit unscorable and 26 million as credit invisible. Combined, these 45 million represent almost 20 percent of the adult population, with African Americans and Latinx more likely to be credit unscorable or invisible than white people and Asian Americans.[4]

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[3] Chi Chi Wu, Testimony before the U.S. House of Representatives Committee on Financial Services Regarding "A Biased, Broken System: Examining Proposals to Overhaul Credit Reporting to Achieve Equity," June 29, 2021.

[4] World Bank, "Financial Inclusion." Consumer Financial Protection Bureau, 2016, "Who are the Credit Invisibles?" Michael A. Turner, Alyssa Stewart Lee, Ann Schnare, Robin Varghese, and Patrick D. Walker, 2006, "Give Credit where Credit is Due: Increasing Access to Affordable Mainstream Credit Using Alternative Data," Political and Economic Research Council and the

Being credit unscorable or invisible can have negative consequences as "the default assumption of lenders in that no score equals high risk. Such applicants are almost always rejected." Financial inclusion advocates suggest that helping groups become "credit visible" will ameliorate some of the racial and class patterns in use of "alternative financial services" (AFS) outside of the banking system, such as "money orders, check cashing, international remittances, payday loans, refund anticipation loans, rent-to-own services, pawn shop loans, or auto title loans." Some racial wealth gap initiatives, such as those calling for increasing homeownership among African Americans and Latinx, posit including alternative data as a solution.[5]

Broadly, alternative data is understood to be "any data that are not 'traditional.'" Per the CFPB, "traditional data" is:

> data assembled and managed in the core credit files of the nationwide consumer reporting agencies, which includes tradeline information (including certain loan or credit limit information, debt repayment history, and account status), and credit inquiries, as well as information from public records relating to civil judgments, tax liens, and bankruptcies. It also refers to data customarily provided by consumers as part of applications for credit, such as income or length of time in residence.

Alternative data can include payment histories on bank accounts, utility bills, rental payments, and telecommunications. It can also include social media activity.[6]

Potential risks of alternative data

Concerns have been raised regarding the risks of including some alternative data. For example, utility companies might have guidelines regarding late payments that do not impose immediate shut off of services

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Brookings Institution Urban Markets Initiative. Kenneth P. Brevoort, Philipp Grimm, and Michelle Kambara, 2015, "Data Point: Credit Invisibles," Consumer Financial Protection Bureau Office of Research.

5 Michael A. Turner, Patrick Walker, and Katrina Dusek, 2009, "New to Credit from Alternative Data," PERC Results and Solutions. Federal Deposit Insurance Corporation, 2017, "FDIC National Survey of Unbanked and Underbanked Households." Jacob Passy, 2019, "Kamala Harris Says Credit Scores should Include Rent, Cell Phones and Utilities," MarketWatch. "S.1685 - Credit Score Competition Act of 2017," Congress.gov. "Senators Scott, Warner Champion Homeownership for the 'Credit Invisible," 2017, Scott.Senate.gov.

6 Consumer Financial Protection Bureau, 2017, "Request for Information Regarding Use of Alternative Data and Modeling Techniques in the Credit Process." Tamara K. Nopper, 2019, "Digital Character in 'The Scored Society': FICO, Social Networks, and Competing Measurements of Creditworthiness," *Captivating Technology: Race, Carceral Technoscience, and Liberatory Imagination in Everyday Life*.

but in alternative data records, delinquent accounts might get flagged negatively, thereby hurting one's credit score. There are also questions about what impact collecting alternative data might have related to consumer efforts to dispute questionable charges. Finally, the ability to pay bills in a timely manner is related to existing wealth as well as employment and wages and the racial politics of the labor market. As Chi Chi Wu, Staff Attorney at the National Consumer Law Center, notes in her testimony for "A Biased, Broken System," we should "proceed with caution," taking into consideration which alternative data is used and how, as well as consumer consent.[7]

The issue of consumer consent raises significant questions regarding issues of privacy. What does it mean to have more of your socioeconomic activity, including possible agonizing decisions regarding what bills to pay late, if at all, versus others, etc., be subjected to a process that could ultimately make your credit profile bad or worse? How might alternative data initiatives subject those already socioeconomically disadvantaged to a potentially unfair higher standard regarding their financial activities and payment behaviors?

Who gets to have privacy in this society is often a race, gender, and class issue and Black people have historically been the most targeted for a lack of privacy.[8] While we are all, regardless of our social status, exposed to a lack of privacy given the datafication of social life, a commitment to racial, economic, and gender justice encourages us to consider how a lack of privacy can also be a form of compulsory visibility, which can also be a form of surveillance. How might this surveillance come with penalties that could negatively impact consumers? And given the long history of racism, and specifically anti-Blackness, in shaping who is disproportionately punished and how punishment operates, how might what is touted as inclusion simply be

[7] Alex Rosenblat, Rob Randhava, danah boyd, Seeta Peña Gangadharan, and Corrine Yu, 2014, "Data & Civil Rights: Consumer Finance Primer." Chi Chi Wu, Testimony before the U.S. House of Representatives Committee on Financial Services Regarding "A Biased, Broken System: Examining Proposals to Overhaul Credit Reporting to Achieve Equity" June 29, 2021.

[8] Simone Browne, 2015, *Dark Matters: On the Surveillance of Blackness*; Mariame Kaba, 2021, *We Do This 'Til We Free Us: Abolitionist Organizing and Transforming Justice*.

compulsory visibility, where increased visibility is imposed upon you to participate in existing systems? How might the inclusion of alternative data increase the visibility of those deemed credit unscorable or invisible—disproportionately Black and Latinx and/or poor and working-class—and possibly subject them to more scrutiny or a *visibility penalty*—where becoming more visible within existing discriminatory logics and systems increases the vulnerability to being penalized or victims of structural disadvantage? Terms such as inclusion and visibility can be powerful, but what are the risks associated with these processes and how can we ensure that those who are credit unscorable or invisible do not incur more penalties than they already do from existing discrimination and monitoring of socioeconomic activity?

Additionally, as Chi Chi Wu underscores, "feeding more data to the credit bureaus is not the solution. Feeding them more data only increases the oligopoly power of these three companies, giving them even more power over our information and our financial lives."[9] Simply, including alternative data will not address the current for-profit structure of the U.S. credit scoring system and does little to regulate the credit scoring industry.

Alternative data and the for-profit credit scoring system

I want us to consider how alternative data is part of this for-profit landscape. In some cases, alternative data initiatives are about competition among for-profit companies in the credit scoring marketplace. For example, in 2006 credit reporting agencies Experian, Equifax, and TransUnion, who control the credit reports of over 200 million U.S. residents, established the company VantageScore Solutions to challenge the dominance of Fair Isaac Corporation and its FICO score. VantageScore Solutions supported the Credit Score Competition Act of 2017, which was introduced by Senators Tim Scott and Mark Warner. As the former announced the bill on his website, "Our goal in introducing this legislation is to encourage Fannie Mae and

[9] Chi Chi Wu, Testimony before the U.S. House of Representatives Committee on Financial Services Regarding "A Biased, Broken System: Examining Proposals to Overhaul Credit Reporting to Achieve Equity" June 29, 2021.

Freddie Mac to consider more inclusive methodologies in determining a borrower's creditworthiness. Alternate scoring models have the potential to make homeownership a reality for more qualified borrowers who lack access to traditional forms of credit." In a statement applauding the Credit Score Competition Act of 2017, president and CEO of VantageScore Solutions Barrett Burns stated, "No single company should have a government-sanctioned monopoly, especially when there are millions of consumers that are negatively impacted. Infusing competition into this integral area will improve fairness, transparency, and inclusiveness without compromising on standards."[10]

"Inclusive methodologies" and "inclusiveness" may be appealing language but the references to inclusion here may be more about competition between for-profit companies than a genuine solution to the racial wealth gap. And "inclusiveness" certainly does not address the need to regulate the credit scoring industry and to make credit scoring companies more transparent and accountable. While there may be some stated differences between scores, such as how data is collected and how long of a credit history is required, these differences do little to challenge the for-profit nature of the credit scoring industry. Inclusion, then, is often depicted as good for the systematically discriminated against group when in reality it may primarily benefit for-profit companies competing against each other in the credit scoring marketplace. What is treated as good for marketplace competitors is not always good for consumers, especially when the for-profit credit scoring industry does not involve fairness or transparency. As Amy M. Traub, Associate Director of Policy and Research at Dēmos, in her testimony for "A Biased, Broken System" emphasizes, "Since consumers are not the customers of the private credit reporting agencies, they have no market mechanism to demand accountability or fairness: Consumers cannot opt out of the system or choose to work with a competing company." These credit reporting agencies might band together to create a new score to compete with the FICO score and claim to care about fairness, transparency, and inclusiveness, but ultimately they "collect

[10] "S.1685 - Credit Score Competition Act of 2017," Congress.gov. "Senators Scott, Warner Champion Homeownership for the 'Credit Invisible," 2017, Scott.Senate.gov. "'Credit Score Competition Act' Introduced in U.S. Senate," VantageScore.com.

lending and payment data on 220 million Americans without consumers' permission or approval, and there is no way for consumers to opt out from having personal financial data collected." Simply put, "the aim of the credit reporting 3 agencies is to generate profit, which they do by extracting, packaging, and selling data about consumers' personal borrowing and payment activity."[11]

The credit scoring industry benefits from weak regulation. Regarding transparency:

> Behind the three-digit score…is a process that cannot be fully understood, challenged, or audited by the individuals scored or even by the regulators charged with protecting them. Credit bureaus routinely deny requests for details on their scoring systems. No one outside the scoring entity can conduct an audit of the underlying predictive algorithms. Algorithms, and even the median and average scores, remain secret. The lack of transparency of credit-scoring systems leaves consumers confounded by how and why their scores change.[12]

Instead of stronger regulation of the credit scoring industry, which is needed, onerous burdens are imposed on consumers to deal with errors and the unscrupulous practices of credit reporting agencies—often with frustrating results and a lack of accountability.[13]

The proposed Comprehensive Consumer Credit Reporting Reform Act and National Credit Reporting Agency Act are steps in the right direction. Related to the latter, a public credit registry, particularly that outlined by Traub in her testimony on behalf of Dēmos for "A Biased, Broken System," would be a powerful change from the current for-profit system.[14] Nevertheless there is still a great deal of research that needs to be done to determine what, if any, alternative data might be included or how it might be used in a public credit registry to ensure it does not subject people to a visibility penalty.

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[11] Amy M. Traub, Written Testimony before the U.S. House of Representatives Committee on Financial Services "A Biased, Broken System: Examining Proposals to Overhaul Credit Reporting to Achieve Equity" June 29, 2021; Amy Traub, 2019, "Establish a Public Credit Registry," Demos.org.

[12] Danielle Keats Citron and Frank Pasquale, 2014, "The Scored Society: Due Process for Automated Predictions," *Washington Law Review*.

[13] Chi Chi Wu, Testimony before the U.S. House of Representatives Committee on Financial Services Regarding "A Biased, Broken System: Examining Proposals to Overhaul Credit Reporting to Achieve Equity" June 29, 2021.

[14] Amy M. Traub, Written Testimony before the U.S. House of Representatives Committee on Financial Services "A Biased, Broken System: Examining Proposals to Overhaul Credit Reporting to Achieve Equity" June 29, 2021;

Finally, there is also another possibility to consider, which is the elimination of the credit scoring system altogether. Ultimately, alternative data initiatives, whether proposed as part of the current for-profit credit scoring system or for a public credit registry, require a scoring system to have relevance. We spend a lot of time and energy trying to figure out how to get people scored rather than on reconstructing our economic system to be more equitable and not rely on the datafication and scoring of our socioeconomic activity. It would be bold, generative, and generous to consider what would it mean to design a socioeconomic system that does not require a "scored society," and in this case a credit score, determining our socioeconomic opportunities and cost of living.[15]

Sincerely,

Tamara K. Nopper Digitally signed by Tamara K. Nopper Date: 2021.11.05 00:37:16 -04'00'

Tamara K. Nopper, PhD
Associate Professor, Rhode Island College

[15] Danielle Keats Citron and Frank Pasquale, 2014, "The Scored Society: Due Process for Automated Predictions," *Washington Law Review*.

Semi-Annual Report of the Consumer Financial Protection Bureau

Message from the Acting Director

This Semi-Annual Report to Congress comes as we begin the recovery from a global pandemic. The last two years have brought tragedy and loss to millions and heightened our collective awareness of the persistent racial and economic inequities in our country. Congress, through the Dodd-Frank Wall Street Reform and Consumer Protection Act, created the CFPB to stand on the side of consumers and ensure they are treated fairly in the financial marketplace, and the statute compels the CFPB to respond to this moment. To that end, during my tenure, the CFPB has acted to increase racial equity in the marketplace and to mitigate the financial effects of COVID-19 on all consumers, especially the economically vulnerable. I have committed the CFPB to empowering all consumers, particularly those from marginalized communities; vigilantly supervising the financial marketplace; taking enforcement actions that redress current, and deter future, wrongdoing; and developing a regulatory framework that clearly articulates industry requirements and strengthens market fairness for all consumers.

Our work remains grounded in the experiences of consumers from all across the country. Consumer complaints form the backbone of our work. During the reporting period, we received the highest volume of complaints in our history, over 75,000 complaints per month. We have used those complaints to inform our supervisory and enforcement work, to shape our policy interventions, and to inform our general consumer engagement approach. Under my watch, we have also reinstituted regular public reporting on what we are seeing in consumer complaints, to allow everyone to learn from consumer experience. We have also worked to make sure companies are responsive in a timely manner to consumers' complaints.

The CFPB's supervision program developed Prioritized Assessments to protect consumers from elevated risks of harm related to the pandemic. These assessments are designed to obtain real-time information from entities that operate in markets that pose elevated risks of consumer harm due to pandemic-related issues. The assessments allow us to supervise a greater number of institutions, quickly ensure industry is aware of and corrects practices that may result in consumer harm, and gain a greater understanding of how industry responds to consumers. Prioritized Assessments have also proven useful for identifying issues around racial and economic equity. Specifically, we identified fair lending risks to consumers of color through our Prioritized Assessments of banks' lending practices under the Paycheck Protection Program. We are prioritizing and expanding our follow-up activities to resolve issues we uncovered through this important targeted supervisory approach.

We must use our enforcement authority to ensure that industry gets the message that violations of the law, especially during times of crisis and need, will not be tolerated. Enforcement actions also have long-term positive consequences for consumers. When companies know they have to play by the rules, they compete through innovation and offering better value to customers, instead of looking for short-cuts that can harm their customers. Enforcement is not just about correcting bad business; it is about incentivizing companies to participate in market competition that benefits all consumers and the majority of companies who strive to play by the rules.

Because the CFPB must follow Congress's direction in how we exercise our statutory authority, we have rescinded a number of policy statements that circumscribed our statutory authority. We rescinded the January 24, 2020 "Statement of Policy Regarding Prohibition on Abusive Acts or Practices," on March 11, 2021. As a result of this rescission, we now look directly to the statute in enforcing the law and no longer apply an extra-statutory analytic framework. On March 31, 2021, we rescinded a series of policy statements that had previously stated that the CFPB would not enforce certain laws and regulations. We also issued, on June 16, 2021, an interpretive rule stating that the CFPB would once again supervise for risks to consumers associated with violations of the Military Lending Act.

In the six months covered by this report, we obtained orders through enforcement actions ordering approximately $880 million in total relief for consumers who fell victim to various violations of consumer financial protection laws as well as approximately $200 million in civil penalties. We brought numerous enforcement actions with claims or findings of various violations of the Dodd-Frank Act and other laws, including actions involving vulnerable or distressed consumers, against Nationstar Mortgage, LowVA Rates, Nissan Motor Acceptance Corporation, Seterus, Envios de Valores La Nacional, Omni, and Libre, among others.

We have issued rules and guidance to create a framework, during the COVID-19 pandemic, to help make sure all consumers have the chance to participate in a full economic recovery. This framework will help to protect consumers from credit reporting errors and improper evictions. We provided new tools and guardrails to make sure every homeowner has a chance to explore alternatives to foreclosure in the fall. We also issued guidance to ensure the proper review and approval of relief payments, mortgage payment adjustments, and other CARES Act protections. Communities of color, particularly Black and Hispanic communities, have disproportionately felt the health and economic effects of the pandemic. We are using all our tools to ensure that all communities, of all races and economic backgrounds, can participate in and benefit from the nation's economic recovery.

Much of our effort during this reporting period focused on helping families survive the economic effects of the pandemic. As we look forward, we will continue working to help individuals and families transition into the post-pandemic economy and financial market. We will continue to use all our tools to ensure financial stability and fair industry competition. We will continue to pursue bad actors and seek redress for harmed consumers. Racial equity will remain a central goal. For our financial markets and our nation's families to thrive well into the future, communities of color, marginalized communities, and consumers of all races need a fair shake in our consumer financial markets.

We look forward to carrying out the mandate Congress gave us: to ensure that all consumers have access to markets for consumer financial products and services and that those markets are fair, transparent, and competitive.

Sincerely,

David K. Uejio

David K. Uejio

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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 Consumer Financial Protection Bureau (CFPB or Bureau) released reports in the form of blogs that discuss the various challenges consumers face in shopping for or obtaining consumer financial products or services, including one blog on the early effects of the COVID-19 pandemic on consumer credit and a blog containing insights from a survey of U.S. consumers on credit card debt early in the pandemic. The blogs report that access to credit, the ability to cope with financial difficulty and to save for emergencies, impact consumers' ability to obtain financial products and services.

1.1 The effects of the COVID-19 pandemic on consumer credit

The Bureau published a blog on the effects of the COVID-19 pandemic on consumer credit. The blog is based on the Bureau's Consumer Credit Panel (CCP), a longitudinal sample of approximately five million de-identified credit records from one of the three nationwide consumer reporting agencies. After the end of each month, the Bureau receives updated credit records for all sampled credit records, if available.

In December 2020, the Bureau published a blog[1] focusing on credit inquiries because they are among the first credit market measures to change in response to changes in economic activity. When a consumer applies for new credit to purchase a car or a home or applies for a new credit card account, most lenders will seek information about the consumer from a nationwide consumer reporting agency. This is often referred to as a "hard inquiry." Inquiries typically appear almost immediately in credit record data when a consumer's credit report is pulled. Other credit market measures, such as delinquencies or forbearances on existing accounts, are generally less quickly

[1] https://www.consumerfinance.gov/about-us/blog/credit-applications-remain-depressed-for-credit-cards-and-auto-loans/

observed since information on existing accounts is reported with some lag. The blog reported that consumer credit markets were far from normal. In September 2020, consumer credit inquiries were still 30 percent below their pre-pandemic levels. Applications are measured by the number of credit pulls or "hard inquiries" that lenders perform when a consumer applies for new credit.

The blog found that auto loan inquiries returned to pre-pandemic levels in June 2020 but slipped between then and September 2020, showing a 22 percent shortfall compared to their usual volume. New mortgage inquiries exceeded their typical volume in early May 2020 and stayed 20 percent above the usual volume throughout the summer of 2020, but revolving credit card inquiries did not recover much after March 2020's 40 percent decline; they were still 30 percent below their usual volume in September 2020. Inquiries for revolving credit and other types of loans followed similarly and by September 2020, they were still 17 percent below the usual volume. Additionally, the drops were significantly more pronounced for consumers with higher credit scores, consistent with the possibility that higher credit score consumers have more flexibility in either their credit needs or the timing of their credit needs.

The Bureau also released a report in March 2021, "Housing Insecurities and the COVID-19 Pandemic,"[2] that warned of widespread evictions and foreclosures once federal, state, and local pandemic protections come to an end, absent additional public and private action. The report found that over 11 million families were behind on their rent or mortgage payments: 2.1 million families were behind at least three months on mortgage payments, while 8.8 million were behind on rent. Homeowners alone were estimated to owe almost $90 billion in missed payments.

1.2 Insights from the Making Ends Meet Survey

The Bureau's Making Ends Meet Survey[3] is a nationally representative survey of adults with a credit record. The survey results provide a deeper understanding of how often U.S. consumers have difficulty making ends meet, how they cope with these shortfalls, and their subsequent financial difficulties. The survey is part of the Bureau's statutory mission to conduct research on markets for consumer financial products and services, the experiences and access to credit for traditionally underserved communities, and consumer understanding and choice of products, among other things.

[2] https://www.consumerfinance.gov/data-research/research-reports/housing-insecurity-and-the-covid-19-pandemic/.

[3] https://www.consumerfinance.gov/data-research/research-reports/insights-making-ends-meet-survey/

The Bureau survey was conducted in May 2019 which was reported in July 2020.[4] Since this survey data predates COVID-19, it helped to develop an understanding of how well-prepared households are for negative shocks such as job loss. The consequences of those negative shocks help to shed light on how consumers deal with financial problems in general and provide a reference point for how these consumers fared during the COVID-19 pandemic.

The samples for the surveys are selected from the Bureau's CCP, a 1-in-48 random and deidentified sample of credit records maintained by one of the top three nationwide credit reporting agencies. Using the CCP is a key advantage of the survey compared to other surveys. We are able to link the CCP data to the survey responses in order to provide a deeper understanding of the circumstances—both positive and negative—that lead U.S. consumers to make the choices about debt observed in the credit bureau data. Using the CCP also strengthens the survey by ensuring the sample contains sufficient representation of particular groups by oversampling consumers with lower credit scores, with recent credit delinquencies, and those living in rural areas. Ultimately, 2990 consumers responded to the May 2019 survey either on paper or online. The survey is weighted to be nationally representative of consumers with a credit record.

In December 2020, the Bureau published a blog[5] using data from January 2019 to June 2020 linked to credit bureau data from the respondents to explore whether financially vulnerable consumers turned to credit card debt during the pandemic.

Key results in the blog:

- The Bureau had reported[6] in an August 2020 Issue Brief that average credit card debt fell sharply in the first few months of the pandemic, and the blog confirmed that this trend was the same for financially vulnerable consumers who might have been the first to turn to credit cards. The fall suggests that the combination of federal and state policies during the first months of the pandemic were effective at reaching the target population. It might be noted that many of the policies may have subsequently expired in July. 2020 and others in December 2020.

- The credit card debt of both consumers who had difficulty before the pandemic and those who did not fell rapidly starting in March 2020. The decline in credit card balances may reflect normal seasonal variation and from using less credit for the first several weeks of the pandemic as states issued stay-at-home orders and other restrictions. There was a steep

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[4] files.consumerfinance.gov/f/documents/cfpb_making-ends-meet_survey-results_2020-07.pdf

[5] https://www.consumerfinance.gov/about-us/blog/credit-card-debt-fell-even-consumers-having-financial-difficulties-before-pandemic/

[6] https://files.consumerfinance.gov/f/documents/cfpb_early-effects-covid-19-consumer-credit_issue-brief.pdf

decline in average credit card debt for both groups over April and May 2020 that was much larger than that of the previous year. The relative decline for both groups was fairly similar.

The Bureau conducted another follow-up survey in May and June 2020 with the respondents from the first survey. The results from this follow-up survey provide more information on how COVID-19 and responses to it have affected people's financial lives. The results of the survey were published in April 2021.[7]

[7] https://files.consumerfinance.gov/f/documents/cfpb_making-ends-meet-wave-2_report_2021-04.pdf

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) 2021 spending through the end of the second quarter of the fiscal year

2.1.1 Bureau fund

As of March 31, 2021 the end of the second quarter of FY 2021, the Bureau had spent approximately $335.8 million[8] in FY 2021 funds to carry out the authorities of the Bureau under Federal consumer financial law, including approximately $177.9 million for employee compensation and benefits. There were 1,532 Bureau employees on board at the end of the second quarter.[9]

TABLE 1: FY 2021 SPENDING EXPENSE CATEGORY

Expense Category	Fiscal Year 2020
Personnel Compensation	$125,330,000
Benefit Compensation	$52,425,000
Benefit Compensation – Former Employees	$148,000

[8] This amount includes new obligations and upward adjustments to the previous year obligations. 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.

[9] This figure reflects the employees on board during pay-period 6, calendar year 2021.

Expense Category	Fiscal Year 2020
Transportation of Things	$75,000
Rents, Communications, Utilities & Misc.	$12,102,000
Printing and Reproduction	$2,526,000
Other Contractual Services	$127,316,000
Supplies & Materials	$3,265,000
Equipment	$12,630,000
Land and Structures	$0
Total (as of March 31, 2021)	$335,837,000

2.1.2 FY 2021 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, 2021, the Bureau had received the following transfers for FY 2021. The amounts and dates of the transfers are shown below.[10]

TABLE 2: FUND TRANSFERS

Funds Transferred	Date
$203.4M	October 01, 2020
$118.6M	January 02, 2021
$322.0M	**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/.

[10] Current year spending in excess of funds received is funded from the prior year's unobligated balance.

Copies of the Bureau's quarterly funds transfer requests are available online at www.consumerfinance.gov/about-us/budget-strategy/funds-transfer-requests/.

3. List of the significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year, and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period[11]

3.1 Significant rules[12]

The Bureau issued five significant notices of proposed rulemaking during the preceding year:

- Proposed Rule: Amendments to Facilitate the LIBOR Transition (Regulation Z)[13]

[11] 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.

[12] 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.

[13] https://www.consumerfinance.gov/rules-policy/rules-under-development/amendments-facilitate-libor-transition-regulation-z/

- Proposed Rule: Higher-Priced Mortgage Loan Escrow Exemption (Regulation Z)[14]
- Proposed Rule: Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z), Extension of the Sunset Date[15]
- Proposed Rule: Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z), General QM Loan Definition[16]
- Proposed Rule: Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z), Seasoned QM Loan Definition[17]

The Bureau issued nine significant final rules:

- Final Rule: Home Mortgage Disclosure (Regulation C)–2020 Final Rule.[18] The Bureau amended Regulation C to increase the threshold for reporting data about closed-end mortgage loans, so that institutions originating fewer than 100 closed-end mortgage loans in either of the two preceding calendar years will not have to report such data effective July 1, 2020. The Bureau also set the threshold for reporting data about open-end lines of credit at 200 open-end lines of credit effective January 1, 2022, upon the expiration of the current temporary threshold of 500 open-end lines of credit.
- Final Rule: Remittance Transfers under the Electronic Fund Transfer Act (Regulation E).[19] The Bureau amended Regulation E and the official interpretations of Regulation E to provide tailored exceptions to address compliance challenges that insured institutions may face in certain circumstances upon the expiration of a statutory exception that allows insured institutions to disclose estimates instead of exact amounts to consumers. That

[14] https://www.consumerfinance.gov/rules-policy/notice-opportunities-comment/archive-closed/higher-priced-mortgage-loan-escrow-exemption-regulation-z/

[15] https://www.consumerfinance.gov/rules-policy/rules-under-development/qualified-mortgage-definition-under-truth-lending-act-regulation-z-extension-sunset-date/ In October 2020, the Bureau finalized this rule. More information can be found here: https://www.consumerfinance.gov/rules-policy/final-rules/qualified-mortgage-definition-under-truth-lending-act-regulation-z-extension-sunset-date/

[16] https://www.consumerfinance.gov/rules-policy/rules-under-development/qualified-mortgage-definition-under-truth-lending-act-general-qm-loan-definition/ In December 2020, the Bureau finalized this rule. More information can be found here: https://www.consumerfinance.gov/rules-policy/final-rules/qualified-mortgage-definition-under-truth-lending-act-regulation-z-general-qm-loan-definition/

[17] https://www.consumerfinance.gov/rules-policy/rules-under-development/qualified-mortgage-definition-under-truth-lending-act-regulation-z-seasoned-qm-loan-definition/. In December 2020, the Bureau finalized this rule. More information can be found here: https://www.consumerfinance.gov/rules-policy/final-rules/qualified-mortgage-definition-under-truth-lending-act-regulation-z-seasoned-qm-loan-definition/

[18] https://www.consumerfinance.gov/rules-policy/final-rules/home-mortgage-disclosure-regulation-c/

[19] https://www.consumerfinance.gov/rules-policy/final-rules/electronic-fund-transfers-regulation-e/

exception expired on July 21, 2020. The Bureau also increased a safe harbor threshold related to whether a person makes remittance transfers in the normal course of its business.

- Final Rule: Payday, Vehicle Title, and Certain High-Cost Installment Loans–Revocation Rule.[20] The Bureau revoked regulations providing it is an unfair and abusive practice to make certain payday and vehicle title loans without reasonably determining ability to repay.

- Final Rule: QM Definition under the Truth and Lending Act (Regulation Z) Extension of the Sunset Date.[21] 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 "qualified mortgages" (QMs) obtain certain protections from liability. One category of QMs consists of loans that are eligible for purchase or guarantee by either the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac) (government-sponsored enterprises or GSEs), while operating under the conservatorship or receivership of the Federal Housing Finance Agency (FHFA). In 2013, the Bureau established this category of QMs (Temporary GSE QMs) as a temporary measure that would expire no later than January 10, 2021 or when the GSEs cease to operate under conservatorship. In this final rule, the Bureau amended Regulation Z to replace the January 10, 2021 sunset date of the Temporary GSE QM loan definition with a provision stating that the Temporary GSE QM loan definition will be available only for covered transactions for which the creditor receives the consumer's application before the mandatory compliance date of final amendments to the General QM loan definition in Regulation Z.

- Final Rules: Debt Collection Practices (Regulation F).[22] The Bureau finalized two rules that revised Regulation F, which implements the Fair Debt Collection Practices Act (FDCPA), to prescribe Federal rules governing the activities of debt collectors, as that term is defined in the FDCPA. The first final rule addressed, among other things, communications in connection with debt collection and prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection. The second final rule, among other things, clarified the information that a debt collector must provide to a consumer at the outset of debt collection communications and provided a model notice containing such information, prohibited debt collectors from bringing or threatening to bring a legal action against a consumer to collect a time-barred debt, and required debt

[20] https://www.consumerfinance.gov/rules-policy/final-rules/payday-vehicle-title-and-certain-high-cost-installment-loans-revocation-rule/

[21] https://www.consumerfinance.gov/rules-policy/final-rules/qualified-mortgage-definition-under-truth-lending-act-regulation-z-extension-sunset-date/

[22] https://www.consumerfinance.gov/rules-policy/final-rules/debt-collection-practices-regulation-f/
https://www.consumerfinance.gov/rules-policy/final-rules/debt-collection-practices-regulation-f-2020-12/

collectors to take certain actions before furnishing information about a consumer's debt to a consumer reporting agency.

- Final Rule: QM Definition under Truth in Lending Act (Regulation Z): General QM Loan Definition.[23] 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 category of QMs is the General QM category. For General QMs, the ratio of the consumer's total monthly debt to total monthly income (DTI or DTI ratio) must not exceed 43 percent. This final rule amended the General QM loan definition in Regulation Z. Among other things, the final rule removed the General QM loan definition's 43 percent DTI limit and replaced it with price-based thresholds.

- Final Rule: QM Definition under Truth in Lending Act (Regulation Z): Seasoned QM Loan Definition.[24] 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 "qualified mortgages" (QMs) obtain certain protections from liability. This final rule created a new category of QMs (Seasoned QMs) for first-lien, fixed-rate covered transactions that have met certain performance requirements, are held in portfolio by the originating creditor or first purchaser for a 36-month period, comply with general restrictions on product features and points and fees, and meet certain underwriting requirements.

- Final Rule: Higher-Priced Mortgage Loan Escrow Exemption (Regulation Z).[25] This final rule amended Regulation Z, which implements the Truth in Lending Act, as mandated by section 108 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. The amendments exempted certain insured depository institutions and insured credit unions from the requirement to establish escrow accounts for certain higher-priced mortgage loans.

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[23] https://www.consumerfinance.gov/rules-policy/final-rules/qualified-mortgage-definition-under-truth-lending-act-regulation-z-general-qm-loan-definition/ In March 2021, the Bureau proposed extending the mandatory compliance date for the amendments to the general QM loan definition. https://www.consumerfinance.gov/rules-policy/notice-opportunities-comment/open-notices/qualified-mortgage-definition-under-truth-lending-act-regulation-qm-loan-definition-delay-of-mandatory-compliance-date Additional activity has occurred since the end of the reporting period. In April 2021, the Bureau finalized the proposal to extend the mandatory compliance date. https://www.consumerfinance.gov/rules-policy/final-rules/qualified-mortgage-definition-under-truth-lending-act-regulation-z-general-qm-loan-definition-delay-mandatory-compliance-date/

[24] https://www.consumerfinance.gov/rules-policy/final-rules/qualified-mortgage-definition-under-truth-lending-act-regulation-z-seasoned-qm-loan-definition/

[25] https://www.consumerfinance.gov/rules-policy/final-rules/higher-priced-mortgage-loan-escrow-exemption-regulation-z/

3.2 Less significant rules[26]

- Interpretive and Interim Final Rules intended to facilitate compliance in light of the COVID-19 pandemic:
  - Interpretive Rule: Treatment of Pandemic Relief Payments Under Regulation E and Application of the Compulsory Use Prohibition[27]
  - 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[28]
  - Interim Final Rule: Treatment of Certain COVID-19 Related Loss Mitigation Options Under the Real Estate Settlement Procedures Act, Regulation X; Interim Final Rule[29]
- Final Rule: Truth in Lending (Regulation Z) Threshold Adjustments[30]
- Final Rule: Appraisals for Higher-Priced Mortgage Loans Exemption Threshold Adjustments[31]
- Final Rule: Consumer Leasing (Regulation M) Annual Threshold Adjustments[32]
- Final Rule: Fair Credit Reporting Act Disclosures[33]

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[26] 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/.

[27] https://www.consumerfinance.gov/rules-policy/final-rules/regulation-e-pandemic-relief-payments-compulsory-use-prohibition/

[28] https://www.consumerfinance.gov/rules-policy/final-rules/tila-respa-integrated-disclosure-rule-regulation-z-right-rescission-rules-covid-19/

[29] https://www.consumerfinance.gov/rules-policy/final-rules/certain-covid-19-related-loss-mitigation-options-under-respa-regulation-x/

[30] https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/truth-lending-regulation-z-threshold-adjustments/

[31] https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/appraisals-higher-priced-mortgage-loans-exemption-threshold-adjustments/

[32] https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/consumer-leasing-regulation-m-adjustments/

[33] https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/fair-credit-reporting-act-disclosures/

- Final Rule: Home Mortgage Disclosure (Regulation C) Adjustment to Asset-Size Exemption Threshold[34]
- Final Rule: Truth in Lending Act (Regulation Z) Adjustment to Asset-Size Exemption Threshold[35]
- Final Rule: Truth in Lending (Regulation Z); Determining "Underserved" Areas Using Home Mortgage Disclosure Act Data[36]
- Final Rule: Civil Penalty Inflation Adjustments[37]
- Final Rule: Truth in Lending (Regulation Z) Annual Threshold Adjustments (Credit Cards, HOEPA, and Qualified Mortgages)[38]
- Final Rule: Role of Supervisory Guidance[39]
- Interpretive Rule: Equal Credit Opportunity (Regulation B); Discrimination on the Bases of Sexual Orientation and Gender Identity[40]
- Final Rule: Amendments Relating to Disclosure of Records and Information[41]

3.3 Significant initiatives

- *COVID-19 Pandemic Response.*
    - *Continuing to Help Consumers.* Throughout the pandemic, the Bureau has worked efficiently and effectively to answer consumers' questions and take consumers' complaints. Despite the changes in operations brought by the pandemic and stay-

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

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

[36] https://www.consumerfinance.gov/rules-policy/final-rules/truth-lending-regulation-z-underserved-areas-home-mortgage-disclosure-act-data/

[37] https://www.consumerfinance.gov/rules-policy/final-rules/civil-penalty-inflation-annual-adjustments/

[38] https://www.consumerfinance.gov/rules-policy/final-rules/truth-lending-regulation-z-annual-threshold-adjustments-card-act-hoepa/

[39] https://www.consumerfinance.gov/rules-policy/final-rules/role-of-supervisory-guidance/

[40] https://www.consumerfinance.gov/documents/9533/cfpb_ecoa-interpretive-rule_2021-03.pdf

[41] https://www.consumerfinance.gov/documents/9353/cfpb_disclosure-records-information_final-rule_updated_2020-11.pdf

at-home orders, the CFPB fielded more than 54,700 complaints per month from April 1, 2020 through March 31, 2021. As always, the Bureau continues to route consumers' complaints about financial products and services—and any documents they provide—directly to financial companies and works to get consumers a timely response.

- *COVID-19 Consumer Information.*[42] Since the onset of the COVID-19 pandemic, the Bureau has published a collection of consumer education resources to help consumers protect themselves financially during the health crisis. The Bureau created and maintained a landing page and series of webpages to help consumers quickly find accurate and up-to-date COVID-19 related resources. Topics covered include mortgages, rental assistance, credit reporting, debt collection, student loans, frauds and scams, retirement funds, economic impact payments and more. The Bureau also published resources for specific audiences such as servicemembers and veterans, older adults and their families, small business owners, parents and kids, and more. Additionally, the Bureau has also produced 33 COVID-19 related videos, 1,478 social media messages with a reach of 78,155,878, and over 150 translations of blogs and web content into other languages. During the reporting period, approximately 6.2 million users have accessed the Bureau's educational web content in response to COVID-19, totaling 7.3 million visits.

- *Economic Impact Payments.*[43] The Bureau coordinated with the Department of Treasury and the Internal Revenue Service to amplify communication outreach for the Economic Impact Payments (EIP) made available by the CARES Act, the Consolidated Appropriations Act of 2021, and the American Rescue Plan Act. Following the passage of the CARES Act, the Bureau released a guide for intermediary organizations to help consumers claim their EIP, particularly those who do not normally file taxes. In support of the guide's release the Bureau engaged in extensive outreach to community-based organizations, local governments and other entities that serve primarily people with lower incomes who may not be required to file tax returns but who were still eligible to receive EIP and needed to take action in order to provide information to the IRS to receive those payments. The Bureau also issued a consumer advisory that highlighted the emerging trend of set-offs of EIP funds by financial institutions to cover an outstanding negative

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[42] https://www.consumerfinance.gov/coronavirus/

[43] https://www.consumerfinance.gov/coronavirus/managing-your-finances/guide-economic-impact-payments/; https://www.consumerfinance.gov/about-us/blog/consumer-advisory-protect-your-economic-payment-if-your-account-is-overdrawn/; https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-encourages-financial-institutions-and-debt-collectors-to-allow-stimulus-payments-to-reach-consumers/

balance. The consumer advisory encouraged consumers to monitor their bank accounts for fees and provided talking points to use with their depository institutions for relief so they can fully utilize any stimulus and/or unemployment benefit deposited into their accounts by state and federal entities. An accompanying press release also encouraged financial institutions to provide as many COVID related accommodations to consumers as possible. The Bureau continued outreach to community-based organizations and directly to consumers following the issuance of the second and third stimulus payments in December of 2020 and March of 2021. The outreach was focused on increasing enrollment by people with lower incomes who are not required to file tax returns and may not have provided information to the IRS via its non-filers portal in 2020 to receive payments for which they were eligible.

- *Unified Housing Portal.*[44] The Bureau continued its partnership with HUD, the Federal Housing Finance Agency (FHFA), the Department of Veteran Affairs (VA), and the USDA on a federal interagency Housing Portal within ConsumerFinance.gov for consumers struggling to pay their mortgage or rent because of COVID-19. Resources include information on forbearance, foreclosure, eviction prevention, and specific action consumers can take to utilize protections to stay in their homes. Website analysis and testing reveals that the Housing Portal is a trusted resource for consumers: When the deadline for forbearances was extended from March 31 to June 30, traffic to the Housing Portal increased nearly 280% (from 10k pageviews to 28k) as compared to the same day the preceding week, and engagement metrics increased (from 41% to 48%). During usability research on the renters' pages of the Housing Portal in March 2021, almost all participants were able to find information on taking action to avoid eviction. Since its inception in May 2020, the Housing Portal has seen over 1.5M unique users and over 2.6M pageviews. A Bureau report on housing insecurity and the COVID-19 pandemic published in March 2021 was viewed and downloaded over 1,600 times. The Housing Portal has also been translated into six non-English languages (Spanish, Arabic, Korean, Tagalog, Traditional Chinese, Vietnamese).

- *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

[44] https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/

materials designed to help consumers protect themselves financially during the COVID-19 pandemic.

- *Prioritized Assessments*. The Bureau's supervision program developed Prioritized Assessments as a new, targeted supervisory approach in response to the COVID-19 pandemic's impact on consumers and the consumer financial marketplace. Prioritized Assessments are higher-level inquiries than traditional examinations that were designed to obtain real-time information from entities that operate in markets that pose elevated risks of consumer harm due to pandemic-related issues. Through Prioritized Assessments, the Bureau expanded its supervisory approach to cover a greater number of institutions than its typical examination schedule allows, gained a greater understanding of industry responses to pandemic-related challenges, and helped to ensure that entities are attentive to practices that may result in consumer harm.

- The Bureau issued various guidance documents regarding compliance with various regulations and statutes during the reporting period:[45]

  - Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act, April 1, 2020[46]

  - The Bureau's Mortgage Servicing Rules FAQs related to the COVID-19 Emergency, April 3, 2020[47]

  - Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the COVID-19 Emergency and the CARES Act, April 3, 2020[48]

  - Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (Revised), April 7, 2020[49]

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[45] See Section 3.4 for the items released in response to COVID-19 after the reporting period ending on March 31, 2021.

[46] https://files.consumerfinance.gov/f/documents/cfpb_credit-reporting-policy-statement_cares-act_2020-04.pdf The Bureau rescinded this policy statement effective April 1, 2021.

[47] https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-rules-covid-19_faqs.pdf

[48] https://files.consumerfinance.gov/f/documents/cfpb_interagency-statement_mortgage-servicing-rules-covid-19.pdf

[49] https://files.consumerfinance.gov/f/documents/cfpb_interagency-statement_loan-modifications-reporting-covid-19_2020-04.pdf The Bureau withdrew as a signatory to this statement on March 31, 2021.

- Statement on Supervisory and Enforcement Practices Regarding the Remittance Rule in Light of the COVID-19 Pandemic, April 10, 2020[50]
- Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus, April 14, 2020[51]
- Bulletin 2020-02—Compliance Bulletin and Policy Guidance: Handling of Information and Documents During Mortgage Servicing Transfers, April 24, 2020[52]
- Statement on Supervisory and Enforcement Practices Regarding Certain Filing Requirements Under the Interstate Land Sales Full Disclosure Act and Regulation J, April 27, 2020[53]
- The Bureau's Mortgage Origination Rules FAQs related to the COVID-19 Emergency, April 29, 2020[54]
- The Bureau's Equal Credit Opportunity Act and Regulation B FAQs Related to the COVID-19 Emergency, May 6, 2020[55]
- Statement on Supervisory and Enforcement Practices Regarding Regulation Z Billing Error Resolution Timeframes in Light of the COVID-19 Pandemic, May 13, 2020[56]
- Payments and Deposits Rules FAQs related to the COVID-19 Pandemic, May 13, 2020[57]

[50] https://files.consumerfinance.gov/f/documents/cfpb_policy-statement_remittances-covid-19_2020-04.pdf

[51] https://files.consumerfinance.gov/f/documents/cfpb_interagency-statement_real-estate-transactions-covid-19.pdf The Bureau withdrew as a signatory to this statement on March 31, 2021.

[52] https://files.consumerfinance.gov/f/documents/cfpb_policy-guidance_mortgage-servicing-transfers_2020-04.pdf

[53] https://files.consumerfinance.gov/f/documents/cfpb_ilsa_relief-statement-covid-19_2020-04.pdf The Bureau rescinded this Policy Statement effective April 1, 2021.

[54] https://files.consumerfinance.gov/f/documents/cfpb_mortgage-origination-rules_faqs-covid-19.pdf

[55] https://files.consumerfinance.gov/f/documents/cfpb_ecoa-regulation-b_faqs-covid-19.pdf

[56] https://files.consumerfinance.gov/f/documents/cfpb_statement_regulation-z-error-resolution-covid-19_2020-05.pdf The Bureau rescinded this Policy Statement effective April 1, 2021.

[57] 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, May 13, 2020[58]

- 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, May 15, 2020[59]

- Statement on Supervisory and Enforcement Practices Regarding Electronic Credit Card Disclosures in Light of the COVID-19 Pandemic, June 3, 2020[60]

- 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, May 2020[61]

- *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:

  - Maintaining that all examination activity of Bureau-supervised institutions be virtually conducted offsite, from examiners' home duty stations, through September 4, 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 included a phased return to work at its Washington, D.C. headquarters location on July 8, 2020, allowing staff who want to work from the building the opportunity to do so in a safe and secure manner. Effective on October 1, 2020, the Bureau began a phased return to work at its regional locations allowing staff who want to work from the Bureau regional offices the opportunity to do so in a safe and secure manner, similar to the Washington D.C. Headquarters. This operating status is in place through September 4, 2021 and will be reassessed on a regular basis to determine whether additional extensions are appropriate.

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58 https://files.consumerfinance.gov/f/documents/cfpb_faqs_open-end-rules-covid-19_2020-05.pdf

59 https://files.consumerfinance.gov/f/documents/cfpb_csbs_consumers-forbearance-guide_2020-05.pdf

60 https://files.consumerfinance.gov/f/documents/cfpb_e-sign-credit-card_statement_2020-06.pdf The Bureau rescinded this Policy Statement effective April 1, 2021.

61 https://files.consumerfinance.gov/f/documents/cfpb_csbs_industry-forbearance-guide_2020-06.pdf

- Granting flexibility to staff to vary their work schedules through additional accrual of credit hours and authorizing staff to use up to 20 hours of administrative leave per pay period if they are prevented from working due to a lapse in childcare or other reasons associated with COVID-19, including time needed to get a COVID-19 vaccine.[62]

- Providing up to two weeks (80 hours) of emergency paid sick leave through December 31, 2020, in accordance with the Emergency Paid Sick Leave Act.

- Adjusting the Bureau's annual leave program for 2020 and 2021 by increasing the amount of the annual leave use or lose payout from 40 hours to 80 hours for employees who are unable to use their annual leave by the end of the 2020 or 2021 leave years. In addition, in 2020, the Bureau restored up to 40 hours of leave for employees who had a use or lose annual leave balance after the 80-hour payout.

- 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.

- Hiring a medical advisor to provide medical advice and consultation related to COVID-19.

- Creating several ways to hear from Bureau employees through National Treasury Employees Union engagements, a COVID-19 Bureau advisory group, a Pandemic Inquiries Inbox, leadership involvement, and through Bureau Employee Resources Groups. Additionally, the Bureau maintained a frequent cadence of communicating with Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) and other federal agencies for situational awareness and alignment, where possible.

- ☐ *The Bureau published research briefs and blogs related to the economic impact of the COVID-19 pandemic:*

[62] Administrative leave is provided through the Bureau's compensation authority.

- *The early effects of the COVID-19 pandemic on credit applications.*[63] This report documents the early effects of the COVID-19 pandemic on credit applications, which are among the very first credit market measures to change in credit report data in response to changes in economic activity. Using the Bureau's CCP, the Bureau studied how applications for auto loans, mortgages, credit cards, and other loans changed week-by-week during the month of March 2020, compared to the same time in previous years. The Bureau found that by the end of March 2020, applications for most categories fell between 30 and 50 percent, with relatively larger decreases among consumers with higher credit scores. The Bureau also found that the South and Midwest experienced relatively smaller drops, while the Northeast and California experienced relatively larger drops. These state-level drops are correlated with the number of COVID-19 cases per 100,000 residents and the share of workers entering unemployment in the state.

- *Fair and equitable access to credit for minority and women-owned businesses.*[64] This April 2020 blog highlighted the importance of fair and equitable access to credit for minority and women-owned businesses, including businesses applying for relief under the U.S. Small Business Administration's Paycheck Protection Program.

- *Special issue brief: The early effects of the COVID-19 pandemic on consumer credit.*[65] This second COVID-19 Special Issue Brief published August 31, 2020, describes trends in delinquency rates, payment assistance, credit access, and account balance measures with a focus on the period since the start of the COVID-19 pandemic (March 2020). Based on the credit outcomes analyzed, this report shows that through June 2020, consumers did not experience many of the negative credit consequences that might be expected during periods of high unemployment and large income shocks. The analysis shows that between March and June of 2020 delinquencies declined on auto loan, mortgage, student loan, and credit card accounts, while the number of accounts with zero payment due to CARES Act accommodations increased. Financial institutions also appear to have responded by increasing closures of credit card accounts and halting limit increases, but these actions have not significantly limited overall access to credit. As of June 2020, consumers also did not appear to have

[63] https://www.consumerfinance.gov/data-research/research-reports/covid-19-early-effects-credit-applications/

[64] https://www.consumerfinance.gov/about-us/blog/fair-equitable-access-credit-minority-women-owned-businesses/

[65] https://www.consumerfinance.gov/data-research/research-reports/special-issue-brief-early-effects-covid-19-pandemic-on-consumer-credit/

responded to adverse financial conditions by increasing balances, consistent with reports showing significant decreases in consumer spending since the start of the COVID-19 pandemic.

- *Credit applications remain depressed for credit cards and auto loans* blog.[66] This December, 2020 blog is a follow-up to the original May 2020 report, *The early effects of the COVID-19 pandemic on credit applications*, and follows how consumer credit markets have evolved in response to the pandemic. As in the original report, the Bureau shows how the actual volume of inquiries compare to the usual volume of inquiries predicted based on historical seasonal trends and observed inquiry volumes in the first week of March. The Bureau found that consumer credit markets were still far from normal. In September 2020, credit card inquiries were still 30 percent below their pre-pandemic levels. Inquiries for auto loans returned to pre-pandemic levels in June 2020 but slipped between then and September 2020. However, inquiries for new mortgages have more than recovered since May 2020.

- *Credit card debt fell even for consumers who were having financial difficulties before the pandemic.*[67] This December 2020 blog further investigates the Making Ends Meet survey data to explore whether financially vulnerable consumers turned to credit card debt during the pandemic. It examines consumers who had difficulty paying bills and expenses and consumers who could cover two months or fewer of expenses. The fall in credit card debt suggests that policies such as unemployment insurance and stimulus checks were effective at reaching financially vulnerable consumers during the first months of the pandemic.

- *Friends and Family Exchanges Toolkit.*[68] The COVID-19 pandemic caused financial hardship for millions of Americans, forcing many to turn to family and friends for help. Many families rely on informal lending and borrowing arrangements to weather the storm, especially in acute financial emergencies or when there is a lack of available assistance from lending institutions. To support financial educators helping clients through these often-sensitive conversations about these arrangements, the Bureau released the Friends and Family

[66] https://www.consumerfinance.gov/about-us/blog/credit-applications-remain-depressed-for-credit-cards-and-auto-loans/

[67] https://www.consumerfinance.gov/about-us/blog/credit-card-debt-fell-even-consumers-having-financial-difficulties-before-pandemic/

[68] https://files.consumerfinance.gov/f/documents/cfpb_friends-and-family-exchanges-COVID_03.25.2021.pdf

Exchanges Toolkit, a four-part guide for coaching clients in asking for financial help or changing an existing agreement due to their own financial hardship. Based in research and tested with educators, the guide is available for download from the CFPB website.

- *Data Point Research Reports*. During the reporting period, the Bureau has released the following research reports:
  - *Balancing savings and debt: Findings from an online experiment*[69]. This January 2021 report summarizes the results of an online experiment using hypothetical scenarios to explore how the amount of available savings might influence whether a consumer is willing to use savings and, if so, how much savings to put toward credit card debt. The findings suggest that consumers balance two goals: preserving a savings cushion and reducing debt.
  - *How mortgages change before origination*[70]. This October 2020 report provides new information about the types of changes that occur during the mortgage origination process, their size and prevalence, and when they (and other mortgage milestones) occur in the mortgage origination process, as reflected in the Loan Estimate and Closing Disclosure forms provided to borrowers pursuant to the TRID Rule.
  - *Perceived Financial Preparedness, Savings Habits, and Financial Security*[71]. This September 2020 brief uses the Making Ends Meet survey to explore consumers' savings-related behaviors, experiences, and outcomes. It provides insight into consumers' perceived financial preparedness by highlighting the relationship between how much money people think they need in savings for emergencies and how much money they report actually having in their checking and savings accounts combined.
  - *2019 mortgage market activity and trends*[72]. This is the third in an annual series of Bureau Data Point articles describing mortgage market activity over time based on data reported under the Home Mortgage Disclosure Act (HMDA). It summarizes

[69] https://www.consumerfinance.gov/data-research/research-reports/balancing-savings-and-debt-findings-from-an-online-experiment/

[70] https://www.consumerfinance.gov/data-research/research-reports/data-point-how-mortgages-change-before-origination/

[71] https://www.consumerfinance.gov/data-research/research-reports/perceived-financial-preparedness-saving-habits-and-financial-security/

[72] https://www.consumerfinance.gov/data-research/research-reports/data-point-2019-mortgage-market-activity-and-trends/

the historical data points in the 2019 HMDA data, as well as recent trends in mortgage and housing markets.

- The Bureau continued a periodic series of Quarterly Consumer Credit Trends (qCCT) reports identifying trends in the consumer credit markets, using the data in the Bureau's CCP. The following are the publications during the reporting period:
  - *qCCT: Payment Amount Furnishing & Consumer Reporting.*[73] This report explores the prevalence of actual payment information in consumer credit reporting. It illustrates the prevalence of actual payment data furnishing for the five most commonly furnished loan products between 2012-2020 and demonstrates differences in furnishing between revolving and installment loan products. Then, it focuses on the changes in furnishing behavior among the largest credit card issuers over time and explores possible business incentives that may account for the differences in furnishing behavior observed.
  - *qCCT: Recent trends in debt settlement and credit counseling.*[74] This report describes trends in debt settlement and credit counseling during the Great Recession and in recent years. This report shows that nearly one in thirteen consumers with a credit record had at least one account settled through a creditor or had account payments managed by a credit counseling agency from 2007 through 2019. Since 2016, the number of debt settlements has increased steadily, while credit counseling numbers are relatively unchanged.
- The Bureau published the following additional notable reports:
  - Consumer Financial Protection Bureau Releases Assessment of TRID Mortgage Loan Disclosure Rule.[75] This report details an assessment of the TRID Integrated Disclosure Rule (the Truth in Lending Act and Real Estate Settlement Procedures Act). The assessment found that the TRID Rule made progress towards several of its goals. The report also summarizes public comments for modifying, expanding, or eliminating the rule. The evidence available for the assessment indicates that the TRID Rule improved consumers' ability to locate key information, compare terms and costs between initial disclosures and final disclosures, and compare terms and costs across mortgage offers. Evidence was mixed, but leans positive, regarding

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[73] https://www.consumerfinance.gov/data-research/research-reports/quarterly-consumer-credit-trends-payment-amount-furnishing-consumer-reporting/

[74] https://www.consumerfinance.gov/data-research/research-reports/quarterly-consumer-credit-trends-debt-settlement-credit-counseling/

[75] https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-releases-assessment-trid-mortgage-loan-disclosure-rule/

whether the Rule improved consumer understanding of forms. The assessment also found that the Rule resulted in sizeable implementation costs for companies. The assessment was conducted in accordance with Section 1022(d) of the Dodd-Frank Act that requires the Bureau to assess significant rules or orders adopted under Federal consumer financial law. In addition, the Bureau published a Data Point examining how the terms and costs of a mortgage loan may change during the origination process as reflected in the Loan Estimate and Closing Disclosure forms provided to borrowers pursuant to the TRID Rule.

- *An updated review of the new and revised data points in HMDA: Further observations using the 2019 HMDA data.*[76] The goal of this article is to help the public become more familiar with the new and revised data points first reported in the 2018 HMDA data. This article looks at the 2019 HMDA data and provides some initial observations about the nation's mortgage market in 2019 using those new and revised data points. As in last year's article, the focus of this article is on cross-sectional analyses, i.e., using the data contained in one year's loan application registrar (LAR) to explore various patterns and relationships between different data fields to provide some initial observations. To the extent some of those patterns or relationships might have changed significantly over the last year, this article will highlight such changes in comparison to the observations from last year's article. Otherwise, the majority of the analyses in this article are limited to the data collected in 2019 and reported in 2020.
- *Evidence-based strategies to build emergency savings.*[77] Savings as a path to improved financial well-being is at the core of the Bureau's Start Small, Save Up initiative. This report synthesizes the rigorous research of programs and strategies aiming to help consumers achieve greater savings. The goal of this review is to provide researchers, policymakers, and practitioners with a broad view of the savings-related research landscape and to help identify promising practices, as well as gaps where additional future research might be most useful. The research is organized into three broad categories, each identifying an avenue through which to increase consumers' savings: savings products (providing a ready place to save), financial incentives (providing motivation to save), and behavioral and psychological approaches (providing a choice environment that facilitates saving).

[76] https://www.consumerfinance.gov/data-research/research-reports/revised-data-points-hmda/

[77] https://www.consumerfinance.gov/data-research/research-reports/evidence-based-strategies-build-emergency-savings/

- *Insights from the Making Ends Meet Survey.*[78] This research brief presents results from the Bureau's Making Ends Meet Survey, a nationally representative survey of adults with a credit record developed by the CFPB's Office of Research. The survey results 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. The Bureau conducted the survey in May 2019, almost one year before efforts to halt the spread of COVID-19 altered many people's lives. Yet the economic effects of COVID-19 add new urgency to the survey's goal of understanding how prepared households are for economic hardships such as job loss or medical expenses. U.S. consumers are frequently exposed to financial shocks which can lead to difficulty paying for bills and expenses. Consumers who experience difficulty often adjust by borrowing, cutting back on other expenses, not paying bills or expenses, or seeking additional income. Many consumers report that they are not well prepared to weather even a brief period of loss to their main income source without altering their lifestyle.

- *Retirement Security and Financial Decision-making: Research Brief.* A growing number of retirees are not experiencing the expected gradual reduction in spending after they retire. This report summarizes the findings of a Bureau study into whether people who retired between 1992 and 2014 had the income, savings, and/or non-housing assets to maintain the same level of spending for at least five consecutive years after retiring. The study found that about half of people who retired between 1992 and 2014 had income, savings, and/or non-housing assets to maintain the same spending level for five consecutive years after retiring. In addition, the Bureau found that the ability to maintain the same spending level in the first five years in retirement was associated with large spending cuts in later years. The study helps identify ways to protect retirees from overspending their savings in early retirement.

- *Targeting credit builder loans.*[79] The Bureau published a report on its evaluation of a Credit Builder Loan (CBL) product. CBLs are designed for consumers looking to establish a credit score or improve an existing one, while at the same time giving them a chance to build their savings. The report presents the results of the evaluation and synthesizes their implications for lenders, financial capability practitioners, and consumers. Alongside the report, the Bureau released a

[78] https://www.consumerfinance.gov/data-research/research-reports/insights-making-ends-meet-survey/

[79] https://www.consumerfinance.gov/data-research/research-reports/targeting-credit-builder-loans/

practitioner's guide synthesizing key findings for community-based organizations and financial institutions working to expand financial inclusion.

- *Financially Fit? Comparing the credit records of young servicemembers and civilians.*[80] Financial well-being, including credit history, is an important consideration in an individual's ability to join the military as well as his or her ability to maintain a security clearance and continue in military service. This report uses a representative sample of young servicemembers' credit reports to show how their credit histories evolve from the time they turn 18 until their mid-twenties. It also compares servicemembers to a cohort of same-age civilians.

- *Debt and delinquency after military service: A study of the credit records of young veterans in the first year after separation.*[81] A follow-up report to the *Financially Fit?* report, this report shows that a sizeable fraction of young enlisted servicemembers go delinquent on debt payments or have severe derogatory entries (for example, defaults) appear on their credit record around the time they leave active duty. The report focuses on three types of credit accounts: auto loans, revolving credit accounts (credit cards), and personal or retail installment loans. The report also analyzes medical and non-medical debt. These types of accounts were found in prior research to be the most likely sources of delinquency and default among young servicemembers.

- *Financial Literacy Annual Report.*[82] 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 2020 report highlights the Bureau's financial education programs and initiatives.

- *Bureau Symposia Series.*[83] On July 20, 2020 the Bureau held a symposium on cost-benefit analysis, the last in a series established under previous Bureau leadership. There was a total of five symposia in the series, one of which was held during the reporting period:

[80] https://www.consumerfinance.gov/data-research/research-reports/financially-fit-comparing-credit-records-young-servicemembers-civilians/

[81] https://www.consumerfinance.gov/data-research/research-reports/debt-and-delinquency-after-military-service-study-credit-records-young-veterans-first-year-after-separation/

[82] https://www.consumerfinance.gov/data-research/research-reports/2020-financial-literacy-annual-report/

[83] https://www.consumerfinance.gov/about-us/newsroom/bureau-announces-symposia-series/

- The fifth symposium in the series, held on July 20, 2020, focused on cost-benefit analysis in consumer financial protection regulation.

- *Consumer Complaint Database*. The Bureau implemented several enhancements to the Bureau's Consumer Complaint Database during the reporting period. The Bureau:

  - Built and launched dynamic visualization tools including geospatial (April 2020) and trend (July 2020) views based on recent complaint data to help users of the database understand current and recent marketplace conditions;

  - Added an optional public company response category (June 2020), expanding a company's ability to respond publicly to individual complaints. The Taskforce on Federal Consumer Financial Law completed its work in January 2021, accomplishing its goal to examine ways to harmonize and modernize Federal consumer financial laws and regulations. The Taskforce, informed by the public, stakeholders, and Bureau experts, leveraged the five members' past insights and expertise to produce a two-volume work. Volume I of the Report analyzes data regarding the benefits and costs of consumer financial products and services, and reviews the existing consumer financial regulatory framework to develop a common understanding of the history and current state of federal consumer financial laws and their influence on the marketplace. Volume II contains one hundred and two recommendations for improvements to the consumer financial system.

- *Advisory Opinions*.[84] The Bureau launched a pilot Advisory Opinion program advisory opinion (AO) program in June 2020 and finalized the AO program in November 2020 to provide interpretive rules that address regulatory uncertainty in the Bureau's existing regulations. Also, in November, the Bureau issued an advisory opinion regarding earned wage access (EWA) products, which are marketed as a way for employees to meet short-term liquidity needs that arise between paychecks without turning to more costly alternatives like traditional payday loans. The advisory opinion aimed to resolve regulatory uncertainty regarding the applicability of the definition of credit under Regulation Z to EWA products that have certain features, including zero cost to the employees that use them. The Bureau also issued an advisory opinion to clarify that certain loan products that refinance or consolidate a consumer's pre-existing federal, or federal and private, education loans meet the definition of "private education loan" in Truth in Lending Act and Regulation Z and are subject to the disclosure and other requirements in subpart F of Regulation Z. In December 2020, the Bureau issued an advisory opinion to address

[84] https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-finalizes-advisory-opinions-policy-and-announces-two-new-advisory-opinions/

regulatory uncertainty regarding Regulation B, which implements the ECOA, as it applies to certain aspects of special purpose credit programs designed and implemented by for-profit organizations to meet special social needs.[85] Specifically, this interpretive rule clarified the content that a for-profit organization must include in a written plan that establishes and administers a special purpose credit program under Regulation B. In addition, this rule clarified the type of research and data that may be appropriate to inform a for-profit organization's determination that a special purpose credit program is needed to benefit a certain class of persons.

- *Compliance Assistance Sandbox.*[86] In September 2019, the Bureau issued its Policy on the Compliance Assistance Sandbox (CAS Policy). Under the final CAS Policy, innovators can apply for an approval that provides a safe harbor from liability for good faith compliance with the law under certain statutes within the Bureau's jurisdiction. The Bureau granted its first application for a Compliance Assistance Statement of Terms Template (CAST Template) under the CAS Policy to Commonwealth, a nonprofit organization focused on promoting personal financial security.[87] The CAST template can be used as the basis for applications by employers to apply for individualized approvals of automatic savings programs created as a way for employees to build emergency savings and increase their financial resiliency. In December 2020, the Bureau granted applications under the CAS policy to PayActiv,[88] which provides earned wage access (EWA) products, and to Synchrony Bank for its "dual-feature credit card."[89] The PayActiv approval concerned specific aspects of some of its EWA products,[90] which are designed to provide an alternative to more risky small-dollar products, such as payday loans and overdraft. Also, in December 2020, the Bureau issue an approval order to Synchrony Bank regarding its proposal to develop a "dual-feature credit card." The card is designed for consumers with a limited or damaged credit history as a tool that can be used to establish or reestablish a favorable credit history.[91] In connection with each of the December 2020 approval orders, the Bureau is

[85] https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-issues-advisory-opinion-to-help-expand-fair-equitable-and-nondiscriminatory-access-to-credit/

[86] https://files.consumerfinance.gov/f/documents/cfpb_final-policy-on-cas.pdf

[87] https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-help-employers-develop-emergency-savings-programs/

[88] https://files.consumerfinance.gov/f/documents/cfpb_payactiv_approval-order_2020-12.pdf

[89] https://files.consumerfinance.gov/f/documents/cfpb_synchrony_approval-order_2020-12.pdf

[90] https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-issues-an-approval-order-to-facilitate-employee-access-to-earned-but-unpaid-wages/

[91] https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-issues-approval-order-to-facilitate-the-use-of-dual-usage-credit-cards/

receiving data from the recipient concerning consumer impacts of the products in question. The Bureau is currently processing several other applications under the CAS Policy.

- *No-Action Letters*. In September 2020, the Bureau issued a No Action Letter (NAL) under its NAL Policy[92] to JP Morgan Chase Bank, N.A., regarding its housing counseling funding agreements, pursuant to the U.S. Department of Housing and Urban Development (HUD) NAL Template issued in September 2019.[93] In May 2020, the Bureau issued a NAL Template that can be used by mortgage servicers seeking to assist struggling borrowers to avoid foreclosure and engage in loss mitigation efforts.[94] At the same time, the Bureau issued a NAL Template covering small-dollar loan products in part to further competition in the small-dollar lending space and facilitate robust competition that fosters access to credit.[95] In November 2020, the Bureau granted a no-action letter (NAL) to Bank of America, N.A., regarding certain small-dollar credit loan products.[96] Also in November 2020, the Bureau issued a No-Action Letter to Upstart Network, Inc. regarding its automated model for making underwriting and pricing decisions with respect to applications by consumers for unsecured, closed-end loans.[97] Under this No-Action Letter, the Bureau is receiving information from Upstart, including fair lending and access to credit testing results, that it is using to inform its policy on AI and alternative data.[98] The Bureau is currently processing several applications under the NAL Policy.

- *Trial Disclosure Programs*. In Sept. 2019, the Bureau issued its revised Policy to Encourage Trial Disclosure Programs (TDP Policy).[99] While the Bureau has not yet granted

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92 https://files.consumerfinance.gov/f/documents/cfpb_final-policy-on-no-action-letters.pdf

93 https://www.consumerfinance.gov/about-us/newsroom/bureau-issues-policies-facilitate-compliance-promote-innovation/

94 https://www.consumerfinance.gov/about-us/newsroom/cfpb-helps-struggling-homeowners-seeking-mitigation-efforts-consumers-seeking-small-dollar-loans/?_gl=1*1ngsev8*_ga*MTg2MjE1MjQ3Mi4xNTkzMDI2NDQ5*_ga_DBYJL30CHS*MTYyNjEyMDI3Mi44My4xLjE2MjYxMjAzNDUuMA

95 https://www.consumerfinance.gov/about-us/newsroom/cfpb-helps-struggling-homeowners-seeking-mitigation-efforts-consumers-seeking-small-dollar-loans/?_gl=1*1ngsev8*_ga*MTg2MjE1MjQ3Mi4xNTkzMDI2NDQ5*_ga_DBYJL30CHS*MTYyNjEyMDI3Mi44My4xLjE2MjYxMjAzNDUuMA

96 https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-issues-no-action-letter-facilitate-consumer-access-small-dollar-loans/

97 https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-issues-no-action-letter-facilitate-use-artificial-intelligence-pricing-and-underwriting-loans/

98 https://files.consumerfinance.gov/f/documents/cfpb_upstart-network-inc_no-action-letter_2020-11.pdf

99 https://files.consumerfinance.gov/f/documents/cfpb_final-policy-to-encourage-tdp.pdf

an application under the TDP Policy, the Bureau is currently processing several applications.

- *The American Consumer Financial Innovation Network (ACFIN).*[100] ACFIN is a network of 21 federal and state officials and regulators seeking to facilitate consumer-beneficial innovation. 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. In the reporting period, the Bureau hosted joint innovation office hours with (i) the OCC, and (ii) the Colorado Department of Law to speak with firms, advocates, and other parties about innovation-related matters.

- *Global Financial Innovation Network (GFIN).*[101] The Bureau is also a coordinating member of GFIN, an organization of over 50 regulatory agencies worldwide working together to support financial innovation in the interest of consumers. 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 participates in two GFIN workstreams: one related to cross-border testing and another related to regulatory and supervisory technology.

- *Tech sprints.* The Bureau hosted two Tech sprints during the reporting period. Tech sprints are events designed to bring together a variety of participants and perspectives to develop technology-based proof of concepts that address a challenge in a particular area of consumer financial services. In October 2020, the Bureau hosted a Tech sprint that focused on ways to improve adverse action notices to make them more informative.[102] In March 2021, the Bureau hosted its second Tech sprint that challenged teams to develop consumer-facing tools using HMDA data and to improve the submission of HMDA data to the Bureau.[103]

- *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

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[100] https://www.consumerfinance.gov/policy-compliance/innovation/american-consumer-financial-innovation-network/

[101] https://www.consumerfinance.gov/policy-compliance/innovation/global-financial-innovation-network/

[102] https://www.consumerfinance.gov/rules-policy/innovation/cfpb-tech-sprints/electronic-disclosures-tech-sprint/

[103] https://www.consumerfinance.gov/rules-policy/innovation/cfpb-tech-sprints/home-mortgage-disclosure-act-tech-sprint/ Additional activity has occurred with this matter since the end of this reporting period. The Bureau's next tech sprint starting in summer 2021 is focused on Preventing Crisis for Low-Income Renters and Small Landlords and will be conducted through the Census Bureau's The Opportunity Project. More information can be found here: https://opportunity.census.gov/sprints/.

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 1 of each year. Modified loan-level data are released by March 31, and other data products including a national dataset and Aggregate and Disclosure Reports are released in the summer of each year.[104] In June 2020, the Bureau also 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.[105] The second Data Point article is a 2019 update to analysis of new and revised 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.[106] Public access to HMDA data is also made available through the HMDA Data Browser,[107] allowing custom selections of the data to be mapped, summarized and downloaded.

- *Equal Credit Opportunity Act (ECOA) and Regulation B RFI.*[108] The Bureau published this RFI to seek public input on how best to create a regulatory environment that expands access to credit and ensures that all consumers and communities are protected from discrimination in all aspects of a credit transaction. ECOA and Regulation B make it unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction, on the basis of race, color, religion, national origin, sex, marital status, or age; because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The information provided will help the Bureau continue to explore ways to address regulatory compliance challenges while fulfilling the Bureau's core mission to prevent unlawful discrimination and foster innovation.

- *Request for Information on Financial Institutions' Use of Artificial Intelligence, including Machine Learning.*[109] In March 2021, the Bureau, along with The Federal Reserve Board, the FDIC, the NCUA and the OCC announced a request for information to gain input from financial institutions, trade associations, consumer groups, and other stakeholders on the

[104] https://ffiec.cfpb.gov/data-publication/

[105] https://www.consumerfinance.gov/data-research/research-reports/data-point-2019-mortgage-market-activity-and-trends/

[106] https://www.consumerfinance.gov/data-research/research-reports/revised-data-points-hmda/

[107] https://ffiec.cfpb.gov/data-browser/data/2019?category=states

[108] https://www.consumerfinance.gov/about-us/newsroom/cfpb-rfi-prevent-credit-discrimination-build-more-inclusive-financial-system/

[109] https://www.consumerfinance.gov/about-us/newsroom/agencies-seek-wide-range-of-views-on-financial-institutions-use-of-artificial-intelligence/

growing use of AI by financial institutions. More specifically, the RFI seeks comments to better understand the use of AI, including machine learning, by financial institutions; appropriate governance, risk management, and controls over AI; challenges in developing, adopting, and managing AI; and whether any clarification would be helpful.

- The Bureau published the following consumer guides and tools:
  - *Elder Fraud Prevention and Response Networks (EFPRN) Development Guide*.[110] The Bureau released the EFPRN Development Guide that provides step-by-step materials to help communities form or enhance networks to increase their capacity to prevent and respond to elder fraud.
  - *Misadventures in Money Management (MiMM)*.[111] The Bureau released a new MiMM character, which was created specifically to address scenarios surrounding debt of the family members of servicemembers. MiMM is a cutting edge, graphic novel where you can choose your own adventure in a virtual learning experience that trains future and current servicemembers on how to navigate future financial landmines in an engaging and interactive way. The program is currently available for use by all the U.S. Armed Forces and can be played at MiMM.GOV.
  - *Paying for College*.[112] The Bureau released Paying for College: Your Financial Path to Graduation, a web tool that seeks to help prospective students make informed decisions about financing their college education. The tool helps prospective borrowers navigate financial aid offers by exploring some important concepts and questions about the short and long-term financial consequences of their aid choices. The Bureau has worked with institutions of higher education, college access advisors, and high school counselors, and other K-12 professionals to pilot the tool with their students.
  - *Your Money, Your Goals*.[113] The Bureau continued to disseminate financial empowerment resources to consumers and stakeholders, and provide training on its interactive, Your Money, Your Goals (YMYG) digital and print resources. Training was offered to a wide array of public sector and non-profit organizations, focusing on emerging issues as a result of the COVID-19 crisis such as credit protection, debt management, financial planning, rental assistance, accessing CARES Act benefits

[110] https://www.consumerfinance.gov/about-us/newsroom/cfpb-tool-helps-communities-prevent-and-respond-to-elder-fraud/

[111] https://www.mimm.gov/

[112] https://www.consumerfinance.gov/paying-for-college/

[113] https://www.consumerfinance.gov/practitioner-resources/your-money-your-goals/

and more; resources were also used by the Bureau for direct-to-consumer outreach. A training page entitled *Videos to Spark Action* shares engaging and brief training videos rooted in the YMYG toolkit, such as *How Do I Get a Copy of My Credit Report?*[114] The YMYG materials include issues-focused booklets that are consumer-facing such as *Behind on Bills?*;[115] the financial empowerment toolkit that includes several modules such as *Dealing with Debt*; and companion guides to the toolkit for special populations, such as *Focus on Native Communities.*[116] New materials released included 11 individual digital tools in Spanish and a new companion guide for military communities. YMYG publications can be easily accessed through the cf.gov website, and free print copies are available for order.[117]

- *Children's Savings Account Programs: Measuring Program Performance and Outcomes.*[118] The Bureau released two guides to help Children's Savings Account (CSA) programs evaluate their effectiveness in increasing children and families' savings for post-secondary education and training. CSA programs vary in terms of their reach, funding sources, and other features. Given this diversity, programs have different goals and opportunities around how they collect data to track their performance and evaluate participant outcomes. With input from CSA program leaders, researchers, and funders, the Bureau explored how the field might take a more coordinated approach to program design and evaluation. The first guide provides design and evaluation principles to help CSA programs develop a theory of change and logic model. The second guide provides a list of common measures that programs may consider collecting.

- *Financial inTuition podcast.*[119] In September of 2020, the Bureau launched the Financial inTuition podcast. Episodes focus on a variety of topics pertaining to saving and paying for higher education, managing money, and repaying student loan debt. The podcast shares interviews with financial practitioners, students and recent graduates, family members and young adults that have successfully managed their money and repaid their student loan debt.

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[114] https://www.consumerfinance.gov/consumer-tools/educator-tools/your-money-your-goals/videos/

[115] https://www.consumerfinance.gov/consumer-tools/educator-tools/your-money-your-goals/booklets-talk-about-money/

[116] https://www.consumerfinance.gov/consumer-tools/educator-tools/your-money-your-goals/

[117] https://pueblo.gpo.gov/CFPBPubs/CFPBPubs.php?PubID=13272&PHPSESSID=ic71h6c6025t3mi0rj9ldg5gi5

[118] https://www.consumerfinance.gov/data-research/research-reports/childrens-savings-account-programs-measuring-program-performance-and-outcomes/

[119] https://www.consumerfinance.gov/consumer-tools/educator-tools/students/financial-intuition/

- *Start Small, Save Up Initiative.*[120] The Bureau launched the Smart Small, Save Up (SSSU) initiative in February 2019 to increase people's opportunities to save and empower them to realize their personal savings goals as a step toward improved financial well-being. During the reporting period, the SSSU initiative worked toward that vision through direct to consumer tools and strategic engagement with a variety of external entities that focused on promoting solutions that make saving easier and more accessible. The Bureau reached more than 1.3 million consumers with targeted messages encouraging saving for emergencies. The Bureau also added to its suite of online tools including the Guide to Building an Emergency Fund and the Guide to Saving at Tax Time. The Bureau updated its savings tools and resources available to consumers on the Bureau's website, ensuring that Bureau tools reflected the new economic realities faced by many people in the wake of the coronavirus pandemic. In addition, the Bureau engaged with a select number of community based organizations to gain a better understanding about how consumers in their service area build emergency savings, and to support those organizations with Bureau tools and resources to help residents to increase their financial well-being.

- *Classroom Activities for Teaching the Building Blocks of Financial Capability.*[121] The Bureau launched a set of activities for elementary and middle school teachers to incorporate lessons into the classroom that support the development of financial skills. The middle school activities, added in 2019, and the elementary school activities, added in 2020, 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 for adulthood. Children and youth need to develop all three of the interconnected building blocks to support financial capability in adulthood. The building blocks are executive function; financial habits and norms; and financial knowledge and decision-making skills. The searchable teacher platform on consumerfinance.gov includes 252 specific classroom activities for teachers to use with their students.

- *CFPB Money Monsters.*[122] The CFPB Money Monsters stories introduce students in grades K-5 to ideas, habits, and activities that can help them build skills to manage their own money. This story series teaches children about financial literacy in the context of resonant themes including school, friendship, and financial literacy. Each

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

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

[122] https://www.consumerfinance.gov/consumer-tools/educator-tools/youth-financial-education/teach/money-monsters/

of the Money Monsters books are available as a downloadable PDF or Pub file compatible with an eReader app. The ePub version of the Money Monsters stories are animated so images move. Each Money Monsters story has downloadable classroom activities accompanied by a teacher guide.

  - *Consumer Handbook on Adjustable-Rate Mortgages.*[123] Consumers who discuss adjustable-rate mortgages (ARMs) with lenders must receive a copy of the disclosure booklet. Based on multiple rounds of consumer feedback, the booklet helps people understand how an ARM works and whether it is the right choice for their situation, shows them how to review important documents, and explains the risks that come with different types of ARMs. This version of the booklet is more concise, reduced from 41 pages to 13 pages, and eliminates references to LIBOR due to the forecasted cessation of LIBOR. Available for download from the CFPB site; printed copies may be purchased through the GPO Bookstore.

- *Outreach.* From April 1, 2020 to March 31, 2021, the Bureau engaged with external stakeholders under two Directors: Director Kathleen Kraninger and Acting Director David Uejio, who was named Acting Director on January 21, 2021.

  - In the spring of 2020, Director Kraninger delivered remarks at the Credit Union National Association's Government Affairs Conference; the National Diversity Coalition's "One Voice Across America" Town Hall; the U.S. Department of the Treasury's Freedman's Bank Forum; and the National Association of Realtors' Regulatory Issues Forum. In the summer of 2020, she participated in a town hall with the Milken Institute as part of Consumer Financial Protection Week; a webinar hosted by the National Diversity Coalition; and the Women in Housing and Finance's Annual Symposium. In the fall of 2020, Director Kraninger participated in the National Association of Federal Credit Unions' Congressional Caucus; Operation HOPE's Global Forum; Harvard University's Regulatory Policy Seminar Series; a fireside chat with the Chamber of Commerce; and joint virtual office hours with Colorado Attorney General Philip Weiser as part of the American Consumer Financial Innovation Network (ACFIN).

  - In May 2020, September 2020, and November 2020 the Bureau held meetings with the Consumer Advisory Board (CAB), Community Bank Advisory Council (CBAC), Credit Union Advisory Council (CUAC), and Academic Research Council (ARC).

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[123] https://files.consumerfinance.gov/f/documents/cfpb_charm_booklet.pdf

Director Kraninger provided remarks and participated in these advisory committees.

- In July 2020, the Bureau held a virtual symposium, focused on the use of cost-benefit analysis in consumer financial protection regulation, at which Director Kraninger provided opening remarks.

- In the winter of 2021, Acting Director Uejio participated in more than 50 calls and virtual meetings with the Bureau's advisory committee, intergovernmental, consumer advocacy, and trade association stakeholders on issues related to COVID-19 and racial equity as well as other topics. He also delivered virtual remarks at the Conference of State Bank Supervisors' Washington Fly-in, in late March 2021.

- *Interagency Collaboration on Supervision of Very Large Credit Unions.* The Bureau and the National Credit Administration (NCUA) entered into a Memorandum of Understanding (MOU) agreement to improve coordination between the agencies related to the consumer protection supervision of credit unions over $10 billion dollars in assets. The MOU was announced in January 2021.[124]

- *Rescission of Abusiveness Policy Statement.* On March 11, 2021, the Bureau announced its rescission of its January 24, 2020 policy statement, "Statement of Policy Regarding Prohibition on Abusive Acts or Practices." The Bureau rescinded the original policy statement to better protect consumers and the marketplace from abusive acts or practices, and to enforce the law as Congress wrote it. Effective March 19, 2021, as stated in the rescission, the Bureau intends to exercise its supervisory and enforcement authority consistent with the full scope of its statutory authority under the Dodd-Frank Act as established by Congress.[125]

- *Rescission of Series of Policy Statements.* On March 31, 2021, the Bureau rescinded seven policy statements issued in 2020 that provided temporary flexibilities to financial institutions in consumer financial markets including mortgages, credit reporting, credit cards and prepaid cards. The seven rescissions, effective April 1, 2021, provide guidance to financial institutions on complying with their legal and regulatory obligations. With the rescissions, the Bureau provided notice of its intent to exercise the full scope of its supervisory and enforcement authority as provided under the Dodd-Frank Act. The Bureau also rescinded its 2018 bulletin on supervisory communications and replaced it with a

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[124] https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-and-national-credit-union-administration-sign-memorandum-of-understanding/.

[125] https://www.consumerfinance.gov/documents/9541/cfpb_abusiveness-policy-statement-consolidated_2021-03.pdf

revised bulletin describing its use of matters requiring attention (MRAs) to effectively convey supervisory expectations.[126]

- *Other Guidance Documents*. The Bureau also issued the following guidance documents over the past year:[127]
    - Annual Reports to Congress on the TILA, EFTA, and CARD Act, Jan. 21, 2021[128]
    - October 2020 Annual Report of the CFPB Private Education Loan Ombudsman[129]
    - Reverse Mortgage Servicing Examination Procedures, June 2020[130]
    - Statement on Supervisory and Enforcement Practices Regarding Certain Large Loans under the Regulations for Payday, Vehicle Title, and Certain High-Cost Installment Loans, July 7, 2020[131]
    - Statement on Policy of Applications for Early Termination of Consent Orders, October 5, 2020.[132] The policy statement outlines the early termination application process for entities subject to an administrative consent order and the standards that the Bureau intends to use when evaluating applications.[133]
    - Summer 2020, *Supervisory Highlights*, September 2020[134]
    - Truth in Lending Act (TILA) Examination Procedures, September 2020[135]

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[126] https://www.consumerfinance.gov/about-us/newsroom/cfpb-rescinds-series-of-policy-statements-to-ensure-industry-complies-with-consumer-protection-laws/

[127] 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.

[128] https://files.consumerfinance.gov/f/documents/cfpb_semi-annual-report-to-congress_fall-2020.pdf.

[129] https://files.consumerfinance.gov/f/documents/cfpb_annual-report_private-education-loan-ombudsman_2020.pd

[130] https://files.consumerfinance.gov/f/documents/cfpb_reverse-mortgage-servicing-examination-procedures_2020-06.pdf

[131] https://files.consumerfinance.gov/f/documents/cfpb_statement_large-loans-payday-revocation-final-rule_2020-07.pdf

[132] https://www.consumerfinance.gov/policy-compliance/guidance/supervisory-guidance/statement-policy-applications-early-termination-consent-orders/

[133] https://files.consumerfinance.gov/f/documents/cfpb_abusiveness-enforcement-policy_statement.pdf.

[134] https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-22_2020-09.pdf

[135] https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_tila-exam-procedures_2020-09.pdf

- COVID-19 Prioritized Assessments Special Edition, *Supervisory Highlights*, January 2021[136]
- Memorandum of Understanding with the National Credit Union Administration Regarding Enhanced Cooperation and Coordination, January 14, 2021[137]
- CFPB Bulletin 2021-01: Changes to Types of Supervisory Communications, March 31, 2021[138]
- Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Bureau Information Collections for Credit Card and Prepaid Account Issuers, March 29, 2021[139] This bulletin rescinded and replaced CFPB Bulletin 2018.
- Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Quarterly Reporting under the Home Mortgage Disclosure Act, March 29, 2021[140]
- Rescission of Statement of Policy on Bureau Supervisory and Enforcement Response to COVID-19 Pandemic, March 29, 2021[141]
- Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act, March 29, 2021[142]
- Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Certain Filing Requirements under the Interstate Land Sales Full Disclosure Act and Regulation J, March 29, 2021[143]

[136] https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-23_2021-01.pdf

[137] https://files.consumerfinance.gov/f/documents/cfpb_ncua-memorandum-of-understanding_2021-01.pdf

[138] https://files.consumerfinance.gov/f/documents/cfpb_bulletin_2021-01_changes-to-types-of-supervisory-communications_2021-03.pdf

[139] https://files.consumerfinance.gov/f/documents/cfpb_final-rescission_cc-prepaid-info-collectns-cons_2021-03.pdf

[140] https://files.consumerfinance.gov/f/documents/cfpb_final-rescission_hmpd-qrtly-reporting-consolidated_2021-03.pdf

[141] https://files.consumerfinance.gov/f/documents/cfpb_final-rescission_enf-and-supervisory-response_2021-03.pdf

[142] https://files.consumerfinance.gov/f/documents/cfpb_final-rescission_fcra-enforcement-flexibility_2021-03.pdf

[143] https://files.consumerfinance.gov/f/documents/cfpb_final-rescission_ilsa-filings-consolidated_2021-03.pdf

- Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Regulation Z Billing Error Resolution Timeframes in Light of the COVID-19 Pandemic, March 29, 2021[144]

- Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Electronic Credit Card Disclosures in Light of the COVID-19 Pandemic, March 29, 2021[145]

- CFPB Bulletin 2020-02: Handling of Information and Documents During Mortgage Servicing Transfers, April 24, 2020[146]

- CFPB Bulletin 2021-02: Supervision and Enforcement Priorities Regarding Housing Insecurity, March 31, 2021[147]

3.4 Plan for upcoming initiatives

- *Office of Servicemember Affairs Annual Report.*[148] The Office of Servicemember Affair's FY2020 Annual Report will highlight how the office adapted to the challenges of the pandemic to continue to serve servicemembers. The report will cover OSA's outreach initiatives, key educational tools, and an analysis of the over 40,000 complaints received from servicemembers in 2020.

- *Older Americans Month and WEEAD.*[149] May 2021 is Older Americans Month, and June 15, 2021 is World Elder Abuse Awareness Day. The Bureau's Office for Older Americans (OA) has developed a seven-week outreach plan to capitalize on this focus to broadly share

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144 https://files.consumerfinance.gov/f/documents/cfpb_final-rescission_billing-error-resolution_2021-03.pdf

145 https://files.consumerfinance.gov/f/documents/cfpb_final-rescission_electronic-cc-discl-e-sign-consent-cons_2021-03.pdf

146 https://www.consumerfinance.gov/documents/8750/cfpb_policy-guidance_mortgage-servicing-transfers_2020-04.pdf

147 https://files.consumerfinance.gov/f/documents/cfpb_bulletin-2021-02_supervision-and-enforcement-priorities-regarding-housing_WHcae8E.pdf

148 Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: https://www.consumerfinance.gov/data-research/research-reports/office-of-servicemember-affairs-annual-report-fy-2020/

149 Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: https://www.consumerfinance.gov/about-us/blog/celebrating-older-adults-communities-strength-supporting-them/

resources that support older adults' financial decision-making and help them avoid the harm of elder financial fraud and exploitation. During each of the seven weeks, the Bureau will focus on a specific issue affecting older adults and their families and service providers. The Bureau will make available print publications to support organizations that serve older consumers who prefer or require information in print. The Bureau is also increasing outreach to organizations that focus on serving historically underserved or marginalized groups, in furtherance of the Bureau's increased focus on addressing racial and economic inequality.

- *Appraisal Bias Event.* On June 15, 2021 Acting Director Dave Uejio will host virtual discussions with civil rights organizations, housing policy experts, and other federal agencies to explore how racial bias in housing appraisals and automated valuation models may occur and what steps can be taken in response.

- *Research Reports.* The Bureau plans to publish several research reports in the second half of FY 2021, including:

  - Data Point: Changes in Consumer Financial Status During Early Months of the Pandemic[150]

  - Data Point: Characteristics of Mortgage Borrowers During COVID-19 Pandemic[151]

  - Data Point: Consumer Use of Payday, Auto Title, and Pawn Loans[152]

  - Data Point: Manufactured Housing Finance: New Insights from HMDA[153]

  - Data Point: A Brief Note on General Lending Patterns of Small to Medium Size Closed-end HMDA Reporters[154]

  - *Measuring the Financial Well-being of Hispanics: 2018 Financial Well-being Score Benchmarks.* This report will provide a foundational set of benchmarks of the

[150] https://www.consumerfinance.gov/data-research/research-reports/changes-in-consumer-financial-status-during-early-months-pandemic/

[151] https://www.consumerfinance.gov/data-research/research-reports/characteristics-mortgage-borrowers-during-covid-19-pandemic/

[152] https://www.consumerfinance.gov/data-research/research-reports/consumer-use-of-payday-auto-title-and-pawn-loans-insights-making-ends-meet-survey/

[153] https://www.consumerfinance.gov/data-research/research-reports/manufactured-housing-finance-new-insights-hmda/

[154] https://www.consumerfinance.gov/data-research/research-reports/a-brief-note-on-general-lending-patterns-small-to-medium-size-closed-end-hmda-reporters/

financial well-being of Hispanics ages 18 and older in the United States in 2018, as measured by the CFPB Financial Well-Being Scale, that practitioners and researchers can use in their work. The benchmarks are being developed using data from the FINRA Foundation's 2018 National Financial Capability Survey. This report will specifically show financial well-being score patterns for Hispanic adults by socio-demographics, financial inclusion, safety nets, and financial literacy factors. The report will highlight key findings in the data and the implications for organizations that are planning to use the benchmarks.[155]

- *Financial Coaching Initiative: Results and Lessons Learned.* In 2015, the Consumer Financial Protection Bureau launched the Financial Coaching Initiative, a pilot program that provided financial coaching services to veterans and economically vulnerable consumers. Over four years, the Financial Coaching Initiative served over 23,000 consumers, demonstrating that financial coaching can be successfully implemented at scale in many different settings for a wide range of consumers. This report and summary brief will describe the basic structure of the Initiative, present data about the program's results, and summarize key lessons learned for practitioners and organizations interested in coaching.[156]

- *Outreach.*
  - From April 1, 2021 to September 30, 2021, Acting Director Uejio will continue to engage with the Bureau's intergovernmental, consumer advocate, and trade association stakeholders on issues related to COVID-19 and racial and economic equity and other topics. In the spring of 2021, he will virtually participate in the University of Minnesota Humphrey School of Public Affairs' Brustad Lecture, the Small Business Administration's National Financial Capability Month Speaker Series, the Asian Real Estate Association of America's Diversity and Fair Housing Summit, the National Association of Attorneys General Consumer Protection Spring Conference, the Mortgage Bankers Association's Legal Issues and Regulatory Compliance Conference, and a townhall hosted by AARP.

- Coordination *with the Department of Education (Department).* The CFPB and the Department are engaging in coordination protocols regarding oversight of compliance

155 To see additional activity that occurred after the reporting period, visit: Measuring the financial well-being of Hispanics: 2018 Financial Well-being Score Benchmarks | Consumer Financial Protection Bureau (consumerfinance.gov)

156 To see additional activity that occurred after the reporting period, visit: Financial Coaching Initiative: Results and Lessons Learned | Consumer Financial Protection Bureau (consumerfinance.gov).

obligations. The protocols are designed to coordinate efforts to oversee regulated entities and protect consumers.

- Interagency Collaboration on Student Loans. Following the reestablishment of the Memorandum of Understanding (MOU) with the Department of Education (Department) regarding complaints, the CFPB and Department have engaged in regular meetings regarding complaints, complaint data, and borrower characteristics. The Bureau also has engaged with the Department and the Federal Trade Commission regarding third-party debt relief scams. Finally, the Bureau participates in the Principles of Excellence (POE) Working Group with the Department of Defense, the Department of Education, the Veteran's Administration, and the FTC pursuant to Executive Order 13607 (Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members).

- *Inaugural Open Data Plan and CDO Annual Report.* Per the Evidence Act, the Bureau plans to publish its inaugural Open Data Plan to provide greater transparency and promote access to and use of Bureau datasets. This plan will detail the Bureau's strategy and progress toward identifying priority open datasets and making them more accessible through the Federal Data Catalogue and the Bureau's website. The Bureau also plans to publish a CDO Report on the Bureau's compliance with the Evidence Act.

- *Data Maturity Assessment.* The Bureau is continuing to develop a data maturity assessment framework to document data management best practices, determine gaps, and identify areas of opportunity to modernize and improve the Bureau's ability to harness data to inform policy decisions. This assessment will provide the foundation to enable the Bureau to mature its use of data to meet its policy priorities and fulfill its mission.

- *COVID-19 Pandemic Response.*

    - *Unified Housing Portal.* The Bureau coordinated interagency work to increase awareness and understanding of forbearance options for struggling homeowners and emergency assistance for renters. The Bureau will continue to engage in user testing for existing materials and synthesize findings to continuously improve the Housing Portal. The Bureau will also publish web content to support the Interim Final Rule on debt collection and evictions, including new Housing Portal pages and modules. The interagency work will include publishing consumer-facing FAQs about Treasury's Emergency Rental Assistance Program and the CDC order and declaration form, as well as continuing to create landlord-facing content. The Bureau will finish publication of translations in 6 non-English languages and work with trusted intermediaries and news outlets to distribute and pitch new resources.

- *American Rescue Plan Act (ARP).*[157] The Bureau will coordinate with the Department of Treasury and the Internal Revenue Service to provide up to date information to consumers on how they can access the Advance Child Tax Credit and the enhanced Earned Income Tax Credit and Child and Dependent Care Tax Credit that were enacted through ARP for tax year 2021. The Bureau will also provide information to help consumers make decisions about how to utilize the additional funds available through these tax credits to increase their financial security and financial well-being.

- *EIP and Unemployment Fraud outreach.*[158] The Bureau will continue to conduct outreach to hard-to-reach populations, including through organizations that serve them to encourage traditional non-filers to file a tax return in 2021 to receive their EIP and other tax benefits. The Bureau intends to create a designated resource page for direct service providers helping people facing homelessness access stimulus payments. Lastly, the Bureau intends to produce content advising consumers on how to protect against 1099-G unemployment benefits fraud.

- *Continued Response to Ensure Safety of Staff in 2021.* 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. The Bureau's operating posture remains in place through September 4, 2021.

- *Future of Work.* Further prompted by the pandemic, the future of work is changing the way organizations look at where we work, how we work, and the nature of the work itself. The Bureau has developed an approach for how it will evolve with a priority on workplace changes as the first outcome of this initiative. The Bureau's has successfully proven its ability to deliver on its mission during the pandemic and will use the lessons learned, along with feedback from its employees, to assess and define the future path.

- *Continued Follow-up on Prioritized Assessments.* The Bureau will be prioritizing and expanding its follow up on the issues identified in Prioritized Assessments last

[157] 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/managing-your-finances/child-tax-credit-flowchart/

[158] 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/help-homeless-access-their-eip/; https://www.consumerfinance.gov/about-us/blog/unemployment-benefits-scams-how-to-protect-yourself/

year as well as the current issues related to economic hardships consumers are facing in the ongoing pandemic.

- *Racial and Economic Equity*. The Bureau is increasing its supervisory resources on targeted fair lending reviews in the coming year. This will include follow up work to the fair lending risks identified in the Prioritized Assessments from the review of the Paycheck Protection Program restrictions to current customers, as well as other supervisory activities.

3.5 Plan for upcoming rules

The Bureau published its Spring 2021 Rulemaking Agenda as part of the Spring 2021Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by OMB.[159] Among other things, the Unified Agenda lists the regulatory matters that the Bureau reasonably anticipates having under consideration during the period from May 1, 2021, to April 30, 2022.[160] Not included in this report, the Bureau's Rulemaking Agenda also includes long-term actions.

Pre-rulemaking initiatives, as reflected in the Bureau's Spring 2021 Unified Agenda:

- *Consumer Access to Financial Records. Consumer Access to Financial Records*. The Bureau is working on a potential rulemaking to address the availability of consumer financial account data in electronic form, which has helped consumers understand their finances and make better-informed financial decisions in a variety of ways. Research has indicated that the availability of certain consumer financial account data may improve underwriting and expand access to credit. At the same time, the means by which these data are accessed, transmitted, stored, and used by financial institutions of all kinds can implicate significant privacy, security, racial equity, and other consumer financial protection concerns. Section 1033 of the Dodd-Frank Act provides that, subject to rules prescribed by the Bureau, covered persons shall make available to consumers, upon request, transaction data and other information concerning a consumer financial product or service that the consumer obtains from a covered person. Section 1033 also states that the Bureau shall prescribe by rule standards to promote the development and use of standardized formats for information made available to consumers. In November 2020, the Bureau issued an Advance Notice of Proposed Rulemaking (ANPRM) concerning

https://www.consumerfinance.gov/about-us/blog/spring-2021-rulemaking-agenda/

[160] https://www.consumerfinance.gov/policy-compliance/rulemaking/regulatory-agenda/

consumer data access to implement section 1033.[161] The Bureau is reviewing comments received in response to the ANPRM and is considering those comments as it assesses potential next steps.

- *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 2021 Unified Agenda:

- *Mortgage Servicing (Regulation X) COVID-19 Relief*. In April 2021, the Bureau issued proposed amendments to the mortgage servicing early intervention and loss mitigation-related provisions in Regulation X, which implements the Real Estate Settlement Procedures Act.[162] The CFPB's proposal seeks to ensure that both servicers and borrowers have the tools and time they need to work together to prevent avoidable foreclosures when federal protections expire, recognizing that the expected surge of borrowers exiting forbearance in the fall will put mortgage servicers under strain.[163]

- *Small 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. In November 2019, the Bureau conducted a symposium on small business loan data collection.

[161] https://www.consumerfinance.gov/rules-policy/notice-opportunities-comment/archive-closed/dodd-frank-act-section-1033-consumer-access-to-financial-records/

[162] https://www.consumerfinance.gov/rules-policy/rules-under-development/protections-for-borrowers-affected-by-the-covid-19-emergency-under-the-real-estate-settlement-procedures-act-regulation-x/

[163] Additional activity has occurred since the end of the reporting period. On June 28, 2021 the Bureau finalized this proposed rule. https://www.consumerfinance.gov/rules-policy/final-rules/protections-for-borrowers-affected-by-covid-19-under-respa/

In addition, the Bureau conducted 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. In September 2020, the Bureau released an outline of proposals under consideration and alternatives considered in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA), in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy. The SBREFA panel was convened in October 2020 and received feedback from representatives of small entities on the impacts that possible approaches to the Section 1071 rulemaking would have on small entities likely to be directly affected by it. The panel's report was completed and released in December 2020.[164] The next action for Section 1071 is to release a Notice of Proposed Rulemaking, which the Bureau anticipates doing in September 2021.

- *Amendments to FIRREA Concerning Appraisals (Automated Valuation Models).* The Bureau is participating in interagency rulemaking processes with the FRB, the OCC, the FDIC, the NCUA, and the FHFA (collectively, the Agencies) to develop regulations to implement the amendments made by the Dodd-Frank Act to the 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.

Final rules for the upcoming period:

- *Debt Collection Rule.* In October 2020, the Bureau issued a final rule under Regulation F that focused primarily on debt collection communications under the FDCPA and addressed a number of other topics, including imposing record retention requirements and prohibiting the sale or transfer of certain types of debt.[165] In December 2020, the Bureau issued another final rule under Regulation F addressing disclosures related to the validation notice, requiring certain outreach by debt collectors before consumer reporting, and barring suits or threats of suit on time-barred debt. Both final rules are scheduled to take effect on November 30, 2021.[166] In April 2021, in light of the continuation well into 2021 of

[164] https://files.consumerfinance.gov/f/documents/cfpb_1071-sbrefa-report.pdf

[165] https://www.consumerfinance.gov/rules-policy/final-rules/debt-collection-practices-regulation-f/

[166] https://www.consumerfinance.gov/rules-policy/final-rules/debt-collection-practices-regulation-f-2020-12/

the widespread societal disruption caused by the COVID-19 pandemic, the Bureau issued a NPRM to extend the effective date of both rules by 60 days and anticipates that its next action will be a final rule as to the effective date.[167]

- *Amendments to Regulation Z to Facilitate Transition from LIBOR*. Some consumer credit contracts use LIBOR as a reference rate. The Bureau's work is 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. For creditors for home equity lines of credit (HELOCs) (including reverse mortgages) and card issuers for credit card accounts, the rule would facilitate the transition of existing accounts to an alternative index well in advance of LIBOR's anticipated expiration at the end of 2023. 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. To facilitate compliance by card issuers, the rule would address how the rate re-evaluation provisions applicable to credit card accounts apply following the transition from LIBOR to a replacement index. This rulemaking will enable the Bureau to facilitate compliance by creditors with Regulation Z as they transition away from LIBOR. The Bureau issued a Notice of Proposed Rulemaking in June 2020[168] and expects to issue a final rule in January 2022.

[167] https://www.consumerfinance.gov/rules-policy/rules-under-development/debt-collection-practices-regulation-f-delay-of-effective-date/

[168] https://www.consumerfinance.gov/rules-policy/rules-under-development/amendments-facilitate-libor-transition-regulation-z/

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, 2020, through March 31, 2021, the CFPB received approximately 656,200 consumer complaints.[169] This is an approximately 41 percent increase from the prior reporting period.[170] Consumers submitted approximately 91 percent of these complaints through the CFPB's website and four percent via telephone calls. Referrals from other state and federal agencies accounted for three percent of complaints. Consumers submitted the remainder of complaints by mail, email, and fax. The CFPB sent approximately 555,400 (85 percent) of complaints received to companies for review and response.[171] Companies responded to approximately 96 percent of complaints that the CFPB 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

[169] This analysis excludes multiple complaints submitted by a given consumer on the same issue and whistleblower tips. The CFPB 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.

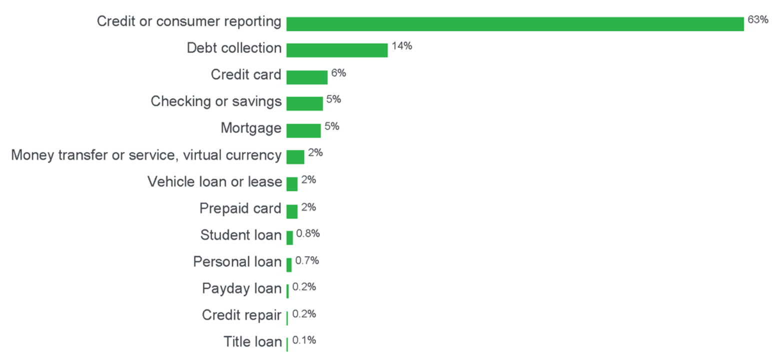
[170] The prior reporting period, October 1, 2019, to September 30, 2020, reported 467,200 consumer complaints. See Consumer Fin. Prot. Bureau, Semi-Annual Report Fall 2020 (January 2021.), available at https://www.consumerfinance.gov/data-research/research-reports/semi-annual-report-fall-2020/.

[171] The CFPB referred 8 percent of the complaints it received to other regulatory agencies and found six percent to be incomplete. At the end of this period, 0.4 percent of complaints were pending with the consumer and 0.7 percent were pending with the Bureau. Percentages in this section of the report may not sum to 100 percent due to rounding.

response. Companies' responses also describe a range of monetary and non-monetary relief. Examples of non-monetary 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 CFPB'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 CFPB uses these consumer selections to group the financial products and services about which consumers complain to the CFPB for public reports. As shown in Figure 1, credit or consumer reporting was the most complained about consumer financial product or service during the period, followed by debt collection.

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 CFPB publishes periodic reports about its complaint analyses. Notable among these is the Consumer Response Annual Report, which was published on March 24, 2021 and is required by Section 1013(b)(3)(C) of the Dodd-Frank Act. This report analyzed complaints submitted in calendar year 2020 about a variety of consumer financial products and services and included observations about issues consumers experienced related to the coronavirus pandemic.[172]
- The CFPB makes complaint data available to the public in the Consumer Complaint Database (Database). The Database contains certain de-identified, individual complaint-level data, as well as 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.
- Finally, the CFPB also shares consumer complaint information with prudential regulators, the FTC, other federal agencies, and state agencies.
- Complaints give the CFPB and others insights into problems people are experiencing in the marketplace and help the CFPB 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.

[172] From April 1, 2020, to March 31, 2021, CFPB complaint data was included in 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. In May and July of 2021, the CFPB issued two complaint bulletins analyzing complaints that mention coronavirus or related terms. These and other reports can be viewed at https://www.consumerfinance.gov/data-research/research-reports.

5. List, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year

5.1 Supervisory activities

The Bureau's supervisory activities with respect to individual institutions are non-public. The Bureau has, however, issued numerous supervisory guidance documents and bulletins during the preceding year. These documents are listed under Section 3.3 of this Report as issued guidance documents undertaken within the preceding year.

5.2 Enforcement activities[173]

The Bureau was a party in the following public enforcement actions from April 1, 2020, through March 31, 2021, detailed as follows and listed in descending chronological order by filing or issue date. This section also identifies those actions involving Office of Administrative Adjudication Orders with respect to covered persons that are not credit unions or depository institutions.

Consumer Financial Protection Bureau v. Judith Noh d/b/a Student Loan Pro, Judith Noh as an individual, Syed Faisal Gilani, and FNZA Marketing, LLC, (C.D. Cal. No. 8:21-cv-00488). On March 16, 2021, the Bureau filed a lawsuit against Student Loan Pro, a California sole proprietorship that telemarketed and provided debt-relief services focused on federal student-loan debt; Judith Noh, its owner; and Syed Gilani, its manager and owner-in-fact. The Bureau also

[173] Enforcement activity summaries are current as of March 31, 2021, and do not include activities that occurred after the reporting period.

named as a relief defendant FNZA Marketing, LLC (FNZA), a California company nominally owned by Noh and controlled by Gilani. The Bureau alleges that Student Loan Pro conducted a student-loan debt-relief business from 2015 through 2019 that charged about 3,300 consumers with federal student-loan debt approximately $3.5 million in illegal upfront fees in violation of the Telemarketing Sales Rule (TSR), to file paperwork on their behalf to apply for programs that were available to them for free from the United States Department of Education. The Bureau alleges that Noh and Gilani are individually liable for and substantially assisted Student Loan Pro's violations of the TSR. The Bureau also alleges that FNZA was the recipient of some portion of the unlawful advance fees obtained by Student Loan Pro without legitimate claim to the funds. The Bureau seeks redress to consumers, appropriate injunctive relief, and the imposition of civil money penalties against Student Loan Pro, Noh, and Gilani, and seeks to have FNZA disgorge the funds it received from Student Loan Pro. The case remains pending.

Consumer Financial Protection Bureau v. BrightSpeed Solutions, Inc. and Kevin Howard (N.D. Ill 1:21-cv-01199). On March 3, 2021, the Bureau filed a lawsuit against BrightSpeed Solutions, Inc. (BrightSpeed) and its founder and former chief executive officer, Kevin Howard. BrightSpeed was a privately-owned, third-party payment processor based in Chicago, Illinois. Howard founded BrightSpeed in 2015 and ran the company until he wound it down in March 2019. The Bureau alleges that between 2016 and 2018, Howard and BrightSpeed knowingly processed payments for companies that purported to offer technical-support services and products over the internet, but actually tricked consumers into purchasing expensive and unnecessary antivirus software or services. The Bureau alleges that Howard's and BrightSpeed's actions were unfair practices in violation of the Consumer Financial Protection Act of 2010 (CFPA) and deceptive telemarketing practices in violation of the TSR. The Bureau's complaint seeks injunctions against BrightSpeed and Howard, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. The case remains pending.

Consumer Financial Protection Bureau; Commonwealth of Massachusetts; The People of the of New York, by Letitia James, Attorney General of the State of New York; and Commonwealth of Virginia, *ex rel.* Mark R. Herring, Attorney General v. Nexus Services, Inc.; Libre by Nexus, Inc.; Michael Donovan; Richard Moore; and Evan Ajin (W.D. Va. 5:21-cv-00016). On February 22, 2021, the Bureau filed a lawsuit against Nexus Services, Inc. (Nexus Services), Libre by Nexus, Inc. (Libre), and their principals, Michael Donovan, Richard Moore, and Evan Ajin. Libre is a wholly owned subsidiary of Nexus Services, and both are non-banks with their principal places of business in Virginia. The Bureau alleges that Libre and its owners operated a scheme through which Libre offers to pay the immigration bonds to secure the release of consumers held in federal detention centers in exchange for large upfront fees and hefty monthly payments, and that Libre creates the impression that it has paid cash for consumers' bond, creating a debt that must be repaid to Libre through an upfront fee and subsequent monthly payments. The Bureau further alleges that Libre's efforts to collect monthly payments include making false threats and threatening to re-detain or deport consumers for non-payment and that Libre and its owners conceal or misrepresent the true costs of its services. Specifically, the Bureau alleges that Libre and its owners engaged in deceptive and abusive acts or practices in violation of the CFPA, and that Nexus Services and Libre's owners provided substantial assistance to Libre's violations. The Bureau filed its complaint jointly with the Attorneys General of Virginia, Massachusetts, and New York. The Bureau seeks an injunction, damages or restitution to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. On March 1, 2021, the defendants filed a motion to dismiss the complaint. The case remains pending.

Bureau of Consumer Financial Protection v. 1st Alliance Lending, LLC; John Christopher DiIorio; Kevin Robert St. Lawrence; and Socrates Aramburu (D. Conn. 3:21-cv-00055). On January 15, 2021, the Bureau filed a lawsuit against 1st Alliance Lending, LLC, John Christopher DiIorio, Kevin Robert St. Lawrence, and Socrates Aramburu. 1st Alliance, based in Hartford, Connecticut, originated residential mortgages from 2004 to September 2019 and stopped operating in November 2019. DiIorio was its chief executive officer and he, St. Lawrence, and Aramburu were 1st Alliance's three managing executives. The Bureau's complaint alleges that 1st Alliance, with DiIorio's, St. Lawrence's, and Aramburu's knowledge and direction, engaged in various unlawful mortgage lending practices in violation of the Truth in Lending Act (TILA), the Fair Credit Reporting Act (FCRA), the Equal Credit Opportunity Act (ECOA), the Mortgage Acts and Practices-Advertising Rule (MAP Rule), and the CFPA. The Bureau's complaint seeks injunctions against the defendants, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of a civil money penalty. The case remains pending.

In the Matter of Omni Financial of Nevada, Inc., also doing business as Omni Financial and Omni Military Loans (2020-BCFP-0028) (not a credit union or depository institution). On December 30, 2020, the Bureau issued a consent order against Omni Financial of Nevada, Inc. (Omni). Omni, which has its principal place of business in Las Vegas, Nevada, and operates using the names Omni Financial and Omni Military Loans, specializes in originating installment loans to consumers affiliated with the military. It originates tens of thousands of loans each year, with individual loans typically ranging from $500 to $10,000. The Bureau found that Omni violated the Military Lending Act's (MLA) prohibition on requiring repayment of loans by allotment. The Bureau also found that Omni violated the Electronic Fund Transfer Act's (EFTA) prohibition against requiring that consumers preauthorize electronic-fund transfers as a condition of receiving credit. The Bureau further found that these violations of EFTA constituted violations of the CFPA. The consent order requires that Omni pay a $2.175 million civil money penalty and imposes injunctive relief to stop ongoing violations and prevent future violations.

In the Matter of Discover Bank, The Student Loan Corporation, and Discover Products, Inc. (2020-BCFP-0026) (not a credit union or depository institution). On December 22, 2020, the Bureau issued a consent order against Discover Bank, The Student Loan Corporation, and Discover Products, Inc. (collectively, Discover). Discover Bank, headquartered in Greenwood, Delaware, is an insured depository institution that provides and services private student loans. The Student Loan Corporation and Discover Products, Inc., are affiliates of Discover Bank, and also engage in student loan servicing. The Bureau previously issued a consent order against Discover in July 2015 (2015 Order). The Bureau's 2015 Order was based on, among other things, the Bureau's finding that Discover misstated the minimum amounts due on billing statements and tax information consumers needed to get federal income tax benefits. The Bureau found that Discover violated the 2015 Order's requirements in several ways. Discover misrepresented the minimum loan payments consumers owed, the amount of interest consumers paid, and other material information, such as interest rates, payments, and due dates. Discover also did not provide all of the consumer redress the 2015 Order required. The Bureau also found that Discover engaged in unfair acts and practices by withdrawing payments from consumers' accounts without valid authorization and by cancelling or not withdrawing payments without notifying consumers. This conduct violated the CFPA, EFTA, and Regulation E. The Bureau also found that Discover engaged in deceptive acts and practices in violation of the CFPA by misrepresenting minimum payments consumers owed and the amount of interest consumers paid. The consent order requires Discover to pay at least $10 million in consumer redress and a $25 million civil money penalty and contains requirements to prevent future violations.

In the Matter of Santander Consumer USA Inc. (2020-BCFP–0027) (not a credit union or depository institution). On December 22, 2020, the Bureau issued a consent order against Santander Consumer USA Inc. (Santander). Santander, a subsidiary of Banco Santander S.A., is a leading originator and servicer of nonprime auto loans and leases. Santander furnishes credit information on the auto loans it services by sending monthly data files to consumer reporting agencies (CRAs). The Bureau found that between January 2016 and August 2019 Santander violated the FCRA and Regulation V by furnishing consumer loan information to CRAs that it knew or reasonably should have known was inaccurate; failing to promptly update and correct information it furnished that it later determined was incomplete; failing to provide the date of first delinquency on certain delinquent or charged-off accounts; and failing to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of information provided to CRAs. These violations of the FCRA and Regulation V constituted violations of the CFPA and could have negatively impacted consumers' credit scores and access to credit in many instances. The consent order requires Santander to take certain steps to prevent future violations and imposes a $4,750,000 civil money penalty.

In the Matter of Envios de Valores La Nacional Corp. (2020-BCFP-0025) (not a credit union or depository institution). On December 21, 2020, the Bureau issued a consent order against Envios de Valores La Nacional (La Nacional). La Nacional provides remittance transfers to several countries overseas through a network of branches and over 1,400 agents. La Nacional also has provided international bill pay services. The Bureau found that since the 2013 effective date of the Remittance Transfer Rule, La Nacional engaged in thousands of violations of the EFTA and the Remittance Transfer Rule by: failing to properly honor cancellation requests, failing to develop and maintain required policies and procedures for error resolution, failing to investigate and make error determinations, failing to provide consumers with written reports of its investigation findings, failing to refund certain fees and taxes, failing to treat international bill pay services as remittance transfers, failing to disclose the appropriate currency on prepayment disclosures and receipts, failing to use the term 'transfer fees' or a substantially similar term in certain disclosures, and issuing receipts that failed to disclose the date on which remittance transfers would be available for pick-up. The consent order requires La Nacional to adopt a compliance plan to ensure that its remittance transfer acts and practices comply with all applicable Federal consumer financial laws and the consent order. The order also requires La Nacional to pay a civil money penalty of $750,000.

In the Matter of Seterus, Inc. and Kyanite Services, Inc., as the successor in interest to Seterus, Inc. (2020-BCFP-0024) (not a credit union or depository institution). On December 18, 2020, the Bureau issued a consent order against Seterus, Inc. (Seterus), a former mortgage servicer based in North Carolina, and Kyanite Services, Inc. (Kyanite), Seterus's former parent company and its successor in interest. The consent order addresses widespread failures in Seterus's handling and processing of struggling homeowners' applications for loss mitigation options to avoid foreclosure. The Bureau found that Seterus, which used automated processes for handling loss mitigation applications, violated the CFPA's prohibition of unfair acts and practices by systematically failing to accurately review, process, track, and communicate to borrowers information regarding their applications, and deceptive acts and practices by sending numerous borrowers acknowledgment notices regarding their applications that misrepresented the status of borrower documents and provided inaccurate due dates for submission of borrower documents. The Bureau also found that Seterus violated Regulation X, which implements the Real Estate Settlement Procedures Act (RESPA), by sending numerous acknowledgment notices that failed to state the additional documents and information borrowers needed to submit to complete their loss mitigation applications or failed to provide a reasonable due date for submission of borrower documents; failing to exercise reasonable diligence in obtaining documents and information necessary to complete borrowers' loss mitigation applications; failing to properly evaluate borrowers who submitted complete loss mitigation applications for all loss mitigation options available to the borrower; and failing to treat certain applications as "facially complete" when required under Regulation X. These violations also constitute violations of the CFPA. The consent order requires Kyanite, as Seterus's successor in interest, to pay $4,932,525 in total redress to approximately 11,866 of the consumers to whom Seterus sent a defective acknowledgment notice. The consent order also imposes a $500,000 civil money penalty and includes injunctive relief that would apply in the event Kyanite engages in mortgage servicing operations.

Bureau of Consumer Financial Protection and the State of Arkansas *ex rel.* Leslie Rutledge, Attorney General v. Alder Holdings, LLC, (E.D. Ark. 4:20-cv-1445). On December 11, 2020, the Bureau and the Arkansas Attorney General filed a proposed stipulated final judgment and order against Alder Holdings, LLC (Alder). Alder is a Utah-based company that sells home-security and alarm systems, primarily door-to-door, throughout the country and has sold its products and services to over 115,000 customers. The complaint alleges that Alder, in extending credit to its customers for its home-alarm products and services, violated the FCRA and Regulation V by charging customers who had lower credit scores higher activation-fees, but failing to provide those customers with the required risk-based pricing notice. Arkansas also alleged that Alder violated the CFPA. If entered by the court, the settlement would require Alder to pay a $600,000 civil money penalty, $100,000 of which will be offset by the amount Alder paid to settle related litigation with the State of Arkansas. The settlement would also require Alder to provide proper notices under FCRA. The case remains pending.

Bureau of Consumer Financial Protection v. BounceBack, Inc., (W.D. Mo. 5:20-cv-06179). On December 9, 2020, the Bureau filed a lawsuit against BounceBack, Inc. BounceBack, based in Kansas City, Missouri, operates bad-check pretrial-diversion programs on behalf of more than 90 district attorneys' offices throughout the United States. The Bureau alleges that since at least 2015, in the course of administering these bad-check pretrial-diversion programs, BounceBack used district-attorney letterheads to threaten more than 19,000 consumers with prosecution if they did not pay the amount of the check, enroll and pay for a financial-education course, and pay various other fees. BounceBack did not reveal to consumers that BounceBack—and not district attorneys—sent the letters, or that district attorneys almost never prosecuted these cases, even when consumers ignored BounceBack's threats. In fact, in most cases, BounceBack did not refer cases for prosecution, even if the check writer failed to respond to its collection letter. BounceBack's letters also failed to include disclosures required under the Fair Debt Collections Practices Act (FDCPA). The Bureau alleges that BounceBack's conduct violated the FDCPA, was deceptive under both the FDCPA and the CFPA, and that its violations of the FDCPA constituted violations of the CFPA. The Bureau's complaint seeks injunctions against BounceBack, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of a civil money penalty. The case remains pending.

In the Matter of RAB Performance Recoveries, LLC (2020-BCFP-0023) (not a credit union or depository institution). On December 8, 2020, the Bureau issued a consent order against RAB Performance Recoveries, LLC (RAB). Through 2012, RAB, a New Jersey company, purchased and collected consumer debts from debt brokers, and through August 2014, it used collections law firms to obtain judgments against consumers. RAB has continued to collect on those judgments against consumers as well as on a handful of payment agreements it obtained from debtors. The Bureau found that during the period that RAB was obtaining judgments against consumers, RAB threatened to sue, sued, and demanded payment from consumers in Connecticut, New Jersey, and Rhode Island even though RAB did not hold the licenses that those states required to sue to collect debts. Thus, RAB was not legally entitled to take the actions that it threatened to take against consumers in those states. The Bureau found that RAB misrepresented that it had a legally enforceable right to recover payments from consumers in these states through the judicial process in violation of the FDCPA and the CFPA. The consent order prohibits RAB from collecting on the judgments against, or payment agreements from, consumers it obtained in Connecticut, New Jersey, and Rhode Island when RAB did not hold a required debt-collection license in those states. It also requires RAB to take all necessary steps to vacate those judgments and suspend collection of those judgments and to notify consumers with payment agreements that they have been satisfied. The consent order also requires RAB to pay a $204,000 civil money penalty.

Bureau of Consumer Financial Protection v. Nationstar Mortgage LLC, d/b/a Mr. Cooper (D.D.C. 1:20-cv-3550). On December 7, 2020, the Bureau filed a complaint and proposed stipulated judgment and order against Nationstar Mortgage, LLC, which does business as Mr. Cooper (Nationstar). The Bureau alleged that Nationstar violated multiple Federal consumer financial laws, causing substantial harm to the borrowers whose mortgage loans it serviced, including distressed homeowners. Nationstar is one of the nation's largest mortgage servicers and the largest non-bank mortgage servicer in the United States. The proposed judgment and order, which the court entered on December 8, 2020, requires Nationstar to pay approximately $73 million in redress to more than 40,000 harmed borrowers. It also requires Nationstar to pay a $1.5 million civil penalty to the Bureau. Under the court's order, Nationstar is required to set aside about $15.6 million to pay borrowers it has not remediated prior to the order's effective date and to certify that it has already paid approximately $57.5 million in redress to other borrowers affected by the conduct alleged in the complaint. Attorneys general from all 50 states and the District of Columbia and bank regulators from 53 jurisdictions covering 48 states and Puerto Rico, the Virgin Islands, and the District of Columbia settled with Nationstar the same day and their settlements are reflected in separate actions, concurrently filed in the United States District Court for the District of Columbia. The orders in the Bureau's and the States' actions have involved nearly $85 million in recoveries for consumers to date and over $6 million more in fees and penalties. They are also part of a larger government effort, which also includes assistance from the Special Inspector General for the Troubled Asset Relief Program and the United States Trustee Program, to address Nationstar's alleged unlawful mortgage loan servicing practices.

Bureau of Consumer Financial Protection v. LendUp Loans, LLC (N.D. Cal. 4:20-cv-08583). On December 4, 2020, the Bureau filed a lawsuit against LendUp Loans, LLC (LendUp). LendUp, which has its principal place of business in Oakland, California, is an online lender that offers single-payment and installment loans to consumers. The Bureau alleged that LendUp violated the MLA in connection with its extensions of credit. The Bureau alleged that since October 2016, LendUp has made over 4,000 single-payment or installment loans to over 1,200 covered borrowers in violation of the MLA. The Bureau specifically alleged that LendUp's violations of the MLA include extending loans with a Military Annual Percentage Rate (MAPR) that exceeds the MLA's 36% cap, extending loans that require borrowers to submit to arbitration, and failing to make certain required loan disclosures. On January 20, 2021, the court entered a stipulated final judgment and order to resolve the lawsuit. The settlement requires LendUp to provide $300,000 in redress to consumers and to pay a $950,000 civil money penalty. The settlement also enjoins LendUp from committing future violations of the MLA and from collecting on, selling, or assigning any debts arising from loans that failed to comply with the MLA. It also requires LendUp to correct or update the information it provided to consumer reporting agencies about affected consumers.

Bureau of Consumer Financial Protection v. DMB Financial, LLC (D. Mass. 1:20-cv-12147). On December 1, 2020, the Bureau filed a lawsuit against DMB Financial, LLC (DMB). DMB, which has its principal place of business in Beverly, Massachusetts, offers to renegotiate, settle, or otherwise alter the terms of unsecured debts owed by consumers to creditors or debt collectors. As alleged in the Bureau's complaint, since its establishment in 2003, DMB claims to have successfully negotiated and settled over $1 billion of consumer debt for over 30,000 consumers who have enrolled in its debt-settlement or debt-relief programs. The Bureau alleges that in connection with its debt-settlement and debt-relief services, DMB engaged in abusive and deceptive acts or practices in violation of the TSR and deceptive acts and practices in violation of the CFPA. The Bureau also alleges that DMB's alleged TSR violations also constitute violations of the CFPA. The Bureau's complaint seeks an injunction, as well as redress to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. As of the end of the reporting period, the case remains pending.

Bureau of Consumer Financial Protection v. FDATR, Inc., Dean Tucci, and Kenneth Wayne Halverson (N.D Ill. 1:20-cv-06879). On November 20, 2020, the Bureau filed a lawsuit against FDATR, Inc., and its owners, Dean Tucci and Kenneth Wayne Halverson. FDATR was a corporation headquartered in Wood Dale, Illinois, that promised to provide student-loan debt-relief and credit-repair services to consumers nationwide. FDATR involuntarily dissolved in September 2020. Tucci and Halverson both owned and managed FDATR. The Bureau alleges that FDATR, Tucci, and Halverson violated the TSR by engaging in deceptive and abusive telemarketing acts or practices and the CFPA by engaging in deceptive acts or practices. The Bureau's complaint seeks an injunction, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. On February 25, 2021, the Bureau filed a notice of voluntary dismissal of Halverson, now deceased, and the court dismissed him from this action the next day. The case remains pending.

In the Matter of U.S. Equity Advantage, Inc. and Robert M. Steenbergh (2020-BCFP-0022) (not a credit union or depository institution). On November 20, 2020, the Bureau issued a consent order against U.S. Equity Advantage, Inc. (USEA) and its owner, Robert M. Steenbergh. Mr. Steenbergh is the founder, sole-owner, and chief executive officer of USEA, a nonbank located in Orlando, Florida. USEA and Steenbergh operate an auto loan payment program called AutoPayPlus that charges fees to deduct payments from consumers' bank accounts every two weeks and then forwards these payments every month to the consumers' lenders. The Bureau found that the company's disclosures and advertisements of its loan payment program contained misleading statements in violation of the CFPA's prohibition against deceptive acts or practices. The consent order imposes a judgment against them requiring payment of $9,300,000, which amount is suspended based on USEA's and Steenbergh's demonstrated inability to pay upon their payment of $900,000 and a $1 civil money penalty to the Bureau. The consent order also contains requirements to prevent future violations.

In the Matter of Afni, Inc. (2020-BCFP-0021) (not a credit union or depository institution). On November 12, 2020, the Bureau issued a consent order against Afni, Inc. (Afni), a non-bank third-party debt collector based in Illinois that specializes in collecting telecommunications debt. In connection with its collection activities, Afni furnishes credit reporting information to CRAs about the consumers and the debts that are the subject of its business. The Bureau found that Afni violated the FCRA and its implementing rule, Regulation V, by furnishing information to CRAs that it knew or had reasonable cause to believe was inaccurate; failing to report to CRAs an appropriate date of first delinquency on certain accounts; failing to conduct reasonable investigations of disputes made by consumers both to Afni and to CRAs about furnished information or failing to conduct investigations of disputes made to Afni in a timely manner; failing to send required notices to consumers about the results of such investigations; and failing to establish, implement, and update its policies and procedures regarding its furnishing of consumer information to CRAs. The Bureau also determined, based on these violations of the FCRA and Regulation V, that Afni violated the CFPA. The consent order requires Afni to take certain steps to improve and ensure the accuracy of its furnishing and its policies and procedures relating to credit reporting and dispute investigation. It also imposes a $500,000 civil money penalty.

Bureau of Consumer Financial Protection v. Driver Loan, LLC, and Angelo Jose Sarjeant (S.D. Fla. 1:20-cv-24550). On November 5, 2020, the Bureau filed a lawsuit against Driver Loan, LLC and its Chief Executive Officer, Angelo Jose Sarjeant, for violations of the CFPA. Driver Loan is a limited-liability company based in Doral, Florida that offers short-term, high-interest loans to consumers funded by deposits made by other consumers. The Bureau alleges that Driver Loan and Sarjeant engaged in deceptive acts or practices that violated the CFPA by misrepresenting the risks associated with the deposit product offered to consumers and by misrepresenting the annual percentage rates associated with extensions of credit it offered to other consumers. The Bureau seeks an injunction against Driver Loan and Sarjeant to stop their alleged unlawful conduct, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. As of the end of the reporting period, the case remains pending.

Bureau of Consumer Financial Protection v. Performance SLC, LLC, Performance Settlement, LLC and Daniel Crenshaw (C.D. Cal. 8:20-cv-02132). On November 5, 2020, the Bureau filed a lawsuit against Performance SLC, LLC (PSLC), a California-based debt-relief business focused on federal student loan debt; Performance Settlement, LLC (PSettlement), a California-based debt-settlement company; and Daniel Crenshaw, the owner and CEO of the two companies. The Bureau alleges that PSLC and Crenshaw conducted a student-loan debt-relief business that charged thousands of consumers with federal student-loan debt approximately $9.2 million in illegal upfront fees in violation of the TSR, to file paperwork on their behalf to apply for programs that were available to them for free from the United States Department of Education. PSLC also allegedly failed to provide disclosures mandated by the TSR to consumers it required to place funds in trust accounts. The Bureau also alleges that Crenshaw and PSettlement used deceptive sales tactics to sign consumers up for PSettlement's debt-relief services, in violation of the CFPA. Finally, the Bureau alleges that Crenshaw substantially assisted PSLC in requesting or receiving fees illegally and PSettlement in engaging in deceptive acts and practices. The complaint seeks redress to consumers, appropriate injunctive relief, and the imposition of civil money penalties against the defendants. The case remains pending.

In the Matter of SMART Payment Plan, LLC (2020-BCFP-0020) (not a credit union or depository institution). On November 2, 2020, the Bureau issued a consent order against SMART Payment Plan, LLC (SMART), a limited liability company with its principal place of business in Austin, Texas. SMART operates a loan payment program for auto loans called the SMART Plan that deducts payments from consumers' bank accounts every two weeks and then forwards these payments every month to the consumers' lenders. The Bureau found that SMART's disclosures of the terms for the SMART Plan contained misleading statements in violation of the CFPA's prohibition against deceptive acts or practices. The consent order imposes a judgment against SMART requiring it to pay $7,500,000 in consumer redress. This amount is suspended based on SMART's demonstrated inability to pay upon its payment of $1,500,000 by the end of the year and a $1 civil money penalty to the Bureau. The consent order prohibits SMART from making any misrepresentations about its payment programs. It also requires SMART to account for the total costs for its payment programs, as well as the net savings or costs after deducting any fees, whenever SMART makes claims about savings or financial benefits.

In the Matter of Washington Federal Bank, N.A. (2020-BCFP-0019). On October 27, 2020, the Bureau issued a consent order against Washington Federal Bank, N.A., a federally insured, for-profit national bank headquartered in Seattle, Washington. The Bureau found that Washington Federal reported inaccurate data about its mortgage transactions for 2016 and 2017, in violation of the Home Mortgage Disclosure Act (HMDA), its implementing regulation, Regulation C, and the CFPA. Washington Federal reported data under HMDA on over 7,000 mortgage applications in each of 2016 and 2017. The Bureau found that these data included significant errors with some samples having error rates as high as 40%. The order requires Washington Federal to pay a $200,000 civil money penalty and develop and implement an effective compliance management system to prevent future violations.

In the Matter of Low VA Rates, LLC (2020-BCFP-0018) (not a credit union or depository institution). On October 26, 2020, the Bureau issued a consent order against Low VA Rates, LLC (Low VA Rates), a Utah-based mortgage lender and broker incorporated in Colorado and licensed in 48 states and the District of Columbia. Low VA Rates offers and provides mortgage loans guaranteed by the United States Department of Veterans Affairs (VA). Low VA Rates' principal means of advertising VA-guaranteed loans is through direct-mail campaigns sent primarily to United States military servicemembers, veterans, and their families. The Bureau found that Low VA Rates sent consumers mailers for VA-guaranteed mortgages that contained false, misleading, or inaccurate statements, in violation of the CFPA prohibition against deceptive acts and practices, the MAP Rule, and Regulation Z. Specifically, Low VA Rates sent consumers numerous advertisements for VA-guaranteed mortgages that, among other things, promoted mortgage products that were not actually available; failed to properly disclose rates and repayment terms; used misleading descriptions of rates; and used misleading representations regarding the savings or financial benefits available to consumers. The consent order requires Low VA Rates to pay a $1,800,000 civil money penalty and imposes requirements to prevent future violations.

In the Matter of Nissan Motor Acceptance Corporation (2020-BCFP-0017) (not a credit union or depository institution). On October 13, 2020, the Bureau issued a consent order against Nissan Motor Acceptance Corporation (Nissan), an auto financing subsidiary of Nissan North America, Inc., which services auto loans and leases originated by Nissan and Infiniti dealerships nationwide. Nissan's servicing operations are headquartered in Irving, Texas. The Bureau found that Nissan and its agents: wrongfully repossessed vehicles; kept personal property in consumers' repossessed vehicles until consumers paid a storage fee; deprived consumers paying by phone of the ability to select payment options with significantly lower fees and, in its loan extension agreements, made a deceptive statement that appeared to limit consumers' bankruptcy protections. These actions violated the CFPA's prohibition against unfair and deceptive acts and practices. The consent order requires Nissan to provide up to $1 million of cash redress to consumers subject to a wrongful repossession, credit any outstanding account charges associated with a wrongful repossession, and to pay a civil money penalty of $4 million. It also imposes certain requirements to prevent future violations and remediate consumers whose vehicles are wrongfully repossessed going forward.

In the Matter of Lobel Financial Corporation (2020-BCFP-0016) (not a credit union or depository institution). On September 21, 2020, the Bureau issued a consent order against Lobel Financial

Corporation, an auto-loan servicer based in Anaheim, California. The Bureau found that Lobel engaged in unfair practices with respect to its Loss Damage Waiver (LDW) product, in violation of the CFPA. When a borrower has insufficient insurance, rather than force-placing collateral-protection insurance, Lobel places the LDW product, which is not itself insurance, on borrower accounts and charges a monthly premium. The LDW product provides that Lobel will pay for the cost of covered repairs and, in the event of a total vehicle loss, cancel the borrower's debt. The Bureau's investigation found that, since 2012, Lobel charged customers LDW premiums after they had become ten-days delinquent on their auto loans but did not provide them with LDW coverage. The Bureau also found that Lobel charged some customers LDW-related fees that Lobel had not disclosed in its LDW contract and that these practices were unfair under the CFPA. The order requires Lobel to pay $1,345,224 in consumer redress to approximately 4,000 harmed consumers and a $100,000 civil money penalty. The order also prohibits Lobel from failing to provide consumers with LDW coverage or similar products or services for which it has charged consumers or from charging consumers fees that are not authorized by its LDW contracts.

Bureau of Consumer Financial Protection v. PEAKS Trust 2009-1; Deutsche Bank National Trust Company, solely in its capacity as lender trustee of the PEAKS Trust 2009-1; Deutsche Bank Trust Company Delaware, solely in its capacity as owner trustee of PEAKS Trust 2009-1; Deutsche Bank Trust Company Americas, solely in its capacity as indenture trustee and collateral agent (S.D. Ind. 1:20-cv-2386). On September 15, 2020, the Bureau filed a proposed stipulated judgment against PEAKS Trust 2009-1, along with Deutsche Bank National Trust Company, Deutsche Bank Trust Company Delaware, and Deutsche Bank Trust Company Americas, in their capacity as trustees to PEAKS Trust 2009-1 (collectively, PEAKS). The Bureau alleged that PEAKS provided substantial assistance to ITT Educational Services, Inc. in engaging in unfair acts and practices in violation of the CFPA. PEAKS owned and managed private loans for students at ITT Technical Institute. PEAKS allegedly knew or was reckless in not knowing that many student borrowers did not understand the terms and conditions of those loans, could not afford them, or in some cases did not even know they had them. The stipulated judgment, which the court entered on October 1, 2020, requires PEAKS to stop collecting on all outstanding PEAKS loans, discharge all outstanding PEAKS loans, and ask all consumer reporting agencies to which PEAKS furnished information to delete information relating to PEAKS loans. The total amount of loan forgiveness is currently estimated to be $330 million, which will be provided to all borrowers with outstanding principal balances on their PEAKS loans, approximately 35,000 consumers.

In the Matter of ClearPath Lending, Inc. (2020-BCFP-0015) (not a credit union or depository institution). On September 14, 2020, the Bureau issued a consent order against ClearPath Lending, Inc. (ClearPath), a California corporation that is licensed as a mortgage broker or lender in about 22 states. ClearPath offers and provides mortgage loans guaranteed by the VA. ClearPath's principal means of advertising VA-guaranteed loans is through direct-mail campaigns sent primarily to United States military servicemembers and veterans. The Bureau found that ClearPath sent consumers mailers for VA-guaranteed mortgages that contained false, misleading, and inaccurate statements or that lacked required disclosures, in violation of the CFPA's prohibition against deceptive acts and practices, the MAP Rule, and Regulation Z. The consent order requires ClearPath to pay a $625,000 civil money penalty and imposes requirements to prevent future violations.

Bureau of Consumer Financial Protection and the People of the State of New York, by Letitia James, Attorney General for the State of New York v. JPL Recovery Solutions, LLC; Check Security Associates, LLC (dba Warner Location Services and Orchard Payment Processing Systems); ROC Asset Solutions LLC (dba API Recovery Solutions); Regency One Capital LLC; Keystone Recovery Group, LLC; Christopher L. Di Re; Scott A. Croce; Brian J. Koziel; and Marc D. Gracie (W.D.N.Y. 1:20-cv-01217). On September 8, 2020, the Bureau, in partnership with the New York Attorney General, filed suit in the federal district court against a network of five different companies based outside of Buffalo, New York, two of their owners, and two of their managers, for their participation in a debt-collection operation using illegal methods to collect debts. The company defendants are: JPL Recovery Solutions, LLC; Regency One Capital LLC; ROC Asset Solutions LLC, which does business as API Recovery Solutions; Check Security Associates LLC, which does business as Warner Location Services and Orchard Payment Processing Systems; and Keystone Recovery Group. The individual defendants are Christopher Di Re and Scott Croce, who have held ownership interests in some or all of the defendant companies, and Brian Koziel and Marc Gracie, who are members of Keystone Recovery Group, and have acted as managers of some or all of the defendant companies. The complaint alleges that from at least 2015 through the present, the defendants have participated in a debt-collection operation that has used deceptive, harassing, and improper methods to induce consumers to make payments to them in violation of the FDCPA and the CFPA. The complaint seeks consumer redress, disgorgement of ill-gotten gains, civil money penalties, and appropriate injunctive relief against the defendants. The case remains pending.

Bureau of Consumer Financial Protection v. Encore Capital Group, Inc.; Midland Funding, LLC; Midland Credit Management, Inc.; and Asset Acceptance Capital Corp. (S.D. Cal. 3:20-cv-01750). On September 8, 2020, the Bureau filed suit in federal district court in the Southern District of California against Encore Capital Group, Inc., and its subsidiaries, Midland Funding, LLC; Midland Credit Management, Inc.; and Asset Acceptance Capital Corp. The companies are headquartered in San Diego, California and together comprise the largest debt collector and debt buyer in the United States, with annual revenue exceeding $1 billion and annual net income exceeding $75 million. Encore and its subsidiaries were subject to a 2015 consent order with the Bureau based on the Bureau's previous findings that they violated the CFPA, FDCPA, and the FCRA. The Bureau alleged that Encore and its subsidiaries had violated the terms of this consent order and again violated the FDCPA and CFPA. On October 16, 2020, the court entered a stipulated final judgment and order that requires Encore and its subsidiaries to pay $79,308.81 in redress to consumers and a $15 million civil money penalty. The order also requires Encore and its subsidiaries to make various material disclosures to consumers, refrain from the collection of time-barred debt absent certain disclosures to consumers, and abide by certain conduct provisions in the 2015 consent order for five more years.

In the Matter of Accelerate Mortgage, LLC (2020-BCFP-0014) (not a credit union or depository institution). On September 2, 2020, the Bureau issued a consent order against Accelerate Mortgage, LLC (Accelerate), a Delaware limited liability corporation that is licensed as a mortgage broker and lender in about 31 states. Accelerate offers and provides mortgage loans guaranteed by the VA. Accelerate's principal means of advertising VA-guaranteed loans is through direct-mail campaigns sent primarily to United States military servicemembers and veterans. The Bureau found that Accelerate sent consumers more than one million mailers for VA-guaranteed mortgages that contained false, misleading, and inaccurate statements or that lacked required disclosures, in violation of the CFPA's prohibition against deceptive acts and practices, the MAP Rule, and Regulation Z. The consent order requires Accelerate to pay a $225,000 civil money penalty and imposes requirements to prevent future violations.

In the Matter of Hypotec, Inc. (2020-BCFP-0012) (not a credit union or depository institution). On September 1, 2020, the Bureau issued a consent order against Hypotec, Inc., a Miami-based corporation that is licensed as a mortgage broker or lender in eight states. Hypotec offers and provides mortgage loans guaranteed by the VA. Hypotec advertises its VA-guaranteed loans to United States military servicemembers and veterans through direct-mail campaigns. The Bureau found that, since 2016, Hypotec disseminated advertisements that contained false, misleading, and inaccurate statements or that failed to include required disclosures, in violation of the CFPA's prohibition against deceptive acts and practices, the MAP Rule, and Regulation Z. The consent order against Hypotec requires Hypotec to pay a civil money penalty of $50,000 and imposes requirements to prevent future violations.

In the Matter of Service 1st Mortgage, Inc. (2020-BCFP-0013) (not a credit union or depository institution). On September 1, 2020, the Bureau issued a consent order against Service 1st Mortgage, Inc. (Service 1st), a Maryland-based corporation that is licensed as a mortgage broker or lender in about 12 states. Service 1st offers and provides mortgage loans guaranteed by the VA. Service 1st's principal means of advertising VA-guaranteed loans is through direct-mail campaigns sent primarily to United States military servicemembers and veterans. The Bureau found that since December 2015, Service 1st disseminated advertisements that contained false, misleading, and inaccurate statements or that failed to include required disclosures, in violation of the CFPA's prohibition against deceptive acts and practices, the MAP Rule, and Regulation Z. The consent order requires Service 1st to pay a $230,000 civil money penalty and imposes requirements to prevent future violations.

In the Matter of Sigue Corporation, SGS Corporation, and GroupEx Corporation (2020-BCFP-0011) (not a credit union or depository institution). On August 31, 2020, the Bureau issued a consent order against Sigue Corporation and its subsidiaries, SGS Corporation and GroupEx Corporation, which are all headquartered in Sylmar, California and provide consumers with international money-transfer services, including remittance-transfer services. Sigue and its subsidiaries have a distribution network with over 200,000 send-and-receive locations, offices in 18 countries, and operations in all 50 states. Sigue and its subsidiaries provide remittance transfers to consumers using their retail branches and a network of agents, including convenience stores, supermarkets, and other retail establishments. The Bureau found that Sigue and its subsidiaries violated the EFTA and the Remittance Transfer Rule by failing to provide numerous required disclosures. In some cases involving money-transfer errors, consumers were entitled to notice that a fee refund was available, and Sigue, SGS, and GroupEX failed to notify consumers that they were entitled to refunds. The consent order requires Sigue and its subsidiaries to reserve about $100,000 for redress to consumers and pay a $300,000 civil money penalty. Sigue and its subsidiaries also must implement and maintain written policies and procedures and a compliance-management system that are designed to ensure compliance with the Remittance Transfer Rule.

In the Matter of Trans-Fast Remittance LLC, also doing business as New York Bay Remittance (2020-BCFP-0010) (not a credit union or depository institution). On August 31, 2020, the Bureau issued a consent order against Trans-Fast Remittance LLC (Trans-Fast). Trans-Fast, which, until June 2020, was a remittance transfer provider, is based in New York, New York and licensed in over 30 states. The Bureau found that Trans-Fast violated EFTA and the Remittance Transfer Rule by failing to adhere to error resolution requirements and properly respond to cancellation requests, failing to provide required refunds, failing to maintain required policies and procedures, and failing to provide required disclosures. The Bureau also found that Trans-Fast engaged in deceptive acts or practices in violation of the CFPA by making misleading statements in advertisements regarding the speed of its remittance transfers and making misleading statements in disclosures purporting to limit consumers' error resolution rights. If Trans-Fast resumes offering remittance transfers, the consent order requires it to adopt a compliance plan to ensure that its remittance transfer acts and practices comply with all applicable Federal consumer financial laws and the consent order. The order also requires Trans-Fast to pay a civil money penalty of $1.6 million.

In the Matter of PHLoans.com, Inc. (2020-BCFP-0009) (not a credit union or depository institution). On August 26, 2020, the Bureau issued a consent order against PHLoans.com, Inc. (PHLoans), a California corporation that is licensed as a mortgage broker or lender in about 11 states. PHLoans offers and provides mortgage loans guaranteed by the VA. PHLoans's principal means of advertising VA-guaranteed loans is through direct-mail campaigns sent primarily to United States military servicemembers and veterans. The Bureau found that PHLoans sent consumers millions of mailers for VA-guaranteed mortgages that contained false, misleading, and inaccurate statements or that lacked required disclosures, in violation of the CFPA's prohibition against deceptive acts and practices, the MAP Rule, and Regulation Z. The consent order requires PHLoans to pay a $260,000 civil money penalty and imposes requirements to prevent future violations.

In the Matter of Go Direct Lenders, Inc. (2020-BCFP-0008) (not a credit union or depository institution). On August 21, 2020, the Bureau issued a consent order against Go Direct Lenders, Inc. (Go Direct), a California corporation that is licensed as a mortgage broker or lender in about 11 states. Go Direct offers and provides mortgage loans guaranteed by the VA. Go Direct's principal means of advertising VA-guaranteed loans is through direct-mail campaigns sent primarily to United States military servicemembers and veterans. The Bureau found that Go Direct sent consumers hundreds of thousands of mailers for VA-guaranteed mortgages that contained false, misleading, and inaccurate statements or that lacked required disclosures, in violation of the CFPA's prohibition against deceptive acts and practices, the MAP Rule, and Regulation Z. The consent order requires Go Direct to pay a $150,000 civil money penalty and imposes requirements to prevent future violations.

In the Matter of TD Bank, N.A. (2020-BCFP-0007). On August 20, 2020, the Bureau issued a consent order against TD Bank, N.A., regarding its marketing and sale of its optional overdraft service: Debit Card Advance (DCA). TD Bank is headquartered in Cherry Hill, New Jersey, and operates about 1,250 locations throughout much of the eastern part of the country. The Bureau found that TD Bank's overdraft enrollment practices violated EFTA and Regulation E by charging consumers overdraft fees for ATM and one-time debit card transactions without obtaining their affirmative consent. The Bureau found that TD Bank violated the CFPA's prohibition against deceptive acts or practices by making misleading representations to consumers regarding DCA while offering that service to consumers in person, over the phone, and through mailed solicitations. The Bureau also found that TD Bank violated the CFPA's prohibition against abusive acts or practices by materially interfering with consumers' ability to understand the terms and conditions of DCA. The Bureau also found that TD Bank engaged in practices prohibited by FCRA and its implementing Regulation V. The order requires TD Bank to comply with the EFTA, FCRA, and CFPA, and orders TD Bank to pay an estimated $97 million in restitution to certain consumers TD Bank enrolled in its DCA service and pay a $25 million civil money penalty.

In the Matter of Sovereign Lending Group, Inc. (2020-BCFP-0005) (not a credit union or depository institution). On July 24, 2020, the Bureau issued a consent order against Sovereign Lending Group, Inc. (Sovereign), a California corporation that is licensed as a mortgage broker or lender in about 44 states and the District of Columbia. Sovereign offers and provides mortgage loans guaranteed by the VA. Sovereign's principal means of advertising is through direct-mail campaigns targeted primarily at United States military servicemembers and veterans. The Bureau found that Sovereign sent consumers hundreds of thousands of mailers for VA-guaranteed mortgages that contained false, misleading, and inaccurate statements or that lacked required disclosures, in violation of the CFPA's prohibition against deceptive acts and practices, the MAP Rule, and Regulation Z. The consent order requires Sovereign to pay a $460,000 civil money penalty and imposes requirements to prevent future violations.

In the Matter of Prime Choice Funding, Inc. (2020-BCFP-0006) (not a credit union or depository institution). On July 24, 2020, the Bureau issued a consent order against Prime Choice Funding, Inc. (Prime Choice), a California corporation that is licensed as a mortgage broker or lender in about 35 states and the District of Columbia. Prime Choice offers and provides mortgage loans guaranteed by the VA. Prime Choice's principal means of advertising VA-guaranteed loans is through direct-mail campaigns sent primarily to United States military servicemembers and veterans. The Bureau found that Prime Choice sent consumers millions of mailers for VA-guaranteed mortgages that contained false, misleading, and inaccurate statements or that lacked required disclosures, in violation of the CFPA's prohibition against deceptive acts and practices, the MAP Rule, and Regulation Z. The consent order requires Prime Choice to pay a $645,000 civil money penalty and imposes requirements to prevent future violations.

Bureau of Consumer Financial Protection v. Townstone Financial, Inc. and Barry Sturner (N.D. Ill. 1:20-cv-04176). On July 15, 2020, the Bureau filed a lawsuit against Townstone Financial, Inc., a nonbank retail-mortgage creditor and broker based in Chicago. The Bureau alleges that Townstone violated the ECOA; its implementing regulation, Regulation B; and the CFPA. For years, Townstone drew almost no applications for properties in majority-African-American neighborhoods located in the Chicago-Naperville-Elgin Metropolitan Statistical Area (Chicago MSA) and few applications from African Americans throughout the Chicago MSA. The Bureau alleges that Townstone engaged in discriminatory acts or practices, including making statements during its weekly radio shows and podcasts through which it marketed its services, that discouraged prospective African-American applicants from applying for mortgage loans; discouraged prospective applicants living in African-American neighborhoods in the Chicago MSA from applying for mortgage loans; and discouraged prospective applicants living in other areas from applying for mortgage loans for properties located in African-American neighborhoods in the Chicago MSA. On November 25, 2020, the Bureau filed an amended complaint, which added as a defendant Barry Sturner, Townstone's cofounder, sole owner, and sole director, as the fraudulent transferee of more than $2.4 million from Townstone. The Bureau's amended complaint seeks an injunction against Townstone, as well as damages, redress to consumers, the imposition of a civil money penalty, and other relief. The defendants filed a motion to dismiss the amended complaint on February 8, 2021. The case remains pending.

Bureau of Consumer Financial Protection v. GST Factoring, Inc.; Champion Marketing Solutions, LLC; Rick Graff; Gregory Trimarche; Scott Freda; Amanda Johanson; David Mize; Jacob

Slaughter; and Daniel Ruggiero (C.D. Cal. 8:20-cv-01239). On July 13, 2020, the Bureau filed a lawsuit against GST Factoring, Inc., which ran a student-loan debt-relief business in Texas, and two of its owners, Rick Graff and Gregory Trimarche, as well as Champion Marketing Solutions, LLC, a customer service and marketing company, and its owner, Scott Freda. The Bureau also filed suit against four attorneys, Amanda Johanson, Jacob Slaughter, David Mize, and Daniel Ruggiero. The Bureau alleged that the companies, their owners, and the attorneys were part of a nationwide student-loan debt-relief operation that charged thousands of consumers saddled with private student-loan debt approximately $11.8 million in illegal upfront fees in violation of the TSR. Concurrent with the complaint, the Bureau and four of the defendants filed proposed stipulated final judgments and orders to resolve the claims against them, which the court entered on August 17, 2020. The orders collectively impose an approximate $11.8 million monetary judgment against the settling defendants for consumer redress, full payment of which will be suspended upon the settling defendants paying a portion of the redress, given their demonstrated inability to pay the full amount of judgment in each order. Each settling defendant will also pay a $1 civil money penalty to the Bureau. Trimarche is permanently banned from engaging in debt-relief services and from telemarketing consumer financial products or services. Mize, Slaughter, and Ruggiero are subject to permanent debt-relief bans. In December 2020, the court entered judgments against the remaining defendants. On December 3, 2020, the court entered a default judgment and order against GST Factoring, Inc. and Rick Graff. The order imposes a $11,618,522 monetary judgment against them for consumer redress and imposes a $15,000,000 penalty against each of them. The order also permanently bans them from engaging in debt-relief services and telemarketing consumer financial products or services. On December 15, 2020, the court entered a stipulated final judgment and order against Champion Marketing Solutions, LLC and Scott Freda. The order imposes a $11,618,522 monetary judgment against them, full payment of which will be suspended upon their paying $5,000, given their demonstrated inability to pay the full amount. Each will also pay a $1 civil money penalty to the Bureau, and they are permanently banned from engaging in debt-relief services and from telemarketing consumer financial products or services. On December 15, 2020, the court also entered a default judgment and order against Amanda Johanson. The order permanently bans her from engaging in debt-relief services and imposes a $4,992,606 monetary judgment against her for consumer redress and a $5,000,000 penalty.

Bureau of Consumer Financial Protection v. Timemark Solutions, Inc., Timothy Lenihan, Sr., Mark Nagler, and Casey Gassaway (S.D. Fla. 9:20-cv-81057). On July 7, 2020, the Bureau filed a proposed stipulated judgment against Timemark, Inc., a company based in Deerfield Beach, Florida, that provides debt-relief services to consumers with federal student-loan debt, and against its owners and officers, Timothy Lenihan, Sr., Mark Nagler, and Casey Gassaway. The Bureau alleged that the defendants charged illegal advance fees in violation of the TSR to consumers who were seeking to renegotiate, settle, reduce, or alter the terms of their loans. The order, which the court entered on August 12, 2020, permanently bans defendants from providing debt-relief services and imposes a judgment totaling approximately $3.8 million in consumer redress and civil money penalties.

Bureau of Consumer Financial Protection v. My Loan Doctor LLC d/b/a Loan Doctor and Edgar Radjabli (S.D.N.Y. 1:20-cv-05159). On July 6, 2020, the Bureau filed a lawsuit against My Loan Doctor LLC, a Delaware financial-company operating in West Palm Beach, Florida and New York City and doing business as Loan Doctor (Loan Doctor), and its founder, Edgar Radjabli. The Bureau alleges that Loan Doctor and Radjabli made several false, misleading, and inaccurate marketing representations in advertising Loan Doctor's "Healthcare Finance (HCF) Savings CD Account," in violation of the CFPA's prohibition against deceptive acts or practices. As alleged in the complaint, starting in August 2019, Loan Doctor took more than $15 million from at least 400 consumers who opened and deposited money into Loan Doctor's deceptively advertised product. The Bureau seeks redress for consumers, an injunction, and the imposition of civil money penalties. The defendants filed a motion to dismiss the complaint on December 16, 2020. The case remains pending.

In the Matter of Harbour Portfolio Advisors, LLC; National Asset Advisors, LLC; and National Asset Mortgage, LLC (2020-BCFP-0004) (not a credit union or depository institution). On June 23, 2020, the Bureau issued a consent order against Harbour Portfolio Advisors, LLC (Harbour); National Asset Advisors, LLC (NAA); and National Asset Mortgage, LLC (NAM), companies that worked together to issue contracts for deeds to consumers. Between 2012 and 2016, several thousand consumers initiated contracts for deeds with Harbour. The Bureau found that during this period, when consumers called NAA or NAM to complain about errors on their consumer reports relating to their financing with Harbour, they were sometimes told that they had to file a dispute with the consumer-reporting agency. These representations were inaccurate and constituted deceptive acts and practices in violation of the CFPA. The Bureau also found that NAM lacked adequate policies and procedures to protect the accuracy and integrity of information furnished to consumer-reporting agencies, in violation of Regulation V. Under the settlement, Harbour must pay a $25,000 civil money penalty, and NAA and NAM must jointly pay a $10,000 civil money penalty. The companies are also required to not misrepresent, expressly or impliedly, or assist others in misrepresenting how consumers can resolve errors in their consumer reports or any other material fact concerning their consumer reports.

In the Matter of Main Street Personal Finance, Inc., ACAC, Inc. d/b/a Approved Cash Advance, and Quik Lend, Inc. (2020-BCFP-0003) (not a credit union or depository institution). On June 2, 2020, the Bureau issued a consent order against Main Street Personal Finance, Inc., and its subsidiaries—ACAC, Inc., which conducts business under the name Approved Cash Advance, and Quik Lend, Inc. (collectively, Approved Cash). The companies, which are based in Cleveland, Tennessee, offer payday and auto-title loans and own and operate 156 stores in eight different states: Alabama, Louisiana, Michigan, Mississippi, Oklahoma, South Carolina, Tennessee, and

Virginia. The Bureau found that Approved Cash provided deceptive finance charge disclosures in violation of the CFPA and TILA by failing to refund overpayments on its loans, and violated the CFPA by engaging in unfair debt collections practices. The consent order imposes a judgment against Approved Cash of approximately $3.5 million in redress, which amount is suspended upon its payment of $2 million of that judgment and $1 civil money penalty to the Bureau based on Approved Cash's demonstrated inability to pay. The consent order also prohibits Approved Cash from misrepresenting finance charges in its auto-title pledge transactions, requires it to ensure that consumers with credit balances over $1 are refunded timely, and prohibits it from engaging in the unlawful debt collections practices in which it was engaging.

Bureau of Consumer Financial Protection and the Commonwealth of Massachusetts *ex rel.* Maura Healey, Attorney General v. Commonwealth Equity Group, LLC (d/b/a Key Credit Repair); Nikitas Tsoukales (a/k/a Nikitas Tsoukalis) (D. Mass. 1:20-cv-10991). On May 22, 2020, the Bureau and Commonwealth of Massachusetts Attorney General Maura Healey jointly filed a lawsuit against Commonwealth Equity Group, LLC, which does business as Key Credit Repair, and Nikitas Tsoukales (also known as Nikitas Tsoukalis), Key Credit Repair's president and owner. An amended complaint was filed on September 16, 2020. As the amended complaint alleges, from 2016 through 2019 alone, Key Credit Repair enrolled nearly 40,000 consumers nationwide, and since 2011, it collected at least $23 million in fees from consumers. The Bureau alleges that in their telemarketing of credit-repair services, the defendants violated the CFPA's prohibition against deceptive acts or practices and the TSR's prohibitions against deceptive and abusive telemarketing acts or practices. Massachusetts also alleges violations of Massachusetts laws. The amended complaint seeks redress to consumers, an injunction, and the imposition of civil money penalties. The defendants filed a motion to dismiss the amended complaint on September 30, 2020. The motion to dismiss and case remain pending.

In the Matter of Specialized Loan Servicing, LLC (2020-BCFP-0002) (not a credit union or depository institution). On May 11, 2020, the Bureau issued a consent order against Specialized Loan Servicing, LLC (SLS), a mortgage-loan servicer in Colorado. As of February 29, 2020, SLS serviced a portfolio of mortgage loans worth about $112.69 billion. The Bureau's investigation found that since January 2014, SLS violated RESPA, its implementing regulation, Regulation X, and the CFPA by taking prohibited foreclosure actions against mortgage borrowers who were entitled to protection from foreclosure, and by failing to send or to timely send evaluation notices to mortgage borrowers who were entitled to them. In some cases, SLS obtained foreclosure judgments and conducted foreclosure sales on borrowers' homes when Regulation X would have entitled the borrowers to protection from foreclosure had SLS complied with that rule. The consent order requires SLS to pay $775,000 in monetary relief to consumers, waive $500,000 in borrower deficiencies, pay a $250,000 civil money penalty, and implement procedures to ensure compliance with RESPA and Regulation X.

In the Matter of Cottonwood Financial Ltd., d/b/a Cash Store (2020-BCFP-0001) (not a credit union or depository institution). On April 1, 2020, the Bureau issued a consent order against Cottonwood Financial, Ltd., which does business under the name Cash Store. Cash Store is based in Irving, Texas and owns and operates roughly 340 retail lending outlets in Idaho, Illinois, Michigan, New Mexico, Texas, Utah, and Wisconsin. The Bureau found that in the course of marketing, servicing, and collecting on high-interest payday, auto-title, and unsecured consumer-installment loans, Cash Store violated the CFPA, FCRA, and TILA. The consent order requires Cash Store to pay $286,675.64 in consumer redress and a civil money penalty of $1,100,000. The consent order also prohibits Cash Store from certain collection practices and requires it to ensure that its employees respond accurately when asked about its loans' fees.

Bureau of Consumer Financial Protection v. Fifth Third Bank, National Association (N.D. Ill. 1:20-cv-01683), transferred to (S.D. Ohio 1:21-cv-00262). On March 9, 2020, the Bureau filed a lawsuit 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 CFPA's 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. On February 12, 2021, the court granted Fifth Third's motion to transfer the case to the Southern District of Ohio. 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). 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 alleged 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 alleged 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. On January 21, 2021, the court entered a stipulated final judgment and order imposing a judgment for equitable monetary relief against the defendants in the amount of $725,000 for consumer redress. It also permanently bans the defendants, among other things, from brokering sales or assignments of pensions and disability benefits and from collecting on any of these contracts.

Bureau of Consumer Financial Protection v. Citizens Bank, N.A. (D.R.I. No. 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 referrals to consumers as required by law. The Bureau seeks, among other remedies, an injunction against Citizens and the imposition of civil money penalties. The Court denied Citizens' motion to dismiss and ordered the parties to participate in a mediation session with a Magistrate Judge. 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 Monster Loans, 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.

On May 14, 2020, the Bureau, and Chou Team Realty, LLC, Thomas Chou, TDK Enterprises, LLC, Cre8labs, Inc., and Sean Cowell filed a stipulated final judgment, which the court entered the same day and which resolved the Bureau's claims against those defendants and relief defendants. The judgment imposes an $18 million redress judgment against Monster Loans, bans Monster Loans, Chou, and Cowell from the debt-relief industry, and imposes a total $450,001 civil money penalty against them. On July 7, 2020, the court entered a stipulated final judgment between the Bureau and Robert Hoose, which resolves the Bureau's claims against him. The judgment imposes a $7 million redress judgment against Hoose, bans him from the debt-relief industry, and imposes a $1 civil money penalty against him. On October 19, 2020, the Court approved a stipulated final judgment between the Bureau and Relief Defendants Kenneth Lawson and XO Media, LLC, which resolves the Bureau's claim against them. The judgment imposes a $200,000 redress judgment against Lawson and XO Media, LLC. In March 2020, one of the defendants filed a motion to dismiss for failure to join a necessary party, which the court denied in June 2020. In July 2020, that same defendant moved to dismiss, or for judgment on the pleadings, on jurisdictional grounds. The court denied that motion in August 2020. In July 2020, the Bureau moved for leave to file a second amended complaint adding claims against certain defendants. The court granted that motion in August 2020, and the Bureau filed an amended complaint. In March 2021, the Bureau filed applications for default judgment against defendants 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; and Bilal Abdelfattah a/k/a Belal Abdelfattah a/k/a Bill Abdel. Also in March 2021, the Bureau and defendants David Sklar and Lend Tech Loans, Inc. filed a stipulated final judgment to resolve the Bureau's claims against those defendants. The case remains pending against the remaining defendants.

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 complaint also names several relief defendants and seeks disgorgement of those relief defendants' ill-gotten gains. The court granted the request for the temporary restraining order on October 21, 2019. The court entered a stipulated preliminary injunction on November 15, 2019.

The Bureau filed an amended complaint on February 24, 2020. The Bureau's amended 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 amended complaint also names several additional defendants and relief defendants. On August 26, 2020, the court entered a corrected, amended stipulated final judgment as to defendants Prime and Horizon Consultants LLC (Horizon). The order imposes a judgment of $95,057,757 against Prime to provide redress to consumers. Horizon is jointly and severally liable for $12,942,045 of this amount. Full payment of these amounts is suspended based on Prime's and Horizon's demonstrated inability to pay following, among other things, their turnover of assets and their payment of a $1 civil money penalty to the Bureau. The order also bans Prime and Horizon from telemarketing or offering or providing debt relief services. On August 28, 2020, the court entered a stipulated final judgment and order as to defendant Tuong Nguyen and relief defendant TN Accounting Inc. The order imposes a judgment of $95,057,757 against Nguyen to provide redress to consumers. Relief defendant TN Accounting is jointly and severally liable for $444,563 of this amount. Full payment of these amounts is suspended based on their demonstrated inability to pay following, among other things, Nguyen and TN Accounting's turnover of assets and Nelson's payment of a $1 civil money penalty to the Bureau. The order also bans Nguyen from telemarketing or offering or providing debt relief services. On September 8, 2020, the court entered a stipulated final judgment as to relief defendants Hold the Door, Corp. and Mice and Men LLC. The order imposes a judgment of $1,638,687 against relief defendant Hold the Door and $5,041,069 against relief defendant Mice and Men to provide redress to consumers. Full payment of these amounts will be suspended based on their demonstrated inability to pay following their turnover of assets. On December 15, 2020, the court entered a default judgment against First Priority LLC and True Count Staffing Inc. The order imposes a judgment of $55,360,817.14 and $165,848.05 against True Count and First Priority, respectively, to provide redress to consumers. The order also requires True Count to pay a $30 million penalty, of which $29,850,000 is payable to the Bureau. It also requires First Priority to pay $3.75 million in penalties, of which $2,470,000 is payable to the Bureau. The order also bans the defaulted defendants from telemarketing or offering or providing debt relief services. The case remains pending against the remaining defendants. The case remains pending against the remaining defendants.

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 alleged that the companies and their owner violated the CFPA's prohibition against deceptive acts or practices. The Bureau and South Carolina specifically alleged 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's investigation was conducted in partnership with South Carolina. In May 2020, Snyder was discharged from bankruptcy in the U.S. Bankruptcy Court of the Eastern District of Texas. On November 12, 2020, the federal district court in the District of South Carolina approved a stipulated final judgment resolving the claims against Snyder and her companies. The judgment permanently bans Snyder and her companies from collecting money from affected consumers and from providing any other consumer-financial products or services. The judgment requires Snyder to pay a civil money penalty of $500 to the Bureau and $500 to South Carolina.

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 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 court denied on November 30, 2020. 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). CFLA is a foreclosure relief services company incorporated in California and Texas and headquartered near Houston, Texas. Lehman is CFLA's president and CEO, and Carrigan was the company's sole auditor. The complaint, which the Bureau amended in November 2019, alleged that CFLA and Lehman engaged in deceptive and abusive acts and practices in violation of the CFPA and charged unlawful advance fees in connection with the marketing and sale of financial advisory and mortgage assistance relief services to consumers in violation of Regulation O and the CFPA. The amended complaint further alleged that Carrigan provided substantial assistance to CFLA and Lehman. Concurrent with the filing of the initial complaint, the Bureau and Carrigan filed a proposed stipulated final judgment and order to resolve the Bureau's claim against Carrigan, which the court entered on October 29, 2019. It 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. On July 20, 2020, the court entered a stipulated final judgment resolving the Bureau's claims against the remaining defendants, CFLA and Lehman. Under the order, CFLA and Lehman are permanently banned from providing mortgage assistance relief services or financial advisory services. The order imposes a suspended judgment against CFLA and Lehman for redress of $3 million and imposes a civil money penalty of $40,000.

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). 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. 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 case remains pending.

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. On February 22, 2021, the court entered a default judgment against all defendants and appointed a receiver. The default judgment imposes a permanent injunction, including a permanent ban on advertising, marketing, promoting, offering for sale, or selling any pension-advance products, and requires defendants to pay over $436 million in consumer restitution and a $65,481,736 penalty. The receiver's work is ongoing.

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. 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. On May 31, 2020, the Court denied the Bureau's motion to approve the proposed consent judgment filed with the original complaint. The Bureau filed for entry of default against the NCSLT and several of the intervenors filed motions to dismiss. On March 26, 2021, the Court denied the Bureau's motion for default judgment, granted intervenors' motion to dismiss, and gave the Bureau leave to file an amended complaint. The case remains pending.

Consumer Financial Protection Bureau v. Ocwen Financial Corporation, Ocwen Mortgage Servicing, Inc., Ocwen Loan Servicing, LLC, and PHH Mortgage Corporation (S.D. Fla. No. 17-cv-80495). 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, 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 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, and the Florida plaintiffs settled their claims against Ocwen. On March 4, 2021, the court entered an order granting in part and reserving in part the defendants' Motion for Summary Judgment as to Counts 1-9 of the Bureau's First Amended Complaint, based on *res judicata,* and denying defendants' Motion as to Count 10. The court also reserved judgment in part and denied in part the Bureau's Motion for Summary Judgment. As of the end of the reporting period, the case remains pending in the district court.

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 removal provision that applied to the Bureau's Director violated the constitutional separation of powers and could not 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 United States Court of Appeals for the Second Circuit vacated the district court's judgment and remanded the case for further proceedings. On March 12, 2021, the defendants filed a motion to dismiss. The case remains pending in the district court.

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. On July 10, 2020, Navient filed a motion for judgment on the pleadings, which the court denied on January 13, 2021. On January 21, 2021, Navient filed a motion requesting that the court certify for interlocutory appeal its January 13, 2021 order denying its motion for judgment on the pleadings and stay the action pending resolution of the appeal. The court granted Navient's motion on February 26, 2021, certifying for interlocutory appeal its January 13, 2021 order and staying the action pending a determination by the Third Circuit whether it will permit the interlocutory appeal, and if so, the resolution of the appeal. On March 8, 2021, Navient filed a petition to the Third Circuit for permission to pursue the interlocutory appeal. On March 19, 2021, the Bureau filed its answer to Navient's petition. As of the end of the reporting period, the petition is 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). On July 29, 2020, the court issued a scheduling order under which litigation in the case resumed. The Bureau moved for partial summary judgment on September 4, 2020, and the defendants filed a motion to dismiss and cross-motions for summary judgment on September 25, 2020. The case remains pending.

Consumer Financial Protection Bureau v. All American Check Cashing, Inc., Mid-State Finance, Inc., and Michael E. Gray (S.D. Miss. No. 16-cv-0356). On May 11, 2016, the Bureau filed a complaint against two companies, All American Check Cashing, Inc. and Mid-State Finance, Inc., which offer check-cashing services and payday loans, and their president and sole owner, Michael Gray. The Bureau alleges that All American tried to keep consumers from learning how much they would be charged to cash a check and used deceptive tactics to stop consumers from backing out of transactions. The Bureau also alleges that All American made deceptive statements about the benefits of its high-cost payday loans and failed to provide refunds after consumers made overpayments on their loans. The Bureau's lawsuit seeks injunctive relief, restitution, and the imposition of a civil money penalty. On July 15, 2016, the court denied defendants' motion for a more definite statement. The defendants moved for judgment on the pleadings on May 24, 2017, and the Bureau moved for summary judgment on August 4, 2017. The court has not yet ruled on the Bureau's summary judgment motion. On March 21, 2018, the court denied the defendants' motion for judgment on the pleadings, and on March 26, 2018, the defendants moved to certify that denial for interlocutory appeal. The next day, the court granted the defendants' motion in part, holding that interlocutory appeal was justified with respect to defendants' constitutional challenge to the Bureau's statutory structure. On April 24, 2018, the court of appeals granted the defendants' petition for permission to appeal the district court's interlocutory order. The district court action has been stayed pending the appeal. On March 3, 2020, the Fifth Circuit affirmed the district court's denial of All American's motion for judgment on the pleadings. On March 20, 2020 the court of appeals, *sua sponte*, vacated the panel's decision and decided to rehear the matter *en banc*. On September 8, 2020, the court placed the case in abeyance pending a decision by the Supreme Court in *Collins v. Mnuchin,* which is now captioned, *Collins v. Yellen*, No. 19-422.

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 Administrative Law Judge denied these motions on April 24, 2020. In response to cross motions for summary disposition, on August 4, 2020, the Administrative Law Judge issued a Recommended Decision finding in the Bureau's favor on all counts. Respondents noticed an appeal to the Director and filed their opening appeal brief on September 3, 2020. On January 11, 2021, the Director affirmed and reversed in part the Recommended Decision. She affirmed the ALJ's conclusion that Integrity Advance violated TILA and EFTA and that both respondents violated the CFPA. With respect to the appropriate remedy, she concluded that Integrity Advance and James Carnes were jointly and severally liable for more than $38 million in restitution and imposed a $7.5 million civil money penalty against Integrity Advance and $5 million penalty against Carnes. The Director did not order restitution for conduct that pre-dated July 21, 2011, which is the Bureau's designated transfer date. On February 10, 2021, Integrity Advance filed a petition for review in the 10th Circuit. 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. 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. On August 24, 2020, the Bureau moved for default judgment against the corporate defendants and for summary judgment against the individual defendant. On January 25, 2021, the court granted the Bureau's motions and ordered the defendants to provide $4.7 million in restitution to harmed consumers, pay a $10 million civil money penalty, and imposed a permanent injunction. On March 26, 2021, the court denied the individual defendant's Motion for Reconsideration of its Summary Judgment Order and on March 29, 2021, the court denied the individual defendant's Motion for Stay of the Order. The case remains pending.

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). In September 2020, the Ninth Circuit scheduled oral argument for November 18, 2020 and ordered supplemental briefing regarding the sufficiency of a ratification the Bureau filed after the Supreme Court's decision in *Seila Law LLC*. The Ninth Circuit held oral argument on November 18, 2020 and, the following day, vacated submission of the case pending the court's resolution of *Seila Law LLC*, which the Supreme Court had remanded to the Ninth Circuit. On December 29, 2020 the Ninth Circuit issued its opinion in *Seila Law LLC*, and on January 12, 2021 the court continued its vacatur of submission of the case pending the Ninth Circuit's decision in *CFPB v. CashCall, Inc.* (No. 18-55407).

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 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 asserts 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. The amended stipulated judgment against TMLG increasing redress to $18,716,725.78 was issued by the court on November 11, 2018. On November 15, 2018, the court issued an opinion and order ruling that defendants CFLG, Macey, Aleman, Searns, and Stafford violated Regulation O by taking upfront fees and by failing to make required disclosures, and that some of the defendants also violated Regulation O 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 defendants CFLG, Macey, Aleman, Searns, and Stafford, 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. CFLG, Macey, Aleman, and Searns were permanently enjoined from marketing, selling, providing, or assisting others in selling or providing any mortgage-assistance-relief or debt-relief products or services. Stafford was enjoined from marketing, selling, providing, or assisting others in selling or providing mortgage-assistance-relief services for five years. CFLG, Macey, Aleman, Searns, and Stafford filed an appeal with the Seventh Circuit on December 4, 2019, which remains pending.

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 case is now on appeal to the U.S. Court of Appeals for the Ninth Circuit. Oral argument was heard on September 9, 2019. After the Supreme Court decided *Seila Law* and the Ninth Circuit decided that case on remand, the court in this case invited supplemental briefing, which concluded in April 2021. The case remains pending.

6. Actions taken regarding rules, orders, and supervisory actions with respect to covered persons whichare not credit unions or depository institutions

The Bureau's *Supervisory Highlights* publications provide general information about the Bureau's supervisory activities at banks and nonbanks without identifying specific companies. The Bureau published two issues of *Supervisory Highlights* between April 1, 2020, through March 31, 2021.[174]

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.

[174] Winter 2020, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-21_2020-02.pdf; COVID-19 Prioritized Assessments Special Edition, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-23_2021-01.pdf

7. Assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law[175]

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, 2020 through March 31, 2021 reporting period.

Consumer Financial Protection Bureau; Commonwealth of Massachusetts; The People of the of New York, by Letitia James, Attorney General of the State of New York; and Commonwealth of Virginia, *ex rel.* Mark R. Herring, Attorney General v. Nexus Services, Inc.; Libre by Nexus, Inc.; Michael Donovan; Richard Moore; and Evan Ajin (W.D. Va. 5:21-cv-00016). On February 22, 2021, the Bureau and the Attorneys General of Virginia, Massachusetts, and New York filed a lawsuit in the United States District Court for the Western District of Virginia against Nexus Services, Inc. (Nexus Services), Libre by Nexus, Inc. (Libre), and their principals, Michael Donovan, Richard Moore, and Evan Ajin. The Bureau and states allege that Libre and its owners operated a scheme through which Libre offers to pay the immigration bonds to secure the release of consumers held in federal detention centers in exchange for large upfront fees and hefty monthly payments, while concealing or misrepresenting the true costs of its services. Specifically, the Bureau and states allege that Libre and its owners engaged in deceptive and abusive acts or practices in violation of the CFPA, and that Nexus Services and Libre's owners provided substantial assistance to Libre's violations. The Bureau and states seek an injunction, damages or restitution to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. On March 1, 2021, the defendants filed a motion to dismiss the complaint. The case remains pending.

State of Alabama et al., v. Nationstar Mortgage LLC d/b/a Mr. Cooper (D.D.C. 1:20-cv-03551). On December 7, 2020, all fifty states and the District of Columbia filed a complaint and proposed

175 State action summaries are current as of March 31, 2021, and do not include activities that occurred after the reporting period.

stipulated judgment against Nationstar Mortgage LLC d/b/a Mr. Cooper in the U.S. District Court for the District of Columbia. The complaint alleged that the defendant violated the CFPA in the course of servicing mortgage loans. The action was part of a coordinated effort between the Bureau, which also filed a complaint, attorneys general, and state bank regulators. On December 8, 2020, the court entered orders and stipulated judgments in connection with the Bureau's and states' actions. The orders in the Bureau's and the states' actions have involved nearly $85 million in recoveries for consumers to date and over $6 million more in fees and penalties.

Bureau of Consumer Financial Protection and the People of the State of New York, by Letitia James, Attorney General for the State of New York v. JPL Recovery Solutions, LLC; Check Security Associates, LLC (dba Warner Location Services and Orchard Payment Processing Systems); ROC Asset Solutions LLC (dba API Recovery Solutions); Regency One Capital LLC; Keystone Recovery Group, LLC; Christopher L. Di Re; Scott A. Croce; Brian J. Koziel; and Marc D. Gracie (W.D.N.Y. 1:20-cv-01217). On September 8, 2020, the Bureau, in partnership with the New York Attorney General, filed suit in the federal district court against a network of five different companies based outside of Buffalo, New York, two of their owners, and two of their managers, for their participation in a debt-collection operation using illegal methods to collect debts. The company defendants are: JPL Recovery Solutions, LLC; Regency One Capital LLC; ROC Asset Solutions LLC, which does business as API Recovery Solutions; Check Security Associates LLC, which does business as Warner Location Services and Orchard Payment Processing Systems; and Keystone Recovery Group. The individual defendants are Christopher Di Re and Scott Croce, who have held ownership interests in some or all of the defendant companies, and Brian Koziel and Marc Gracie, who are members of Keystone Recovery Group, and have acted as managers of some or all of the defendant companies. The complaint alleges that from at least 2015 through the present, the defendants have participated in a debt-collection operation that has used deceptive, harassing, and improper methods to induce consumers to make payments to them in violation of the FDCPA and the CFPA. The complaint seeks consumer redress, disgorgement of ill-gotten gains, civil money penalties, and appropriate injunctive relief against the defendants. The case remains pending.

Bureau of Consumer Financial Protection and the Commonwealth of Massachusetts ex rel. Maura Healey, Attorney General v. Commonwealth Equity Group, LLC (d/b/a Key Credit Repair); Nikitas Tsoukales (a/k/a Nikitas Tsoukalis) (D. Mass. 1:20-cv-10991). On May 22, 2020, the Bureau and Commonwealth of Massachusetts Attorney General Maura Healey jointly filed a lawsuit against Commonwealth Equity Group, LLC, which does business as Key Credit Repair, and Nikitas Tsoukales (also known as Nikitas Tsoukalis), Key Credit Repair's president and owner. An amended complaint was filed on September 16, 2020. As the amended complaint alleges, from 2016 through 2019 alone, Key Credit Repair enrolled nearly 40,000 consumers nationwide, and since 2011, it collected at least $23 million in fees from consumers. The Bureau and Commonwealth allege that in their telemarketing of credit-repair services, the defendants violated the CFPA's prohibition against deceptive acts or practices and the TSR's prohibitions against deceptive and abusive telemarketing acts or practices. Massachusetts also alleges violations of Massachusetts laws. The amended complaint seeks redress to consumers, an injunction, and the imposition of civil money penalties. The defendants filed a motion to dismiss the amended complaint on September 30, 2020. The motion to dismiss and case remain pending.

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

This Semi-Annual Report update is focused on highlights from the Bureau's fair lending enforcement[176] and rulemaking[177] activities from April 1, 2020, through March 31, 2021, and continued efforts to fulfill the fair lending mission of the Bureau through supervision, interagency coordination, and outreach, from September 1, 2020, through March 31, 2021.[178]

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 initiated twelve supervisory activities onsite 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.[179]

For supervisory communications issued by Supervision during the reporting period, the most frequently identified issues related to the Bureau's Prioritized Assessments. Through Prioritized Assessments, the Bureau expanded its supervisory approach to cover a greater number of institutions than its 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 consumer harm. Certain Prioritized Assessments evaluated fair lending risks in the small business lending market. The supervisory observations resulting from these Prioritized Assessments were that in implementing the Paycheck Protection Program (PPP), multiple lenders adopted a policy that restricted access to PPP loans beyond the eligibility requirements of the

[176] Dodd-Frank Act § 1016(c)(5).

[177] 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.

[178] Dodd-Frank Act § 1016(c)(8).

[179] In the current reporting period, Supervision initiated more than the two fair lending supervisory activities onsite initiated during the prior reporting period and reflected in the Fall 2020 Semi-Annual Report.

program (an "overlay"). Specifically, several small business lenders restricted access by limiting eligibility for PPP loans to existing customers. Examiners determined that an overlay restricting access to PPP loans for small businesses that do not have an existing relationship with the institution, while neutral on its face, may have a disproportionate negative impact on a prohibited basis and run a risk of violating the ECOA and Regulation B.

In the current reporting period, the Bureau issued fewer matters requiring attention (MRAs) or memoranda of understanding (MOUs) than in the prior period. MRAs and MOUs direct entities to take corrective actions and are monitored by the Bureau through follow-up supervisory events. Regarding Prioritized Assessment observations, examiners encouraged the small business lenders to consider the fair lending risks associated with participation in the PPP, in further implementation of the PPP, and in any new lending program and to evaluate and address any risks.

During this reporting period, Supervision began to develop additional fair lending supervision strategic priorities, informed by the Acting Director's priority to advance equity using all of the tools Congress gave it. As a result of this prioritization process, the Bureau plans to focus additional fair lending supervision efforts on various product lines, especially mortgage origination and small business lending.

8.2 Fair lending enforcement[180]

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 agencies responsible for enforcing ECOA, 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.[181]

During the reporting period, the Bureau filed three fair lending public enforcement actions: Bureau of Consumer Financial Protection v. Townstone Financial, Inc. (N.D. Ill. 1:20-cv-04176), In re Washington Federal Bank, N.A., CFPB No. 2020-BCFP-0019, and Bureau of Consumer Financial Protection v. 1st Alliance Lending, LLC; John Christopher DiIorio; Kevin Robert St. Lawrence; and

[180] Section 1016(c)(5) of the Dodd-Frank Act requires the Bureau to include in the semi-annual report public enforcement actions the Bureau was a party to during the preceding year, which is April 1, 2020, through March 31, 2021, for this report.

[181] See 15 U.S.C. § 1691e(h).

Socrates Aramburu (D. Conn. 3:21-cv-00055).[182] In addition, during this reporting period,[183] the Bureau referred three 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 national origin, discrimination in mortgage origination based on receipt of public assistance income, and pricing discrimination in mortgage origination based on race and sex.

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.

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 with stakeholders, including consumer advocates, civil rights organizations, industry, academia and other government agencies to: (1) educate them about fair lending compliance and access to credit issues and (2) hear their views on the Bureau's work to inform policy decisions.

Outreach is accomplished through channels such as publishing proposed rules and interpretive rules, compliance bulletins, policy statements targeted to industry, requests for information, press releases, blog posts, podcasts, videos, brochures, website updates, 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 52 fair lending related outreach events. In these events, staff worked directly with stakeholders to share and receive information on fair lending priorities and emerging issues. The Bureau also heard feedback on fair lending issues and how innovation, if implemented in a manner that addresses potential consumer protection risks, could promote fair, equitable, and nondiscriminatory access to credit. Some examples of the topics covered include: the impacts of the COVID-19 pandemic on the economy, racial and economic equity issues, fair lending supervision and enforcement priorities, innovations in lending, HMDA and Regulation C, ECOA and Regulation B, small business lending, access to credit for Limited English Proficient (LEP) consumers, providing adverse action notices when using machine learning models, and the use of alternative data in credit underwriting.

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182 See supra Section 5.2.

183 April 1, 2020, through March 31, 2021.

During the reporting period, the Bureau published seven blog posts related to fair lending and access to credit issues. These blog posts included a request for public comments to inform Bureau guidance on serving LEP consumers;[184] a blog announcing the publication of the Statement Regarding the Provision of Financial Products and Services to Consumers with Limited English Proficiency;[185] and a blog announcing the Bureau's first tech sprint on improving electronically-delivered adverse action notices to consumers.[186] During the reporting period, the Bureau issued two press releases related to fair lending. The first press release announced the issuance of an interpretive rule on Special Purpose Credit Programs[187] and the second press release announced an interpretive rule clarifying that discrimination on the basis of sexual orientation and gender identity is illegal.[188]

8.3.1 Special Purpose Credit Program Interpretive rule

In December 2020, the Bureau issued an interpretive rule related to special purpose credit programs. The rule addressed regulatory uncertainty surrounding the promotion of equitable access to credit for historically economically disadvantaged groups and communities.[189] This interpretive rule followed the Bureau's issuance of an RFI on ECOA and Regulation B, where the Bureau sought public comment on, among other things, special purpose credit programs. Through extensive stakeholder feedback and comments received in response to the RFI, the Bureau learned that stakeholders were interested in additional guidance to help them develop compliant special purpose credit programs. As detailed in the interpretive rule, ECOA and Regulation B prohibits

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[184] Elena Babinecz and Frank Vespa-Papaleo, Consumer Fin. Prot. Bureau, Bureau seeks formal comments to inform forthcoming guidance on serving LEP consumers (Nov. 16, 2020), https://www.consumerfinance.gov/aboutus/blog/bureau-seeks-formal-comments-to-inform-forthcoming-guidance-serving-lep-consumers/

[185] Kathleen L. Kraninger, Consumer Fin. Prot. Bureau, Bureau takes additional steps to foster an inclusive financial system, https://www.consumerfinance.gov/about-us/blog/bureau-takes-additional-steps-to-foster-an-inclusive-financial-system/ (Jan. 13, 2021)

[186] Albert Chang, Tim Lambert, and Jennifer Lassiter, Consumer Fin. Prot. Bureau, CFPB's first tech sprint on October 5-9, 2020: Help improve consumer adverse action notices (Sept. 1, 2020), https://www.consumerfinance.gov/about-us/blog/cfpb-tech-sprint-october-2020-consumer-adverse-actionnotices/

[187] Consumer Fin. Prot. Bureau, Consumer Financial Protection Bureau Issues Advisory Opinion to Help Expand Fair, Equitable, and Nondiscriminatory Access to Credit, https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-issues-advisory-opinion-to-help-expand-fair-equitable-and-nondiscriminatory-access-to-credit/ (Dec. 21, 2020)

[188] Consumer Fin. Prot. Bureau, CFPB Clarifies That Discrimination by Lenders on the Basis of Sexual Orientation and Gender Identity Is Illegal, https://www.consumerfinance.gov/about-us/newsroom/cfpb-clarifies-discrimination-by-lenders-on-basis-of-sexual-orientation-and-gender-identity-is-illegal/ (Mar. 9, 2021)

[189] Consumer Fin. Prot. Bureau, Consumer Financial Protection Bureau Issues Advisory Opinion to Help Expand Fair, Equitable, and Nondiscriminatory Access to Credit (Dec. 21, 2020), https://www.consumerfinance.gov/aboutus/newsroom/consumer-financial-protection-bureau-issues-advisory-opinion-to-help-expand-fair-equitable-andnondiscriminatory-access-to-credit/

discrimination on certain prohibited bases in any aspect of a credit transaction; however, the statute and regulation clarify that it is not discriminatory for for-profit organizations to provide special purpose credit programs designed to meet special social needs.

The Bureau does not consider or determine whether individual programs qualify for special purpose credit status. Instead, the creditor offering the special purpose credit program must determine the status of its program. Regulation B provides creditors with general guidance for developing special purpose credit programs that are compliant with ECOA. To guide this determination and to address regulatory uncertainty, the Bureau issued the interpretive rule with the hope that more creditors will offer special purpose credit programs and increase access to credit to underserved groups. Specifically, the Bureau clarified the content that a for-profit organization must include in a written plan that establishes and administers a special purpose credit program under Regulation B. The interpretive rule also clarified the type of research and data that may be appropriate to inform a for-profit organization's determination that a special purpose credit program would benefit a certain class of people.

8.3.2 Limited English Proficiency (LEP) Statement

On January 13, 2021, the Bureau issued the Statement Regarding the Provision of Financial Products and Services to Consumers with Limited English Proficiency to encourage financial institutions to better serve LEP consumers in languages other than English (the Statement).[190] It was accompanied by a blog post.[191] The Statement provides guidance on how financial institutions can increase access to credit in non-English languages in a manner that is beneficial to consumers, while taking steps to ensure financial institutions' actions are compliant with the Equal Credit Opportunity Act (ECOA), Dodd-Frank Act prohibitions against engaging in any unfair, deceptive, or abusive act or practice (UDAAP), and other applicable laws.

The Bureau has received feedback from a variety of stakeholders over the past several years, including through the July 2020 ECOA RFI (see section 8.3.1 above), requesting that the Bureau provide additional guidance to institutions seeking to serve LEP consumers while maintaining compliance with applicable laws. In developing and issuing the Statement, the Bureau considered information gathered from those engagements and from a variety of sources, including input

[190] Statement Regarding the Provision of Financial Products and Services to Consumers with Limited English Proficiency Consumer Financial Protection Bureau (consumerfinance.gov)

[191] Kathleen L. Kraninger, Consumer Fin. Prot. Bureau, Bureau takes additional steps to foster an inclusive financial system, https://www.consumerfinance.gov/about-us/blog/bureau-takes-additional-steps-to-foster-an-inclusive-financial-system/ (Jan. 13, 2021)

received through comments to rulemakings and various RFIs on access to credit for LEP consumers, particularly the ECOA RFI that was issued on July 28, 2020.

The Statement provides principles to inform and guide financial institutions in their decision making related to serving LEP consumers, including encouraging institutions to better serve LEP consumers and highlighting that financial institutions may wish to consider extending credit pursuant to a legally compliant special purpose credit program (SPCP) to increase access to credit for certain underserved LEP consumers. The Statement also provides key considerations and guidelines institutions can use to develop compliance solutions for providing products and services to LEP consumers in languages other than English. Additionally, the Statement confirms that institutions collecting the language preference of an applicant or borrower in a credit transaction do not violate ECOA or Regulation B's prohibition on requests for information about national origin.

The effective and responsible integration of LEP consumers into the financial marketplace has the potential to create positive benefits for consumers and the financial services industry alike. Financial institutions play an important role in building a more inclusive financial system and presenting opportunities for LEP consumers to build their financial capabilities.

8.3.3 E-Disclosure Tech Sprint

The Bureau held its first Tech Sprint on October 5-9, 2020. The Tech Sprint, held virtually due to COVID 19 pandemic, focused on electronically delivered adverse action notices that that serve statutory purposes under ECOA and the Fair Credit Reporting Act (FCRA).[192] The event challenged participants to develop innovative approaches to electronically delivered ways to notify consumers of, and inform them about, adverse credit actions. Teams were asked to show how their proposed solution could improve on current adverse action notices to better realize three core goals:

1. Accuracy — using accurate information to take adverse action;
2. Anti-discrimination — preventing illegal discrimination in credit decisions; and
3. Education — helping consumers fare better in future credit applications.

Participants were informed that innovations could include any aspect, or potential aspect, of adverse action communication. The Tech Sprint attracted numerous expressions of interest, and more than 80 participants which formed 13 "sprint teams." Participants represented a wide variety of stakeholders including large financial institutions, community and consumer organizations,

[192] Consumer Fin. Prot. Bureau, CFPB Announces Tech Sprints To Empower Consumers, Reduce Regulatory Burden (Jun. 29, 2020), https://www.consumerfinance.gov/about-us/newsroom/tech-sprints

FinTechs, research organizations, and academia. On the final day of the Tech Sprint, the teams presented their proposed solutions to a panel of evaluators. The solutions developed by the sprint teams were creative and varied. Some of the proposed solutions included providing more detailed information on what role each denial reason played in the credit decision; identifying how the denied applicant might obtain a credit approval in the future by, for example, raising the credit score to a certain level, decreasing credit inquiries to a certain number, or requesting a different loan term or amount; delivering additional information or educational content with the electronic notice to the consumer to assist them in making more informed financial decisions; and proposing methodologies for identifying principal reasons for adverse action when algorithms—including, potentially, algorithms that make use of artificial intelligence—are used in the credit decision. Following the conclusion of the Tech Sprint, some of the participants informed the Bureau that they would work to incorporate their innovations into their delivery of adverse action notices or would consider working with the Bureau to further develop their ideas. The creative solutions presented will also help better inform the Bureau's policy making.

8.3.4 HMDA Tech Sprint

On March 22-26, 2021 the Bureau held its second Tech Sprint which focused on improvements to submitting and publishing HMDA data.[193] More than 100 participants from community groups, financial institutions, compliance software developers, academia, government, and the tech sector formed 17 teams and worked throughout the sprint week on two tracks. One track focused on furthering development of HMDA data publication capabilities and data products, and the other track focused on improving the process of submitting HMDA data to the Bureau.

On the data publication track, several teams worked to develop consumer-facing tools using HMDA data. The teams proposed a variety of solutions. One proposed tool would allow consumers to enter, for example, zip code, credit score, loan purpose, and loan type to compare lenders on by interest rate, fees, and other measures from available HMDA data. Another proposed solution would enable consumers to compare mortgage rate quotes they received with quotes other consumers had received and sent to a central database, and when combined with HMDA data, could identify potential "lending deserts." Another team proposed a tool that would track customers' feedback through a survey and use a scoring algorithm to identify the aggregate consumer sentiment.

Other teams worked on proposed solutions to improve the user experience with HMDA data. For example, one of the proposed solutions was a HMDA data analytics and visualization dashboard,

[193] https://www.consumerfinance.gov/rules-policy/innovation/cfpb-tech-sprints/home-mortgage-disclosure-act-tech-sprint/

while another team's solution included implementing plain-language revisions and documentation, closing gaps between tools and application programming interface (API) usage, and highlighting starting points for typical HMDA use cases. Another team proposed a single line of code to combine specific HMDA parameters, including states, years, borrower race, action taken, and lending institution to increase the accessibility of HMDA data and make it easier for users to download and analyze. Other solutions proposed included a variety of disclosure options for credit scores that are currently not disclosed to the public, including state-level aggregations for certain loan types and applicants, disclosure in bins or ranges, and aggregate disclosure by geography using graphs or maps.

Some teams focused on HMDA data analytics to solve issues and barriers to learning through HMDA data. These ideas included a proposed platform that used artificial intelligence/machine learning to identify the potential disparities in the action taken on an application by predicting the outcome of submissions using a peer group. Another group proposed a Rural Reporting Reliability Index to capture the scale of the HMDA data unreported for rural areas as a result of current HMDA coverage parameters by linking to other databases. Another solution included a tool intended to help public sector officials to direct public investment or subsidies in a way to stimulate private sector lending and investment in neighborhoods in need of credit and capital. The team did this by combining, at the census tract level, HMDA data with data on two HUD programs, the Home Investments program and the Community Development Block Grant program.

On the data submission track, teams presented several ideas to improve the submission of HMDA data to the Bureau. These ideas included exploring methods to speed up processing time of submitted data, especially for lenders reporting large loan/application registers (LARs); techniques to ensure the integrity of the data submitted and to avoid data errors; methods to create a customized submission experience for lenders; a method to check HMDA data collected by the lender against credit bureau data before the LAR is submitted; and exploring the use of LAR data in a blockchain involving the Bureau.

Other teams focused on the use or improvement of APIs in the submission process. These proposed improvements included a machine-learning based API dashboard proposal that assists consumers in shopping for a mortgage and exploring an API developer's portal with searching, archiving, management, and reporting functionality to enhance the existing CFPB APIs.

Each team's proposed solutions are able to be viewed on the Bureau's tech sprint landing page at: https://www.consumerfinance.gov/rules-policy/innovation/cfpb-tech-sprints/.

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. Interagency engagement occurs in numerous ways, including through several interagency organizations. 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, constitute the Interagency Task Force on Fair Lending. The Bureau chaired the Task Force from 2018-2020, which meets regularly to discuss fair lending enforcement efforts, share current methods of conducting supervisory and enforcement fair lending activities, and coordinate fair lending policies. In January of 2021, the FDIC became Chair of the Interagency Task Force on Fair Lending.

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.

The Bureau is also a member of the FFIEC's Appraisal Subcommittee (ASC) that provides federal oversight of state appraiser and appraisal management company regulatory programs, and a monitoring framework for the Appraisal Foundation and the Federal Financial Institutions Regulatory Agencies in their roles to protect federal financial and public policy interests in real estate appraisals utilized in federally related transactions. The ASC is considering its authorities and ability to promote fairness and equity, and prevent bias, in appraisals.[194]

Through the Federal Financial Institutions Examination Council (FFIEC) the Bureau has robust engagements with other partner agencies that focus on fair lending issues. For example, throughout the reporting period, the Bureau has chaired the HMDA/Community Reinvestment Act (CRA) Data Collection Subcommittee, a subcommittee of the FFIEC Task Force on Consumer Compliance. This subcommittee oversees FFIEC projects and programs involving HMDA data collection and dissemination, the preparation of the annual FFIEC budget for processing services,

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[194] The Appraisal Subcommittee includes the FFIEC agencies, HUD, and the FHFA.

and the development and implementation of other related HMDA processing projects as directed by the Task Force.

In addition to these established interagency organizations, Bureau personnel meet regularly with DOJ, HUD, FTC, state Attorneys General, and the prudential regulators to coordinate the Bureau's fair lending work.

Also, in October 2020, the Bureau signed a Memorandum of Understanding (MOU) with the FTC, HUD, FDIC, FRB, NCUA, OCC, DOJ, and FHFA–representing Federal agencies that, in addition to the Bureau, conduct fair lending analyses. The MOU allows economists from the agencies to voluntarily share confidential information with respect to analytical methodologies used to understand and assess compliance with fair lending laws.[195]

[195] For more information on the MOU, see Director Kraninger's Remarks During "Current Priorities in Consumer Financial Protection Seminar" At Harvard Kennedy School (Oct. 29, 2020), https://www.consumerfinance.gov/about-us/newsroom/director-kraningers-remarks-current-priorities-seminarharvard-kennedy-school/.

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 FY 2020 Annual Report of OMWI activities to Congress on March 31, 2021.[196]

The Bureau continued to execute the objectives and strategies outlined in the Diversity and Inclusion Strategic Plan Update FY 2019–2022[197] which complements the Bureau's overall Strategic Plan FY 2018–2022.[198]

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.

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[196] https://www.consumerfinance.gov/data-research/research-reports/fy-2020-office-minority-and-women-inclusion-annual-report-congress/

[197] https://www.consumerfinance.gov/data-research/research-reports/cfpb-diversity-and-inclusion-strategic-plan-update-2019-2022/

[198] https://www.consumerfinance.gov/about-us/budget-strategy/strategic-plan/

- 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 2021, an analysis of the Bureau's current workforce reveals the following key points:

- Women represent 50.0 percent of the Bureau's workforce in 2021[199] no change from 2020.[200]
- Minorities (Hispanic, Black, Asian, Native Hawaiian/Other Pacific Islander, American Indian/Alaska Native, and employees of two or more races) represent 42.3 percent of the Bureau workforce in 2021 with a 2.1 percent increase from FY 2020.
- As of March 31, 2021, 15.0 percent of Bureau employees on permanent appointments identified as individuals with a disability. Of the permanent workforce, 3.1 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 workforce goals for employees with targeted disabilities in both salary categories as required in the Equal Employment Opportunity Commission's (EEOC) Section 501 regulation 4.

The Bureau engages in the following activities to increase workforce diversity:

- Staffing:

[199] October 1, 2020 – March 31, 2021April 1, 2020-September 30.

[200] October 1, 2019- March 31, 2020

- 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 86 new hires which included 43 (50.0 percent) women and 47 (39.2 percent) minorities.
- 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 environment. Employee resource groups, cultural education programs, and diversity and inclusion training are key components of this effort.
  - In January 2021, Acting Director David Uejio set racial and economic equity as one of the Bureau's two main priorities. The Acting Director launched the Racial and Economic Equity (REE) taskforce, which was comprised of leaders from across the Bureau's divisions and offices with experience, knowledge, and expertise in racial and economic equity and roles at the Bureau in which they have insight and influence on Bureau activities, initiatives, and programs, to carry out that work. The Taskforce proposed a framework for the Bureau to advance REE goals and recommended measures to track the progress of those goals. The REE Taskforce also developed a REE definition to guide the Bureau's work in this area. Additionally, the Bureau has launched a REE webpage on www.consumerfinance.gov.[201]

[201] https://www.consumerfinance.gov/about-us/racial-equity/?_gl=1*l7egcm*_ga*NjM4OTE1NzczLjE2MTU1NjUxNDM.*_ga_DBYJL30CHS*MTYyNDM4MDAwNS4yMC4xLjE2MjQzODAwMTIuMA

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 (MWOBs). 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 MWOBs by:

- Actively engaging Bureau business units with MWOB contractors throughout the acquisition cycle.
- OMWI and Office of Procurement held technical assistance events virtually due to COVID-19 restrictions. Attendance remained consistent at around 100 registrants and 55 attendees per session. These events include the provision of expert advice directly from CFPB procurement and program office professionals. To date, FY21 focused events aim to align Bureau upcoming needs to vendor capabilities in data analytics, management consulting, and legal support services. With the launch of the Bureau's first dynamic Supplier Diversity Registry, OMWI aims to provide event participants and other interested vendors year-round engagement opportunities in its market research process, including status updates to forecasted requirements, advance notice of procurement industry days and email news updates of partner agency events and activities.
- Regularly participating in national supplier diversity conferences, such as the virtual Annual Government Procurement Conference in October 2020, that help to foster business partnerships among the federal government, its U.S. prime contractors, and Minority- and Women-owned Businesses. As a result of these efforts, 28.9 percent of $89 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
$11,609,217	15.5%	Women Owned
$1,146,029	1.5%	Black/African American
$1,968,608	2.6%	American Indian/Alaskan Native
$12,225,925	16.3%	Asian/Pacific Islander American
$1,591,483	2.1%	Hispanic American

9.3 Diversity within the Bureau contractors' workforces

In the fiscal year 2020, the Bureau collected Good Faith Effort (GFE) compliance data from a sample of contractors and used the insights gained from the analysis of that data to modify the Bureau's GFE compliance process. The OMWI reviewed and updated the GFE contract clause and its related procedures, developed criteria to measure and assess contractors' GFE efforts, and created a new standard operating procedure to document the GFE assessment process. As a result of this process, OMWI has increased communication with contractors to maximize technical assistance throughout the process. OMWI has modified its GFE compliance process to engage in communication and education before considering any of the penalties allowed under the statute for failure to make a GFE. The Bureau also updated documentation requirements so that contractors can now submit documentation demonstrating their efforts to address the six GFE evaluation criteria the Bureau is using: 1) Diversity Strategy; 2) Diversity Policies; 3) Recruitment; 4) Succession Planning; 5) Outreach; and 6) Supplier – Subcontractor Diversity.

9.4 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. The Bureau continues its multi-pronged assessment strategy. The Bureau formally launched the Inclusivity online portal to make it easier for financial institutions to submit their diversity and inclusion self-assessments. OMWI's online portal facilitates entity submissions. As of December 4, 2020, 23 financial institutions submitted assessments despite delays caused by the pandemic communication strategy, using direct outreach to financial institutions and working with industry trade associations to help engage financial institutions in the diversity and inclusion self-assessment process. OMWI sent a data call to approximately 1,300 institutions and invited them to submit a diversity self-assessment. To supplement the data collected through the self-assessment process, the Bureau conducted its own research on the publicly available diversity and inclusion information of financial institutions, by industry segment, and shared that information with trade groups. This information provided insight into how institutions were publicly reporting on their diversity and inclusion initiatives. The Bureau will continue its outreach to increase awareness and to encourage voluntary submission of the Diversity and Inclusion self-assessment.

APPENDIX A: ADDENDUM

2020 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 Semi-Annual Report constitutes the annual

SAFE Act report for 2020.

While administering the SAFE Act during 2020, 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, 2020, there were approximately 399,876 federally registered MLOs in the NMLS&R.

In February 2020, Bureau staff attended the twelfth annual NMLS User Conference and Training that provided information and training on the NMLS&R's state licensing and federal registry system related processes. The event was open to regulatory and industry system users, education providers, consultants, and others interested in attending, so it also provided an opportunity for Bureau 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 2020, the Bureau received approximately 25 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 100 emails in 2020, 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 2020, 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 2020 included a review for compliance with the SAFE Act. Examiners tested for accurate licensing and registration as well as related policies and procedures.

During 2020, SRR/CSBS continued to engage the Bureau on issues regarding the NMLS&R and the modernization of the NMLS&R. 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.

House Committee on Financial Services
Bringing Consumer Protection Back:
A Semi-Annual Review of the Consumer Financial Protection Bureau
Witness: The Honorable Rohit Chopra, Director
October 27, 2021

Requesting Member: Representative Lee Zeldin (NY)

1. **Director Chopra - As you know, CFPB oversees mortgage servicers. I am concerned that lack of coordination on guidance between federal and states agencies may cause delays as mortgage services work to assist troubled borrowers under the Homeowners Assistance Fund (HAF). What specific steps is CFPB taking to work with Treasury, states, and other relevant agencies as HAF is operationalized?**

The Bureau continuously works to ensure industry has clear guidance on mortgage servicing regulations. The Bureau participates in frequent stakeholder calls facilitated by the Housing Policy Council, which are specifically focused on effective implementation of the Homeowner Assistance Fund (HAF) and where we are available to help identify any issues with our rules. The Bureau is also working closely with the U.S. Department of the Treasury (Treasury) to support the states as they develop and open their programs. In addition, the Bureau and other federal partners[1], including Treasury and the Federal Housing Finance Agency, launched www.consumerfinance.gov/housing, an interagency housing assistance portal that continues to provide information to homeowners.

I would like to ask you about a scenario of my concern. If a servicer is working with a homeowner on an FHA loan and that homeowner receives assistance from a state program funded through HAF, is CFPB ensuring those servicers have the clarity they need to comply with the state programs, FHA guidelines and CFPB regulations for mortgage services?

The Bureau is working to ensure that mortgage servicers have clear guidance on mortgage servicing regulations and regularly coordinates with federal partners. The Bureau participates in frequent stakeholder calls facilitated by the Housing Policy Council, which are specifically focused on effective implementation of HAF, and where issues related to how these programs will fit in with existing loss mitigation waterfalls are discussed. There may be different approaches depending on when a borrower applies, the type of loan and the state program. Our rules do not prescribe any specific loss mitigation—that is determined by investors and guarantors like the Federal Housing Administration (FHA). The Bureau encourages servicers to participate in these programs and will continue to provide guidance to states and servicers on our servicing rules.

[1] U.S. Department of Agriculture, U.S. Department of Housing and Urban Development, U.S. Department of the Treasury, U.S. Department of Veteran Affairs, and the Federal Housing Finance Agency.

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2. **Director Chopra - The Bureau has stated it will be studying the payment system practices of both AliPay and WeChat Pay. Chinese companies are required by law to regulate online behavior that deviates from the political goals of the Chinese Communist Party (CCP), obey CCP's censorship directives, and participate in China's espionage. These policies regulate companies like Alipay and WeChat Pay in the Chinese market and, increasingly, their overseas businesses.**

   How concerned are you about the potential risk of U.S. consumer information ending up in the hands of the CCP or other bad actors if these entities were to grow in market share among U.S. consumers?

Extremely. Alipay and WeChat Pay are ubiquitous in China, arming them with extraordinary amounts of financial data. We must fully understand how Big Tech companies around the world are sharing the sensitive personal information of individuals with governments. These data can be weaponized by state and non-state actors alike.

Our study seeks to gain greater clarity on how tech company payment services harvest, share, and monetize data.

   This is both a consumer data privacy and national security issue. Will CFPB make protecting U.S. consumer data from being transferred over to the CCP a top priority?

Stopping abuse and misuse of data is a priority for the CFPB.

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Requesting Member: Representative William Timmons (SC)

The 1071 rulemaking your agency has proposed is an important rulemaking that could provide significant insight into lending to small businesses. I did however notice that in the NPRM for 1071, the Bureau specifically included entities that offer insurance premium financing as an example of a financial services entity covered by the rule even though those companies are not specifically covered by the definition of a financial services entity under the proposed rule. As a strong supporter of the state-based model of insurance regulation, I wanted to ask why the CFPB was extending its regulation over insurance companies?

The CFPB is not seeking to regulate the business of insurance. The Equal Credit Opportunity Act (ECOA) section 704B(h)(1) defines the term "financial institution" as "any partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity that engages in any financial activity." The Bureau's proposed definition of this term restates this statutory text and is the same definition that the Bureau utilized in the Small Business Regulatory Enforcement Fairness Act (SBREFA) Outline released during the Trump Administration.

The proposed definition includes organizations that provide insurance premium financing because offering these short-term loans to finance property and casualty insurance may be reasonably construed to be one example of "any financial activity." The notice of proposed rulemaking would not, however, impose any obligations on insurance policies or the companies that offer them.

My understanding is that insurance premium financing is just that, helping pay the cost of the insurance premium. These products have been exempted from other lending disclosures by other federal regulations. Director Chopra, do you believe that the CFPB can regulate insurance products and if not, can you commit to me that the final 1071 rule will comport with that sentiment?

The Notice of Proposed Rulemaking is consistent with the Bureau's statutory authority, and I am committed to ensuring that any final rule is also consistent.

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Requesting Member: Representative French Hill (AR)

Qualified Mortgage

1. **In March, the Acting Director of the Consumer Financial Protection Bureau noticed a rule to postpone the compliance date for the new Qualified Mortgage (QM) rule from July 1, 2021 to October 1, 2022. As you know, the new QM rule replaced the 43% debt-to-income ratio with a price-based approach based on a mortgage's annual percentage rate and the average prime offer rate. These changes were widely supported by both industry and consumer advocates alike, including the National Association for the Advancement of Colored People, the National Fair Housing Alliance, the Center for Responsible Lending, and the National Community Reinvestment Coalition. However, the Bureau's proposed rule to delay the compliance date for the new QM rule mentions that it "will consider at a later date whether to initiate another rulemaking to reconsider other aspects of the General QM Final Rule."**

   a. **Do you support the new QM rule's price-based approach? If not, please specifically describe what aspects of the approach you have concerns about.**

The April 27, 2021 final rule retained the March 1, 2021 effective date for the General QM definition based on pricing, while providing creditors additional flexibility by extending the mandatory compliance date to October 1, 2022. The Bureau recognizes that the General QM pricing definition was arrived at after extensive public comment and had wide support across many stakeholders. The Bureau intends to monitor the performance of QM loans and other aspects of the mortgage market under the QM pricing definition to determine the extent to which the pricing definition creates risks to consumers.

   b. **Does the Bureau have plans to initiate a separate rulemaking to reconsider other aspects of the QM rule? If so, what aspects of the QM rule do you anticipate making changes to?**

The CFPB has no concrete plans with respect to the QM rule, but the agency continues to closely monitor the market and listen to market participants to understand whether the rule is supporting access to a fair and competitive mortgage market. As a general matter, I am *interested in identifying ways to spur more mortgage refinancing so that borrowers can take advantage of lower interest rates.*

Homeowner Assistance Fund

1. **What is the CFPB's expectations when Regulation X's servicing provisions, such as its borrower outreach requirements, hinder the ability of servicers to work with state Homeowner Assistance Fund programs in order to assist borrowers?**

The Bureau expects servicers to ensure that homeowners receive the assistance to which they are entitled, whether under state Homeowner Assistance Fund programs, the Regulation X servicing provisions, or otherwise. The Bureau has twice amended Regulation X to account for the exigent situation created by the COVID-19 pandemic. Those regulatory changes were adopted after notice and comment and extensive consultation with both state and federal agencies in order to ensure that servicers could provide borrowers with the maximum assistance possible. The Bureau continues to consult with state and federal agencies, as well as mortgage servicers, to identify and remove obstacles to homeowners receiving necessary assistance.

2. **How is the Consumer Financial Protection Bureau coordinating with the Treasury Department and states to ensure there is consistent and coordinated guidance for borrowers, servicers, and program administrators?**

The Bureau continuously works to ensure there is clear guidance on mortgage servicing regulations. The Bureau participates in frequent stakeholder calls facilitated by the Housing Policy Council, which are specifically focused on effective implementation of the Homeowner Assistance Fund (HAF) and where we are available to help identify any issues with our rules. The Bureau is also working closely with the U.S. Department of the Treasury (Treasury) to support the states as they develop and open their programs. In addition, the Bureau and other federal partners[2], including Treasury and the Federal Housing Finance Agency, launched www.consumerfinance.gov/housing, an interagency housing assistance portal that continues to provide information to homeowners.

[2] U.S. Department of Agriculture, U.S. Department of Housing and Urban Development, U.S. Department of the Treasury, U.S. Department of Veteran Affairs, and the Federal Housing Finance Agency.

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3. **Will the Consumer Financial Protection Bureau be providing a safe harbor for servicers following state and Treasury guidance?**

The Bureau's mortgage servicing rule, Regulation X, facilitates the ability of borrowers to work with servicers to prevent avoidable foreclosures and obtain access to HAF funds. The Bureau continues to listen to market participants to determine what, if any, actions are needed to ensure a well-functioning market.

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Requesting Member: Representative Nikema Williams (GA)

The Consumer Financial Protection Bureau gives so many consumers an advocate when they have faced unfair practices in the financial marketplace. Because this is an agency focused on the people, I want to take this opportunity to demystify it for my constituents.

Of the 656,200 consumer complaints the CFPB got between April 1, 2020, and March 31, 2021 – and the additional 261,624 it has gotten since then – the agency has estimated that 99 percent of these have gotten a timely response from companies.

Let's break this down. The CFPB employs only 1,552 employees but gets hundreds of thousands of complaints in a year. And yet, 99 percent of the time when a consumer filed a complaint against a company, CFPB was able to get the company to respond.

1. **Director Chopra, how does CFPB get results for consumers without being directly involved in the day-to-day of each and every complaint that is filed?**

Consumer complaint handling is a pillar of the Bureau's work to serve the public and monitor markets. Compared to other government-run complaint systems, the Bureau's is unique in that complaints are usually directly relayed to the company for response. In addition, complaint data gives the Bureau visibility into potential emerging trends or risks to consumers.

Whether a consumer submits a complaint through the Bureau's website, or by telephone, mail, and referral, the Bureau uses twenty-first-century technology to efficiently and securely send the complaint to the company identified by the consumer for response or refers the complaint to another regulator, if needed. This process enables the Bureau to handle hundreds of thousands of complaints about thousands of companies. In 2021, the Bureau received more than 900,000 complaints and approximately 3,250 companies provided responses to their customers.

The Bureau's monitoring of complaints shows that the vast majority of companies review and respond to complaints as expected by the Bureau. In addition to informing the Bureau's supervisory and enforcement work, this monitoring work results in publication of reports highlighting consumers' experiences in the marketplace, how companies are responding, and where companies are failing to meet expectations, if applicable. Most recently, the Bureau *published its Annual Report on credit and consumer reporting complaints, which raises serious questions about whether Equifax, Experian, and TransUnion are unwilling—or unable—to comply with the law.*

2. **Director Chopra, what lessons can we learn from CFPB's approach to help more tenants get their complaints addressed when they have faced illegal or predatory behavior?**

We all learned from the 2008 financial crisis that systemic problems in the housing market can quickly ripple through the whole economy. We also learned that when authority is shared among multiple agencies, regulators can miss key signals, fail to take appropriate action, or simply act too late. The results can be devastating.

To help ensure that appropriate resources reach struggling homeowners, renters, landlords, and those who have lost their housing, the Bureau and other federal partners[3] launched www.consumerfinance.gov/housing, an interagency housing assistance portal to provide information to homeowners, renters, landlords, and those who have lost their housing. This resource supplements other resources designed to address consumers' financial needs related to COVID-19, available at consumerfinance.gov/coronavirus. The Bureau is also working to ensure resources are reaching homeowners, renters, and landlords in need through a coordinated, interagency initiative on housing insecurity.

The Bureau's consumer complaint process also allows us to centralize handling of consumer financial product and service complaints and requires companies to provide responses. The Bureau's authorities to monitor, supervise, and enforce consumer financial protection law provide a strong foundation to monitor markets within its authorities and address risks to consumers. Granting the appropriate housing agency analogous authorities over landlords would help ensure tenants have a federal agency to turn to when they suspect illegal or predatory behavior by their landlord.

[3] *U.S. Department of Agriculture, U.S. Department of Housing and Urban Development, U.S. Department of the Treasury, U.S. Department of Veteran Affairs, and the Federal Housing Finance Agency.*