

**THE CONSUMER FINANCIAL PROTECTION
BUREAU'S SEMIANNUAL REPORT TO CONGRESS**

HEARING
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SEVENTEENTH CONGRESS
SECOND SESSION
ON
THE CONSUMER FINANCIAL PROTECTION BUREAU'S SEMIANNUAL
REPORT TO CONGRESS

DECEMBER 15, 2022

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THURSDAY, DECEMBER 15, 2022

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

The Committee met at 10 a.m., in room 538, Dirksen Senate Office Building, Hon. Sherrod Brown, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN SHERROD BROWN

Chairman BROWN. The Committee on Banking, Housing, and Urban Affairs will come to order. Our witness is in person. Welcome, Mr. Chopra. The Committee is in hybrid format. Some Members might do this remotely.

Let me start by talking about two of our colleagues who are retiring at the end of this Congress.

Senator Toomey sat by my side, I by his side, for 87 of the 89 hearings the Committee held this Congress. We each missed one. I was sick one day, and he had a family issue. I mention that because it shows how seriously he takes this job, both as Senator and as Ranking Member, and I will always, always remember that and be grateful. I am sure there were many hearings he did not want to sit through, but he did, and I give him credit for that.

I have enjoyed getting to know him as we sat together and got to know each other better for literally hundreds of hours over the last 2 years. We moved dozens of nominees through the Committee, we worked together on crucial national security issues like China, most recently we have worked together on FTX, and off the Committee worked on important maternal health issues.

While we have our disagreements, there may be no other Republican as passionate as Senator Toomey, and it is backed by his strong world view and intellect, especially on financial matters. He was a critical voice in our Committee's response to the COVID crisis and the Congressional oversight afterwards. The quality of debate and discourse in this Committee was improved because Pat and his incisive intellect—I use that word again—were engaged.

I also want to commend Pat's staff—Brad Grantz, Dan Sullivan, John Crews. I thank them and the rest of the team for their hard work and diligence.

I wish Pat, Kris, and their three children the best in the next phase of Pat's career.

I have not known a Banking and Housing Committee without Senator Shelby. I came to the Committee in 2007, in the middle of the financial crisis, and Senator Shelby points out that on his first day on the Committee, Senator Proxmire, of Wisconsin, who was the predecessor to Senator Cole, was chairing this Committee.

He has helped shape the agenda of the Committee for 35 years—during Enron, during Sarbanes-Oxley, the Great Recession of 2008, Dodd-Frank, the COVID pandemic, and so many other critical moments in the history of this Committee. He served in leadership roles as either Chair or Ranking Member for more than a decade, working as Chair with Senators Sarbanes, Dodd, Johnson, and then finally me in the last 2 years as the leader of this Committee. No one on the Republican side was a greater proponent of strong capital at banks, something I always admired about Senator Shelby's philosophy and work.

I wish you and Annette well in your retirement. Thank you.

Welcome back Director Chopra.

The Banking, Housing, and Urban Affairs Committee used to be referred to simply as the Senate Banking Committee because it was mostly all about Wall Street. When Democrats took control, 19, 20 months ago, we changed that.

So it is fitting that this Committee's last hearing for the 117th Congress is the CFPB's Semi-Annual Report, because fighting for consumers is one of the most important things we can do on this Committee.

Since the CFPB first opened its doors 12 years ago, the consumer agency has returned about \$15 billion—with a B—\$15 thousand million to consumers, including principal reductions, canceled debts, and other relief. That is \$14.9 billion. Over 183 million consumers have been eligible for that relief. The CFPB has a track record of helping real people get real compensation for real harm from financial institutions that have wronged them.

In 2012, just over a year after becoming fully operational, the CFPB ordered American Express subsidiaries to refund \$85 million to an estimated 250,000 consumers for illegal credit card practices, including charging unlawful late fees.

In 2014, the CFPB reached a settlement requiring Sallie Mae to pay \$60 million to an estimated 60,000 servicemembers serving our country, for overcharging them on student loans.

In 2016, the CFPB fined Wells Fargo \$100 million for opening unauthorized accounts and ordered Wells to refund an estimated \$2.5 million in fees accrued.

This year, the CFPB fined Bank of America \$10 million for unlawfully garnishing consumer accounts.

When financial institutions illegally took consumers' hard-earned money through unlawful late fees, through too-high interest rates, through unauthorized fees, and through improper garnishment, the CFPB cracked down and ensured that consumers keep their hard-earned money.

No other agency fights for consumers like the CFPB. It is no wonder Wall Street hates the agency. Since the passage of Dodd-Frank, Wall Street and its allies have aimed their fire at the CFPB, trying over and over again to undermine and gut the agency responsible for fighting for Main Street and consumers.

Republicans have proposed bill after bill to weaken the CFPB, to take away the effective single director structure, to put the agency's funding in the limbo of congressional appropriations, or to simply undo the CFPB.

But Congress created it and specifically designed its funding structure to make the agency an effective consumer watchdog.

According to this Committee's report on Dodd-Frank, "the assurance of adequate funding, independent"—independent, my emphasis—"of the Congressional appropriations process, is absolutely essential to the independent"—again, that word independent—"operations of any financial regulator," which is why other financial regulators like the Federal Reserve, OCC, FDIC, and NCUA are independently funded and not subject to congressional appropriations.

And when Wall Street and Republicans in Congress, always allies on these kinds of things, tried to put the CFPB out of business, the public loudly and clearly said "no." So even in a unified, all-Republican President, House, Senate, they could not put it out of business. It has remained intact because it does its job—helping consumers.

Consumers know Wall Street does not have their best interest at heart.

Consumers know that Wall Street needs a strong regulator to keep it in check.

Consumers remember the damage that Wall Street wrought on the economy, on their neighborhoods, and on their wallets. I live in Cleveland, Ohio. My ZIP code had the highest number of foreclosures in 2007 of any ZIP code in America. I know where that damage comes from.

And consumers know that CFPB follows the facts. They go after bad actors, from banks overcharging customers to predatory payday lenders trapping consumers in debt. The CFPB stands up to Wall Street. Director Rohit Chopra and the CFPB use all of their powers to fight discrimination, and they continue to go after financial institutions for their treatment of Black and Brown consumers.

In 2021, the CFPB required a bank to pay \$5 million to address redlining that harmed Black consumers. This year the agency announced that it will reexamine whether discrimination violates the Dodd-Frank prohibition against unfair, deceptive, and abusive acts and practices.

And in July, in response to a local lender's failure to serve Philadelphia's majority-minority neighborhoods, the CFPB, along with the DOJ's Combatting Redlining Initiative, brought \$18 million in funds to support home ownership in those neighborhoods.

In total, the CFPB has gotten \$637 million from discriminatory financial institutions, tens of millions of which have gone directly to minority consumers who experienced that discrimination.

There is a reason why the civil rights community was instrumental in the creation of Director Chopra's agency. They knew that they needed an agency that was empowered and unafraid to fight against discrimination. It is creating a fair, transparent, and competitive economy.

Major and consequential CFPB rules like the Ability to Repay rule not only provide protections for consumers buying homes, but also create rules for financial institutions and the broader economy.

That is why we created the CFPB, to ensure that the financial marketplace is fair for everyone, and that corporations cannot rig the system and get away with it. That is the essence of capitalism.
Ranking Member Toomey.

Senator TOOMEY. Thank you, Mr. Chairman.

Mr. Chairman, if it is OK with you I would like to say a few words about my time serving here with you. I would like to say a couple of words about my time with former Chairman Shelby, and then, if I could, yield to him for brief comments before I go into the opening comments on the subject at hand.

Chairman BROWN. Of course.

Senator TOOMEY. Thank you very much.

First of all, thank you, Mr. Chairman, for the kind words that you said. The fact is, Chairman Brown and I actually have more in common than many people might think. We both represent big, complicated States. We both love baseball and politics, probably in that order. We actually get along quite well, despite the fact that we have diametrically opposed views of the world, and his are mistaken but they are sincerely held.

And I have to say I do really appreciate the really good, constructive working relationship that we have had. Sherrod Brown is honest, he is a straight shooter, and we have our disagreements. I think they have been cordial, and when it has been possible to find agreement we have tried to do that, and I think we have had some success.

I also want to personally thank your staff, the majority staff on the Committee. These are very, very capable, smart, hardworking and collegial folks, and I am grateful to them for their hard work, as, of course, I am for my own staff. I think we have had a terrific team, and in these 2 years they have done tremendous work, and I will always be extremely grateful to them.

And so my last wish is I wish you well, and 2 years from now I wish you well as the Ranking Member of the Committee.

Chairman BROWN. Which would suggest you are supporting my reelection in 2024.

[Laughter.]

Senator TOOMEY. Well, that is an interesting inference.

Let me say a couple of things about Senator Shelby. He and I also have some things in common, believe it or not, one of which is we both had the good sense to marry women who are smarter than we are. And that was the best decision I ever made. I think Richard probably feels the same way.

But I am very grateful to him for the very, very long and very distinguished career that he has had. I understand that he has served on the Senate Banking Committee longer than any other human being in the history of the Committee. He has served as its Chairman. He has served as the Ranking Member. His accomplishments are too numerous to enumerate, but for me he has been a role model and an example of how to be a really effective Senator and a great representative for his State.

Last, about Senator Shelby, I will always remember him as simply too big to fail. Senator Shelby.

Senator SHELBY. Thank you. Thank you. Chairman Brown, thank you first for your kind remarks, and also I want to thank Senator Toomey.

Thirty-six years ago—it is hard to believe—36 years ago I came on this Committee. I think I was sitting way down there, maybe on the other side of the TV, somewhere. I wanted to be recognized one time—Senator Proxmire was the Chairman—and I had to ask two or three times before he even looked my way. So we go through this.

This is a great Committee. It covers everything. It is essential. It is essential to our economy, everything that we do here. It is also essential in the SEC, what the SEC, what the Chairman coming before us today does, everything. But it is essential to free markets because it is the banking system that we have.

But 36 years is a long time. It seems like yesterday. I have had the great privilege to, as the Senator said, to be Ranking three different Congresses and Chairman three different Congresses. It is an awesome responsibility. I have served some good people on both sides of the aisle.

I remember the late John Heinz. He would have been Chairman of this Committee but he had a big accident and lost his life. Senator Proxmire was when I first came on, as the Chairman mentioned. By gosh, he was a good Chairman, good, tough, fair.

Then Senator Riegle, then Senator D'Amato, and Senator Gramm, Phil Gramm, and so forth. Senator Brown, Senator Sarbanes. Senator Sarbanes, we worked together like you two. We had our differences. We were good friends. We traveled together. We ate together. We did some good things together, we thought, for the American people. But I remember sitting here with so many smart, good people, both sides of the aisle, both sides.

But I want to say we have had, since I have been on the Committee, smart staffers, good staffers. They flock to be on this Committee from everywhere, on both sides, you know, our staffs working together. And I want to thank all of them for what they have done over the years. A lot of them have gone on, as you know, to bigger and greater things.

But I will always miss this Committee I have served on. I have chaired four Committees. This is a very interesting Committee. That is why Senator Brown is Chairman and Senator Toomey would have been Chairman.

So thank you for your kind remarks. I will miss you, but carry on. Thank you very much.

Chairman BROWN. Thank you. Senator Toomey.

STATEMENT OF SENATOR PATRICK J. TOOMEY

Senator TOOMEY. Thank you very much, Senator Shelby.

Today's hearing, of course, is about the CFPB. It would be understandable if Director Chopra is pleased that it is the last time he will be here dealing with me on this Committee. So let me express my concerns.

The last time Director Chopra testified I did raise concerns about the CFPB's overreach in pursuit of a politicized agenda, and unfortunately, this behavior is nothing new for the CFPB, and under Director Chopra, my concern is it is more out of control than it has

ever been. So I am disappointed, but not surprised, to note, yet again, that the CFPB has continued this pattern of overreach.

In our constitutional system of checks and balances, only Congress has the power to appropriate money. James Madison called this, and I quote, “the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people,” end quote.

But the Dodd-Frank Act exempted the CFPB from appropriations. It empowers the CFPB to simply take funds from the Fed, which is itself also not subject to appropriations, thereby doubly insulating the CFPB from any congressional control.

I acknowledge there are other financial regulators not on appropriations, and we can disagree about whether they should be. But it is indisputable that Congress has precisely zero leverage over the CFPB. It is very hard for me to imagine that our Founders intended an agency to have the power of the legislative branch, and precisely zero accountability to the legislative branch. And in any case, clearly the CFPB is overreaching and does not seem to care about Congress’ view.

This is why the Fifth Circuit recently found the CFPB’s funding structure is, in fact, unconstitutional. The court noted, and I quote, “The Bureau’s perpetual insulation from Congress’ appropriations power . . . renders the Bureau ‘no longer dependent and, as a result, no longer accountable’ to Congress and, ultimately, to the people,” end quote.

Well, what can we expect from an agency designed to be unaccountable to Congress, if not overreach? For example, under Director Chopra, the CFPB unilaterally decided that the Dodd-Frank’s grant of authority to prevent unfair, deceptive, or abusive acts or practices, known as UDAAP, now includes controversial disparate impact liability. It announced this change by fiat, without rule-making. It ignored not only the text of Dodd-Frank but also the fact that Congress never contemplated that UDAAP would encompass disparate impact. Congress took the UDAAP language from the FTC Act. For nearly a century, the FTC never interpreted that language to include discrimination or disparate impact. Finally, the CFPB willfully ignored the fact that Congress overturned the CFPB’s disparate impact guidance for auto lending in 2018.

So it is extremely implausible to think that an agency that was dependent on Congress for appropriations would engage in activity so clearly contrary to Congress’ intent.

In addition, the CFPB has publicly targeted businesses for taking lawful actions, like its smear campaign against bank fees for overdraft services. By the way, this campaign does nothing for consumers. It will just cause banks to shift fees to less transparent means of recouping the costs of providing overdraft services.

This week, the CFPB doubled down on its use of name-and-shame tactics with a new proposed rule. It would create a public database of enforcement orders, judgments, and settlements, against nonbank financial institutions, obtained by Federal and State regulators and attorneys general, including under State consumer laws that are not applicable nationwide. Now maintaining such a list may well make sense, but making it public is different,

and would create the false impression that the orders of the most activist States are the nationwide standard.

What is more, the proposal would require a senior official of certain nonbanks to attest to the CFPB that they are complying with these orders. That would effectively give the CFPB enforcement power over other agencies' orders for violations of State and Federal laws. The CFPB has no jurisdiction to enforce. And there is no limiting principle to stop the CFPB from extending this rule from nonbanks to all financial institutions.

These examples are just some of the symptoms of an agency that is out of control and knows Congress cannot do a thing about it. That is why I am introducing legislation, along with Senator Hagerty, to place the CFPB on appropriations. The best way to make the CFPB accountable to Congress is through appropriations.

Through its rulemaking, the CFPB can exercise legislative power, and it does. What is ambiguous about the first line in the first paragraph of the first article of the Constitution? It says, and I quote, "All Legislative powers herein granted shall be vested in a Congress of the United States," end quote. At the very least, Congress should carry out the responsibility that the Constitution assigns to us, and exercise control over agencies like the CFPB that exercise legislative power.

But that is not all our legislation will do. It will also replace the agency's single director with a five-member, bipartisan commission, like the SEC and the FDIC. This structure will ensure that the CFPB considers a diversity of voices when it forms policy. And it is not a new idea. Bipartisan legislation to convert the CFPB into a commission has been repeatedly introduced. These accountability measures will help make the agency more responsible, more balanced, and more measured, and Congress will have to accept the responsibility for what the CFPB does, as it should.

What is more, if Congress does not put the CFPB on appropriations, the Supreme Court may very well do it for us. The Court is expected to consider, and I think might very well uphold the Fifth Circuit's decision that the CFPB's funding structure is, in fact, unconstitutional. If it does, I have no doubt Congress will act swiftly to provide the CFPB with appropriate funding. After all, Congress has plenty of experience at appropriations.

But, by acting now, through legislation, Congress can ensure the smoothest possible transition. This is in the best interest not only of the CFPB and Congress, but also consumers and the economy. That is why I call on my colleagues, Democrats and Republicans, to join me in supporting this sensible reform. Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Ranking Member Toomey. I will introduce today's witness.

The Honorable Rohit Chopra is Director of the Consumer Financial Protection Bureau. Director Chopra previously served at the Federal Trade Commission commissioner after the passage of Dodd-Frank. He joined the CFPB as Assistant Director and then was appointed as the CFPB student loan ombudsman. He subsequently served as a special advisor in the Department of Education.

Director Chopra, welcome, and please proceed. Thank you.

**STATEMENT OF ROHIT CHOPRA, DIRECTOR, CONSUMER
FINANCIAL PROTECTION BUREAU**

Mr. CHOPRA. Thank you so much, Chairman Brown, Ranking Member Toomey, and Members of the Committee.

Our economy and our consumer finance markets are truly in transition, out of a pandemic and further into a digital era. Given the economic uncertainties in today's markets, the CFPB is focused on monitoring these markets carefully, to prevent the type of widespread harms that we saw in the financial crisis more than a decade ago.

Over the last year we have recovered hundreds of millions of dollars in victim redress and penalties, and in our enforcement program we have sharpened our focus on repeat offenders, to protect both consumers and law-abiding businesses. Congress has directed the CFPB to implement several rules, and we have prioritized getting these done.

While we continue to address the challenges consumers face today, the CFPB is also preparing for the future. When companies can take on incumbents and when consumers can easily switch providers in a decentralized market structure, we are all better off.

In October, the CFPB kicked off a rulemaking process under Section 1033 of the Consumer Financial Protection Act. The proposals under consideration would require that financial firms provide consumers access to their own financial data. Consumers would then be able to provide permissions to this data safely and securely to other financial firms.

The CFPB is also focused on refinance markets, including an auto, credit card, and mortgage, and have been making it a priority to identify ways to lower barriers to entry to small banks and small firms and to foster innovation that addresses important market gaps.

We are taking a hard look at how big tech and other technology conglomerates are entering payments in consumer finance, and the threats they pose to relationship banking and free choice.

Over the past year we have had discussions with members from both chambers and on both sides of the aisle on reforms that can be advanced on a bipartisan basis. First, I would really urge Congress to take action to protect our payment system. Facebook's Libra proposal, in 2019, was a wakeup call to regulators around the world when it came to virtual currencies. There is now growing concern about how a small group of payment platforms, including Google, Apple, PayPal, Venmo, and others, are gaining a greater foothold in the payment system. Large tech firms are now the conduit for trillions of dollars in transactions, and the CFPB is conducting an ongoing study into how these companies are playing a role in the payment system.

The rise in dominance of a small group of these firms raises questions about how they can suppress, suspend, or even discriminate against some users over others. The CFPB has heard considerable concern about payment apps kicking off users or even fining users for their speech, and we have also heard concerns from dominant firms abusing their positions to hike fees on small banks, merchants, and consumers. Our Nation's payment system serves as

core economic plumbing that should be nondiscriminatory and neutral.

Second, Congress needs to do more to strengthen financial privacy protections. More than 20 years ago, Senator Shelby and others on this Committee began raising concerns about the creation of behavioral profiles, using our credit and debit card data. Today, with the rise of tech platforms and e-commerce that monetize user behavior with lots of data, these concerns are even more acute. I worry that the notice-based privacy regime of the Gramm-Leach-Bliley Act is ineffective in the modern world. Privacy policies for financial services are often all or nothing, and consumers must choose to accept the company's terms wholesale or decline to use the product altogether.

So while Congress is looking at privacy protections across all sectors of economy, I hope you will also consider looking at the Gramm-Leach-Bliley Act to provide limitations on the collection, use, and sharing of personal financial data. There are a number of other opportunities for bipartisan efforts, and the CFPB is eager to work with this

Committee on these and many other issues.

Thank you again for the opportunity to appear before you. I look forward to your questions.

Chairman BROWN. Director, thank you, and good to see you again.

Protecting Americans from harmful medical debt, as you point out and as your predecessors also pointed out, is a priority for this Committee and for the CFPB. Earlier this year, Experian, Equifax and TransUnion announced they would no longer include some forms of medical debt on consumer credit reports. But according to a recent report that your office released, it sounds like the changes announced by industry will not make as meaningful a difference as we had expected going in. Your report said, quote, "In terms of dollar amount, a large majority of reported medical collections likely will still remain."

My question is your report clearly indicates that changes on how medical debt is reported are not enough. How do we make sure that medical debt on credit reports is not crippling far too many Ohio, Pennsylvania, and American families?

Mr. CHOPRA. Well, medical debt is one of the top items now in terms of collections on consumer credit reports and is a major challenge when it comes to accuracy. You know, oftentimes providers, patients, and insurance companies are going round and round, and in many cases consumers are being asked to pay something they already paid or never owed in the first place. So we have to make sure that credit reports are not a tool to coerce someone into paying something that they do not owe.

Accuracy issues in credit reporting are very, very acute in medical debt. We are going to continue to look at ways to make sure that medical debt does not, especially when it is inaccurately reported, does not really harm a person's ability to participate in the economy.

Chairman BROWN. Thank you. Important answer.

To ensure consumers keep their money where it belongs, in their purses, in their wallets, the CFPB issued guidance advising finan-

cial institutions that surprise overdraft fees may be unfair and unlawful. How are consumers being harmed by surprise overdraft fees?

Mr. CHOPRA. Well, sometimes a consumer might expect just one overdraft fee and then they see they get three or four, even when their balance showed that they had enough money in their account. This is the type of overdraft practice where, on the back end, there can be not just mischief but illegal practices. We have taken action. Other regulators have done so as well, and in some cases institutions have ignored repeated warnings and decided to do it anyway, and we are committed to holding them accountable.

Chairman BROWN. Did industry request additional guidelines on this matter?

Mr. CHOPRA. Industry is actually always looking for more information and more clarity. It is one of the reasons why the CFPB has published so many advisory opinions and other interpretations. We have continued the practice from my predecessor, Director Kraninger, on the Advisory Opinion program, and will continue to do so. Of course, guidance does not create any new legal requirements but it seeks to provide transparency on obligations under existing law.

Chairman BROWN. And it speaks to—you were criticized, as you know, by a number of particularly conservative lawmakers and interest groups. But it does point to how you have tried to build as cooperative a relationship with people as you possibly can, and I think on that it shows.

Mr. CHOPRA. Yeah. I think there has been sometimes the term “regulation by enforcement,” and, of course, we have to enforce existing law. But where we can provide more information about what law-abiding businesses are trying to make good-faith efforts to comply, we are going to do that. They might not always like what existing laws require of them, but of course, that is one of the best ways we seek to also protect law-abiding businesses and help them.

Chairman BROWN. Thank you. One last question. Some 50 years after passing the Fair Housing Act, 40 years after fair lending laws, we know that redlining still exists in our housing system. In July, CFPB helped to identify one lender in Philadelphia that, through its office locations, through its lending, and through the racist language of its employees showed a clear pattern of discrimination. Because of CFPB’s actions, more borrowers in communities of color will have access to a mortgage.

So my question is how is CFPB working with DOJ and other agencies to make sure everyone has equal access to mortgage credit?

Mr. CHOPRA. Well, one of the great things about that action in Philadelphia was that it was not just the CFPB but also the three State attorneys general of the Philadelphia metropolitan area also participated, because their counties were impacted too.

The Department of Justice and the Attorney General of the United States have a redlining initiative, and we are not just looking at traditional forms of redlining but also digital redlining as well, and there is much more work to do there.

Chairman BROWN. Thank you. Senator Toomey.

Senator TOOMEY. Thank you, Mr. Chairman.

Director Chopra, when you came before this Committee for your nomination hearing you said that you preferred that the CFPB not be on appropriations because you believed that independent agencies are able to stay more clear of political influence. Do you stand by that opinion?

Mr. CHOPRA. I do.

Senator TOOMEY. OK. Here is the problem. Under your tenure at the CFPB it has become as politicized and as far left as I have seen any Federal agency ever. It seems the only political influence the CFPB is not subject to is the influence of the elected representatives of the American people, which is sometimes known as democracy.

Now some have suggested that the CFPB is accountable because you were confirmed several years ago and because you have to come up here twice a year and answer, or not answer, questions from my colleagues and me. But let us be honest about the reality here. We are going to raise a lot of concerns today, and at the end of the hearing you are going to leave, and if you want to, you can choose to just ignore everything that is said here at this podium, and there is nothing anybody here can do about it.

I would remind my colleagues the Fifth Circuit Court has recognized this lack of accountability to be unconstitutional. There is a very good chance the Supreme Court will as well. And that is why I think it would be a good idea to begin discussions now about legislation that would remedy this.

Quick, I think this is a yes-or-no question also, Mr. Chopra. Do you believe that Congress should change the CFPB's governance structure to that of a multimember commission?

Mr. CHOPRA. Well, that is really Congress' decision.

Senator TOOMEY. I get that. You are correct, 100 percent, it is Congress' decision. But would you recommend it to Congress?

Mr. CHOPRA. Well, my own experience, having served on both a multimember and a single director, there are pros and cons of each. I think there is more accountability with a single director. With a commission you can point the fingers at others when something does not get done—

Senator TOOMEY. I am about to run out of time. I get it. But the suggestion that there is accountability, I am sorry, that is hard to take seriously. There is no accountability here. And at least if there were a commission there would be multiple voices. There would be different points of view. There would have to be a vote to advance various proposals. I think that would make a lot of sense.

Mr. CHOPRA. Well, Senator Toomey, I think we take all of the congressional oversight very, very seriously. In fact, a lot of what we have done just in the past year is truly in response to some of the things that you have shared as issues with the CFPB as well as your colleagues.

We also think that for the long term there are so many issues that we ultimately have to do together, and we try our best to be responsive to all of that.

Senator TOOMEY. I appreciate that.

Mr. CHOPRA. In fact, Congress has passed laws many times—

Senator TOOMEY. I am going to run out of time here. I understand. I have no doubt that that is your impression, but I know

that you are aware that impression is not shared by most Senators on my side of the aisle. So there is a difference of opinion there.

Let me ask you a couple of questions about the new rule that you proposed this week, and let me start with a hypothetical. Let us say the California Department of Financial Protection agrees to a consent order to settle an enforcement action that it brought against a nonbank lender for violating State consumer law, and in this case the CFPB is not involved in the case in any manner whatsoever. It seems clear to me that the CFPB has no authority to enforce California's consent order.

But under the rules you proposed this week, the nonbank would have to report the consent order to the CFPB to be included in a new public database, and a senior executive of this nonbank would have to attest as to whether or not their institution was complying with this order.

Now here is my question. What would you do if this nonbank said it was compliant with the order but you disagreed?

Mr. CHOPRA. So as a factual matter, what you are saying is not exactly accurate. It is for certain supervised entities that attestation would be required. So this is a proposed rule, and what I would share is that in the proposal we outline what are the consumer laws that in some ways are derivatives of similar unfair, deceptive, or other consumer financial laws.

So generally speaking, this is really for States and all of us to coordinate. Often you have an entity that violates the law in one State and picks up and moves to someplace else. This helps everyone coordinate and detect fraudsters, which often rip off people—

Senator TOOMEY. So my concern is this could be used as a hook to give the CFPB leverage to enforce other agencies' State consent orders.

Mr. CHOPRA. Well, generally—

Senator TOOMEY. And that is not the authority—

Mr. CHOPRA. —violations of law, some of these State consumer laws, sometimes are often Federal law violations. But I hear what you are saying and we will take the comments in the record very seriously.

Senator TOOMEY. Well, that is a real concern that I have. I am also concerned about—and I know I am out of time but let me just make my point here, Mr. Chairman, and that is that the CFPB is, in fact, implementing a disparate impact standard without using that phrase, and I worry that the effect of that is the possibility that the CFPB would not feel obligated to observe the guardrails that the Supreme Court has imposed on the application of disparate impact.

Mr. CHOPRA. May I respond, Mr. Chairman?

Chairman BROWN. Of course.

Mr. CHOPRA. I think that is not accurate. If you look carefully at the unfairness language in the statute that was codified by Congress in 1994, in the FTC Act, and repeated in the Consumer Financial Protection Act in 2010, that is not about disparate impact. It is about injury, reasonable avoidability, and countervailing benefits. I am happy to talk with you more about that, Senator Toomey, but I just totally disagree.

Senator TOOMEY. Well, I know you do, but in your press releases and in the exam manual you refer to UDAAP authority providing the prohibition on unfair practices and that it does not require an element of intent. This starts to sound a lot like the definition of disparate impact without using the phrase “disparate impact.” And what concerns me is the application of disparate impact is constrained by the Supreme Court and you should follow that constraint if you were to be implementing it.

And finally, UDAAP is a longstanding concept, in fact, codified, and for 100 years nobody discovered that disparate impact was somehow embedded. But—

Mr. CHOPRA. I think that reflects a fundamental misunderstanding of unfairness, what Congress codified in 1994. And again, I am happy to speak to you about it afterwards.

Senator TOOMEY. Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Toomey.

Senator Reed, of Rhode Island, is recognized.

Senator REED. Well, first let me begin by saluting Senator Toomey for his service and dedication, his thoughtfulness and professionalism. We have a major event in common. We both went to the same high school, LaSalle Academy in Providence, Rhode Island. What I do not have in common with Senator Toomey is I was not first in the class and I was not accepted at Harvard College. So you have got a couple of things up on me, Patrick.

Let me also say to Senator Shelby, congratulations for your service. I arrived here 25 years ago, and he was a leader then, and he is a leader now, and an extraordinary gentleman.

Now let me turn to the director. First, a question that has come to mind as I have listened to the discussion. The decision by the Fifth Circuit also calls on the question of validity of the Federal Reserve. Is that correct?

Mr. CHOPRA. Well, the CFPB’s funding is the same funding as the Federal Reserve system. So I think yes, it certainly does, and that is part of what the Solicitor General, in her petition for cert to the Supreme Court, has articulated.

Senator REED. So we should really start warning Wall Street right now and get their reaction to a Federal Reserve that is subject to congressional appropriations. And by the way, we are trying to get that wrapped up a few months later than normal. But I think that is something that should be at least on the table and considered.

But let me direct my major attention to the Military Lending Act because I was helpful in getting it passed. Can you tell us, give us an update on what you have done this year with supervision and enforcement of the Military Lending Act?

Mr. CHOPRA. Yes. We have actually taken a number of actions including against repeat offenders of the Military Lending Act. We have sued First Cash, the Nation’s largest pawn lender. We have taken action in a number of other places, including Moneylion Technologies a few months ago.

Let me say pretty straightforwardly that when this law is not adequately enforced the effects on the force are real. People can lose their security clearances. They can face their own financial dis-

stress for them and their families. So we are very committed to fully prosecuting this law and being very clear about our expectations.

Senator REED. Let me shift to another piece of legislation. That is the Servicemembers Civil Relief Act. When I was in the service it was called the Soldiers and Sailors Civil Relief Act. But it provides, among other things, a maximum interest rate of 6 percent. And last week I believe CFPB published some research findings. Can you provide us some details of that?

Mr. CHOPRA. Yeah. So what we identified is for servicemembers' preservice obligations they are entitled to a 6 percent rate cap to ensure that, especially if they are activated Guard or Reserve, that their financial life does not move into disarray. So we identified that there are millions of dollars in extra interest that servicemembers are paying when they are activated, and we are particularly worried about the Guard and the Reserve.

I will also say as interest rates in the economy go up, that is bigger money when it comes to activations and what happens to those families.

Senator REED. Thank you, because I think you have made the point quite clearly that this not just an issue of financial transactions, it is an issue of military readiness and the impact on families and individual servicemembers.

Let me shift gears again to the Buy Now, Pay Later phenomenon which is going on. It is getting more and more popular. Are these loans, Buy Now, Pay Later, being structured to avoid the Military Lending Act?

Mr. CHOPRA. So I do not want to say that it is intentionally done a certain way, but certainly the applicability of the Military Lending Act gets trickier when it comes to Buy Now, Pay Later. One of the things that we have been working with Buy Now, Pay Later firms on is how can they also get credibility and certainty in the market and make sure that, you know, if it is a substitute for credit cards, how might we make sure that disclosures and other protections are equivalent?

I think we have seen what happens when there is no credibility in a product, and it can be chaotic. I think Buy Now, Pay Later is going to continue to be a major way people borrow, and I think it is important we continue to think about the servicemember and military protections in that.

Senator REED. Thank you very much, Mr. Director, and keep up your good work. Thank you.

Chairman BROWN. Thank you, Senator Reed.

Senator Tester, of Montana, is recognized.

Senator TESTER. Yeah. Thank you, Mr. Chairman, and before I get to Mr. Chopra, which I appreciate being here today, I also want to say thank you to Patrick Toomey. I remember the first time we worked on a bill and we were in the dining room of the Capitol, and I said, "You are not nearly as crazy as the scouting report indicates you are," and I think you said something like, "You want to keep that perception." So I appreciate everything that you have done, and even though it has ruined my career calling you a "smart dude," I do want to say that it has been good to work with you.

And in honor of Shelby, I will just let you know I have my Roll Tide coffee cup, so it is all good.

Look, Rohit, you and I have discussed the importance of making sure that we are holding big tech companies accountable for how they are using consumers' data, especially when they are providing services like those at local bank and other regulated financial institutions traditionally provide.

So what are you seeing at the CFPB around big tech companies and where they may be trying to skirt the law?

Mr. CHOPRA. Well, I think what we are seeing is that big tech firms [technical issue] payment system, and they are collecting an extraordinary amount of very detailed and personal information.

We also know that some of the other big financial players are getting into data assets that small banks would never really even get near, and I think we have to address that together.

Senator TESTER. So how will the CFPB [technical issue] standards that regulated financial institutions meet so that consumers are protected?

Mr. CHOPRA. Well, Senator Toomey raised the issue of nonbank registration. [Technical issue] they are subject to supervision, and one of the big things they ask for the CFPB is to make sure there is a level playing field. So we have focused much of our supervisory attention on these nonbanks who are not subject to the same oversight as normal banks.

Senator TESTER. Senator Reed asked about the Military Lending Act. For veterans and their families, what kind of risks are you seeing from your chair?

Mr. CHOPRA. Generally, you know, I think veterans right now [technical issue], you know, how long they have been out of service. We have very serious issues with economic instability among our veterans in our country. Many have a whole set of issues with housing and credit and debt. Financial issues are a major driver of challenges.

So, of course, the Military Lending Act [technical issue] do not apply to those out of service. In particular, we see medical debt being pretty severe. We worked [technical issue] how the VA's own medical debt programs can be fair and not be overly punitive and to really help veterans get through things.

So we have a lot [technical issue] but the challenge may be growing.

Senator TESTER. Is there anything Congress needs to be doing?

Mr. CHOPRA. Well, I think as it relates to veterans and credit and debt, especially medical debt, [technical issue] I hate to see when veterans are not able to get through a tenant screening [technical issue]. I hate to see when they cannot pass an employment verification check because of coding issues in their background.

So I [technical issue] that we can tangibly focus on fixing. Of course, I also want to make sure that if there is changes in the mortgage markets and housing prices [technical issue] veterans be subject to unlawful foreclosures, the VA and its mortgage program play a huge role in making sure that those veterans can get loan modifications, that they are not subject to churning. And so housing is going to be a big piece when it comes to the veterans mortgage market.

Senator TESTER. Just very quickly, [technical issue] in contact with the VA on these issues on a regular basis?

Mr. CHOPRA. We do. I would say the Secretary himself is also very supportive of thinking about financial issues that our veterans are facing [technical issue] with them and you on that.

Senator TESTER. Thank you. Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Tester.

Senator Hagerty, and I apologize. I did not see you come in and I should have called on you before Senator Tester, so thank you for joining us.

Senator HAGERTY. No worries, Mr. Chairman. Chairman Chopra, good to see you here today.

I really want to direct my comments, Mr. Chairman, toward our Ranking Member today, if that might be OK. I have not known you long [technical issue] I have a soft place in my heart for you. Someone who was a derivatives trader at Chemical Bank and Morgan, Grenfell. Your knowledge and depth of experience in the financial [technical issue] experiences here in Washington I feel have left an indelible mark. And if I think about how you have been a leading voice, and really a staunch advocate for conservative [technical issue] you helped us navigate through some very uncertain times, particularly these past few years as we have come into recession—we have seen inflation like we have never seen, challenges to the economy that have [technical issue]. You have been very strong in terms of making certain that the policies that come from this Committee will have long-term and enduring benefits for hardworking Americans, for job creators, and for our competitive [technical issue].

And on a personal level, I would just like to say this. From my wife, Christy, and our kids, we have enjoyed getting to know Chris. Patrick, Bridget, and Duncan are just treasures [technical issue], and I think they are very happy you are coming home, I am sure, and we are all looking forward to where your career may take you next. Thank you for your wonderful service.

Thank you, Mr. Chairman.

Senator TOOMEY. Mr. Chairman [technical issue] and the respect and admiration is mutual.

Chairman BROWN. And, Senator Hagerty, you have a couple of minutes left if you would like to do a question or two.

Senator HAGERTY. I yield my time back. Thank you.

Chairman BROWN. Senator Menendez.

Senator MENENDEZ. —we have not always agreed, but I have always known where you stood and your views and the way in which you pursue it. We have enjoyed our relationship on behalf of [technical issue]—the CFPB doing to ensure that MOHELA provides an acceptable level of customer service to borrowers?

Mr. CHOPRA. Well, I cannot comment on a specific supervisory [technical issue] to do so with—

Senator MENENDEZ. Well, I would urge you to be robust about it, because the consequence to consumers—

Mr. CHOPRA. Is enormous.

Senator MENENDEZ. —is enormous.

A 2021 report by the Financial Health Network found that nearly 60 percent of all overdraft fees in 2020 were paid by low- and moderate-income households, and about 25 percent were paid by Latino households specifically. According to the CFPB, the banks

made \$15 billion a year in overdraft and nonsufficient funds. To put that into context, the banks altogether made \$71.7 billion in the third quarter of 2022.

Do overdraft fees appear to be a major source of revenue for banks?

Mr. CHOPRA. So they certainly have been. What we are seeing, though, is a shift in the market where they are finally starting to compete, and some banks are drastically reducing them, eliminating them. And the key consumer problem is sometimes a consumer expects one overdraft fee but they get hit with a ton of bricks and three fees, even though when they looked in their balance they had enough money. We are trying to take action to go after illegal overdraft practices to make sure that these are not an unnecessary financial hardship and that there is compliance with the law.

Senator MENENDEZ. Yeah, it seems to me that these institutions would be well successful in terms of their financial wherewithal without these fees, and the particularly affect the most significant in our society who are already at a disadvantage. So I urge your continued engagement on this and appreciate it.

I continue to hear story after story from New Jersey constituents who have fallen victims to scams and fraud on Zelle, and in many instances been denied relief by their banks. I understand that the big banks that own Zelle are considering a plan to require the network members to compensate victims of certain kinds of scams. That would be [technical issue]. CFPB was working on guidance regarding liability from Zelle scams. Has that work progressed? Where are we at with that?

Mr. CHOPRA. Well, we have been talking to banks, small banks and big ones, about how to reduce the scourge of fraud in real-time payments. This is not just about Zelle. It is also about other P2P apps, some small banks who are not part of the ownership structure of Zelle and others are really wondering how they too can make sure that they investigate what is going on and get answers to their own customers. So we continue to work to make sure that as our country moves to real-time payments that we do not add more vectors of fraud where people can run.

You know, in many cases these network rules are established by the industry, and I hope that the industry too can set up frameworks that actually reduce the total amount of fraud when it comes to P2P apps and bank-owned solutions.

Senator MENENDEZ. Well, I appreciate that. I know that Senator Reed, myself, Senator Warren, and others have urged the agency to continue to be engaged in this space, and it is incredibly important.

And, Mr. Chairman, if I have one more minute, I just want to note the bipartisan work we did here in Congress to shepherd the Debt Bondage Repair Act into law. That bill was led by Ranking Member McHenry in the House and [unclear] in the Senate, and certainly I helped make it happen.

This helps the survivors of human trafficking have a mechanism to remove negative marks associated with their abuse from credit reports. In June you issued a final rule to implement the legislation, and I want to thank you for the hard work you put in to get

that done. I think we should all be reminded of the scourge of human trafficking, and in this case how we can provide some relief to the victims.

Mr. CHOPRA. I would add that I have similar concerns about impacts on victims of domestic violence and how credit reporting can be used as a weapon. We are trying to think about all of the ways in which all of your work on human trafficking, other [unclear].

And by the way, Senator Menendez, this is another example of one of the many times that Congress has passed a law and the CFPB has faithfully implemented it. Every time Congress acts in statute, the CFPB responds and is accountable for it.

Senator MENENDEZ. One of the many reasons we need CFPB. Thank you very much.

Chairman BROWN. Thank you, Senator Menendez.

Senator Scott, of South Carolina, is recognized.

Senator SCOTT. Thank you, Chairman Brown. I wanted to stop by as well to pay my regards to Ranking Member Toomey as well as to former Chairman Shelby. We certainly will miss his service from the State of Alabama. But Pat has been a great friend of mine, and certainly a mentor as it relates to the Banking Committee and all things financial. I will never forget our work on the TCJA and the hours upon hours that we spent trying to figure out how to make America healthier financially and to look for ways to grow the small business community through our economy, to focus on making sure that this great land of opportunity, the United States, was open and accessible, from a financial perspective, to all Americans. Your hard work on this Committee, since I arrived in the 114th Congress, is going to be sorely missed.

I know that this is not the end. It is just a new chapter opening up for you. But we certainly [technical issue] the work that you have started on this Committee to make sure that this incredible country works for every single American and that we continue to look for ways to strengthen our economy to increase opportunities across this country. I will hear from you, hopefully often, and we will stay in touch. But I thank you for your years of service to this Committee, and frankly, your philosophical wisdom [technical issue] left or the right on the American people.

Senator TOOMEY. Mr. Chairman, if I could take just a moment to say a big thank you to Senator Scott, a great friend, and a great American. Your service to the State of South Carolina has been tremendous, your contribution to the Republican Conference has been tremendous, and you have an unlimited future in front of you that I will be very eagerly watching.

Senator SCOTT. I have had the good fortune of being the Ranking Member on the Aging Committee this year, and the Committee has been meeting at the exact same time as the Banking Committee. So I cannot think of a better place to serve right now than in the Aging Committee, perhaps the Banking Committee, and I look forward to coming back over here. It has been a blessing to be there, and unfortunately I have missed a lot over here, but will be here next year. Thank you.

Chairman BROWN. Do you have questions?

Senator SCOTT. No, sir.

Chairman BROWN. Senator Warren, of Massachusetts, is recognized.

Senator WARREN. Thank you, Mr. Chairman, and actually I want to add my thanks as well to Senator Toomey. I want to say thank you for your many years of public service and how well you have served the people of Pennsylvania and the people of the United States. I also want to say thank you for your willingness to work across the aisle. We do not see eye to eye on every issue, in fact very few, but where we can, we do, and I appreciate that.

So let us talk about CFPB. Big businesses and their lobbyists have spent the last decade trying their hardest to take down the CFPB, and throughout it all, the CFPB has done its job holding banks and giant corporations accountable. So it is no wonder that the Chamber of Commerce and its corporate clients have now launched a new campaign, spending hundreds of thousands of dollars to attack the CFPB and to attack you, Director Chopra. And that is on top of the many millions of dollars it has already spent fighting for giant banks and corporations in their right to cheat, trick, and discriminate against consumers.

So I just want to talk about a few of the things that CFPB does that big banks really seem to hate. Director Chopra, one of the first things that you did when you took over the CFPB was to launch an initiative against junk fees, you know, the couple of dollars here, and a couple of dollars there, that banks and other businesses are increasingly loading on families in order to boost corporate profits. We are talking about things like way-high overdraft fees, hotel resort fees, other random fees that people cannot usually see until it is too late.

Now the Bureau recently issued guidance to crack down on junk fees. I just want to ask you, how much do you think consumers will be able to save if you can get rid of these fees in their lives?

Mr. CHOPRA. Well, our estimate is just on surprise overdraft fees. There is about \$1 billion that has already been cut out, and when it comes to others in the market, \$3 billion in overdraft fees, and I think the list is going to go on and on and on.

Let me just say this. If you believe in a market system where people can compete with each other, when you hide fees or jam fees onto people that they cannot reasonably avoid, that is not really a market system.

Senator WARREN. That is right. All right. So when financial institutions insist on continuing to saddle consumers with junk fees, you have been successful in taking enforcement actions against them. I see one here, Regents Bank, for example, was found to have charged surprise overdraft fees to its customers. So how much money did CFPB recover for cheated consumers once it took on Regents Bank?

Mr. CHOPRA. Just in that one we got \$141 million in victim restitution, and then a \$50 million civil penalty. And it is a repeat offender so we had to take it seriously.

Senator WARREN. Yeah, and that is money that stays in people's pockets because of your work.

Let me turn to another example. CFPB has also been working to protect student loan borrowers. You identified student loan servicers engaging in deceptive practices and tricking teachers and

firefighters and nurses out of the opportunity to access loan forgiveness under the Public Service Loan Forgiveness Program.

Director Chopra, is the CFPB action going to put money back in the pockets of public services like nurses and firefighters and teachers?

Mr. CHOPRA. Yes. They will have, in many cases, their financial lives will be completely [unclear].

Senator WARREN. All right. So let us take a look then at housing. The CFPB has been looking into shoddy tenant screening services that too often result in families of color being unfairly denied rental housing. Earlier this year, the Bureau issued guidance warning tenant screening companies to clean up their practices. Director Chopra, will CFPB's work on this issue help reduce barriers to affordable quality housing?

Mr. CHOPRA. Yes, and it will also be good for landlords too, who want to be able to find a tenant that works for them and not be shut out because of erroneous background reporting.

Senator WARREN. OK. So once again, making markets work better, just making them work for consumers as well.

I am going to do one more quick example here. Many people pay more for car loans, for credit cards, and for mortgages because they have unpaid medical bills that that tarnish their credit ratings. So in March, the CFPB issued a report showing just how severe this problem is, and here is what I love. Before you even had to deliver some kind of rule around this, a few weeks later, the three big credit reporting agencies announced they would eliminate nearly 70 percent of medical collection debt from consumers' credit reports. Director Chopra, how many families will this change impact?

Mr. CHOPRA. Millions, I think. Inaccurate credit reporting, especially on medical debt, can be a blockade to so much, and I think our work on credit reporting will continue to pay dividends for families and individuals.

Senator WARREN. Well, I want to say thank you. Now there we have. Junk fees, student loans, housing, medical debt—I could keep going on if we had more time—all of the things that CFPB has accomplished under your first year at the helm. The CFPB is saving tens of millions of families a lot of money.

I know that big banks and their lobbyists may hate that, but I am glad American families have a cop on the beat who is working for them.

Thank you. Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Warren.

Senator Daines, of Montana, is recognized.

Senator DAINES. Mr. Chairman, thank you for your remarks and I have a few questions. I too want to recognize Ranking Member Toomey. I remember my days at Procter and Gamble. One of my earlier mentors told me, "When you hire, you look for people that can check three boxes: integrity, intelligence, and initiative." Everything else you can coach, but you have got to have those three fundamental attributes.

Senator Toomey, you have truly modeled that for me personally, as you have served in the U.S. Senate, as you have led so well as the Ranking Member on this Committee. You will be dearly missed. Thank you for your sacrifice, your service for our country,

and for your strong leadership, and I, too, echo Senator Scott's comments. I will never forget the work we did together on the tax cut bill, and cutting taxes for small businesses as well as other businesses. But it was a moment, we did a big thing together, and thank you for that.

In a petition to the Supreme Court on November 14th, the CFPB asked the Court to reverse the Fifth Circuit Court of Appeals ruling that determined that CFPB's unprecedented power to defund itself was unconstitutional. The petition claims that the CFPB's funding is constitutional because Dodd-Frank authorized the CFPB director to unilaterally decide how large its budget can be and mandates that Federal Reserve transfer the requested funds. However, the Constitution prohibits Federal agencies such as the CFPB from spending Federal Treasury without, quote, "appropriations made by law," end quote.

In its decision, the Fifth Circuit writes that "an expansive agency, insulated from Congress' purse strings, expressly exempt from budgetary review, and headed by a single director removable at the President's pleasure is the epitome of the unification of the purse and the sword of the Executive." I believe it is highly likely that the Supreme Court ultimately reviews this case and upholds the Fifth Circuit decision.

My Republican colleagues and I have continually asked for our colleagues on the other side of the aisle to join us in reforming the CFPB. That offer sincerely remains on the table.

And now turning to my questions. Director Chopra, during your last appearance before the Committee you stated, following a question of mine, that, quote, "Consumers benefit from a transparent and competitive market. A transparent and competitive market will help develop lower-cost, small-dollar loan products," end quote.

Director Chopra, under your leadership what steps has the Bureau taken to create an open and competitive market for consumers to ensure continued access to small-dollar loan and financing products?

Mr. CHOPRA. That is a great question. Two things come to mind. One is that we have really put an effort to make sure that our credit card market is extremely vibrant. Credit cards are the biggest source of small-dollar loans in America. It is a place where so many people are able to afford things, even if they may not have the liquidity. We are looking at ways for small banks and credit unions to be able to play a bigger role in the credit card market, to be able to help refinance credit card debt, and much more.

We have also proposed implementing a long-dormant authority called Section 1033. This is how fintechs, nonbanks, and small banks may be able to access customers at lower customer acquisition costs by allowing permission data. So you would be able to move your data and use it as a way to be underwritten potentially for lower-cost credit elsewhere.

So I really see that technology, we can harness it in a way that creates more opportunities for new entrants, more opportunities for small players. Because right now, small-dollar lending and credit cards, it is dominated by just a handful of the largest. The truth is local banks would be very good at serving people in that market,

and we are looking for more ways to support them doing that as well.

Senator DAINES. Thank you, Director Chopra. And I want to go to another lane here and that is about abusive practices. In late September, the U.S. Chamber of Commerce filed a lawsuit challenging the legality of CFPB's changes to the Unfair, Deceptive, or Abusive Acts or Practices, UDAAP, Exam Manual. While lawmakers such as myself and many here expect the CFPB to enforce legislation that protects consumers against discrimination, it seems as though the Bureau has unilaterally decided, without congressional oversight, that UDAAP now includes disparate impact liability.

In the 12 years since Dodd-Frank was enacted, neither Congress nor the CFPB has claimed that the legislation authorizes disparate impact under UDAAP. Unfortunately, instead of implementing these changes in an open and very transparent rulemaking process, your Bureau simply issued a press release announcing a very controversial change.

Back in 2018, the CFPB disparate impact guidance for auto lending was overturned by Congress after the Bureau's enforcement methodologies were found to be flawed and, importantly, not authorized by statute. Now it appears as if your Bureau is attempting to implement disparate impact guidance not just for lenders but for all consumer financial products and services, and we are hearing a lot about that.

Putting aside whether this tactic is legal or not, which I do not believe it is, do you think the CFPB's implementation of disparate impact guidance through a press release, without congressional authorization or a notice and comment rulemaking, is a transparent way to make policy changes?

Mr. CHOPRA. So I appreciate the question, Senator Daines. This is not a disparate impact. Senator Toomey has claimed this many times and it is just not true. I am happy to talk you through the legal details of it, but I want to answer the question you really posed at the end, which is about transparency.

One of the things that Senator Toomey and others have really expressed is that they worry about regulation by enforcement, the sense that firms should know what is obligated of them under existing law. So one of the things we have done is we have tried our best to find lots of different ways to issue guidance that does not have the force of law but it gives entities a sense of what does the current law require.

In the case you mentioned of the exam manual, that is really also about consistent examination. The manual is guidance for examiners, that when they are investigating potential discriminatory or other unlawful conduct, how might it implicate some of the existing laws that Congress has authorized and prohibited? In many situations, illegal conduct can violate multiple laws.

But I want to figure out, and I am happy to work with you to figure out what is the way to be transparent but also how to best—

Senator DAINES. I am way over time. One last sentence. I appreciate you expressing interest in supporting community banks, smaller banks, and competition. I think it is important you get the

feedback early in that rulemaking process, from all entities, including these smaller banks and community banks.

Thank you. Mr. Chairman, thanks for your patience.

Senator SMITH. I am Senator Smith.

[Laughter.]

Senator SMITH. Thank you, Chair Brown.

Senator Toomey, Pat, we wish you the best in whatever adventures you have before you. I am sure they will be exciting, and thank you for your service to Pennsylvania and to the United States of America through the Senate. So we wish you the very best.

Senator TOOMEY. Thank you very much, Senator Smith.

Senator SMITH. Thank you.

So Director Chopra, thank you so much for being with us, and I appreciate your testimony and your answers to the questions today.

You know, markets need to work for consumers as well as the private sector businesses that serve those consumers. It needs to be fair and transparent so that people are not taken advantage of. And I want to thank you for the work that you and CFPB do to make that value real. And it does seem like there are new scams that hop up constantly.

Here is an example that I want to ask you about. In November, ProPublica and the *Sahan Journal* copublished a story describing practices targeting the Somali community in Minnesota. Real estate investors are apparently pitching contracts for deed, sometimes known as land contracts or seller financing, as an interest-free way of purchasing a home, and this is, of course, particularly attractive to Somali buyers, many of whom have religious tenants, forbidding paying interest.

Under these arrangements, a buyer pays a seller directly in installments and there is no mortgage or bank, and there are also very few consumer protections for buyers, and the contracts are often structured to contain large, unmanageable balloon payments. And so this is what happens. Families end up defaulting on their mortgages and are at risk of losing their homes. The stories are really terrible when you read them.

So I to just ask if you are aware of this issue, have you heard about this, and what could you do in response to these practices to protect these consumers?

Mr. CHOPRA. Well, I saw this report and one of the things that I think I have shared with some of you before is this issue of exploiting religious beliefs—

Senator SMITH. Yes.

Mr. CHOPRA. —I think is very pernicious. And I think to the extent to which—I do not know all the facts to see if it violates the law. It certainly raises red flags when there may be deception or, frankly, taking someone's home without the appropriate safeguards in place.

I want to make sure that—the CFPB is not in the business of projecting the future of the economy, but we are always paranoid about what could come. And I think housing and housing insecurity and evictions and all of the associated rules, we need to make sure that we can stop some of these before they really go nationwide.

Senator SMITH. Exactly, before they take off. And that is my concern too, that what is happening here is bad actors exploiting this prohibition amongst Muslim folks to not pay interest, and then taking advantage of them.

Similarly, I am also concerned about recent reports about a new deceptive practice that seems specifically designed to deceive homeowners. It is related to contracts for providing up-front cash to homeowners in exchange for an exclusive right by a real estate firm to serve as their listing agent for out to 40 years. And so this up-front cash is described as a loan alternative, and the only way that a homeowner can exit this arrangement is to pay 3 percent of the home value back to the realtor company, and then that is enforced as a lien against the property. It is just another example of the way, just as you say, the way that this huge challenge that we have around housing in our country is being taken advantage of, it appears, by these bad actors.

Mr. CHOPRA. And I also, in that situation, particularly worry about older homeowners who are often sitting in homes they have lived in for a long time, and often that is their core source of wealth and their ability to finance their retirement.

I will say on this issue we have seen the Florida AG; we have seen other AGs take actions. Sometimes it implicates our authorities. Other times it does not. But that is part of the reason we want more State AG and State regulator coordination with us, because often if it does not trip our laws it may trip theirs, and that is why we have really put a premium on investing in those State AGs, and I want to commend your State for really being part of that work.

Senator SMITH. Yes. Our Attorney General does excellent works and keeps consumer protection at the forefront of his efforts, so I appreciate that.

Thank you, Mr. Chair.

Chairman BROWN. Thank you, Senator Smith.

The Senator from Nevada is recognized.

Senator CORTEZ MASTO. Thank you. Thank you, Mr. Chair, and Ranking Member Toomey, again, as I said yesterday in the Banking hearing, I just wish you all the best and it has been a pleasure to know you and be able to work with you. Thank you.

Senator TOOMEY. Thank you very much. The feeling is mutual.

Senator CORTEZ MASTO. Director Chopra, it is great to see you. You know how I feel, as a former Attorney General. The work that you do is just so important, and that partner with the AGs across the country, like you said, is key to really address some of the consumer challenges that we are seeing. Every time there is a law that is passed, usually there is some predatory actor trying to figure out another way to take advantage, and so we have to stay diligent and be on top of all of these issues.

One of them that has been important to me, and Jack Reed has talked a little bit about this, is our servicemembers and their families. I know in 2021, our servicemembers and their families submitted more than 42,000 complaints to the Consumer Bureau. The most common type of complaint, more than 60 percent, were about credit reporting and debt collection. I know also that servicemembers have complained to the Bureau about billing inac-

curacies and that debt collectors use aggressive tactics to recover allegedly unpaid medical bills.

So how has the Bureau protected servicemembers and their families from unfair practices? Can you talk about what you are trying to do to address that?

Mr. CHOPRA. Yes. We have actually taken a number of enforcement actions on the Military Lending Act. Last week we released a report about the Servicemembers Civil Relief Act, which provides important protections.

Let me just say, more broadly though, the impact of the credit report for a servicemember, it is different than for civilians, because when they are moving a lot or when there are certain life events, they need to be able to rely on that, sometimes even for security clearances. So credit reporting issues are really tough.

Senator CORTEZ MASTO. Or continuation in the military.

Mr. CHOPRA. That is right.

Senator CORTEZ MASTO. This is an important thing, and this is what I hear from our servicemen and women in the State of Nevada.

Mr. CHOPRA. And one of the things that I worry, too, is they are more likely to be victims of identity theft. So the issue of servicemember data and privacy and their credit reports I think is going to continue to be a top issue. I know this is also a place where the Federal Trade Commission has put in work, and they have authorities, and we are going to continue to work with them.

The DoD has been a very good partner in figuring out other indicia of military family readiness, and so there is more work which we can brief you on.

Senator CORTEZ MASTO. Please do. I look forward to it. I know Jack talked about, and you addressed the Civil Relief Act and the concern that our active-duty, particularly our Reserve and National Guard, are paying an extra \$9 million in interest every year. And so I appreciate your work in addressing it.

Let me jump back to just, in general, credit reporting. For years the top complaint from consumers, in general, and this is even when I was Attorney General, has been inaccurate credit reports. And thanks to the Bureau's efforts we are seeing some improvements with getting real and timely responses to the complaints.

Can you talk about that progress that the Consumer Bureau has had with improving responsiveness from some of these credit reporting companies, but also what else do we need to be doing and what can Congress do to address this issue?

Mr. CHOPRA. Well, I think that the three credit reporting conglomerates obviously do not face the same competitive constraints that a normal business does. Consumers are not their customer often. So consumers are the product, and I think that is a fundamental market failure that requires us to make sure that they are taking accuracy and disputes seriously. It is clear that for some of them they are willing to pay the occasional fine or class action lawsuit, but ultimately there is a serious issue when it comes to their incentives.

I want to share that I also worry about the new generation of data broker and background screeners that are even collecting data on small businesses, collecting data on others. We need to make

sure that those secret dossiers that individuals have rights to make sure they are accurate and they can dispute wrong issues.

Senator CORTEZ MASTO. I do too, and I will just say, you know, as a former Attorney General dealing with the subprime mortgage crisis, I cannot tell you how many homeowners I even heard from that they were trying to work with a credit reporting company and they were being punitive against them. It is an area that we really have to focus on.

Mr. CHOPRA. And that lingers with people for so long. And often if one of your three reports has problems, you are shut out.

Senator CORTEZ MASTO. That is right. It is devastating. So thank you again. Thank you for the work, and I look forward to continuing that work with you and the Bureau, and your incredible staff.

Chairman BROWN. Thank you, Senator Cortez Masto.

Senator Ossoff, from Georgia, is online from his office.

Senator OSSOFF. Thank you, Mr. Chairman, and thank you, Director Chopra, for your service and your testimony here today.

Building on what Senator Cortez Masto was just discussing in terms of the impact that adverse credit reports can have on Americans, let us talk about how this can impact veterans and what you can do, Director Chopra, to protect veterans from improper billing and collections from providers of community care services referred by the VA. You published the Office of Servicemember Affairs 2022 Annual Report. It noted that you receive many complaints from veterans who incur medical debt as a result of a community care health care provider that is a third-party provider, to whom the veteran is referred by the VA for some outpatient services, who trust that those community care providers will bill the VA, but instead they bill the veteran improperly, and then it gets referred for collections, and then suddenly this veteran has collectors coming after them, maybe an adverse credit reporting event.

The report that you issued, Director Chopra, recommended that medical providers and third-party billing companies should have adequate systems in place to serve veterans. Of course, they should.

What else can you do with the powers at your disposal to protect veterans who are at risk of becoming trapped by medical debt, having adverse credit reports because of the failures of these health care providers to properly bill the VA?

Mr. CHOPRA. Let me just say that credit reports should not be a tool to extort money out of someone who does not really owe it. And I think for many veterans, and frankly, many Americans, they end up just paying it because it is such a headache.

We have already taken a few steps. One, we have put some focus on nursing home debt collection. This is a place where we want to make sure that debt collectors who are collecting on nursing home debt know that when there might be indicia that those debts are invalid.

This issue of outpatient referrals from the VA, we are really pleased to work with the VA on how they are dealing with credit reporting. They have updated some of their rules about when medical debts will be reported. It will drastically reduce the number that are reported. Because ultimately, I think we do not want to

penalize veterans for getting medical care for which the law entitles them to receive as benefits of their service.

So, Senator Ossoff, I think there are other places in credit reporting and debt collection that we continue to find concrete solutions to address these issues.

Senator OSSOFF. I appreciate that, Director Chopra. Let us talk about new mothers and the costs of pregnancy and childbirth. A University of Michigan study published last year found 24 percent of pregnant and postpartum women report unmet health care needs due to cost. One in 5 parents receive an unexpected charge, averaging \$744, on their hospital bill following childbirth. That is on top of \$4,500 in out-of-pocket spending, on average, that each woman spends on care from 12 months before to 3 months after delivery. We know, and we have been discussing, the impact that medical debt can have on families. We are talking about families with new children.

How do you address the impact that this can have on pregnant women and new mothers? What more can you do to protect them?

Mr. CHOPRA. I think that there are big concerns about how big medical events can often trigger personal bankruptcy. It is a financial distress that is often—an underpinning is often medical issues. And I think the last thing we would want is to see that, you know, pregnancy and new mothers having to deal with mistaken credit reporting, surprise billing.

Of course, the CFPB's role is really on credit reporting and debt collection. But of course, we are happy to brief you further on the work with the Department of Health and Human Services, the work we do with others to address this really complex and convoluted system of medical billing and how it is becoming the No. 1 collection item over time on individuals' credit reports.

Senator OSSOFF. Director Chopra, thank you, and I think that these issues faced by veterans and new mothers speak to the essential role that the agency plans in protecting consumers.

My final question is about servicemembers who, for example, are undergoing security clearance investigations. Your Office of Servicemember Affairs report found that in 2021, credit reporting companies were "not responsive to servicemembers' requests for investigations, jeopardizing their security clearances, job security, and promotion eligibility." They are not getting timely responses from the credit reporting companies when, for our military servicemembers, their jobs and clearance is on the line.

What more can your agency do to ensure that credit reporting companies respond in an efficient and effective manner to these servicemembers' requests and when servicemembers bring complaints to you?

Mr. CHOPRA. Well, we have certainly seen a bit of an uptick in their responsiveness, but ultimately we are going to have to assess them for legal compliance too. They have requirements to assure maximum possible accuracy, using reasonable procedures, and I think that is a place where we are very, very focused on whether they are meeting their legal obligations on dispute and accuracy.

So of course their compliance with the law has huge ripple effects on all segments of the population across the country, and so we will

continue to do work when it comes to the Fair Credit Reporting Act, including exploring potential rules.

Senator OSSOFF. Thank you. And Mr. Chairman, I know my time is up. I will just say this, Director Chopra. The Congress authorized your agency to undertake these activities, explicitly in statute, precisely so that you could protect consumers, such as we have discussed today.

Thank you for your testimony.

Chairman BROWN. Thank you, Senator Ossoff.

We will close. Senator Toomey has some parting words.

Senator TOOMEY. I will be brief. Mr. Chairman, thank you very much. I just want to remind my colleagues of the legislation that Senator Hagerty and I have proposed does two things. It would change the governance of the CFPB to a bipartisan commission, and it would change the funding of the CFPB to funding through appropriations.

This in no way would end the CFPB. It would in no way prevent the CFPB from carrying out its mission. But what it would do is it would restore much more accountability than we have today. The Constitution is so unambiguously clear that all legislative powers are to be vested in the Congress. We hand over powers to write rules which have the force of law to the CFPB. That is a legislative power. It really only makes sense that we actually exercise some control over this body to which we have delegated our own responsibility.

So I would urge my colleagues to consider supporting our legislation, and I thank you, Mr. Chairman.

Mr. CHOPRA. Chairman Brown, can I just offer one thing?

Chairman BROWN. Very briefly.

Mr. CHOPRA. I did not get to do this, but I also want to thank Senator Toomey, over the past few years. Congratulations on finishing your service and returning to Pennsylvania, or wherever you may go. And also to Senator Shelby, who over the past decade I have had the chance to work with him and his staff on so many things. You know, many years ago he was very clairvoyant about data and data privacy, and so I again want to thank him too for all his work.

Senator TOOMEY. Thank you.

Chairman BROWN. Thank you for those kind words, Director. A moment about accountability and then I will adjourn.

The CFPB director can be fired by the President. We know that. The director is confirmed by this body. The CFPB submits quarterly financial reports to OMB. CFPB's operations and budgets are subject to a private sector, independent audit. It is subject to numerous additional audits by the Office of the Inspector General and GAO. It is the only independent banking regulator with a cap on its funding, and annually audits the financial transactions, the GAO does, of the CFPB, and the director appears, as you know, painfully or not, in front of this Committee twice a year.

These are just some of the accountability measures the CFPB complies with. It is clearly accountable. It is not really the objection here. It is the fact that CFPB is such an effective watchdog for consumers, to the detriment of Wall Street. That is why the CFPB is under attack.

Thank you, Director, for being here today. Senators who wish to submit questions, those questions are due 1 week from today, on Thursday, December 22nd. Director, please submit your responses to questions for the record within 45 days from when you receive them.

And as I adjourn, again thanks to Senator Toomey. It is our 87th hearing together, and I appreciate his public service and his attention to detail and his good, intellectual, and principled insight, and I learn from him on all kinds of issues.

So Pat, thank you. Director, thank you. The Committee is adjourned.

[Whereupon, at 11:37 a.m., the hearing was adjourned.]

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

PREPARED STATEMENT OF CHAIRMAN SHERROD BROWN

Today's hearing is in a hybrid format. Our witness is in-person, but Members have the option to appear either in-person or virtually.

Let me start by talking about two of our colleagues who are retiring at the end of this Congress.

Senator Toomey sat by my side for 87 of the 89 hearings the Committee held this Congress. We each missed one. I mention that because it shows how seriously he takes this job—both as Senator and as Ranking Member. I'm sure there were many hearings he didn't want to sit through. But he did.

I've enjoyed getting to know him as we sat together for hundreds of hours over the last 2 years. We moved dozens of nominees through the Committee, we worked together on crucial national security issues like China, most recently we've worked together on FTX, and off the Committee worked on important maternal health issues.

While we have our disagreements, there may be no other Republican as passionate as Senator Toomey, and it's backed by his strong worldview and intellect, especially on financial matters. He was a critical voice in our Committee's response to the COVID crisis and the Congressional oversight afterwards. The quality of debate and discourse in this Committee was improved because Pat and his incisive intellect were engaged.

I also want to commend Pat's staff—Brad Grantz, Dan Sullivan, John Crews, and the rest of the team for their hard work and diligence.

I wish Pat, Kris and their three children the best in the next phase of his career.

I have not known a Banking and Housing Committee without Senator Shelby. I came to the Committee in 2007 in the middle of the financial crisis.

Senator Shelby helped shape the agenda of the Committee for 35 years—during the Enron scandal, Sarbanes-Oxley, the Great Recession of 2008, Dodd-Frank, the COVID pandemic, and so many other critical moments in the history of this Committee and our country. He served in leadership roles as either Chair or Ranking Member for more than a decade, working with Senators Sarbanes, Dodd, Johnson, and me.

There was no one on the Republican side who was a greater proponent of strong capital at banks, something I always admired.

Senator Shelby, I wish you and Annette well in your retirement.

Welcome back Director Chopra.

The Banking, Housing, and Urban Affairs Committee used to be referred to as the Senate Banking Committee because it was all about Wall Street. When Democrats took Control in the 117th Congress, we changed that.

So it's fitting that this Committee's last hearing for the 117th Congress is the CFPB's Semi-Annual Report—because fighting for consumers is one of the most important things we can do on this Committee.

Since the CFPB first opened its doors in 2011, the consumer agency has returned \$14.9 billion to consumers, including principal reductions, canceled debts, and other relief. That's \$14.9 billion, with a B.

Over 183 million consumers have been eligible for that relief.

The CFPB has a track record of helping real people get real compensation for real harm from financial institutions that have wronged them.

In 2012, just over a year after becoming fully operational, the CFPB ordered American Express subsidiaries to refund \$85 million to an estimated 250,000 consumers for illegal credit card practices, including charging unlawful late fees.

In 2014, the CFPB reached a settlement requiring Sallie Mae to pay \$60 million to an estimated 60,000 servicemembers for overcharging them on student loans.

In 2016, the CFPB fined Wells Fargo \$100 million for opening unauthorized accounts and ordered Wells to refund an estimated \$2.5 million in fees accrued.

This year, the CFPB fined Bank of America \$10 million for unlawfully garnishing consumer accounts.

When financial institutions illegally took consumers' hard-earned money through unlawful late fees, through too high interest rates, through unauthorized fees, and through improper garnishment, the CFPB cracked down and ensured that consumers keep their hard-earned money.

No other agency fights for consumers like the CFPB.

It's no wonder Wall Street hates the agency. Since the passage of Dodd-Frank, Wall Street and its allies have aimed their fire at the CFPB, trying over and over again to undermine and gut the agency responsible for fighting for Main Street and consumers.

Republicans have proposed bill after bill to weaken the CFPB, to take away the effective single director structure, to put the agency's funding in the limbo of congressional appropriations, or to simply undo the CFPB.

But Congress created the CFPB and specifically designed its funding structure to make the agency an effective consumer watchdog.

According to this Committee's report on Dodd-Frank, "the assurance of adequate funding, independent of the Congressional appropriations process, is absolutely essential to the independent operations of any financial regulator."

Which is why other financial regulators like the Federal Reserve, OCC, FDIC, and NCUA are independently funded and not subject to congressional appropriations.

And when Wall Street and Republicans in Congress tried to put the CFPB out of business, the public loudly and clearly said "no".

The CFPB has remained intact because it does its job: helping consumers.

Consumers know Wall Street does not have their best interest at heart.

Consumers know that Wall Street needs a strong regulator to keep it in check.

Consumers remember the damage that Wall Street wrought on the economy, on their neighborhoods, and on their wallets.

And consumers know that CFPB follows the facts. They go after bad actors, from banks overcharging customers to predatory payday lenders trapping consumers in debt.

The CFPB stands up to Wall Street. Director Rohit Chopra and the CFPB use all of their powers to fight discrimination. And they continue to go after financial institutions for their treatment of Black and Brown consumers.

In 2021, the CFPB required a bank to pay \$5 million to address redlining that harmed Black consumers.

This year the CFPB announced that it will examine whether discrimination violates the Dodd-Frank prohibition against unfair, deceptive, and abusive acts and practices.

And in July, in response to a local lender's failure to serve Philadelphia's majority-minority neighborhoods, the CFPB, along with the Department of Justice's Combatting Redlining Initiative, brought \$18.4 million in funds to support home ownership in those neighborhoods.

In total, the CFPB has gotten \$637 million from discriminatory financial institutions, tens of millions of which have gone directly to minority consumers who experienced discrimination.

There is a reason why the civil rights community was instrumental in the creation of the CFPB. They knew that they needed an agency that was empowered and unafraid to fight against discrimination, wherever it may be found.

The CFPB is creating a fair, transparent, and competitive economy.

Major and consequential CFPB rules like the Ability to Repay rule not only provide protections for consumers buying homes, but also create rules for financial institutions and the broader economy.

That's why we created the CFPB—to ensure that the financial marketplace is fair for everyone, and that corporations cannot rig the system and get away with it. That's the essence of capitalism.

PREPARED STATEMENT OF SENATOR PATRICK J. TOOMEY

Today's hearing is about the CFPB.

The last time Director Chopra testified, I raised concerns about the CFPB's overreach in pursuit of a far-left agenda. Unfortunately, this lawless behavior is nothing new for the CFPB, and under Director Chopra, it's more out of control than ever before. Today, I'm disappointed—but not surprised—to note, yet again, that the CFPB has continued this pattern of overreach.

In our constitutional system of checks and balances, only Congress has the power to appropriate money. James Madison called this: "the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people."

But, the Dodd-Frank Act exempted the CFPB from appropriations. It empowers the CFPB to simply take funds from the Fed, which is itself also not subject to appropriations, thereby doubly insulating the CFPB from any congressional control.

I acknowledge there are other financial regulators not on appropriations—and we can disagree about whether they should be. But, it's indisputable that Congress has precisely zero leverage over the CFPB. It's hard for me to imagine our Founders intending an agency to have the power of the legislative branch, and precisely zero accountability to the legislative branch. And, in any case, clearly the CFPB is overreaching and doesn't care.

That's why the Fifth Circuit recently found the CFPB's funding structure is unconstitutional. The court noted: "The Bureau's perpetual insulation from Congress's appropriations power . . . renders the Bureau 'no longer dependent and, as a result, no longer accountable' to Congress and, ultimately, to the people."

What can we expect from an agency designed to be unaccountable to Congress, if not overreach and hubris? For example, under Director Chopra, the CFPB unilaterally decided that Dodd-Frank's grant of authority to prevent unfair, deceptive, or abusive acts or practices—known as UDAAP—now includes controversial disparate impact liability. It announced this change by fiat, without rulemaking. It ignored not only the text of Dodd-Frank, but also the fact that Congress never contemplated that UDAAP would encompass disparate impact. Congress took the UDAAP language from the FTC Act. For nearly a century, the FTC never interpreted that language to include discrimination or disparate impact. Finally, the CFPB willfully ignored the fact that Congress overturned the CFPB's disparate impact guidance for auto lending in 2018.

It's extremely implausible to think that an agency that was dependent on Congress for appropriations would engage in activity so clearly contrary to Congress' intent.

In addition, the CFPB has publicly targeted businesses for taking lawful actions, like its smear campaign against bank fees for overdraft services. This campaign does nothing for consumers, it just causes banks to shift fees to less transparent means of recouping the costs of providing overdraft services.

This week, the CFPB doubled down on its use of name-and-shame tactics with a new proposed rule. It would create a public database of enforcement orders, judgments, and settlements, against nonbank financial institutions, obtained by Federal and State regulators and attorneys general, including under State consumer laws that are not applicable nationwide. While maintaining such a list may well make sense, making it public is different, and would create the false impression that the orders of the most activist States are the nationwide standard.

What's more, the proposal would require a senior official of certain nonbanks to attest to the CFPB that they're complying with these orders. This would effectively give the CFPB enforcement power over other agencies' orders for violations of State and Federal laws that the CFPB has no jurisdiction to enforce. There's no limiting principle to stop the CFPB from extending this rule to all financial institutions.

These examples are just some of the symptoms of an agency that's out of control and knows Congress can't use the power of the purse to rein in its overreach. That's why I'm introducing legislation—along with Senator Hagerty—to place the CFPB on appropriations. The best way to make the CFPB accountable to Congress is through appropriations.

Through its rulemaking, the CFPB can exercise legislative power. What's ambiguous about the first line in Article I of the Constitution: "All Legislative powers herein granted shall be vested in a Congress of the United States"? At the very least, Congress should carry out the responsibility that the Constitution assigns to us, and exercise control over agencies like the CFPB that exercise legislative power.

But that's not all this legislation will do. It will also replace the agency's single director with a five-member, bipartisan commission, like the SEC and FDIC. This structure will ensure that the CFPB considers a diversity of voices when it forms policy. And it's not a new idea. Bipartisan legislation to convert the CFPB into a commission has been repeatedly introduced.

These accountability measures will help make the agency more responsible, balanced, and measured. And Congress will have to accept some responsibility for what the CFPB does.

What's more, if Congress does not put the CFPB on appropriations, the Supreme Court will likely force us to. The Court is expected to consider and uphold the Fifth Circuit's decision that the CFPB's funding structure is unconstitutional. If it does, I have no doubt Congress will act swiftly to provide the CFPB with appropriate funding. After all, Congress is experienced at the appropriations process.

But, by acting now, through legislation, Congress can ensure the smoothest possible transition. This is in the best interest not only of the CFPB and Congress, but also consumers and the economy. That's why I call on all of my colleagues, Democrats and Republicans, to join me in supporting this sensible legislation.

PREPARED STATEMENT OF ROHIT CHOPRA
DIRECTOR, CONSUMER FINANCIAL PROTECTION BUREAU

DECEMBER 15, 2022

Chairman Brown, Ranking Member Toomey, and distinguished Members of the Committee, I am pleased to present the Consumer Financial Protection Bureau's (CFPB) submission of the Semiannual Report to Congress.

Our economy and our consumer finance markets are truly in transition, out of a pandemic and further into the digital era. I will offer some observations about the state of the economy today, as well as what the CFPB is doing to prepare for the future, especially as we confront the challenges of Big Tech in banking. I will also highlight a number of opportunities for bipartisan reforms.¹

The Current State of the Economy and Household Finance

The CFPB's market monitoring and supervision of financial institutions provides one lens into the state of the economy. Consumer demand has rebounded as our country transitions out of pandemic conditions. While the labor market remains strong, household debt has increased rapidly. The rise in household payment burdens from auto loans and credit cards has been particularly pronounced, given rising interest rates, the cost of vehicles, and the impact of inflation on other goods and services in the economy.

As consumers continue to navigate the economic impacts and ripple effects of the pandemic, their financial patterns have adapted and responded to changing conditions—as have the companies that serve them. For example, the CFPB has observed a notable increase in use of Buy Now, Pay Later products over the past few years. As interest rates on credit cards increase—and correspondingly, outstanding balances—a low- or no-interest Buy Now, Pay Later product that spreads the cost of goods over four payments can be particularly appealing. The CFPB's recent study on Buy Now, Pay Later noted a significant increase in use of these products to fund essential goods and services. The CFPB is working to ensure that Buy Now, Pay Later lenders adhere to the same protocols and protections as other similar financial products to avoid regulatory arbitrage and to ensure a consistent level of consumer protection.

Homeowners and home buyers are likewise adjusting to today's economic environment, which is characterized by higher interest rates and softening home prices. With interest rates above 6 percent for fixed-rate mortgages and average monthly mortgage payments on the rise, weekly mortgage applications for purchases are down 40 percent from the same time last year. Adjustable-rate mortgages have increased from less than 5 percent to nearly 10 percent of mortgages in just the last 3 years, suggesting that buyers seeking lower interest rates may be increasingly looking for alternatives to fixed rate mortgages.

Unsurprisingly, refinancing volumes have declined substantially. Given the importance of the mortgage market to both consumers and the economy, we will continue to assess trends closely, identify risks that require attention by regulators, and keep the public informed of their options. Medical debt continues to be a significant pain point for many Americans. Our analysis of consumer credit reports revealed that approximately 43 million credit reports contained a medical debt collection item. Given the complexities of medical billing in the United States, there are serious questions about the accuracy of medical debt credit reporting. The three major credit reporting companies are voluntarily making changes that will lead to reductions in the number of credit reports with medical debt items. We continue to examine how medical debt burdens are impacting household balance sheets.

Given the outlook for the global economy, we are also working across Government to be prepared if the macroeconomic environment deteriorates. We will be closely monitoring any impacts on U.S. consumer finance markets and the effects on household debt and household financial stability.

Promoting Competition and a Decentralized Market

In an open and competitive market, consumers can choose products and services that meet their needs and shift away from providers that treat them poorly. When new companies can challenge incumbents and when consumers can easily switch in a decentralized market structure, we are all better off. That's one of the reasons why Congress charged the CFPB with ensuring that consumer finance markets are competitive.

¹Statement 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.

In recent years, Big Tech companies and other digital giants have leveraged their existing platforms to expand their reach into banking and finance. While new entry is typically welcome news, Big Tech's entry raises broader concerns about competition and user choice. The CFPB has been closely studying these firms' expansion into consumer finance markets, particularly with respect to payment platforms, like Apple Pay, Google Pay, PayPal, and Venmo. We also continue to examine the effects of large technology conglomerates entering payments and financial services in other jurisdictions, like in China, where Alipay and WeChat Pay have extraordinary reach.

Big Tech firms can tie their payment platforms to their social media offerings or their mobile operating systems. Users may be restricted in how they make contactless payments (like "tapping") outside of the proprietary app affiliated with that operating system. Since there are strong network effects from payment systems, other payment apps have a strong incentive to leverage their scale to harvest data for purposes other than moving money from one party to another.

We have issued orders to a number of these firms to determine what data they are extracting from transactions and whether they can use that data to preference their other business lines. We are also particularly interested in how these payment platforms implement existing consumer protections, as well as how they make decisions on account approvals, freezes, and terminations.

In addition to identifying emerging risks to competition, the CFPB is working to proactively create conditions for small firms and start-ups to challenge incumbents. One way to prevent excessive centralization is to accelerate the shift to open banking and open finance. That is why it is a key priority for the CFPB to expand personal financial data rights through a rulemaking under section 1033 of the Consumer Financial Protection Act. This long dormant authority, once implemented, can give consumers more control over their personal financial data.

In October, the CFPB launched the rulemaking process. The proposals under consideration would require that financial firms provide consumers access to their own financial data on deposit accounts, credit cards, and other transaction accounts. Consumers would then be able to provide permissions to this data safely and securely to other financial firms. We are also exploring how to limit firms from sharing or misusing this sensitive data.

I am encouraged by the positive reactions this rulemaking process has elicited from across the consumer finance ecosystem, and I look forward to continuing the rulemaking process over the coming months.

We are also focused on promoting competition and new entry in refinance markets, including in mortgage, auto, and credit cards, and we have made it a priority to identify ways to lower barriers to entry and to foster innovation that addresses important market gaps.

Bipartisan Action Needed by Congress

Over the past year, the CFPB has had productive discussions with members from both chambers and on both sides of the aisle. There are a wide range of issues where I expect commonsense reforms can be advanced on a bipartisan basis.

Protect the Neutrality of the Payments System

The transfer of money in commerce is at the core of a market-based economy. Digital technology is driving greater ease for individuals and small businesses to transfer funds in a fast and frictionless way.

Facebook's Libra proposal in 2019 was a wake-up call to regulators around the world. While the proposal was largely scrapped, it was an important reminder of the power and potential that tech giants hold, and of the duties of financial regulators to carefully monitor how large tech conglomerates and other platforms enter the payments system and financial services.

Analysts estimate that payment apps from large tech firms are the conduit for trillions of dollars in transactions. There is growing concern that a small set of players, including some of the largest tech companies, are gaining a greater foothold in the payments system.

The rise in dominance of a small group of payment platforms raises questions about how firms can suppress, suspend, or discriminate against certain participants over others. The CFPB has heard considerable concern about payment apps kicking off users, or even claiming the ability to reach into their accounts and fine users without a clear reference to any legal infraction. For example, the operator of a major payment network recently suggested that it could impose fines on users for their online speech. Policymakers need to determine whether it is appropriate for platforms to shut off a user's account access without suspicion of fraud, money laundering, or other illicit activity.

Public commenters also raised concerns that dominant payment players will abuse their positions by substantially increasing fees on small banks, merchants, and consumers.

Congress must ensure that payments systems are neutral and nondiscriminatory, by eliminating the incentive for firms to use their control over payments to favor their other interests. This could require, for example, separations between payment utilities and ancillary businesses. In the coming months, the CFPB will be sharing more results from its study with this Committee and others in Congress.

Strengthen Financial Privacy Protections

More than 20 years ago, legislators began raising concerns about the creation of behavioral profiles using our credit and debit card transaction data.² With the rise of e-commerce and tech platforms that monetize user behavior through targeted advertising, these concerns are even more acute. Making digital payments and transferring funds online has become almost obligatory in our modern economy, and as a result, subjecting oneself to digital surveillance has become obligatory too.

The CFPB has found that large tech firms are able to ingest extremely detailed data about a user, including sensitive information. Firms we have studied have laid the groundwork, through loose privacy policies and expansive data retention practices, to use this data in ways that challenge traditional notions of privacy and autonomy.

The Gramm-Leach-Bliley Act requires that consumers are provided with a notice and a right to opt out of certain data collection and sharing practices. I am concerned that this privacy notice is ineffective. Privacy policies for financial services are often all-or-nothing: consumers must choose to accept the company's terms wholesale or decline to use the company's product. Given the importance of many financial services to consumers' daily lives, this can create a false choice between submitting to data harvesting or foregoing access to critical banking services.

The financial services landscape has changed significantly in the past two decades, and our approach to privacy must evolve as well. While Congress is broadly looking at privacy protections across sectors of the economy, I hope that financial privacy can be a top consideration for this Committee. Specifically, I hope you can explore meaningful limitations on the collection, use, and sharing of personal financial data. The CFPB will be looking closely at ways to better protect privacy in areas under our jurisdiction, including, for example, the collection and distribution of personal data in credit reporting and the use of data authorized by a consumer under the CFPB's personal financial data rights rulemaking.

There are a number of other opportunities for bipartisan legislative efforts, such as reforming the Appraisal Foundation, expanding awards for whistleblowers, and protecting relationship banking. The CFPB is eager to work with this Committee to craft potential solutions on these and many other issues.

Thank you again for the opportunity to appear before you. I look forward to responding to your questions.

²See, for example, Freedom from Behavioral Profiling Act of 2000, S. 536, 107th Cong. (2001). <https://www.congress.gov/bill/107th-congress/senate-bill/536?s=1&r=6>

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA
FROM ROHIT CHOPRA**

Q.1. Director Chopra, in the context of pending litigation about the CFPB's structure and funding mechanisms, there has been discussion about the value the CFPB has provided to consumers. In addition to the value provided to consumers, the CFPB has also provided value to the housing market through vital safe harbors and other actions that provide regulatory certainty. Is there anything the Bureau can share about the value its actions, including safe harbors, regulations, and no-action letters, have provided to the overall functioning of the housing market?

A.1. I appreciate your support of the Consumer Financial Protection Bureau (CFPB), and I share your view that a well-functioning housing market is critical to our Nation's economy. The CFPB plays an important role in ensuring the housing market is fair, transparent, and resilient. For example, according to a recent paper published in *The Georgetown Law Journal*, the CFPB's ability-to-repay rule enhanced the mortgage market's resilience to financial shocks by reducing consumer defaults even in the event of a future housing bubble.¹

The CFPB has delivered value to the housing market in many ways, and the agency's ongoing work in this space is vital to sustaining a stable, functioning housing market. Some examples include:

- The CFPB provides implementation guidance and compliance presumptions for lenders, appraisers, loan originators, and others regarding the statutory ability-to-repay, loan originator compensation, escrow, and appraisals requirements contained in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The CFPB's rulemaking in this area provides presumptions, small entity exclusions, and clarifications as to what constitutes compliance, which would not have been available if the Dodd-Frank Act's statutory provisions had gone into effect in the absence of CFPB rulemaking. In response to comments from the secondary mortgage market and others, the CFPB has taken important action to preserve liquidity in the secondary market and support ongoing consumer mortgage lending.
- Since implementation of the CFPB's rulemaking in this area, mortgage originators and secondary market participants have repeatedly cautioned that, without CFPB's regulatory engagement, any reversion to the Dodd-Frank Act's bare statutory provisions could result in a dramatic reduction in available mortgage credit because it would be very difficult for secondary market participants to gauge their risk exposure to future litigation by borrowers.
- The CFPB's ongoing implementation of the Home Mortgage Disclosure Act has substantially reduced compliance challenges for mortgage lenders. For the more than 30 years before the CFPB's involvement in this area, mortgage lenders were re-

¹<https://www.law.georgetown.edu/georgetown-law-journal/wp-content/uploads/sites/26/2020/03/Why-the-Ability-to-Repay-Rule-Is-Vital-to-Financial-Stability.pdf>

quired to make publicly available their mortgage lending data in their branch offices to the public, as well as to report their data to the Federal Reserve Board. The CFPB itself now makes the data publicly available, removing a major compliance burden from lenders as well as facilitating public access to this crucial data.

- In implementing the Congressional directive to combine the Truth in Lending Act (TILA) statutory disclosure with the Real Estate Settlement Procedures Act (RESPA) statutory disclosure, the CFPB provides extensive and ongoing support of and guidance to the housing market, including implementation guides that identify disclosures associated with TILA civil liability. These guides are directly responsive to secondary market concerns regarding possible imputation of TILA civil liability on RESPA provisions that lacked private liability protections.
- The CFPB provides extensive accommodations across its mortgage rules to recognize the important role of small lenders, particularly in rural areas. CFPB rules provide flexibilities for smaller institutions in balloon lending, periodic payment statements, mandatory escrow requirements, process requirements for loss mitigation applications, and expanded presumptions of compliance with the ability-to-repay requirements.

I am committed to continuing the CFPB's vital, ongoing work to protect consumers and support a well-functioning housing market.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNOCK FROM ROHIT CHOPRA

Q.1. In its current rulemaking for Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203) Section 1071, how does the Consumer Financial Protection Bureau plan to address how vehicle finance entities and auto dealers will be able to cooperate?

A.1. The rulemaking is ongoing and we are still in the process of evaluating the comments and weighing the evidence. We will be closely considering the unique facets of the auto financing market before finalizing the rule.

Q.2. Auto dealers are not regulated by the Consumer Financial Protection Bureau, but by the Federal Reserve. However, in indirect auto financing, dealers often originate sales and complete transactions. How is the Consumer Financial Protection Bureau working with the Federal Reserve to ensure covered vehicle finance entities are able to comply with data collection compliance?

A.2. You are correct that the Consumer Financial Protection Bureau (CFPB) may not exercise any rulemaking, supervisory, enforcement, or any other authority, including any authority to order assessments, over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both. The rulemaking is ongoing and we are still in the process of evaluating the comments and weighing the evidence. We have been working with the Federal Reserve

and we will be closely considering the unique facets of the auto financing market before finalizing the rule.

Q.3. What is the Consumer Financial Protection Bureau doing to protect student borrowers from companies looking to unfairly or deceptively profit off borrower confusion around recently announced Federal student debt cancellation?

A.3. The CFPB is engaging in a multi-agency effort to protect borrowers from student loan scammers, including by maintaining and amplifying resources helping borrowers to recognize red flags, and by sharing information with partner law enforcement agencies. The CFPB is also monitoring the marketing practices of private student lenders that offer refinance products.

Q.4. How has the Consumer Financial Protection Bureau worked with the United States Department of Education to hold Federal student loan servicers accountable to providing timely, accurate information and better service borrowers, particularly in light of recently announced Federal student debt cancellation?

A.4. The CFPB conducts regular supervision of many Federal student loan servicers' compliance with Federal consumer financial law, including whether servicers make deceptive statements to borrowers or commit unfair or abusive acts or practices that inhibit borrowers' access to Federal student loan benefits. As detailed in the recent Supervisory Highlights Student Loan Servicing Special Edition, the CFPB has cited Federal student loan servicers both for providing inaccurate information and outsized delays in processing.¹ While the CFPB exercises its authorities independently, including its supervisory and enforcement tools, the CFPB consults regularly with the Department of Education (ED) to ensure thorough understanding of ED's programs and identify potential consumer risks. In deploying its supervision and enforcement resources, the CFPB has and will continue prioritizing reviewing servicer interactions with borrowers regarding the availability of student debt cancellation for both accuracy and timeliness.

Q.5. What can I expect to see from the Consumer Financial Protection Bureau in the coming months to ensure that low-income student borrowers and other at-risk groups receive the appropriate, and more importantly, correct information from their Federal loan servicers?

A.5. The CFPB supervises many student loan servicers for compliance with Federal consumer financial law, and has on numerous occasions found unlawful acts or practices that impeded student loan borrowers' access to relief programs and required servicers to engage in remediation.² The CFPB has also taken enforcement ac-

¹Sept. 2022 available at <https://files.consumerfinance.gov/f/documents/cfpb-student-loan-servicing-supervisory-highlights-special-edition-report-2022-09.pdf>.

²In addition to the September 2022 Supervisory Highlights, prior supervisory findings were published in 2014 available at <https://files.consumerfinance.gov/f/201410-cfpb-supervisory-highlights-fall-2014.pdf> at 17; 2015 available at <https://files.consumerfinance.gov/f/201510-cfpb-supervisory-highlights.pdf> at 23-24; 2017 available at <https://files.consumerfinance.gov/f/documents/Supervisory-Highlights-Issue-13-Final-10.31.16.pdf> at 16-17; and 2021 available at <https://files.consumerfinance.gov/f/documents/cfpb-supervisory-highlights-issue-24-2021-06.pdf> at 34-36.

tion on similar issues.³ The existence and nature of ongoing supervisory and enforcement action is confidential. However, the CFPB resolves its enforcement actions through public consent orders and regularly shares key examination findings in Supervisory Highlights.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SCOTT
FROM ROHIT CHOPRA**

Q.1. The CFPB’s Sec. 1033 proposal indicates that the Bureau want all banks to have certain technical infrastructure—known as APIs (application programming interface)—in place for consumers to access and share their data with financial companies. However, as of today, thousands of small community banks and credit unions have not built this infrastructure.

Will the CFPB act to ensure that community bank customers do not lose access to their data if the bank is unable to build an API or data access portal, or if it takes several years to put one in place?

A.1. I appreciate this question, given the growing concerns about how core services providers interact with local financial institutions.

The Consumer Financial Protection Bureau (CFPB) is considering whether exemptions from the proposals under consideration would be appropriate for any data providers that would otherwise be covered data providers. However, in determining if exemptions would be appropriate, the CFPB is interested in whether there are ways to design the proposals under consideration to reduce impact on covered data providers. For example, with respect to the third-party access portal proposal under consideration, we are seeking feedback on whether certain covered data providers should not be subject to the third-party access portal requirement on the rule’s compliance date and instead should be given additional time to build a compliant third-party access portal. The CFPB seeks to ensure that the proposals under consideration appropriately balance benefits provided to consumers with the burden imposed on covered data providers, including smaller covered data providers, in a manner that is consistent with the statutory purposes of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR MORAN
FROM ROHIT CHOPRA**

Q.1. 1033 Rulemaking—In October, the CFPB released its Small Business Regulatory Enforcement Fairness Act outline of proposals under consideration for its rulemaking on personal financial data rights, as Section 1033 of the Dodd-Frank Act requires it to do. The outline applies the requirement to make data available to both consumers and other third parties that the consumer authorizes.

I’m concerned about the elevated threat this poses to consumers of sensitive data being compromised. Can you tell me where Sec-

³<https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/>; <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sanctions-edfinancial-for-lying-about-student-loan-cancellation/>

tion 1033 says that covered entities must make data available to third parties?

A.1. Privacy and security are a top concern for me, particularly given the threats that our country faces from State and non-State actors.

Section 1033(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Consumer Financial Protection Act) generally requires data providers to make information available to a “consumer,” which includes an agent, trustee, or representative acting on behalf of an individual consumer. See 12 U.S.C. 5481(4). The Small Business Regulatory Enforcement Fairness Act (SBREFA) Outline of Proposals released by the Consumer Financial Protection Bureau (CFPB) in October explains that the agency is considering how to ensure that a third party acting for the consumer with respect to data access treats consumer data appropriately.

Q.2. Large data aggregators hold a significant portion of American consumers’ financial data. However, the CFPB’s outline does not address the Bureau’s ability to examine and supervise data aggregators to ensure consumers’ information is kept securely.

A November report from the Treasury also pointed out that these entities “are not subject to supervision of the CFPB’s information security and general data practices.”

How can consumers be assured their personal data is safe if the Bureau does not have authority to supervise these third parties for compliance?

A.2. The United States will not make a successful transition to open banking if consumers cannot be assured that their personal data is safe and secure. Congress assigned certain data protection requirements, such as the Safeguards framework, to other Federal banking agencies and the Federal Trade Commission. We are actively working on ways to address your concern.

Q.3. It is critical that policymakers, industry, and stakeholders understand the ecosystem, then delineate the roles and responsibilities of each party. Better defined, yet flexible, rules would improve the relationships between the parties and outcomes for consumers.

As technology changes, it is critical that there is a common, flexible approach that promotes transparent, informed consent, adequate disclosure, sufficient control, and robust security.

The major focus should be on how data aggregation can improve financial wellness for consumers (track alternative data to improve credit scores, manage finances, etc.).

Regulatory clarity may ease adoption, but not consumer utilization, which can be achieved by balancing thoughtful guidance/regs with market forces and consumer needs and wants.

Privacy and data control requirements are a further complicating factor. A State patchwork would only increase impediments.

Lessons learned internationally—with a registration process in place in Europe with PSD2, financial institutions have mostly seen it as a compliance issue, thus it has not been widely adopted. Rather than embracing opportunities, financial institutions have done the minimum required to meet obligations. Open Banking regulation via PSD2 lacks any technical framework, therefore, there is fragmentation across markets.

Does the Bureau agree that the six tenets/principles above should guide the upcoming 1033 rulemaking process?

A.3. Generally speaking, yes. Of course, the details of this will require significant analysis and stakeholder engagement, which we are currently undertaking.

Q.4. *Bureau’s Account Level Card Database*—The CFPB, for over a decade, has been collecting vast amounts of consumer data on a regular basis from banks that issue credit cards. Monthly, these banks provide detailed information on each credit card customer’s account.

How does the Bureau use the consumer information it gathers via the account level data collection regime?

A.4. Since 2016, the CFPB has not collected collection loan-level credit card data on an ongoing basis. From 2012 through 2016, the CFPB collected account-level data maintained by nine credit card issuers. The CFPB also obtained account-level data from the OCC. The CFPB never received data containing any direct personal identifiers nor captured data about individual purchases.¹

The Board of Governors of the Federal Reserve System (Federal Reserve Board) collects data through Reporting Form FR “Y-14M” from bank holding companies that have total consolidated assets exceeding \$50 billion.² These “Y-14” data are used to support the Federal Reserve Board’s supervisory stress test models. The CFPB is one of several Government agencies with whom the Federal Reserve Board shares Y-14 data.

The CFPB has used credit card loan-level data for market monitoring, including the preparation of a biennial report to Congress on the credit card market and to inform decisions about priorities for supervisory examinations. It has also used the data for a number of working papers prepared by CFPB researchers, as well as for research that has informed rulemakings.

Q.5. Why does the Bureau need detailed account-level information, as opposed to using sampling data? (For example, the Food and Drug Administration and the Department of Agriculture protect drug and food safety without examining every pill or pound of beef).

A.5. The CFPB uses a 40 percent sample of de-identified account-level Y-14 data obtained from the Federal Reserve Board.

Q.6. What would be the impact on this program if data submissions were made periodically, rather than monthly?

A.6. The frequency of submissions in the Y-14 data collection is determined by the Federal Reserve Board to support the Federal Reserve Board’s supervisory stress test models. The monthly data collection improves the CFPB’s ability to perform its risk-monitoring function by providing more timely data.

Q.7. What CFPB rulemaking or enforcement activities have been based exclusively or principally on data from the account-level credit card database?

¹<https://files.consumerfinance.gov/f/documents/bcfp-sources-uses-of-data.pdf>

²See Bd. of Governors of the Fed. Reserve Sys., Report Forms FR Y-14M, <https://www.federalreserve.gov/apps/reportforms/reportdetail.aspx?sOoYJ+5BzDYnbIw+U9pka3sMtCMopzoV> (for more information on the Y-14M collection).

A.7. The account-level database has been a data source for CFPB activities including market monitoring, research, and rulemaking. For example, a study conducted by CFPB economists in connection with the Debt Collection Practices rule used account-level data to analyze the impact of State data collection laws on access to credit, thereby helping to assess the impact of the CFPB's own debt collection rules.

Q.8. Why is this aggregate data used rather than information obtained through the examination process, information requests, or compulsory process requests?

A.8. The Y-14 data are already provided to the Federal Reserve Board. The CFPB uses these data, rather than developing its own duplicative collection processes, for efficiency purposes. Using Y-14 data reduces costs to industry and to the CFPB. On occasion, the CFPB also uses information requests to supplement the Y-14 data that it receives from the Federal Reserve Board.

Q.9. How does the Bureau protect the security and privacy of the consumer information in this database, for example, when it has provided access to the database to outside academic researchers in the U.S. and abroad?

A.9. Privacy and security are top of mind for us. The CFPB protects this account-level information by secure access control procedures maintained in accordance with the CFPB's data policies. These procedures apply regardless of whether the user is a CFPB employee or an academic researcher working at the CFPB pursuant to an Intergovernmental Personnel Act (IPA) agreement. The CFPB does not have any IPA agreement with any researcher outside the United States.

Q.10. *UDAAP*—The incorporation of discrimination into the unfairness doctrine suggests that the Bureau is attempting to broaden Federal regulatory prohibitions on discrimination. The examination manual does not have the same status of a regulation, but may be considered supervisory guidance. Under the CFPB's statement on supervisory guidance, it does not have the force and effect of law, and the Bureau does not take enforcement action based on supervisory guidance. As a result, the Bureau is seemingly attempting to broaden Federal regulatory prohibitions on discrimination with respect to consumer financial products and services beyond those already in place for lending/real estate secured. How can institutions be expected to build a framework to demonstrate absence of discrimination in products/services unrelated to lending when they do not ask required information as they do for lending products?

A.10. I appreciate your concern about this issue, and I share your commitment to ensuring fair enforcement of the law. It is important to underscore that the CFPB is not attempting to enforce a prohibition that does not already exist in Federal law.

The Consumer Financial Protection Act's (CFPA) prohibition on unfair acts and practices applies equally to all consumer harm that meets the statutory prongs—there is no exception in law for discriminatory conduct. For many years, companies have used a variety of methods to ensure that they comply with Federal and State prohibitions on unfair acts or practices. One of the most important

ways of doing this is to assess consumer complaints and feedback, as well as insights from employees and managers. There is also an array of qualitative and quantitative data that firms use to track their own business performance, and these data may also help them spot systemic problems. The CFPB is not seeking to impose new obligations on supervised entities. We expect that most, if not all, supervised entities have long had systems in place designed to aid in compliance with the prohibitions set forth by Congress in the CFPB.

Q.11. *Artificial Intelligence/Machine Learning*—Some observers have expressed concerns and raised questions about risks of Artificial Intelligence and Machine Learning technologies resulting in unpredictable behavior or reinforcing biases. However, AI/ML technologies, correctly applied, can be used to reduce bias. This occurs when AI/ML is responsibly deployed by regulated financial services companies and implemented with strong controls/testing, rigorous risk management and meaningful objectives:

The potential risks associated with using AI are not unique to AI, but inherent to an effective model risk management framework. Banks already account for these risks and are examined and supervised in a manner that ensure banks are addressing these risks.

Heavily regulated and supervised banks adhere to legal and compliance measures, including ECOA and Model Risk Management (SR 11-7), and all financial services providers should have a similar oversight structure in place. Doing so could help preserve and advance the significant benefits that these technologies can provide to consumers, such as greater access to safe and responsible credit, better pricing, and reduction of service costs.

The current lack of consistency in the way financial services providers define terms related to AI/ML reduces transparency for consumers and regulators. One potential solution is SR 11-7, which serves as a foundational governing standard for financial services companies, and can serve as a blueprint for legislative proposals.

Do you agree, that the shared goals of consistent consumer protections and outcomes, reduced risks and errors, and improved fraud prevention and AML/BSA reporting can be supported by public policies that promote flexibility and innovation?

A.11. In general, yes. Historically, many financial regulations have been complicated and prescriptive, rather than outcome-focused. At the CFPB, we are attempting to shift away from this approach and toward simplicity and bright lines.

Q.12. That providing clarity on the appropriate levels of transparency, explainability, and accountability in lending decisions can address potential negative consumer impacts such as model bias, discrimination, and inconsistent explanations?

A.12. In general, yes. The CFPB has endeavored to clearly communicate how existing law applies to emerging technologies. For example, we have issued guidance that helps firms ensure they are staying on the right side of the law.

Q.13. That public policies which incentivize transparency and mitigate bias through consistent rules and usage risk standards can

carefully balance filling regulatory gaps without creating impediments to the ability to meet consumers expectations and needs?

A.13. In general, yes.

Q.14. *Remittance Fees*—We may not always see eye-to-eye on what you classify as a “junk fee”, but one hidden fee that we may agree on is the marked-up exchange rates for international remittance transactions. I’m particularly concerned by how these fees impact our men and women in uniform serving abroad. I am not in favor of setting rates, but I do believe in disclosing rates.

What has the CFPB done on this type of price transparency to help our troops around the world better understand the exchange rates they are paying when digitally transferring money to pay for housing and durable goods?

A.14. I share your concern about the impacts of fees and lack of transparency on military families, especially those serving abroad.

The CFPB wants a remittance market that offers fast, fair, competitive, and transparent transactions for all consumers, including servicemembers. To facilitate price transparency for servicemembers, as well as other consumers that send remittance transfers, the Remittance Rule generally requires all remittance transfer providers to disclose the exchange rate and fees that apply to a transaction and provides remittance transfer providers with model disclosures that they could use. The model disclosures were tested with consumers to help ensure and facilitate consumer understanding of the key components of a remittance transfer, including, as applicable, the exchange rate that applies to a transfer.

The CFPB has also taken actions to ensure remittance providers are compliant with the law. Most recently, the CFPB took enforcement actions against Servicio UniTeller³ in December 2022 and Choice Money Transfer⁴ in October 2022, both of which allegedly violated Regulation E. Moreover, in April 2022, the CFPB brought a joint enforcement action with the Attorney General of New York against one of the largest remittance providers, known as MoneyGram.⁵ MoneyGram is a repeat offender, however, having been previously sanctioned by the Federal Trade Commission in 2009 and 2018. The CFPB has also taken similar enforcement action against Trans-Fast Remittance, LLC,⁶ in August 2020, and Envios de Valores La Nacional⁷ in December 2020.

Q.15. Has the CFPB proactively worked with the Department of Defense on this issue? If not, why not?

A.15. Yes. The CFPB regularly meets with representatives from the Department of Defense (DoD) to discuss all issues involving consumer protection policy, outreach, and educational initiatives for servicemembers (including remittance transfers). CFPB’s Office of Servicemember Affairs (OSA) routinely coordinates with DoD’s Office of Financial Readiness on consumer financial protection issues. OSA and the Office of Enforcement also convene quarterly

³ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-servicio-uniteller-to-refund-fees-and-pay-penalty-for-failing-to-follow-remittance-rules/>

⁴ <https://www.consumerfinance.gov/enforcement/actions/choice-money-transfer/>

⁵ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-and-ny-attorney-general-sue-repeat-offender-moneygram-for-leaving-families-high-and-dry/>

⁶ <https://www.consumerfinance.gov/enforcement/actions/trans-fast-remittance-llc/>

⁷ <https://www.consumerfinance.gov/enforcement/actions/envios-de-valores-la-nacional-corp/>

meetings with the Service Chiefs of the Offices of the Judge Advocates General, the DOJ's Office of Civil Rights, and Consumer Protection Branch, legal assistance attorneys at military installations, and professors from each of the three military JAG schools.

The CFPB works closely on policy with the DoD for compliance and transparency. As part of its rulemaking to amend the Remittance Rule in 2020, CFPB staff met with DoD staff in light of public comments received from industry. We were able to ensure that the CFPB's Remittance Rule did not adversely affect servicemembers given the DoD's requirement that on-base credit unions offer remittances at an exchange rate "no more favorable" than the base's Military Banking Facility.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR DAINES
FROM ROHIT CHOPRA**

Q.1. During your testimony before the Senate Banking Committee on December 15, 2022, you stated in response to my question about the March 2022 amendment to the CFPB's examination manual that "This is not disparate impact. Senator Toomey has claimed this many times. And it's just not true."

The facts do not support this claim. In the press release announcing the update, the CFPB stated that "consumers can be harmed by discrimination of whether it is intentional" and that CFPB examiners now consider "discriminatory outcomes."

What is your definition of disparate impact?

A.1. I appreciate this question. I use the legal definition of "disparate impact." Disparate impact is a longstanding legal doctrine under various civil rights laws recognized by Federal courts and used by regulators, agencies, and others for nearly five decades. It is used to prove illegal discrimination under numerous laws, including the Fair Housing Act, Title VII of the Civil Rights Act of 1964, and the Equal Credit Opportunity Act, particularly when a policy purports to be neutral regarding the characteristics protected by those laws.

Disparate impact is a wholly separate legal doctrine from unfair acts or practices under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Consumer Financial Protection Act), which are assessed based on the prongs of the statutory unfairness standard.

Q.2. Will the CFPB examine for discriminatory outcomes regardless of intention under UDAAP? If so, how does that differ from disparate-impact liability in your view?

A.2. Consistent with the Consumer Financial Protection Act's unfair, deceptive, or abusive acts and practices (UDAAP) prohibition, Consumer Financial Protection Bureau (CFPB) examiners will continue to look for any practices that cause or risk causing substantial injury to consumers. As noted above, disparate impact is a wholly separate legal doctrine; the CFPB will rely on the statutory standards set out by Congress in the Consumer Financial Protection Act, 12 U.S.C. 5531, when assessing whether practices are unfair to consumers.

Q.3. Director Chopra, as you referenced in your Semiannual report your agency has been working for quite some time now to issue a rule requiring financial institutions to allow consumers to access their financial data and if they wish, authorize it to be shared with others. A consumer's ability to access and share their data with whomever they wish seems to be a fundamental right and would foster competition within the financial services industry.

What progress have you made towards issuing this rule and when can we expect it to be issued?

A.3. I completely agree with your sentiment and appreciate the need to complete this long overdue rulemaking.

In October 2022, the CFPB outlined options to strengthen consumers' access to, and control over, their financial data as a first step before issuing a proposed data rights rule that would implement section 1033 of the Consumer Financial Protection Act. The document released is an outline of proposals and alternatives under consideration for the CFPB's data rights rulemaking. The rulemaking process will include panel convenings to seek feedback from small entities on the proposals under consideration. Later, the panel will prepare a report on the input received from the small entities, and the CFPB will consider the input as it develops a proposed rule. The CFPB will then publish a Notice of Proposed Rulemaking (NPRM), solicit and consider comments on the NPRM, and issue a final rule by 2024.

Q.4. Director Chopra, your efforts to issue a rule under Dodd-Frank 1033 will allow consumers to access and share their financial data. This could have a tremendous impact on consumers' ability to fully understand their total financial health, including what assets they have, what debt they're responsible for, and their sources of income and expenses. Small businesses in the U.S. have a similar need that has been intensified by current economic circumstances.

Should small business owners, especially sole proprietorships, have similar access to their financial information?

A.4. Small businesses, especially sole proprietorships, also face similar needs as households when it comes to navigating the financial marketplace. The CFPB believes that the competition benefits of data rights for small businesses are likely significant. The CFPB's Proposals Under Consideration would implement section 1033(a) of the Consumer Financial Protection Act. Section 1033(a) applies to information concerning "the consumer financial product or service that the consumer obtained from [] a covered person." The Consumer Financial Protection Act defines "consumer" as "an individual, or an agent, trustee, or representative acting on behalf of an individual."

Q.5. What can the agency do to help small business owners gain access to their financial information?

A.5. The pandemic was a stark reminder about the need to do more to support small business owners. The CFPB has multiple workstreams to increase transparency with regard to financial information. Consistent with its authority under section 1071 of the Consumer Financial Protection Act, the CFPB is undergoing a rulemaking that would require financial institutions to collect and re-

port to the CFPB data on applications for credit for small businesses, including those that are owned by women or minorities. The CFPB has also initiated the Small Business Regulatory Enforcement Fairness Act (SBREFA) process to consider proposals under section 1033(a) of the Consumer Financial Protection Act. We note that section 1033(a) requires that information be made available “to a consumer” concerning “the consumer financial product or service that the consumer obtained from [. . .] a covered person.”

Q.6. In October, your agency announced its Small Business Advisory Review Panel for Required Rulemaking on Personal Financial Data Rights. As part of that effort, your agency shared an outline of proposals regarding what a future Dodd-Frank 1033 rule may look like. The proposal recommended that the rule require financial institutions to only allow consumers to access and share their bank account and credit card data.

In November, the Federal Reserve Bank of New York’s Center for Microeconomic Data issued its Quarterly Report on Household Debt and Credit. The Report showed household debt increasing by \$351 billion (2.2 percent) to \$16.51 trillion. Mortgage balances rose by \$282 billion and auto loan balances increased by \$22 billion in the third quarter. In total, nonhousing balances grew by \$66 billion.

It seems that consumer access to debt information would be very important to helping consumers manage or reduce their debt and help foster greater competition within these industries.

If the CFPB’s 1033 rule initially focuses on only savings and credit card data, how will the agency look to expand the types of financial information that consumers can access and share in the future?

A.6. The CFPB intends to evaluate how to proceed with regard to other data providers in the future. This coverage enables use cases such as transaction underwriting, payment services, comparison shopping for financial products and services that best fit the consumer’s deposit and transaction patterns, overdraft and other fee avoidance, and personal financial management. Specifically, these use cases rely on data from consumers’ asset and credit card accounts, and this coverage would ensure that consumers are able to provide access to data from these accounts to third parties that provide these products and services. This coverage also addresses some of the most significant areas of potential consumer risk, given the significant potential for abuse of consumers’ payment data in particular. At the same time, from the perspective of feasibility of industry implementation, this coverage would leverage, to the greatest extent presently possible, existing industry infrastructure for consumer-authorized financial data sharing.

In addition, the Outline of Proposals specifically asks stakeholders for their feedback on whether the CFPB should consider alternative approaches to product coverage in the initial rule. The CFPB is accepting comments from the public on that Outline of Proposals and will carefully consider all feedback received.

CONSUMER FINANCIAL PROTECTION BUREAU | SPRING 2022

Semi-Annual Report of the Consumer Financial Protection Bureau



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1. Rules and Orders

During the reporting period, the Consumer Financial Protection Bureau (CFPB or Bureau) issued the following significant rules and orders and other rule-related actions.¹ A complete listing of the CFPB's proposed and final rules can be found on the CFPB's website.²

1.1 List of significant rules and orders adopted by the CFPB

Final rules:

- *Facilitating the Libor Transition.* In December 2021, the CFPB amended Regulation Z, which implements the Truth in Lending Act (TILA), generally to address the anticipated sunset of London Interbank Offered Rate (LIBOR), which is expected to be discontinued for most U.S. Dollar (USD) tenors in June 2023.³ The Bureau amended the open-end and closed-end provisions to provide examples of replacement indices for LIBOR indices that meet certain Regulation Z standards. The Bureau also amended Regulation Z to permit creditors for home equity lines of credit (HELOCs) and card issuers for credit card accounts to transition existing accounts that use a LIBOR index to a replacement index on or after April 1, 2022, if certain conditions are met. The rule also addresses change-in-terms notice provisions for HELOCs and credit card accounts and how they apply to accounts transitioning away from using a LIBOR index. Lastly, the Bureau amended Regulation Z to address how the rate reevaluation provisions applicable to credit card accounts apply to the transition from using a LIBOR index to a replacement index.
- *Fair Credit Reporting; Name-Only Matching Procedures.* In November, 2021, the CFPB issued an Advisory Opinion to highlight that a consumer reporting agency that uses inadequate matching procedures to match information to consumers, including name-only

¹ 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.

² A full listing of the CFPB's proposals and rules can be found here: <https://www.consumerfinance.gov/rules-policy/>.

³ "Facilitating the LIBOR Transition (Regulation Z)." Consumer Financial Protection Bureau. Dec. 28, 2021. <https://www.consumerfinance.gov/rules-policy/final-rules/facilitating-libor-transition-regulation-z/>.

matching (i.e., matching information to the particular consumer who is the subject of a consumer report based solely on whether the consumer's first and last names are identical or similar to the names associated with the information), in preparing consumer reports is not using reasonable procedures to assure maximum possible accuracy under section 607(b) of the Fair Credit Reporting Act (FCRA).⁴

- *Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X.* In June 2021, the CFPB issued a final rule to amend Regulation X to assist mortgage borrowers affected by the COVID-19 emergency.⁵ The final rule established temporary procedural safeguards to help ensure that borrowers have a meaningful opportunity to be reviewed for loss mitigation before the servicer can make the first notice or filing required for foreclosure on certain mortgages. In addition, the final rule temporarily permitted mortgage servicers to offer certain loan modifications made available to borrowers experiencing a COVID-19-related hardship based on the evaluation of an incomplete application. The Bureau also finalized certain temporary amendments to the early intervention and reasonable diligence obligations that Regulation X imposes on mortgage servicers.
- *Debt Collection Practices in Connection with the Global COVID-19 Pandemic (Regulation F).* The CFPB issued an interim final rule to amend Regulation F, which implements the Fair Debt Collection Practices Act (FDCPA) and contains the procedures for state application for exemption from the provisions of the FDCPA.⁶ The interim final rule addressed certain debt collector conduct associated with an eviction moratorium issued by the Centers for Disease Control and Prevention (CDC) in response to the global COVID-19 pandemic. The interim final rule required that debt collectors provide written notice to certain consumers of their protections under the CDC eviction moratorium and prohibit misrepresentations about consumers' ineligibility for protection under such moratorium.

⁴ "Fair Credit Reporting; Name-Only Matching Procedures." Consumer Financial Protection Bureau. Nov. 10, 2021. <https://www.consumerfinance.gov/rules-policy/final-rules/fair-credit-reporting-name-only-matching-procedures/>.

⁵ "Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X." Consumer Financial Protection Bureau. June 30, 2021. <https://www.consumerfinance.gov/rules-policy/final-rules/protections-for-borrowers-affected-by-covid-19-under-respa/>.

⁶ "Debt Collection Practices in Connection with the Global COVID-19 Pandemic (Regulation F)." Consumer Financial Protection Bureau. April 22, 2021. <https://www.consumerfinance.gov/rules-policy/final-rules/debt-collection-practices-global-covid-19-pandemic-regulation-f/>.

Proposed rules and pre-rule activities:

- *Small Business Lending Rule under the Equal Credit Opportunity Act (Regulation B).* In October 2021, the CFPB published a proposed rule amending Regulation B that would, if finalized, implement changes to the Equal Credit Opportunity Act (ECOA) made by section 1071 of the Dodd-Frank Act.⁷ Consistent with section 1071, the Bureau proposed to require covered financial institutions to collect and report to the Bureau data on applications for credit for small businesses, including those that are owned by women or minorities. The Bureau's proposal also addressed its approach to privacy interests and the publication of section 1071 data; shielding certain demographic data from underwriters and other persons; recordkeeping requirements; enforcement provisions; and the proposed rule's effective and compliance dates
- *Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X.* In April 2021, the CFPB published proposed rule that would amend Regulation X to assist borrowers affected by the COVID-19 emergency.⁸ The CFPB took this action to help ensure that borrowers affected by the COVID-19 pandemic have an opportunity to be evaluated for loss mitigation before the initiation of foreclosure. As proposed, the amendments would establish a temporary COVID-19 emergency pre-foreclosure review period until December 31, 2021, for principal residences. In addition, the proposed amendments would temporarily permit mortgage servicers to offer certain loan modifications made available to borrowers experiencing a COVID-19-related hardship based on the evaluation of an incomplete application. The CFPB also proposed certain amendments to the early intervention and reasonable diligence obligations that Regulation X imposes on mortgage servicers.
- *Outline on Small Business Advisory Panel for Automated Valuation Model Rulemaking.* In February 2022, the CFPB outlined potential rulemaking options to ensure that

⁷ "Proposed Rule: Small Business Lending Data Collection under the Equal Credit Opportunity Act (Regulation B)." Consumer Financial Protection Bureau. September 1, 2021. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rules-to-shine-new-light-on-small-businesses-access-to-credit/>.

⁸ "Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X." Consumer Financial Protection Bureau. April 09, 2021. <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/>.

computer models used to help determine home valuations are accurate and fair.⁹ The outline of proposals and alternatives under consideration was released 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.

When underwriting a mortgage, lenders typically require an appraisal, which is an estimate of the value of the home. While traditional appraisals are conducted in-person, many lenders also employ algorithmic computer models. These models use massive amounts of data drawn from many sources to value homes. The technical term for these models is automated valuation models. Both in-person and algorithmic appraisals appear to be susceptible to bias and inaccuracy, absent appropriate safeguards.

Given the crucial role of home valuation, the Dodd-Frank Wall Street Reform and Consumer Protection Act tasked the CFPB and other regulators with implementing rules on automated valuation models.¹⁰ Work on the proposed rule is ongoing.

1.2 List of significant initiatives conducted by the CFPB

1.2.1 Reports

- *Report on The Consumer Credit Card Market.* In September 2021, the CFPB released its fifth biennial report to Congress on the consumer credit card market, finding that the market’s growth over the prior few years reversed course in 2020.¹¹ In reviewing the market for potential consumer harm, the report presented the latest research on consumer card use, cost, and availability. From a 2019 peak of \$926 billion, credit card debt fell to \$811 billion by the second quarter of 2020, the largest six-month decline on record, before reaching \$825 billion by the end of 2020. The release of the report reflects the

⁹ “Outline of Proposal and Alternatives Under Consideration: Small Business Advisory Review Panel for Automated Valuation Model (AVM) Rulemaking.” Consumer Financial Protection Bureau. February 23, 2022. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-outlines-options-to-prevent-algorithmic-bias-in-home-valuations/>.

¹⁰ Dodd-Frank Act section 1473(g), 124 Stat. 2198 (codified at 12 U.S.C. 3354).

¹¹ “The Consumer Credit Card Market.” Consumer Financial Protection Bureau. September 29, 2021. https://files.consumerfinance.gov/f/documents/cfpb_consumer_credit_card_market_report_2021.pdf.

CFPB's ongoing work to ensure the adequacy of consumer protection and a transparent and competitive marketplace for all consumers, particularly the most vulnerable. The report notes several specific areas of concern—including issuer failure to report payment amounts to credit bureaus and issuer practices with respect to credit line decreases—that will be the subject of further work as the CFPB works to promote an equitable recovery. The CFPB also intends to increase its use of demographic data in its future research.

- *Report on Disputes on Consumer Credit Reports.* In November 2021, the CFPB released research finding that consumers in majority Black and Hispanic neighborhoods, as well as younger consumers and those with low credit scores, are far more likely to have disputes appear on their credit reports.¹² The new research is a part of a series of reports focusing on trends in the consumer financial marketplace, and uses data from auto loans, student loans, and credit card accounts opened between 2012 and 2019. The report shows that majority Black and Hispanic neighborhoods continue to face significant challenges with credit records. In nearly every credit category reviewed (auto loans, student loans, credit cards, and retail cards), consumers residing in majority Black areas were more than twice as likely to have disputes appear on their credit reports compared to consumers residing in majority white areas. For auto loans, consumers in majority Black areas were more than three times as likely to have disputes appear on their credit reports (0.8 percent of accounts with disputes in majority white census tracts compared to 2.8 percent of accounts in majority Black census tracts). When credit reporting has errors, this can limit fair and equitable access to individuals and families nationwide. The CFPB is committed to further researching the root causes of credit information disputes, as well as investigating the reasons for the demographic disparities found in the report.
- *Report on Medical Debt Burden in the United States.* In March 2022, the CFPB released a report highlighting the complicated and burdensome nature of the medical billing system in the United States.¹³ The report reveals that the U.S. healthcare system is supported by a billing, payments, collections, and credit reporting infrastructure where mistakes are common, and where patients often have difficulty getting these errors corrected or resolved. The report details how medical bills are often incurred through unexpected and emergency events, are subject to opaque pricing, and involve complicated insurance or charity care coverage and pricing rules. In emergency situations, patients might not even sign a billing agreement until after receiving treatment.

¹² "Disputes on Consumer Credit Reports." Consumer Financial Protection Bureau. November 2, 2021. https://files.consumerfinance.gov/f/documents/cfpb_disputes-on-consumer-credit-reports_report_2021-11.pdf.

¹³ "Medical Debt Burden in the United States." Consumer Financial Protection Bureau. March 1, 2022. https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

In other instances, patients, including those with chronic illnesses or who are injured or ill, may desperately feel that the need for medical care forces them into accepting any costs for treatment. The report outlines how these repercussions are especially acute for people from Black and Hispanic communities, as well as people with low incomes, veterans, older adults, and young adults of all races and ethnicities.

- *Report on Justice Involved Individuals.* In January 2022, the CFPB released a comprehensive review of the financial issues facing people and families who come in contact with the criminal justice system.¹⁴ The report describes an ecosystem with burdensome fees and lack of choice where families are increasingly being forced to shoulder costs. It walks through the financial challenges families encounter at every stage of the criminal justice process, and the ways in which providers—often for-profit private companies—are leveraging a lack of consumer choice and their own market dominance to impose hefty fees at families’ expense.
- *Action Plan to Advance Property Appraisal and Valuation Equity.* In March 2022, the Interagency Task Force on Property Appraisal and Valuation Equity (PAVE) issued a report outlining the historical role of racism in the valuation of property, examining the various forms of bias that can appear in residential property valuation practices, and describing how government and industry stakeholders will advance equity through concrete actions and recommendations.¹⁵
- *Report on Mortgage Servicing COVID-19 Pandemic Response Metrics.* In August 2021, the CFPB released a report on 16 large mortgage servicers’ COVID-19 pandemic response.¹⁶ The report’s data metrics include call handling and loan delinquency rates and highlights the industry’s widely varied response to the pandemic. The CFPB expects servicers to compare the report’s findings to their own internal metrics to identify opportunities for, and demonstrate concrete efforts toward, improvement. The CFPB will continue its oversight work through examinations and enforcement, and it will hold servicers accountable for complying with existing regulatory requirements.

¹⁴ Justice-Involved Individuals and the Consumer Financial Marketplace.” Consumer Financial Protection Bureau. January 31, 2022. https://files.consumerfinance.gov/f/documents/cfpb_jic_report_2022-01.pdf.

¹⁵ “Action Plan to Advance Property Appraisal and Valuation Equity.” Interagency Task Force on Property Appraisal and Valuation Equity (PAVE). March 2022. <https://pave.hud.gov/actionplan>.

¹⁶ “Mortgage Servicing COVID-19 Pandemic Response Metrics: Observations from Data Reported by Sixteen Servicers.” Consumer Financial Protection Bureau. August 10, 2021. https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-covid-19-pandemic-response-metrics_report_2021-08.pdf.

1.2.2 Compliance bulletins

- *Compliance Bulletin on Supervision and Enforcement Priorities Regarding Housing Insecurity.* In April 2021, the CFPB warned mortgage servicers to take all necessary steps to prevent a wave of avoidable foreclosures.¹⁷ The CFPB issued this bulletin in light of heightened risks to consumers needing loss mitigation assistance as the COVID-19 foreclosure moratoriums and forbearances end. The CFPB will closely monitor how servicers engage with borrowers, respond to borrower requests, and process applications for loss mitigation. The CFPB will consider a servicer’s overall effectiveness in helping consumers when using its discretion to address compliance issues that arise.
- *Compliance Bulletin on Servicer Responsibilities in Public Service Loan Forgiveness Communications.* In February 2022, the CFPB released a bulletin detailing student loan servicers’ obligation to halt unlawful conduct regarding borrowers’ eligibility and benefits under the Public Service Loan Forgiveness (PSLF) Waiver.¹⁸ The bulletin recommends actions servicers should consider taking to ensure they do not misrepresent borrower eligibility or make deceptive statements to borrowers about the PSLF program and the Waiver.
- *Compliance Bulletin Regarding Illegal Auto Repossessions.* In February 2022, the CFPB issued a compliance bulletin addressing illegal repossessions and sloppy servicing of auto loans.¹⁹ The bulletin describes instances, in examinations and enforcement actions, where servicers may have violated the Dodd-Frank Act’s prohibition on engaging in unfair or deceptive acts or practices.

1.2.3 Orders to file information

In October and December 2021, the CFPB issued orders pursuant to Section 1022(c)(4) of the Consumer Financial Protection Act. The CFPB has the statutory authority to order covered

¹⁷ “Bulletin 2021-02: Supervision and Enforcement Priorities Regarding Housing Insecurity.” Consumer Financial Protection Bureau. April 1, 2021. https://files.consumerfinance.gov/f/documents/cfpb_bulletin-2021-02_supervision-and-enforcement-priorities-regarding-housing_WHcae8E.pdf.

¹⁸ “Bulletin 2022-03: Servicer Responsibilities in Public Service Loan Forgiveness Communications.” Consumer Financial Protection Bureau. February 18, 2022. https://files.consumerfinance.gov/f/documents/cfpb_bulletin_2022-03_servicer-responsibilities-in-public-service-loan-forgiveness.pdf.

¹⁹ “Bulletin 2022-04: Mitigating Harm from Repossession of Automobiles.” Consumer Financial Protection Bureau. February 28, 2022. https://files.consumerfinance.gov/f/documents/cfpb_bulletin-2022-04_mitigating-harm-from-repossession-of-automobiles.pdf.

persons and service providers to turn over information to help the CFPB monitor for risks to consumers and to publish aggregated findings that are in the public interest.

- *Inquiry into Big Tech Payment Platforms.* In October 2021, the CFPB issued orders to collect information on the business practices of large technology companies operating payments systems in the United States.²⁰ The information will help the CFPB better understand how these firms use personal payments data and manage data access to users so the CFPB can ensure adequate consumer protection. The orders were sent to Amazon, Apple, Facebook, Google, PayPal, and Square. The CFPB is also studying the payment system practices of Chinese tech giants, including Alipay and WeChat Pay. The orders compel information on:
 - **Data harvesting and monetization.** Payment companies may be actively storing and sharing payment data across product lines and with data brokers and other third parties. In some cases, payments companies may be using this data for behavioral targeting. These practices may not align with consumers' expectations. The orders seek information on how companies collect and use data.
 - **Access restrictions and user choice.** When payment systems gain scale and network effects, merchants and other partners feel obligated to participate, and the risk increases that payment systems operators will limit consumer choice and stifle innovation by anticompetitively excluding certain businesses. The orders seek to understand any such restrictive access policies and how they affect the choices available to families and businesses.

Other consumer protections. Consumers expect certain assurances when dealing with companies that move their money. They expect to be protected from fraud and payments made in error, for their data and privacy to be protected and not shared without their consent, to have responsive customer service, and to be treated equally under relevant law. The orders seek to understand the robustness with which payment platforms prioritize consumer protection under laws such as the Electronic Fund Transfer Act and the Gramm-Leach-Bliley Act.
- *Inquiry into Buy Now Pay Later.* In December 2021, the CFPB issued orders to five companies offering “buy now, pay later” (BNPL) credit.²¹ The CFPB issued these orders to Affirm, Afterpay, Klarna, PayPal, and Zip to collect information on the risks and benefits of these fast-growing loans. The CFPB is concerned about accumulating debt,

²⁰ “Order to File Information on Payments Products.” Consumer Financial Protection Bureau. October 21, 2021. https://files.consumerfinance.gov/f/documents/cfpb_section-1022_generc-order_2021-10.pdf

²¹ “Order to File Information on Buy Now, Pay Later Products.” Consumer Financial Protection Bureau. December 16, 2021. https://files.consumerfinance.gov/f/documents/cfpb_bnpl_sample-order_2021-12.pdf

regulatory arbitrage, and data harvesting in a consumer credit market already quickly changing with technology. BNPL credit is a type of deferred payment option that generally allows the consumer to split a purchase into smaller installments, typically four or less, often with a down payment of 25 percent due at checkout.

1.3 Plan of the CFPB for rules, orders, or other initiatives conducted by the CFPB

1.3.1 Rules and orders

Upcoming Period:

The CFPB published its Spring 2022 Rulemaking Agenda²² as part of the Spring 2022 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget. Among other things, the Unified Agenda lists the regulatory matters that the CFPB reasonably anticipates having under consideration during the period from June 1, 2022, to May 31, 2023.

Pre-rulemaking initiatives, as reflected in the CFPB's Spring 2022 Unified Agenda:

- Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) provides that, subject to rules prescribed by the CFPB, a covered entity (for example, a bank) must make available to consumers, upon request, transaction data and other information concerning a consumer financial product or service that the consumer obtains from the covered entity. Section 1033 also states that the CFPB must prescribe by rule standards to promote the development and use of standardized formats for information made available to consumers. In November 2020, the CFPB published an Advance Notice of Proposed Rulemaking (ANPRM) concerning implementation of section 1033, accepting comments until February 2021. The CFPB will release materials in advance of convening a SBREFA panel, which is planned for December 2022.

Proposed rules for the upcoming period, as reflected in the Spring 2022 Unified Agenda:

²² "Regulatory Agenda." Consumer Financial Protection Bureau. Spring 2022. <https://www.consumerfinance.gov/rules-policy/regulatory-agenda/>.

- As mentioned above, the CFPB is participating in interagency rulemaking processes with the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Federal Housing Finance Agency (collectively, the Agencies) to develop regulations to implement the amendments made by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) concerning automated valuation models 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. In February 2022, the CFPB released an outline of proposals and alternatives under consideration for the SBREFA panel, made up of representatives of small businesses that might be affected by the rulemaking. The Agencies will continue to work to develop a proposed rule to implement the Dodd-Frank Act's AVM amendments to FIRREA.
- Section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amended the Truth in Lending Act (TILA) to require the CFPB to prescribe regulations relating to "Property Assessed Clean Energy" (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 CFPB will prescribe for PACE financing. The EGRRCPA directs that such requirements account for the unique nature of PACE financing and specifically authorizes the collection of data and information necessary to support a PACE rulemaking. In March 2019, the CFPB issued an Advance Notice of Proposed Rulemaking (ANPRM) on PACE financing to facilitate the CFPB's rulemaking process. The CFPB is working to develop a proposed rule to implement EGRRCPA section 307.

Final rules for the upcoming period:

- As mentioned above, Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the Equal Credit Opportunity Act (ECOA) to require, subject to rules prescribed by the CFPB, financial institutions to report information concerning credit applications made by women-owned, minority-owned, and

small businesses. On October 8, 2021, a Notice of Proposed Rulemaking (NPRM) was published in the *Federal Register*. The CFPB's next action for the section 1071 rulemaking is the issuance of a final rule, which is expected in March 2023.

- The National Defense Authorization Act (NDAA), enacted on December 27, 2021, amended the Fair Credit Reporting Act (FCRA) to prohibit consumer reporting agencies from furnishing a consumer report containing any adverse item of information about a consumer that resulted from a severe form of trafficking in persons or sex trafficking if the consumer has provided trafficking documentation to the consumer reporting agency. The NDAA includes a requirement for the CFPB to conduct rulemaking to implement the provisions it added to the FCRA.

1.3.2 Other initiatives

Upcoming Period:

- *Office of Servicemember Affairs 2021 Annual Report*. In June 2022, the CFPB released a review of the top financial concerns facing servicemembers, veterans, and military families, based on the complaints they submitted to the CFPB.²³ Servicemembers told the CFPB about billing inaccuracies and that debt collectors used aggressive tactics to recover allegedly unpaid medical bills. Servicemembers also reported failures by credit reporting companies in helping to resolve inaccuracies and other credit reporting issues. Servicemembers, veterans, and military families have now submitted more than 250,000 consumer complaints since the CFPB began collecting complaints in 2011. In 2021, they submitted more than 42,000 complaints to the CFPB. The most common types of complaints—more than 60 percent—were about credit reporting and debt collection.
- *HMDA Data Release, Summary, and Beginners Guide*. In March 2022, the CFPB released the 2021 Home Mortgage Disclosure Act (HMDA) Modified Loan Application Registers, modified to protect privacy, for individual HMDA filers and a guide to assist stakeholders on how to use HMDA data.²⁴

²³ "Office of Servicemember Affairs 2021 Annual Report." Consumer Financial Protection Bureau. June 13, 2022. https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-2021.pdf.

²⁴ "Modified Loan/Application Register (LAR)." Federal Financial Institutions Examination Council. March 24, 2022. <https://ffiec.cfpb.gov/data-publication/modified-lar>.

- *Fair Lending Annual Report to Congress.* In May 2022, the CFPB released an annual report to Congress on the CFPB's 2021 fair lending activities.²⁵
- *Report on Mortgage Servicing COVID-19 Pandemic Response Metrics.* In May 2022, the CFPB released a report examining mortgage servicers' responses to the COVID-19 pandemic.²⁶ The data, collected across 16 large servicers from May through December 2021, reveal that homeowners continue to face significant risks and challenges connected to working with their mortgage servicers. The CFPB's continued monitoring and supervision of the mortgage market shows borrowers are still struggling with the after-effects of the pandemic, and the CFPB is encouraging mortgage servicers to enhance outreach to borrowers exiting forbearance and closely monitor data on borrower demographics and outcomes.

²⁵ "Fair Lending Report of the Consumer Financial Protection Bureau." Consumer Financial Protection Bureau. May 6, 2022. https://files.consumerfinance.gov/f/documents/cfpb_2021-fair-lending_report_2022-05.pdf.

²⁶ "Mortgage Servicing COVID-19 Pandemic Response Metrics: New Observations from Data Reported by Sixteen Servicers for May-December 2021." Consumer Financial Protection Bureau. May 16, 2022. https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-covid-19-pandemic-response-metrics_report_2022-05.pdf.

2. Complaints

The CFPB has a statutory obligation to collect and monitor consumer complaints.²⁷ Consumers' complaints and companies' responses provide the CFPB with important information about the types of challenges consumers are experiencing with financial products and services and how companies are responding to consumers' concerns. The CFPB uses this information to monitor risk in financial markets, assess risk at companies, and prioritize agency action.

2.1 An analysis of complaints about consumer financial products or services that the CFPB has received and collected in its central database on complaints

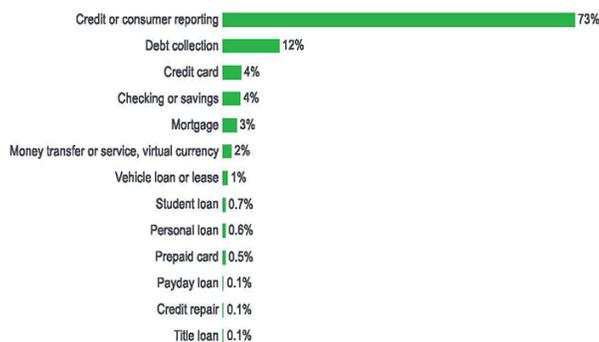
During the period April 1, 2021, through March 31, 2022, the CFPB received approximately 1,104,400 consumer complaints.²⁸ Consumers submitted approximately 95 percent of these complaints through the CFPB's website and three percent via telephone calls. Referrals from other state and federal agencies accounted for two percent of complaints.

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: COMPLAINT VOLUME BY FINANCIAL PRODUCT OR SERVICE

²⁷ Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111 -203, Sections 1013(b)(3)(A) and 1021(b)(3)(A).

²⁸ Complaint data in this report are current as of August 1, 2022. Percentages in this section of the report may not sum to 100 percent due to rounding. This analysis excludes multiple complaints submitted by a given consumer on the same issue and whistleblower tips. For more information on our complaint process refer to the Bureau's website at <https://www.consumerfinance.gov/complaint/process>.



The CFPB sent approximately 745,700 complaints received to companies for review and response.²⁹ Companies responded to approximately 99 percent of complaints that the CFPB sent to them for response during the period. 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 company's 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.

The CFPB's Office of Consumer Response analyzes consumer complaints, company responses, and consumer feedback to assess the accuracy, completeness, and timeliness of company responses so that the CFPB, other regulators, consumers, and the marketplace have relevant information about consumers' challenges with financial products and services. The Office of Consumer Response uses a variety of approaches to identify trends and possible consumer harm. Examples include:

²⁹ The CFPB referred 6 percent of the complaints it received to other regulatory agencies and found 26 percent to be not actionable. Complaints that are not actionable include incomplete submissions, withdrawn complaints, and complaints in which the CFPB discontinued processing because it had reason to believe that a submitter did not disclose its involvement in the complaint process. At the end of this period, less than 0.01 percent of complaints were pending with the consumer and 0.01 percent were pending with the Bureau.

- 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. For example, on January 5, 2022, the CFPB published an *Annual report of credit and consumer reporting complaints*,³⁰ which is required by Section 611(e) of the Fair Credit Reporting Act. On March 31, 2022, the CFPB also published the *Consumer Response Annual Report*,³¹ which is required by Section 1013(b)(3)(C) of the Dodd-Frank Act. The CFPB also published complaint analyses in other mandatory and discretionary reports.³²

In addition to public reports, the CFPB makes complaint data available to the public in the Consumer Complaint Database (Database).³³ 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 Federal Trade Commission (FTC), other federal agencies, and state agencies.

³⁰ "Annual Report of Credit and Consumer Reporting Complaints." Consumer Financial Protection Bureau. January 5, 2022. https://files.consumerfinance.gov/f/documents/cfpb_fra-611-e_report_2022-01.pdf.

³¹ "Consumer Response Annual Report." Consumer Financial Protection Bureau. March 31, 2022. https://files.consumerfinance.gov/f/documents/cfpb_2021-consumer-response-annual-report_2022-03.pdf.

³² "Complaint Bulletin: County-level demographic overview of consumer complaints." Consumer Financial Protection Bureau. April 2021. https://files.consumerfinance.gov/f/documents/cfpb_complaint-bulletin_county-level-demographic-overview_consumer-complaints_2021-04.pdf; "Complaint Bulletin: Mortgage forbearance issues described in consumer complaints." Consumer Financial Protection Bureau. May 2021. https://files.consumerfinance.gov/f/documents/cfpb_mortgage-forbearance-issues_complaint-bulletin_2021-05.pdf; "Complaint Bulletin: COVID-19 issues described in consumer complaints." Consumer Financial Protection Bureau. July 2022. https://files.consumerfinance.gov/f/documents/cfpb_covid-19-issues-described-consumer-complaints_complaint-bulletin_2021-07.pdf; "Consumer complaints throughout the credit life cycle, by demographic characteristics." Consumer Financial Protection Bureau. September 2021. https://files.consumerfinance.gov/f/documents/cfpb_consumer-complaints-throughout-credit-life-cycle_report_2021-09.pdf.

³³ "Consumer Complaint Database." Consumer Financial Protection Bureau. <https://www.consumerfinance.gov/data-research/consumer-complaints/>.

3. Supervisory and Enforcement Actions

The CFPB's supervisory activities with respect to specific institutions are non-public. The CFPB has, however, issued numerous supervisory guidance documents and bulletins during the preceding year.

The public enforcement actions during the applicable time period to which the CFPB was a party are set forth in the following section. 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.

3.1 List of public supervisory and enforcement actions

The CFPB was a party in the following public enforcement actions from April 1, 2021, through March 31, 2022, detailed as follows and listed in descending chronological order by filing date.

- *In the Matter of Edfinancial Services, LLC (File No. 2022-CFPB-0001) (not a credit union or depository institution).* On March 30, 2022, the CFPB issued an order against Edfinancial Services, LLC. (Edfinancial). Edfinancial, headquartered in Knoxville, Tennessee, is a student loan servicer that services both Federal Family Education Loan Program (FFELP) loans, which are loans from private companies, and Direct Loans, which are loans directly from the Department of Education. The Public Service Loan Forgiveness (PSLF) Program is a government program that forgives student-loan debt for certain borrowers who work in public service and make 120 qualifying loan payments. Ordinarily, FFELP loans must be consolidated into Direct Loans before any payments qualify towards the PSLF program; but in October 2021 the Department of Education provided a limited waiver allowing payments to FFELP loans to retroactively qualify so long as the borrower consolidated into Direct Loans by a certain date. The CFPB found that Edfinancial made various deceptive statements to FFELP borrowers, including in many instances telling borrowers that they were not eligible for the PSLF program even though borrowers could become eligible by consolidating their loans; that borrowers could not consolidate their loans; that borrowers' past payments qualified when they did not qualify; and that qualifying jobs did not qualify for PSLF. The CFPB also found that,

in numerous instances, when FFELP borrowers asked about forgiveness options available to them, Edfinancial’s representatives did not mention PSLF as an available option. The order requires Edfinancial to contact all its FFELP borrowers to inform them of the limited waiver so that eligible borrowers can take advantage of the waiver before it expires. The limited waiver is currently set to expire by October 31, 2022. The order also requires Edfinancial to pay a \$1 million civil money penalty.

- *Consumer Financial Protection Bureau v. Craig Manseth, Jacob Adamo, Darren Turco, United Debt Holding LLC, JTM Capital Management, LLC, UHG, LLC, UHG I LLC (also known as United Holding Group), and UHG II LLC (collectively holding themselves out as United Holding Group, United Holding Group, LLC, and United Holdings Group, LLC) (W.D.N.Y. 1:22-cv-29)*. On January 10, 2022, the CFPB filed a lawsuit against several individual debt collectors and buyers, and their companies. As set forth in the February 23, 2022, amended complaint, the CFPB alleges that the defendants, located in Colorado and New York, purchased defaulted consumer debt worth tens of millions of dollars and then collected on those debts using third-party agents who engaged in illegal debt-collection tactics. Specifically, the CFPB alleges that since at least 2014, defendants have used collection agents to collect debts knowing that these agents were using false threats and misrepresentations to coerce immediate payment from consumers, in violation of the Consumer Financial Protection Act of 2010 (“CFPA”) and the Fair Debt Collection Practices Act (“FDCPA”). The CFPB’s complaint seeks redress for consumers, injunctive relief, and a civil money penalty. The case remains pending.
- *Consumer Financial Protection Bureau v. FirstCash, Inc., and Cash America West, Inc. (N.D. Tex. 4:21-cv-01251)*. On November 12, 2021, the CFPB filed a lawsuit against FirstCash, Inc. and Cash America West, Inc. FirstCash owns and operates over 1,000 retail pawnshops in the United States, offering pawn loans through its wholly owned corporate subsidiaries, including Cash America West. Cash America West operates pawn stores in Arizona, Nevada, Utah, and Washington. The CFPB alleges that FirstCash and Cash America West made pawn loans to active-duty servicemembers and their dependents that violated the Military Lending Act (MLA). The MLA puts in place protections in connection with extensions of consumer credit for active-duty servicemembers and their dependents, who are defined as “covered borrowers.” These protections include a maximum allowable annual percentage rate of 36 percent, a prohibition against required arbitration, and certain mandatory loan disclosures. The CFPB alleges that between June 2017 and May 2021, FirstCash and Cash America West made over 3,600 pawn loans in Arizona, Nevada, Utah, and Washington to more than 1,000 covered borrowers that violated prohibitions of the MLA by imposing a rate greater than the MLA’s 36 percent cap; using loan agreements requiring arbitration in the case of a dispute; and without making required loan disclosures. The CFPB further alleges that

since October 3, 2016, FirstCash has, together with Cash America West and other wholly owned subsidiaries, made additional pawn loans in violation of the MLA from stores in these and other states. In 2013, the CFPB ordered Cash America International, Inc. to halt its misconduct against military families, prohibiting Cash America and its successors from violating the MLA. FirstCash is a successor to Cash America and therefore subject to the 2013 order. In this action, the CFPB alleges that FirstCash's violations of the MLA violated the prohibitions of the CFPB's 2013 order and consequently the CFPA. The CFPB's complaint seeks redress for consumers, injunctive relief, and civil money penalties. The case remains pending.

- *United States and Consumer Financial Protection Bureau v. Trustmark National Bank (W.D. Tenn. 2:21-cv-02664)*. On October 22, 2021, the CFPB, together with the United States Department of Justice (DOJ), filed a complaint and proposed consent order in settlement of claims against Trustmark National Bank (Trustmark), which is headquartered in Jackson, Mississippi. The joint complaint alleged that Trustmark engaged in unlawful discrimination against applicants and prospective applicants, including by redlining majority Black and Hispanic communities in the Memphis, Tennessee-Mississippi-Arkansas Metropolitan Statistical Area (MSA) and engaged in acts and practices directed at prospective applicants that would discourage prospective applicants from applying for credit in violation of the Equal Credit Opportunity Act (ECOA), Regulation B, and CFPA. In the joint complaint, DOJ also alleged that Trustmark's conduct violated the Fair Housing Act (FHA). The order, as entered by the court on October 27, 2021, requires Trustmark to invest \$3.85 million in a loan subsidy program that will offer qualified applicants for credit secured by properties in majority Black and Hispanic neighborhoods in Memphis loans on a more affordable basis than otherwise available from Trustmark; open a new loan production office in a majority Black and Hispanic neighborhood in the Memphis MSA; fund targeted advertising to generate applications for credit from qualified consumers in majority Black and Hispanic neighborhoods in Memphis; and take other remedial steps to improve its fair lending compliance and serve the credit needs of majority Black and Hispanic neighborhoods in the Memphis MSA. The order also requires Trustmark to pay a civil money penalty of \$5 million, \$4 million of which would be remitted as a penalty paid to the Office of the Comptroller of the Currency (OCC) for FHA violations arising from the same conduct alleged in the complaint.
- *In the Matter of JPay, LLC (2021-CFPB-0006) (not a credit union or depository institution)*. On October 19, 2021, the CFPB issued an administrative order against JPay, LLC (JPay). JPay is headquartered in Miramar, Florida. JPay contracts with Departments of Corrections around the country to provide financial products and services to justice-involved individuals. JPay provided prepaid cards to formerly incarcerated individuals

upon their release from prison or jail (JPay debit release card). The debit release cards contained the balance of funds owed to former inmates upon their release, including their commissary money, as well as any ‘gate money,’ which are entitlements provided pursuant to state or local law, policy, or regulation to ease transition to society after release from prison or jail. The CFPB found that JPay violated the Electronic Fund Transfer Act (EFTA) and its implementing Regulation E by requiring consumers to establish an account with the particular financial institution that issued the JPay debit release card as a condition of receiving a government benefit, namely their gate money. JPay’s violations of EFTA and Regulation E also constituted violations of the CFPA. The CFPB also found that JPay engaged in unfair and abusive acts and practices by causing fees to be imposed through its JPay debit release card on consumers who were required to get a JPay debit release card to access the money owed to them at the time of their release from prison or jail. In addition, the CFPB found that JPay violated the CFPA’s prohibition against unfair acts and practices by causing some consumers to be charged fees on their JPay debit release card that were not authorized by their cardholder agreements, and the CFPA’s prohibition against deceptive acts and practices by misrepresenting fees of some JPay debit release cards. The order requires JPay to pay \$4 million for consumer redress, prohibits JPay from engaging in the illegal conduct found by the CFPB, and requires JPay to pay a \$2 million civil money penalty.

- *Consumer Financial Protection Bureau v. American Advisors Group (C.D. Cal 8:21-cv-01674)*. On October 8, 2021, the CFPB filed a lawsuit and proposed stipulated final judgment and order against American Advisors Group (AAG), which the court entered on October 25, 2021. AAG, based in Irvine, California, is the nation’s largest provider of reverse mortgages. In 2016, the CFPB issued an administrative order against AAG to address the CFPB’s finding that AAG used deceptive advertisements, including falsely claiming that consumers could not lose their homes. In this action, the CFPB alleged that in marketing its reverse mortgage product, AAG inflated consumers’ estimated home values to entice them to enter into negotiations to open a reverse mortgage with the company and falsely reassured consumers that AAG made “every attempt to ensure the home value information provided is reliable,” when in fact it did not. The CFPB alleged that this conduct was deceptive under the CFPA and violated the CFPB’s 2016 order. The stipulated final judgment and order requires AAG to pay \$173,400 in consumer redress, stop its unlawful conduct, and pay a \$1,100,000 civil money penalty.
- *Consumer Financial Protection Bureau v. Daniel A. Rosen, Inc., d/b/a Credit Repair Cloud, and Daniel Rosen (C.D. Cal. 2:21-cv-07492)*. On September 20, 2021, the CFPB filed a lawsuit against Credit Repair Cloud, a Los Angeles, California company that since at least 2013 has provided an “all-in-one solution” for people to start their own credit-repair businesses, and its owner and CEO, Daniel Rosen. The CFPB alleges that Credit

Repair Cloud and Daniel Rosen have violated the Telemarketing Sales Rule (TSR) by providing substantial assistance to credit-repair businesses that violate the TSR's advance-fee prohibition. The CFPB also alleges that by violating the TSR, Credit Repair Cloud and Daniel Rosen have violated the CFPA. On January 7, 2022, the CFPB filed an amended complaint. The amended complaint seeks redress to consumers, disgorgement, appropriate injunctive relief, and the imposition of civil money penalties against Credit Repair Cloud and Daniel Rosen. The defendants filed a motion to dismiss the amended complaint on January 28, 2022. The court denied the motion on April 5, 2022.

- *Consumer Financial Protection Bureau v. LendUp Loans, LLC (N.D. Cal. 3:21-cv-06945)*. On September 8, 2021, the CFPB filed a lawsuit against LendUp Loans, LLC. LendUp is an online lender offering single-payment and installment loans to consumers. The CFPB alleged that LendUp's brand identity is tied to its marketing claims that through on-time payments and repeat borrowing, borrowers will accrue points and ascend the "LendUp Ladder," gaining access to loans with more favorable interest rates or larger loan amounts as consumers reach higher Ladder levels. In 2016, the CFPB issued an administrative order against LendUp to address the CFPB's finding that LendUp misled consumers about the benefits of its loans. That order prohibits LendUp from misrepresenting the benefits of borrowing from the company. In this action, the CFPB alleged that, though LendUp claimed that consumers who ascended the LendUp Ladder would gain access to lower interest rates and larger loans, many borrowers did not actually get those benefits. The CFPB alleged that LendUp's marketing claims were deceptive under the CFPA and violated the prohibitions of the CFPB's 2016 order. The CFPB also alleged that LendUp failed to timely issue required adverse-action notices and failed to provide accurate denial reasons on its adverse-action notices to thousands of loan applicants, in violation of ECOA and Regulation B, and that these violations also constitute violations of the CFPA. On December 21, 2021, the CFPB filed a proposed stipulated final judgment and order to settle the lawsuit, which the court entered on December 30, 2021. The order imposes an injunction, prohibiting LendUp from offering or providing extensions of credit, or assisting others that are offering or providing extensions of credit; from collecting on, selling, or assigning outstanding subject loans, or assisting others in doing so; from selling consumer information; and from making misrepresentations in the sale of credit or collection of consumer debt, or assisting others in doing so. The order also imposes a \$100,000 civil money penalty and requires the payment of \$40,500,000 in consumer redress, to be suspended upon payment of the civil money penalty based on LendUp's demonstrated inability to pay.
- *In the Matter of Better Future Forward, Inc.; Better Future Forward Manager, LLC; Better Future Forward Opportunity ISA Fund (CP1), LLC; and Better Future Forward Opportunity ISA Fund (CH1), LLC (2021-CFPB-0005) (not a credit union or depository*

institution). On September 7, 2021, the CFPB issued an administrative order against Better Future Forward, Inc.; Better Future Forward Manager, LLC; Better Future Forward Opportunity ISA Fund (CP1), LLC; and Better Future Forward Opportunity ISA Fund (CH1), LLC (collectively, “BFF”), which are companies that provide students with income-share agreements (ISAs) to finance postsecondary education. The CFPB found that BFF falsely represented that its ISAs are not loans and do not create debt. This conduct was deceptive in violation of the CFPB. The CFPB also found that BFF failed to give certain required disclosures and imposed prepayment penalties on private education loans in violation of the Truth in Lending Act (TILA), Regulation Z, and the CFPB. The CFPB’s order requires BFF to cease misrepresentations, provide consumers with required disclosures, and reform contracts to eliminate prepayment penalties.

- *In the Matter of GreenSky, LLC (2021-CFPB-0004) (not a credit union or depository institution)*. On July 12, 2021, the CFPB issued an administrative order against GreenSky, LLC (GreenSky), a financial technology company that services and facilitates the origination of consumer loans. The CFPB found that GreenSky engaged in origination activity on thousands of loans to consumers who did not request or authorize them and that the company structured its loan origination and servicing program in a manner that enabled the origination of unauthorized loans. This conduct was unfair in violation of the CFPB. The CFPB’s order requires GreenSky to refund the accounts or cancel the loans of customers harmed by the conduct up to \$9 million, implement enhanced loan authorization and verification procedures to prevent unauthorized loans from being issued in the future, and pay a civil penalty of \$2.5 million.
- *Consumer Financial Protection Bureau; and State of Georgia ex rel. Christopher M. Carr, Attorney General of the State of Georgia v. Burlington Financial Group, LLC; Richard W. Burnham; Sang Yi; and Katherine Ray Burnham, (N.D. Ga. 1:21-cv-02595)*. On June 28 and 29, 2021, the CFPB filed a lawsuit and proposed stipulated final judgment and order, respectively, against Burlington Financial Group, LLC, and its principals, Richard Burnham, Katherine Burnham, and Sang Yi. The court entered the stipulated final judgment and order on June 29, 2021. Burlington Financial is a Maryland-based company offering debt-relief and credit-repair services. The CFPB alleged that Burlington Financial and its principals used telemarketing to solicit consumers with false promises that Burlington’s services would eliminate their credit-card debts and improve their credit scores. The CFPB alleged that Burlington and its principals charged advance fees for debt-relief and credit-repair services in violation of the TSR and engaged in deceptive acts or practices to market and sell Burlington’s services in violation of the TSR and CFPB. The CFPB also alleged that the principals substantially assisted in the company’s violations of the TSR and CFPB. The CFPB filed its complaint jointly with the Attorney General for the State of Georgia. The order bans Burlington and its

principals from telemarketing with respect to any consumer-financial product or service and from offering, marketing, selling, or providing any financial-advisory, debt-relief, or credit-repair service. The order also requires Burlington and its principals to pay civil money penalties totaling \$150,001, \$15,000 of which will be remitted upon Burlington's payment of a penalty in that amount to Georgia, and it imposes a judgment for redress of \$30,457,853, to be suspended upon payment of the civil money penalties.

- *In the Matter of 3rd Generation, Inc., d/b/a California Auto Finance (2021-CFPB-0003) (not a credit union or depository institution).* On May 21, 2021, the CFPB issued an administrative order against 3rd Generation, Inc., a California corporation doing business as California Auto Finance (California Auto). California Auto services subprime auto loans that were originated by car dealers and later assigned to California Auto. The CFPB found that, between 2016 and 2021, California Auto charged about 5,800 customer accounts a total of \$565,813 in interest on late payments of loss damage waiver fees without disclosing the charge to consumers. The CFPB concluded this is an unfair practice under the CFPA. The order requires California Auto to provide a total of \$565,813 in consumer relief, which reflects the unlawful loss-damage-waiver fees that California Auto charged its customers. The order also requires California Auto to pay a civil money penalty of \$50,000 and prohibits the company from charging interest on loss-damage-waiver fees without disclosing such terms in its contracts with consumers.
- *In the Matter of Nationwide Equities Corporation (2021-CFPB-0002) (not a credit union or depository institution).* On April 27, 2021, the CFPB issued an administrative order against Nationwide Equities Corporation (NVEC), a reverse mortgage broker and lender. The CFPB found that NVEC sent direct mail solicitations and other marketing communications to hundreds of thousands of older borrowers that violated the Mortgage Acts and Practices Advertising Rule (MAP Rule) and Regulation Z, which implement TILA. These violations also constituted violations of the CFPA. The CFPB's order prohibits such misrepresentations and requires NVEC to affirmatively review each of its mortgage advertisement templates for compliance with consumer financial protection laws before disseminating ads to consumers. The CFPB's order also requires NVEC to pay a \$140,000 civil money penalty.
- *Consumer Financial Protection Bureau and the People of the State of New York, by Letitia James, Attorney General for the State of New York v. Douglas MacKinnon, Amy MacKinnon, Mary-Kate MacKinnon, and Matthew MacKinnon (W.D.N.Y. 1:21-cv-00573).* On April 22, 2021, the CFPB filed a lawsuit against Douglas MacKinnon, who operated a debt-collection enterprise, and Amy MacKinnon, Mary-Kate MacKinnon, and Matthew MacKinnon, relatives of Douglas MacKinnon. The CFPB filed its complaint jointly with the Attorney General of New York. The complaint alleges that defendants

fraudulently conveyed a house with the intent to hinder collection efforts by creditors, including the CFPB and the State of New York, in violation of the Federal Debt Collection Procedures Act of 1990 and New York state law. The complaint specifically alleges that Douglas MacKinnon transferred ownership of his home, valued at approximately \$1.6 million, to his wife and daughter for \$1 shortly after he learned that the CFPB and the State of New York were investigating him for illegal debt-collection activities. That investigation resulted in a \$60 million judgment against Douglas MacKinnon and the companies he operated and permanently banned him from the industry. The CFPB and New York seek a declaratory judgment that a fraudulent conveyance occurred and to recover the value of the property in partial satisfaction of the \$60,000,000 judgment. On June 21, 2021, all defendants moved to dismiss the complaint, which the court denied on October 27, 2021. The case remains pending.

- *Consumer Financial Protection Bureau v. SettleIt, Inc. (C.D. Cal. 8:21-cv-00674)*. On April 13, 2021, the CFPB filed a proposed stipulated final judgment and order to resolve allegations that SettleIt, Inc., a California-based debt-settlement company, violated the TSR and engaged in abusive acts and practices under the CFPB. In its complaint, the CFPB alleged that SettleIt failed to disclose to consumers its relationship to certain creditors and then regularly prioritized those creditors in settlements; claimed that its programs could be completed without borrowing more money, while steering consumers into high-cost loans to pay off third-party creditors; failed to clearly and conspicuously disclose the costs of its services; and required consumers to pre-authorize settlements so that SettleIt could settle consumers' debts without their express consent. The order, which the court entered on July 2, 2021, requires SettleIt to return at least \$646,769.43 in performance fees to consumers and to pay a \$750,000 civil money penalty.
- *In the Matter of Yorba Capital Management, LLC and Daniel Portilla, Jr. (2021-CFPB-0001) (not a credit union or depository institution)*. On April 6, 2021, the CFPB issued an administrative order against Yorba Capital Management, LLC (Yorba), a third-party debt collection company, headquartered in Anaheim California, and its former sole owner and managing member, Daniel Portilla, Jr. (Portilla). The CFPB found that from January 2017 until at least April 2020, Yorba and Portilla engaged in deceptive acts or practices in violation of the CFPB and that Yorba violated the FDCA by mailing notices to consumers in an attempt to collect debt that falsely represented that consumers would be sued and that there would be further legal action if the consumers did not pay the debt amount on the notices. The order permanently bans both Yorba and Portilla from participating, or assisting others, in activities related to the collection of a consumer debt and orders them to pay \$860,000 in redress. The ordered redress amount is suspended in full based on Yorba's and Portilla's demonstrated inability to pay upon their payment of a \$2,200 civil money penalty to the CFPB.

- *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 CFPB 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 CFPB also named as a relief defendant FNZA Marketing, LLC (FNZA), a California company nominally owned by Noh and controlled by Gilani. The CFPB 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 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 CFPB alleges that Noh and Gilani are individually liable for and substantially assisted Student Loan Pro's violations of the TSR. The CFPB 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 CFPB 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. Defendants filed a motion to dismiss the complaint on July 2, 2021, which the court denied on January 18, 2022. 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 CFPB 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 CFPB alleged 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 CFPB alleged that Howard's and BrightSpeed's actions were unfair practices in violation of the CFPA and as well as deceptive telemarketing practices in violation of the TSR. On January 18, 2022, the CFPB filed a proposed stipulated judgment and order to resolve its claims, which the court entered on January 19, 2022. The stipulated judgment and order permanently bans defendants from the payment processing, consumer lending, deposit-taking, and financial advisory industries and from engaging in debt collection activities and telemarketing with respect to consumer financial products or services. The stipulated judgment and order also requires the

defendants to pay \$54 million in redress, which amount will be suspended upon Howard's payment of a \$500,000 civil money penalty.

- *Consumer Financial Protection Bureau; Commonwealth of Massachusetts; The People of the State 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 CFPB 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 CFPB alleges that Libre and its owners operated a scheme through which Libre offers to pay 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 CFPB 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 CFPB 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 CFPB filed its complaint jointly with the Attorneys General of Virginia, Massachusetts, and New York. The CFPB 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, which the court denied on March 22, 2022. 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 CFPB 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 CFPB'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 TILA, the Fair Credit Reporting Act (FCRA), ECOA, the MAP Rule, and the CFPA. The CFPB filed an amended complaint on April 1, 2021. The CFPB's amended 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. 1st Alliance and the individual defendants filed motions to dismiss on May 11, 2021, which on March 31, 2022, the court denied as to all but one claim against the individual defendants, which it dismissed without prejudice. The case remains pending.

- *Bureau of Consumer Financial Protection v. BounceBack, Inc. and Gale Krieg, (W.D. Mo. 5:20-cv-06179)*. On December 9, 2020, the CFPB 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 CFPB alleged 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 against consumers who ignored BounceBack's threats. In fact, in most cases, BounceBack did not refer cases for prosecution at all. BounceBack's letters also failed to include disclosures required under the FDCPA. The CFPB alleged 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. On August 27, 2021, the CFPB filed an amended complaint, which also named BounceBack's president and majority owner, Gale Krieg, and alleged that Krieg exercised control over BounceBack and materially participated in the conduct of BounceBack's affairs. The complaint alleged that Krieg engaged in deceptive acts and practices in violation of the CFPA because, among other things, he oversaw BounceBack's deceptive activities. On September 21, 2021, the CFPB filed a proposed stipulated final judgment and order to resolve the lawsuit, which the court entered on November 1, 2021. The stipulated judgment and order requires BounceBack and Krieg to pay about \$1.4 million to redress consumers, which amount would be suspended based upon defendants' demonstrated inability to pay more upon BounceBack's and Krieg's compliance with the certain provisions of the judgment and order including paying a \$30,000 civil money penalty. The order also permanently bans BounceBack and Krieg from, inter alia, engaging in debt collection related to any consumer financial product or service.
- *Bureau of Consumer Financial Protection v. DMB Financial, LLC (D. Mass. 1:20-cv-12147)*. On December 1, 2020, the CFPB 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 CFPB'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 CFPB alleged 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 CFPB also alleged that DMB's alleged TSR violations also constitute violations of the CFPA. On May 19, 2021, the court entered a stipulated final judgment and order that resolved the CFPB's claims. The order requires DMB to pay \$7,700,000 in redress to consumers, which amount is suspended based on DMB's demonstrated inability to pay and upon its payment of \$5,400,000 within an agreed-upon timeframe and a \$1 civil money penalty to the CFPB. The order also requires DMB to refrain from charging unlawful settlement fees, engaging in specified deceptive practices, or obtaining consumers' credit reports without a permissible purpose.

- *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 CFPB 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 CFPB alleges that FDATR, Tucci, and Halverson violated the TSR by engaging in deceptive and abusive telemarketing acts or practices as well as the CFPA by engaging in deceptive acts or practices. The CFPB seeks injunctions against FDATR, Tucci, and Halverson, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. On February 25, 2021, the CFPB filed a notice of voluntary dismissal of Halverson, now deceased, and the court dismissed him from this action the next day. On February 7, 2022, the CFPB obtained a default judgment and order against FDATR imposing \$2,117,133.28 in consumer redress, a \$41,123,897 civil money penalty, and injunctive relief permanently banning it from offering or providing financial advisory, debt-relief, or credit-repair services and from telemarketing consumer financial products or services. The case remains pending against Tucci.
- *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 CFPB 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 CFPB alleged 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. On June 1, 2021, the court entered a stipulated final judgment and order that requires defendants to return consumers' deposits—roughly \$1 million—plus all interest due to consumers under the terms of the advertised product, and to pay a \$100,000 penalty. The defendants are also permanently banned from engaging in deposit-taking activity and from making deceptive statements to consumers. On December 22, 2021, the CFPB filed an application for an order to show cause, which the court granted the same day, ordering Driver Loan and Sarjeant to set forth why they are not in violation of the stipulated final judgment and not in contempt of court. On February 8, 2022, the court entered a discovery and briefing schedule, and the matter 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 CFPB filed a lawsuit against Performance SLC, LLC (PSLC), a California debt-relief business focused on federal student loan debt; Performance Settlement, LLC (PSettlement), a California debt-settlement company; and Daniel Crenshaw, the owner and CEO of the two companies. The CFPB alleged 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 failed to provide disclosures mandated by the TSR to consumers it required to place funds in trust accounts; Crenshaw and PSettlement used deceptive sales tactics to sign consumers up for PSettlement's debt-relief services, in violation of the CFPA; and Crenshaw substantially assisted PSLC in requesting or receiving fees illegally and PSettlement in engaging in deceptive acts and practices. On July 6, 2021, the CFPB filed an amended complaint adding a claim against PSettlement alleging it violated the TSR and CFPA when it asked consumers who enrolled in its program to sign a form that preauthorized PSettlement to agree to settlements on the consumer's behalf. As of the end of the reporting period, the case remained pending.³⁴
- *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, Pinnacle Location Services, and Orchard Payment Processing Systems); ROC Asset Solutions LLC (dba API*

³⁴ Additional activity has occurred with this matter since the end of this reporting period. More information can be found here <https://www.consumerfinance.gov/enforcement/actions/performance-slc-llc-performance-settlement-llc-daniel-crenshaw/>.

Recovery Solutions and Northern Information Services); *Regency One Capital LLC*; *Keystone Recovery Group, LLC*; *Bluestreet Asset Partners, Inc.*; *Christopher L. Di Re*; *Scott A. Croce*; *Brian J. Koziel*; *Marc D. Gracie*; and *Susan A. Croce* (*W.D.N.Y. 1:20-cv-01217*). On September 8, 2020, the CFPB, in partnership with the New York Attorney General, filed suit 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. As set forth in the amended complaint filed on December 20, 2021, 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; Keystone Recovery Group; and Blue Street Asset Partners, Inc. The individual defendants are Christopher Di Re, Scott Croce, and Susan 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. Susan Croce is also a relief defendant. The complaint alleged 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. As of the end of the reporting period, the case remained pending.³⁵

- *Bureau of Consumer Financial Protection v. Townstone Financial, Inc. and Barry Sturmer* (*N.D. Ill. 1:20-cv-04176*). On July 15, 2020, the CFPB filed a lawsuit against Townstone Financial, Inc., a nonbank retail-mortgage creditor and broker based in Chicago. The CFPB alleges that Townstone violated ECOA; its implementing regulation, Regulation B; and the CFPA. The CFPB alleges that, 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 CFPB 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 would discourage prospective African-American applicants from applying for mortgage loans; would discourage prospective applicants living in African-American neighborhoods in the Chicago MSA from applying for mortgage loans; and would

³⁵ Additional activity has occurred with this matter since the end of this reporting period. More information can be found here <https://www.consumerfinance.gov/enforcement/actions/jpl-recovery-solutions-llc-et-al/>.

discourage 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 CFPB filed an amended complaint, which added as a defendant Barry Stumer, Townstone’s cofounder, sole owner, and sole director, as the fraudulent transferee of more than \$2.4 million from Townstone. The CFPB’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 motion to dismiss the amended complaint and the case remain pending.

- *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 CFPB 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 CFPB 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 CFPB’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 CFPB 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, which the court denied without prejudice. On September 10, 2021, the defendants filed an amended motion to dismiss, which the court denied on September 30, 2022. 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 CFPB 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 CFPB alleges that in their telemarketing of credit-repair services, the defendants violated the CFPB’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, which the court denied on August 10, 2021. On September 9, 2021, the defendants moved for reconsideration of the order denying the motion to dismiss, which the court denied on October 13, 2021. The case remains pending.

- *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 CFPB filed a lawsuit against Fifth Third Bank, National Association (Fifth Third). On February 12, 2021, the court granted Fifth Third's motion to transfer the case to the Southern District of Ohio. The CFPB filed an amended complaint on June 16, 2021. The CFPB alleges that, by misleading consumers about the bank's sales practices, opening products and services and engaging in consumer-account transactions without consumer consent, and failing to adequately address the misconduct, Fifth Third engaged in unfair and abusive acts or practices in violation of the CFPB and also violated FCRA, TILA, the Truth in Savings Act (TISA), and TILA's and TISA's implementing regulations. The CFPB seeks an injunction to stop Fifth Third's unlawful conduct, redress for affected consumers, the imposition of a civil money penalty, and other legal and equitable relief. On July 12, 2021, Fifth Third filed a motion for judgment on the pleadings, and on August 13, 2021, the CFPB filed a motion for partial judgment on the pleadings. The motions and the case remain pending.
- *Bureau of Consumer Financial Protection v. Citizens Bank, N.A.* (D.R.I. No. 1:20-cv-00044). On January 30, 2020, the CFPB 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 CARD Act, as well as violations of the CFPB based on TILA violations. The CFPB 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 CFPB also alleges that Citizens violated TILA and Regulation Z by not providing credit counseling referrals to consumers as required by law. The CFPB seeks, among other remedies, an injunction against Citizens and the imposition of civil money penalties. The Court denied Citizens' motion to dismiss. 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 CFPB filed a lawsuit in federal court in the Central District of California against Chou Team Realty, LLC f/k/a Chou Team Realty, Inc., d/b/a MonsterLoans, d/b/a Monster Loans; Lend Tech Loans, Inc.; Docu Prep Center, Inc., d/b/a DocuPrep Center, d/b/a Certified Document Center; Document Preparation Services, LP, d/b/a DocuPrep Center, d/b/a Certified Document Center; Certified Doc Prep, Inc.; Certified Doc Prep

Services, LP; Assure Direct Services, Inc.; Assure Direct Services, LP; Direct Document Solutions, Inc.; Direct Document Solutions, LP; Secure Preparation Services, Inc.; Secure Preparation Services, LP; Docs Done Right, Inc.; Docs Done Right, LP; Bilal Abdelfattah a/k/a Belal Abdelfattah a/k/a Bill Abdel; Robert Hoose; Eduardo “Ed” Martinez; Jawad Nesheiwat; Frank Anthony Sebreros; David Sklar; Thomas “Tom” Chou; Sean Cowell; Kenneth Lawson; Cre8labs, Inc.; XO Media, LLC; and TDK Enterprises, LLC. The CFPB 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 CFPB also alleges that certain entities and individuals are liable as Relief Defendants because they received profits resulting from the illegal conduct. The CFPB 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 court entered a stipulated final judgment against Chou Team Realty, LLC, Thomas Chou, TDK Enterprises, LLC, Cre8labs, Inc., and Sean Cowell, which resolves the CFPB’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 against Robert Hoose, which resolves the CFPB’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 July 10, 2020 and August 26, 2020, the CFPB filed a first and second amended complaint, respectively, adding factual allegations regarding certain defendants. On October 19, 2020, the court entered a stipulated final judgment against relief defendants Kenneth Lawson and XO Media, LLC, which resolves the CFPB’s claim against them. The judgment imposes a \$200,000 redress judgment against Lawson and XO Media, LLC. On May 4, 2021, the court entered stipulated final judgments against Lend Tech Loans, Inc. and David Sklar, which resolve the CFPB’s claims against them. The judgment as to Lend Tech Loans requires it to dissolve and cease to exist as a corporate entity, bans it from offering or providing any consumer financial product or service, and imposes a \$1 civil money penalty against it, based on its limited ability to pay. The judgment as to Sklar imposes a \$7 million redress judgment against him, full payment of which is suspended based upon his limited ability to pay upon his payment of \$3,000 to the CFPB; it also bans him from the debt-relief industry and from telemarketing consumer financial products or services and imposes a \$1 civil money penalty against him. On May 7, 2021, the court entered a default judgment against the following student loan debt relief companies: 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.; and Secure Preparation Services, LP. The default judgment imposes redress judgments against the companies that collectively total \$19,699,869 and civil penalties against the companies that collectively total \$11,382,136. The default judgment also bans the companies from the debt relief industry. On May 7, 2021, the court also entered a default judgment against Bilal Abdelfattah a/k/a Belal Abdelfattah a/k/a Bill Abdel (“Abdel”), which imposes a civil penalty of \$3,262,244 against Abdel and bans him from the debt-relief industry.

On May 11, 2021, the court entered a stipulated final judgment against Docs Done Right, Inc., Docs Done Right, LP (collectively, “Docs Done Right”), and Eduardo Martinez, which resolves the CFPB’s claims against them. The judgment imposes an \$18 million redress judgment against Martinez and Docs Done Right, full payment of which is suspended based on their limited ability to pay upon their payment of the ordered penalty, bans them from the debt-relief industry, and imposes a \$125,000 civil money penalty against them. On May 11, 2021, the court also entered a stipulated final judgment against Frank Anthony Sebreros, which resolves the CFPB’s claims against him. The judgment imposes a \$3,404,455 redress judgment against Sebreros, full payment of which is suspended based on their limited ability to pay upon their payment of \$35,000; it also bans him from the debt relief industry and from telemarketing consumer financial products or services, and imposes a \$1 civil money penalty against him. On August 10, 2021, the district court granted in full the CFPB’s Motion for Summary Judgment against Jawad Nesheiwat, the sole remaining defendant at that time. The court found Nesheiwat was liable for violating FCRA, the TSR advance fee ban, the TSR and CFPA prohibitions on deceptive practices and substantially assisting violations, and §1036(a)(1)(A). The court found the CFPB was entitled to injunctive relief, restitution, and civil money penalties. On September 23, 2021, the court entered a judgment and order against Nesheiwat imposing a judgment of nearly \$20 million in consumer redress, a \$20 million civil money penalty, and injunctive relief including permanent bans from the debt-relief and mortgage industries, from using consumer reports for business purposes, and from telemarketing consumer financial products and services. On September 25, 2021, Nesheiwat appealed the judgment against him. That appeal remains pending.

- *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 CFPB 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 CFPB 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 CFPB 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 CFPB filed an amended complaint on February 24, 2020. The CFPB'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 CFPB. 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 CFPB. 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 CFPB. It also requires First Priority to pay \$3.75 million in penalties, of which \$2,470,000 is payable to the CFPB. The order also bans the defaulted defendants from telemarketing or offering or providing debt relief services.

The CFPB filed a second amended complaint on April 20, 2021, adding additional claims and an additional relief defendant. On June 15, 2021, the court entered a stipulated final judgment and order as to relief defendant Judy Dai. The order imposes a judgment of \$3,088,381.80 against Dai for the purpose of providing redress to consumers. On July 1, 2021, the court entered a stipulated final judgment and order as to relief defendant's 1st Generation Holdings, LLC (1st Generation) and Infinite Management Corp (Infinite Management). The order imposes a judgment of \$3,984,779.28 and \$2,049,189.07 against 1st Generation and Infinite Management, respectively, for the purpose of providing redress to consumers. Full payment of the amount imposed on Infinite will be suspended based on its demonstrated inability to pay following its turnover of assets. On July 15, 2021, the court entered a stipulated final judgment and order as to defendant Consumer Advocacy Center, Inc. (CAC). The order imposes a judgment of \$35,105,017.93 against CAC for the purpose of providing consumer redress. The amount of redress to be collected will be based on the amount recovered by the bankruptcy trustee and the resolution of multiple claims against the CAC bankruptcy estate. The Court also imposed a \$1 civil money penalty in favor of the CFPB and against the CAC bankruptcy estate. The court also permanently restrained CAC from participating in any debt-relief service or telemarketing any consumer financial product. The CFPB filed a third amended complaint on August 5, 2021, to remove remaining claims relating to a relief defendant against whom a stipulated final judgment was previously entered. On March 22, 2022, the court entered a stipulated final judgment and order as to defendant TAS 2019 LLC. The order imposes a judgment of \$2,866,314.24 in consumer redress, a \$1 civil money penalty, and injunctive relief permanently banning TAS 2019 LLC from participating in any debt relief service or telemarketing any consumer financial product. As of the end of the reporting period, the case remained pending against remaining defendants Albert Kim, Kaine Wen, and relief defendant Sarah Kim. Additionally, claims against relief

defendant Anan Enterprise, Inc. are currently stayed pending the outcome of a bankruptcy adversary action filed in the Southern District of Florida.³⁶

- *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 CFPB filed a complaint against Maryland-based debt collector FCO Holding, Inc. and its subsidiaries, Fair Collections & Outsourcing, Inc., Fair Collections & Outsourcing of New England, Inc., and FCO Worldwide, Inc. (collectively, FCO). Also named as a defendant in the CFPB’s lawsuit is Michael E. Sobota, the chief executive officer, president, director, and owner of FCO Holding, Inc. The CFPB alleged that FCO, which furnishes information to consumer reporting agencies, violated the Fair Credit Reporting Act 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 failing to cease furnishing information that was alleged to have been the result of identity theft before it made any determination whether the information was accurate. In addition, the CFPB alleged that FCO and 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. On October 27, 2021, the court entered a stipulated final judgment and order, which requires defendants to pay a \$850,000 civil money penalty and put in place policies and procedures to prevent future violations.
- *Bureau of Consumer Financial Protection v. Forster & Garbus, LLP* (E.D.N.Y. No. 2:19-cv-02928). On May 17, 2019, the CFPB 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 CFPB 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 CFPB 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 CFPB 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. The court administratively closed the matter, pending a decision in *Seila Law LLC v. Consumer Financial Protection Bureau*, No. 19-7 (cert. granted Oct. 18, 2019). After *Seila Law LLC*

³⁶ Additional activity has occurred with this matter since the end of this reporting period. More information can be found at <https://www.consumerfinance.gov/enforcement/actions/premier-student-loan-center-et-al/>.

was decided, the court denied the CFPB's request to reopen the matter and stayed the case pending a decision in *Mmuchin v. Collins*. In October 2021, the court reopened the case after the Supreme Court denied certiorari in *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). 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, P.C., d/b/a/ Lexington Law (D. Utah No. 2:19-cv-00298)*. On May 2, 2019, the CFPB 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 federal district court. The CFPB alleges the defendants violated the TSR by requesting and receiving payment of prohibited upfront fees for their credit repair services. The CFPB also alleges that Progrexion and its subsidiaries violated the TSR and the CFPB by making deceptive representations in its marketing, or by substantially assisting others in doing so. The CFPB 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. Defendant Heath, P.C., filed a motion for partial summary judgment on August 20, 2021, which the court denied on January 20, 2022. Defendant Progrexion filed a motion for summary judgment on January 21, 2022, which as of the end of the reporting period remained pending. The CFPB filed a motion for partial summary judgment on December 10, 2021. That motion and the case remain pending.
- *Bureau of Consumer Financial Protection v. Future Income Payments, LLC, et al. (D.S.C. No. 6:19-cv-02950)*. On September 13, 2018, the CFPB filed a complaint against Future Income Payments, LLC, Scott Kohn, and several related entities. The CFPB 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 CFPB 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 CFPB sought compensation for harmed consumers, civil money penalties, and injunctive relief. The defendants waived service of the CFPB's complaint but failed to answer or otherwise respond to it. The CFPB obtained a clerk's entry of default in December 2018, and in August 2019, the CFPB 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 CFPB filed a complaint and proposed consent judgment against several National Collegiate Student Loan Trusts (collectively, "NCSLT"). The CFPB 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 CFPB's filing, several entities moved to intervene to object to the proposed consent judgment. The judge granted the intervention motions, and on May 31, 2020, the Court denied the CFPB's motion to approve the proposed consent judgment filed with the original complaint. Several of the intervenors then filed motions to dismiss, one of which was granted in part, dismissing the complaint without prejudice. On April 30, 2021, the CFPB filed an amended complaint, adding clarifying allegations related to several issues raised in the motions to dismiss the original complaint. On May 21, 2021, defendants and certain intervenors filed a motion to dismiss the amended complaint, which the court denied on December 13, 2021. On February 11, 2022, the court certified two holdings in its opinion denying the motion to dismiss for interlocutory appeal to the Third Circuit and stayed the matter. 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 CFPB filed a complaint against mortgage loan servicer Ocwen Financial Corporation and its subsidiaries. The CFPB 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 September 5, 2019, the district court rejected the majority of Ocwen's arguments in its motion to dismiss but required the CFPB to re-plead its allegations, which the CFPB did on October 4, 2019. The case was partially consolidated with a related case against Ocwen brought by the Office of the Attorney General and Office of Financial Regulation for the State of Florida, and the Florida plaintiffs settled their claims against Ocwen. On March 4, 2021, the district court granted in part defendants' Motion

for Summary Judgment as to Counts 1-9 of the CFPB's First Amended Complaint based on *res judicata*. On April 19, 2021, the CFPB filed a Second Amended Complaint that dropped Count 10 of its First Amended Complaint and limited the claims set forth in Counts 1 through 9 to allegations of violations for the time period of January 2014 through February 26, 2017. On April 21, 2021, in light of the CFPB's recently filed Second Amended Complaint, the district court entered a Final Judgment in favor of the defendants. The CFPB filed a notice of appeal the same day. As of the end of the reporting period the appeal and the case remain pending.³⁷

- *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 CFPB 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 CFPB 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 CFPB's complaint, which the CFPB 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 CFPB'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, which the court denied on March 16, 2022.
- *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 CFPB filed a complaint against Navient Corporation and its subsidiaries, Navient Solutions, Inc., and Pioneer Credit Recovery, Inc. The CFPB 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

³⁷ Additional activity has occurred with this matter since the end of this reporting period. More information can be found at <https://www.consumerfinance.gov/enforcement/actions/ocwen-financial-corporation-ocwen-mortgage-servicing-inc-and-ocwen-loan-servicing-llc/>.

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 CFPB 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 CFPB 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 CFPB 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. The case remains pending.

- *Consumer Financial Protection Bureau v. Access Funding, LLC, Access Holding, LLC, Reliance Funding, LLC, Lee Jundanian, Raffi Boghosian, Michael Borkowski, and Charles Smith (D. Md. No. 1:16-cv-3759)*. On November 21, 2016, the CFPB 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 CFPB alleged that Access Funding was aware that the individuals from whom they purchased structured settlement payments were frequently in need of the funds the company could supply. The CFPB also alleged that the companies and their principals steered consumers to receive "independent advice" from Smith, who was paid directly by Access Funding and provided only cursory communications to consumers. The CFPB alleged that Smith's conduct was unfair, abusive, and deceptive in violation of the CFPB and that Access Funding and its leadership unlawfully aided Smith's illegal conduct. The CFPB further alleged that Access Funding engaged in abusive conduct by advancing 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 CFPB's claim relating to the advances Access Funding offered consumers. The court granted the CFPB's motion to file an amended complaint alleging that 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 December 26, 2019, the court stayed the case pending the Supreme Court's decision in *Seila Law LLC v. CFPB*, No. 19-7 (cert. granted Oct. 18, 2019). On October 23, 2020, based on the parties'

stipulation, the court dismissed the claims against Reliance Funding, LLC. The parties moved for summary judgment, which the Court denied on July 12, 2021.

On November 18, 2021, the court entered a stipulated judgment and order against Charles Smith, which requires him to pay \$40,000 in disgorgement and a \$10,000 civil money penalty. The order also permanently bans him from the structured-settlement industry. On December 17, 2021, the court entered a stipulated judgment and order against Access Funding, LLC, Access Holding, LLC, Lee Jundanian, and Raffi Boghosian, requiring the settling defendants to pay \$40,000 in disgorgement and a \$10,000 civil money penalty. The order also prohibits the settling defendants from referring consumers to a specific individual or for-profit entity for advice concerning any structured-settlement transaction or taking unreasonable advantage of consumers' lack of understanding of the material risks, costs, or conditions of any cash advance. The order also prohibits the settling defendants from misrepresenting the relationship between themselves and providers of independent professional advice, and any other fact material to consumers (such as the material risks, total costs, or conditions of any advance) in connection with the transfer of payment streams from structured-settlement holders. As of the end of the reporting period, the case remained pending against Michael Borkowski.³⁸

- *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 CFPB 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 CFPB 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 CFPB 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 CFPB'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 CFPB moved for summary judgment on August 4, 2017. The court has not yet ruled on the CFPB'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

³⁸ Additional activity has occurred with this matter since the end of this reporting period. More information can be found at <https://www.consumerfinance.gov/enforcement/actions/access-funding-llc-access-holding-llc-reliance-funding-llc-lee-jundanian-raffi-boghosian-michael-borkowski-charles-smith/>.

defendants' motion in part, holding that interlocutory appeal was justified with respect to defendants' constitutional challenge to the CFPB'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. Mmichin*, which is now captioned, *Collins v. Yellen*, No. 19-422. The Supreme Court issued its opinion in *Collins* on June 23, 2021, finding that the structure of the FHFA was unconstitutional. On June 21, 2021, the Fifth Circuit directed the parties to file supplemental briefing addressing the impact of the *Collins* decision on the present matter. Supplemental briefing was completed on September 8, 2021, and a supplemental *en banc* argument was held on January 19, 2022. As of the end of the reporting period, the case remained pending in the Fifth Circuit.³⁹

- *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 CFPB filed a notice of charges against an online lender, Integrity Advance, LLC, and its CEO, James R. Carnes. The notice alleges that Integrity Advance and Carnes 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 notice also alleges that the company unfairly used remotely created checks to debit consumers' bank accounts even after the consumers revoked authorization for automatic withdrawals. 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 CFPB'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

³⁹ Additional activity has occurred with this matter since the end of this reporting period. More information can be found at <https://www.consumerfinance.gov/enforcement/actions/all-american-check-cashng-inc-mid-state-finance-inc-db-lunify-check-advance-and-michael-gray/>.

motions for summary disposition, on August 4, 2020, the Administrative Law Judge issued a Recommended Decision finding in the CFPB'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 issued a Decision and Final Order, affirming in part and reversing 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 CFPB's designated transfer date. On February 10, 2021, Integrity Advance filed a petition for review in the Tenth Circuit. On May 19, 2021, the CFPB filed a petition to enforce the CFPB Director's order in United States District Court for the Northern District of Kansas. The district court granted the CFPB's petition on July 30, 2021 and entered judgment for \$38,453,341.62 in restitution against Integrity Advance and Carnes, and a civil money penalty of \$7.5 million against Integrity and \$5 million against Carnes. The CFPB is currently pursuing asset discovery against Carnes in order to satisfy the judgment. As of the end of the reporting period, the petition for review of the Director's order remained pending on appeal.⁴⁰

- *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 CFPB filed a complaint against Global Financial Support, Inc., which operated under the names Student Financial Resource Center and College Financial Advisory, and Armond Aria. As alleged in the February 16, 2021 amended complaint, the defendants issued deceptive marketing letters that created the false impression that the company would provide financial aid or apply for financial aid on students' behalf and conduct extensive searches to target or match them with individualized financial aid opportunities. The CFPB also alleges that Global Financial Support, Inc. misrepresented defendants' affiliation with government and university financial aid offices, and that the defendants pressured consumers to enroll through deceptive statements suggesting that failure to fill out the company's form and pay its fee before a specified deadline would jeopardize students' ability to obtain financial aid. The CFPB also alleges that the company failed to provide required privacy notices in violation of Regulation P. A stay was entered by the court on May 17, 2016,

⁴⁰ Additional activity has occurred with this matter since the end of this reporting period. More information can be found at <https://www.consumerfinance.gov/enforcement/actions/integrity-advance/>.

pending an ongoing criminal proceeding involving one of the defendants. The court lifted the stay on May 27, 2019. On August 24, 2020, the CFPB moved for default judgment against the corporate defendants and for partial summary judgment against the individual defendant. On January 25, 2021, the court granted the CFPB's motion for default judgment in full and the CFPB's motion for summary judgment in part. The court also 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. Individual defendant Armond Aria filed an appeal with the Ninth Circuit on May 19, 2021. 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 CFPB filed a complaint against Nationwide Biweekly Administration, Inc., Loan Payment Administration LLC, and Daniel S. Lipsky. The CFPB alleged the defendants engaged in abusive and deceptive acts and practices in violation of the CFPB and the TSR regarding a mortgage payment product known as the "Interest Minimizer Program," or IM Program. The CFPB 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 CFPB 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 CFPB and TSR. The court imposed a \$7.93 million civil money penalty but denied the CFPB'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 CFPB 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). The case remains on appeal to the U.S. Court of Appeals for the Ninth Circuit.

- *Consumer Financial Protection Bureau v. Universal Debt & Payment Solutions, LLC, et al.* (N.D. Ga. No. 15-cv-0859). On March 26, 2015, the CFPB filed a lawsuit against a group of seven debt collection agencies and six individual debt collectors, four payment processors and individual sales organizations, and a telephone marketing service provider alleging unlawful conduct related to a phantom debt collection operation. Phantom debt is debt that consumers do not actually owe or debt that is not payable to those attempting to collect it. The CFPB alleges that the individuals, acting through a network of corporate entities, used threats and harassment to collect phantom debt from consumers. The CFPB alleges the defendants violated the FDCPA and the CFPA's prohibition on unfair and deceptive acts and practices and substantial assistance to unfair or deceptive conduct. On April 7, 2015, the CFPB obtained a preliminary injunction against the debt collectors that froze their assets and enjoined their unlawful conduct. On August 25, 2017, as a discovery sanction against the CFPB, the court dismissed the CFPB's claims against the payment processors and the telephone marketing service provider: Frontline Processing Corp., Global Payments, Inc., Pathfinder Payment Solutions, Inc., Francis David Corp. d/b/a/ Electronic Merchant Systems, and Global Connect, LLC. Five of the seven corporate debt collectors defaulted and the CFPB voluntarily dismissed one individual defendant, Varinderjit Bagga. On March 21, 2019, the court granted the CFPB's motion for summary judgment on all its claims against four individual debt collectors, Marcus Brown, Mohan Bagga, Sarita Brown, and Tasha Pratcher, and against the non-defaulted corporate debt collector WNY Account Solutions, LLC. The court further granted the CFPB's motion as to one of its claims against the other individual debt collector defendant, Sumant Khan, but denied summary judgment on the remaining claims. The court also denied the CFPB's motion for summary judgment against the other non-defaulted corporate debt collector S Payment Processing Solutions, LLC. Lastly, the court denied the latter two defendants' motions for summary judgment against the CFPB.

On August 21, 2019, the court entered a stipulated final judgment and order against Sumant Khan and S Payment Processing Solutions, LLC. Among other things, the stipulated judgment and order requires the settling defendants to transfer all the funds in their various bank accounts to the CFPB in partial satisfaction of a judgment of equitable monetary relief and damages in the amount of \$633,710, which is partially suspended based on inability to pay. The stipulated judgment and order permanently bans the settling defendants from engaging in debt collection activities and prohibits them from making certain misrepresentations. On November 15, 2019, the court entered a stipulated final

judgment and order against Mohan Bagga. Among other things, the stipulated judgment and order imposes a suspended judgment against Bagga of equitable monetary relief and damages in the amount of \$5,261,484, orders him to pay a \$1 civil money penalty, permanently bans him from engaging in debt collection activities, and prohibits him from making certain misrepresentations. The suspension of the judgment and the \$1 civil money penalty are based on his inability to pay. On February 19, 2020, the court appointed a receiver to, among other things, identify and conserve frozen assets of certain defendants for future potential consumer redress. On December 15, 2020, the court entered a stipulated final judgment and order against Tasha Pratcher. Among other things, the stipulated judgment and order imposes a \$300,000 judgment against Pratcher for monetary relief and damages, which amount is suspended upon her payment of \$2,500 and turnover of assets, orders her to pay a \$1 civil money penalty, permanently bans her from engaging in debt collection activities, and prohibits her from making certain misrepresentations.

On October 20, 2021, the court entered a permanent injunction and final judgment against Marcus Brown, Sarita Brown, and WNY Account Solutions, LLC and a default judgment against the five corporate debt collectors—Check & Credit Recovery, LLC, Credit Power, LLC, Universal Debt & Payment Solutions, LLC, Universal Debt Solutions, LLC, and WNY Solutions Group, LLC—which had previously defaulted. These orders impose judgments for monetary relief against Marcus Brown, Sarita Brown, WNY Account Solutions, LLC, and the defaulted defendants, joint and severally, in the amount of \$5,183,947.71 and require them to pay civil money penalties totaling \$2,016,000. The orders also permanently ban them from engaging in debt collection activities, prohibit them from making certain misrepresentations, and prohibit them from using consumer information they obtained during the course of the debt collection scheme. On December 17, 2021, the CFPB filed a notice of appeal of the court's August 25, 2017 order dismissing its claims against the payment processors and the telephone marketing services provider, and the parties have completed briefing on the appeal. 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 CFPB 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 CFPB 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 CFPB 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, Seams, 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, Seams, 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 Seams 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, Seams, and Stafford filed an appeal with the Seventh Circuit on December 4, 2019. On July 23, 2021, the Seventh Circuit affirmed the district court's rulings that defendants violated Regulation O, vacated the remedial order, and remanded to the district court for further proceedings on remedies. On December 16, 2021, the district court ordered the parties to file briefs on appropriate remedies based on the Seventh Circuit's opinion, which issue remained pending as of the end of the reporting period.⁴¹ The case remains pending.

- *Consumer Financial Protection Bureau v. CashCall, Inc.; WS Funding, LLC; Delbert Services Corporation; and J. Paul Reddam (C.D. Cal. No. 15-cv-7522)*. On December 16, 2013, the CFPB filed a complaint against online lender CashCall Inc.; its owner J. Paul Reddam; WS Funding, LLC, a subsidiary; and Delbert Services Corporation, an affiliate.

⁴¹ Additional activity has occurred with this matter since the end of this reporting period. More information can be found at <https://www.consumerfinance.gov/enforcement/actions/mortgage-law-group-and-consumer-first-legal-group-dba-law-firm-of-macey-aleman-and-seams-consumer-first-legal-group-llc-thomas-g-macey-jeffrey-i-aleman-jason-seams-harold-s-stafford/>.

The CFPB's amended complaint, filed on March 21, 2014, alleged that the defendants violated the CFPB's prohibition against unfair, deceptive, and abusive acts and practices by collecting and attempting to collect consumer-installment loans that were void or uncollectible because they violated either state caps on interest rates or state licensing requirements for lenders. The complaint alleged that CashCall serviced loans it made in the name of an entity, Western Sky, which was located on the Cheyenne River Sioux Tribe's land. The case was transferred to the Central District of California, where defendants were based, on September 23, 2015. On August 31, 2016, the court granted the CFPB's motion for partial summary judgment, concluding that the choice-of-law provision in the loan agreements was not enforceable and that the law of the borrowers' states applied, resulting in the loans being void or uncollectable. 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 two-day trial was held in October 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 CFPB's request for restitution and an injunction. The CFPB and the defendants appealed. Oral argument was heard on September 9, 2019. After the Supreme Court decided *Seila Law LLC v. Consumer Financial Protection Bureau*, No. 19-7 (cert. granted Oct. 18, 2019), and the Ninth Circuit decided that case on remand, the court in this case invited supplemental briefing, which concluded in April 2021. The Ninth Circuit heard oral argument on the supplemental briefing on September 23, 2021, and took the appeal under submission, which was pending as of the end of the reporting period.⁴²

⁴² Additional activity has occurred with this matter since the end of this reporting period. More information can be found at <https://www.consumerfinance.gov/enforcement/actions/cashcall-inc.-ws-funding-and-delbert-services/>.

3.2 Actions taken regarding rules, orders, and supervisory and enforcement actions with respect to covered persons which are not credit unions or depository institutions

The CFPB's *Supervisory Highlights* publications provide general information about the CFPB's supervisory activities at banks and nonbanks without identifying specific companies. The CFPB published two issues of *Supervisory Highlights* between October 1, 2021, and March 31, 2022.⁴³

All public enforcement actions are listed in Section 5.1 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.

⁴³ Supervisory Highlights, Issue 25, Fall 2021, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-25_2021-12.pdf; Supervisory Highlights, Issue 26, Spring 2022, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-26_2022-04.pdf.

4. State Consumer Financial Law

For purposes of the Section 1016(c)(7) reporting requirement, the CFPB has determined that any actions asserting claims pursuant to Section 1042 of the Dodd-Frank Act are “significant.”

4.1 Assessment of significant actions by state attorneys general and state regulators relating to federal consumer financial law

The CFPB is aware of the following developments in pending State attorney general and regulatory actions asserting Dodd-Frank Act claims during the October 1, 2021 through March 31, 2022 reporting period.

- *Consumer Financial Protection Bureau; Commonwealth of Massachusetts; The People of the State 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 CFPB 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 CFPB 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 CFPB and states allege that Libre and its owners engaged in deceptive and abusive acts or practices in violation of the Consumer Financial Protection Act (CFPA), and that Nexus Services and Libre’s owners provided substantial assistance to Libre’s violations. The CFPB 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, which was denied on March 22, 2022. The case remains pending.

- *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, Pinnacle Location Services, and Orchard Payment Processing Systems); ROC Asset Solutions LLC (dba API Recovery Solutions and Northern Information Services); Regency One Capital LLC; Keystone Recovery Group, LLC; Bluestreet Asset Partners, Inc.; Christopher L. Di Re; Scott A. Croce; Brian J. Koziel; Marc D. Gracie; and Susan A. Croce (W.D.N.Y. 1:20-cv-01217)*. On September 8, 2020, the CFPB, in partnership with the New York Attorney General, filed suit 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. As set forth in the amended complaint filed on December 20, 2021, 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; Keystone Recovery Group; and Blue Street Asset Partners, Inc. The individual defendants are Christopher Di Re, Scott Croce, and Susan 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. Susan Croce is also a relief defendant. The complaint alleged 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 Fair Debt Collection Practices Act (FDCPA) and the CFPA. The complaint seeks consumer redress, disgorgement of ill-gotten gains, civil money penalties, and appropriate injunctive relief against the defendants. As of the end of the reporting period, the case remained pending.⁴⁴
- *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 CFPB 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

⁴⁴ Additional activity has occurred with this matter since the end of this reporting period. More information can be found here <https://www.consumerfinance.gov/enforcement/actions/jpl-recovery-solutions-llc-et-al/>.

\$23 million in fees from consumers. The CFPB 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 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, which the court denied on August 10, 2021. On September 9, 2021, the defendants moved for reconsideration of the order denying the motion to dismiss. On September 23, 2021, the defendants answered the amended complaint. On September 9, 2021, the defendants moved for reconsideration of the order denying the motion to dismiss, which the court denied on October 13, 2021. The case remains pending.

5. Fair Lending

Congress charged the CFPB's Office of Fair Lending and Equal Opportunity (Fair Lending) with "providing oversight and enforcement of federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities" that are enforced by the CFPB.⁴⁵ This Semi-Annual Report update provides highlights from the CFPB's fair lending-related activities from October 1, 2021 through March 31, 2022.

5.1 An analysis of efforts to fulfill the fair lending mission of the CFPB

Fair lending supervision and enforcement

Fair lending supervision

The CFPB assesses compliance with federal fair lending consumer financial laws at banks and nonbanks over which the CFPB has supervisory authority. To fulfill its fair lending mission during this reporting period, the CFPB initiated 21 supervisory activities onsite at financial services institutions under the CFPB's jurisdiction to determine compliance with federal laws, including the Equal Credit Opportunity Act (ECOA), the Home Mortgage Disclosure Act (HMDA), and the prohibition against unfair, deceptive, or abusive acts and practices (UDAAPs).

For supervisory communications issued by the Office of Supervision during the reporting period, the most frequently identified issues related to the CFPB's review of mortgage origination underwriting policies and guidelines, especially with respect to underwriting policies that exclude lending relating to properties in certain locations or geographies.

During this reporting period, the CFPB examiners 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 CFPB through follow-up supervisory events. Examiners encouraged lenders to enhance oversight and identification of fair lending risk and to implement policies, procedures, and controls designed to effectively manage HMDA activities, including regarding integrity of data collection.

⁴⁵ Dodd-Frank Act, § 1013(c)(2)(A).

Fair lending enforcement

Congress authorized the CFPB to enforce ECOA, HMDA, and the prohibitions against UDAAPs under Title X of the Dodd Frank Act. The CFPB engages in research, conducts investigations, and, where appropriate, takes public enforcement actions for violations of fair lending laws under the CFPB's jurisdiction. Like other federal agencies responsible for enforcing ECOA, the CFPB is required to refer matters to DOJ when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.⁴⁶ During this reporting period, the CFPB referred three matters regarding a pattern or practice of lending discrimination to the DOJ pursuant to Section 706(g) of ECOA.

The CFPB announced two fair lending-related enforcement actions during the reporting period against Trustmark National Bank (Trustmark) and JPay, LLC (JPay). These actions were brought under ECOA as well as other federal consumer financial laws that protect consumers and ensure fair access to credit, including the Consumer Financial Protection Act of 2010 (CFPA) and the Electronic Fund Transfer Act (EFTA). For more information, please refer to Section 5.1 of this report.

Fair lending guidance

For more information, refer to Section 1.2 of this report.

Fair lending rulemaking

In Fall of 2021, the CFPB issued a Notice of Proposed Rulemaking (NPRM) on Section 1071 of the Dodd-Frank Act ("section 1071") to collect small business lending data and participated in interagency rulemaking to improve quality control standards for automated valuation models (AVM), including outlining options for review to ensure that computer models used to help determine home valuations are accurate and fair. For more information pertaining to these rulemakings, please see section 3 of this report.

Interagency fair lending coordination

During the reporting period, the CFPB coordinated its fair lending regulatory, supervisory, and enforcement activities with other federal agencies and state regulators and enforcement agencies to promote consistent, efficient, and effective enforcement of federal fair lending laws.

⁴⁶ See 15 U.S.C. § 1691e(g).

The CFPB, along with the FTC, U.S. Department of Housing and Urban Development (HUD), FDIC, Federal Reserve Board (FRB), National Credit Union Administration (NCUA), OCC, DOJ, and Federal Housing Finance Agency (FHFA), constitute the Interagency Task Force on Fair Lending. This Task Force meets regularly to discuss fair lending enforcement efforts, share current methods of conducting supervisory and enforcement fair lending activities, and coordinate fair lending policies. The FDIC is currently the Chair of this Task Force.

The CFPB 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 CFPB also participates with other agencies on issues of bias in home appraisals through the Property Appraisal and Valuation Equity (PAVE) Task Force. On March 23, 2022, the PAVE Task Force issued a report, *Action Plan to Advance Property Appraisal and Valuation Equity: Closing the Racial Wealth Gap by Addressing Mis-valuations for Families and Communities of Color*.⁴⁷ The report outlines the historical role of racism in the valuation of property, examines the various forms of bias that can appear in residential property valuation practices, and describes how government and industry stakeholders will advance equity through concrete actions and recommendations. Aside from its involvement in PAVE, the CFPB is actively working with its interagency partners on issues of bias in home appraisals.

In February 2022, the CFPB, along with HUD, FRB, DOJ, OCC, FDIC, NCUA, and FHFA submitted a letter to the Appraisal Standards Board regarding proposed changes to the 2023 Edition of the Uniform Standards of Professional Appraisal Practice.⁴⁸

The Federal Financial Institutions Examination Council's (FFIEC) Appraisal Subcommittee (ASC), comprised of designees from the CFPB and certain other federal agencies, provides

⁴⁷ "Action Plan to Advance Property Appraisal and Valuation Equity." Interagency Task Force on Property Appraisal and Valuation Equity (PAVE). March 2022. <https://pave.hud.gov/actcomplan>.

⁴⁸ Letter to Michelle Czekalski Bradley." Patrice Alexander Ficklin, Consumer Financial Protection Bureau; Amy Frisk, U.S. Department of Housing and Urban Development; Arthur Lindo, Deputy Director, Division of Supervision and Regulation; Sameena Shina Majeed, U.S. Department of Justice; Donna Murphy, Office of the Comptroller of the Currency; Mark Pearce, Federal Deposit Insurance Corporation; Timothy Segerson, National Credit Union Administration; James Wylie, Federal Housing Finance Agency. February 4, 2022. https://files.consumerfinance.gov/f/documents/cfpb_appraisal_discrimination_federal-interagency_comment_letter_2022-02.pdf.

federal oversight of state appraiser and appraisal management company regulatory programs, and a monitoring framework for the Appraisal Foundation.⁴⁹

Through the FFIEC the CFPB works with other member agencies that focus on fair lending issues. For example, throughout the reporting period, the CFPB has chaired the Home Mortgage Disclosure Act (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, and the development and implementation of other related HMDA processing projects as directed by the Task Force.

Fair lending outreach and education

The CFPB regularly engages in outreach with stakeholders, including consumer advocates, civil rights organizations, industry, academia, and other government agencies to educate or communicate about fair lending issues.

The CFPB achieves its educational objectives through publication of proposed rules, advisory opinions, and interpretive rules; issuance of compliance bulletins and CFPB circulars; policy statements; requests for information; press releases, blog posts, podcasts, videos, brochures, and website updates; and reports regarding fair lending issues. Additionally, CFPB staff deliver speeches, panel remarks, webinars, and presentations addressing fair lending issues; and participate in smaller meetings and discussions with external stakeholders, including federal and state regulators and agencies.

During the reporting period, the CFPB also issued a range of content available to the public and to market participants related to fair lending.⁵⁰

⁴⁹ Additional activity has occurred with this matter since the end of this reporting period. Deputy Director Zixta Martinez became chair of the ASC on April 1, 2022.

⁵⁰ The fair lending and access to credit related blogs, press releases, speeches, and reports are available at [consumerfinance.gov/about-us/newsroom/](https://www.consumerfinance.gov/about-us/newsroom/) and <https://www.consumerfinance.gov/about-us/blog/>.

6. Workforce and Contracting Diversity

The Office of Minority and Women Inclusion (OMWI) is charged with overseeing all matters at CFPB relating to diversity in management, employment, and business activities. OMWI works to develop and foster a diverse and inclusive workforce and workplace culture at CFPB. OMWI's work is informed by best practices in diversity, equity, and inclusion in which employees have equal access to opportunities and are valued for their expertise and authentic perspectives.

6.1 An analysis of CFPB efforts to increase workforce and contracting diversity consistent with procedures established by 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 CFPB launched a new Diversity, Equity, Inclusion, and Accessibility Strategic Plan (DEIA Strategic Plan), FY 2022–2026⁵¹ in March 2022 that guides CFPB's efforts in promoting diversity, equity, inclusion, and accessibility in its workforce. The DEIA Strategic Plan aligns with the CFPB's new overall Strategic Plan FY 2022–2026,⁵² which was released in January 2022.

Objective 4.1 of the CFPB's Strategic Plan commits the CFPB to “cultivate an engaged and informed workforce to maximize talent and development in alignment with the CFPB's mission.” The plan requires the CFPB to achieve this objective with specific strategies, which are:

⁵¹ “Diversity, Equity, Inclusion, and Accessibility (DEIA) Strategic Plan.” Consumer Financial Protection Bureau. June 2, 2022. https://files.consumerfinance.gov/f/documents/cfpb_deia-strategic-plan_report_2022-06.pdf.

⁵² “Consumer Financial Protection Bureau Strategic Plan.” Consumer Financial Protection Bureau. January 2022. <https://www.consumerfinance.gov/about-us/budget-strategy/strategic-plan/>.

- Reinforce human capital policies and programs to help the agency effectively and efficiently manage a talented, engaged, diverse, and inclusive workforce.
- Analyze and mature our learning and development opportunities to develop the new skills, leadership traits, and professional growth required for a modern workforce.
- Foster a positive, innovative work environment that promotes diversity, equity, integrity, inclusion, and trust for all employees.
- Review and redesign the skills and values we want in the CFPB’s employees and enhance our services to enable them to do their best work.
- Maintain comprehensive equal employment opportunity (EEO) compliance and diversity and inclusion programs, including those focused on minority and women inclusion.

In addition, the CFPB’s DEIA Strategic Plan also aligns with Executive Order 14035, *Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce*, released by the White House in June 2021.

6.2 Office of Minority and Women Inclusion

6.2.1 Significant initiatives

Current period:

In October 2021, the CFPB began implementing the Persons with Disabilities Action Plan to begin addressing and eliminating barriers to equal employment opportunity identified for persons with a disability or a targeted disability. The accomplishments and outcomes of the identified actions will be published in the FY 2022 EEO Status Report (MD-715 Report).

On November 22, 2021, the CFPB was one of three agencies highlighted in the White House Domestic Policy Council’s Diversity, Equity, Inclusion, and Accessibility (DEIA) initiative webinar titled “Promising Practices from Agencies.” The CFPB presented on the outstanding work it has done to promote LGBTQ+ equity and inclusion within the CFPB and best practices other agencies can adopt.

In January 2022, the CFPB submitted the CFPB Equity Action Plan to Office of Management and Budget (OMB) in voluntary response to Executive Order 13985 (racial and economic equity). The Plan identifies specific actions CFPB will take to break down barriers to equity and

performance and accountability measures to ensure our goals are met. The Plan is also published on the CFPB's website, consumerfinance.gov.

In March 2022, the CFPB submitted its No FEAR Act Annual Report. In April 2022, the CFPB also submitted its annual EEO Status Report (MD-715 Report) and Office of Minority and Women Inclusion (OMWI) Annual Report to Congress.

The OMWI Director, as the CFPB's Chief Diversity Officer, led the CFPB's voluntary response to Executive Order (EO) 14035 (diversity, equity, inclusion, and accessibility - DEIA). The OMWI Director led a cross-agency team to facilitate the development of a new 5-year DEIA Strategic Plan to guide CFPB's efforts in promoting diversity, equity, inclusion, and accessibility in its workforce, supplier diversity, and work to promote diversity and inclusion in Financial Services. The CFPB submitted the Plan to OMB in March 2022 and published the Plan on the CFPB's public website, consumerfinance.gov.

Upcoming period

In April 2022, the CFPB launched a professional development pilot program in its Supervision Enforcement and Fair Lending (SEFL) division designed to assist employees in administrative positions with skills development and career planning to support advancement beyond their current administrative positions. The goal is to leverage the learnings from the pilot to establish a cross-agency program.

In September 2022, the CFPB will complete mandatory diversity, equity, and inclusion (DEI) training for all CFPB divisions. The training focuses on cultivating inclusive teams and is designed to provide substantive opportunities for discussion, practice, and collaboration within the CFPB workforce. As of June 2022, five of the CFPB's six divisions had completed the training.

6.2.2 An analysis of Bureau efforts to increase workforce and contracting diversity consistent with procedures established by OMWI

As of March 2022, an analysis of the CFPB's current workforce reveals the following key points:

- Women represent 50 percent of the CFPB's workforce in 2022.⁵³
- Minorities (Hispanic, Black, Asian, Native Hawaiian/Other Pacific Islander, American Indian/Alaska Native, and employees of two or more races) represent 43 percent of the CFPB workforce in 2022 with an approximate 1 percent increase from FY 2021.
- As of March 31, 2022, 15.1 percent of CFPB employees on permanent appointments identified as individuals with a disability. Of the permanent workforce, 2.8 percent of employees identified as individuals with a targeted disability. As a result, the CFPB 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 U.S. Equal Employment Opportunity Commission's (EEOC) Section 501 regulation 4.

The CFPB engages in the following activities to increase workforce diversity:

- Staffing:
 - The CFPB had 78 new hires which included 41 (53 percent) women and 28 (36 percent) minorities.⁵⁴
 - The CFPB continues to enhance diversity by recruiting, hiring, and retaining highly qualified individuals from diverse backgrounds to fill positions at the CFPB:
 - The CFPB uses social media platforms like LinkedIn, Twitter, and Facebook to broadly promote vacancies. In addition, the CFPB has been using eQuest, a diversity specific recruitment tool to promote direct outreach to diversity organizations.
 - The CFPB takes steps to mitigate bias in the hiring process, for example by removing applicant names from resumes and other application documents before submitting certain best-qualified lists to selection officials.

⁵³ "Office of Minority and Women Inclusion Annual Report to Congress." Consumer Financial Protection Bureau. March 31, 2022. https://files.consumerfinance.gov/f/documents/cfpb_2021-omwi-annual-report_2022-03.pdf.

⁵⁴ New Hires data are collective over the period from October 1, 2021 to March 31, 2022.

- The CFPB regularly analyzes whether any job qualifications may inadvertently disadvantage individuals who are members of underserved communities.
 - The CFPB's OMWI and OHC collaborate with hiring managers on strategic diversity and inclusion recruitment options.
- The CFPB also utilized other professional development programs, and recruitment efforts directed to reach veterans and applicants with disabilities to assist in the CFPB's workforce needs. In addition, the CFPB recently hired a Selective Placement Program Coordinator who has a focus on expanding outreach to applicants with disabilities and veterans.
- The CFPB's Disability and Accessibility Program Section (DAPS) provides employees and applicants with disabilities access to reasonable accommodations and other accessibility services required to meet the essential functions of their jobs and obtain fair and equitable access to apply and interview for CFPB positions. These efforts support the CFPB's overall efforts to recruit, hire, promote and retain individuals with disabilities as required by the Equal Employment Opportunity Commission's (EEOC) Section 501 regulation.
- Workforce engagement:
 - To promote an inclusive work environment, the CFPB continues to conduct strong engagement with employees and utilizes an integrated approach of education, training, and engagement programs that ensures diversity, equity, inclusion, and non-discrimination concepts are part of the learning curriculum and work environment. Employee resource groups, cultural education programs, employee dialogue sessions, a mentor program, and mandatory DEI training are key components of this effort. Notable examples include: 2022 Unity Day Celebration; Webinars on Personal Pronoun Etiquette; Dialogues on Gender Identity, Colorism, and the Cost of Racism; and Administrative Professionals Day.
 - In January 2022, the CFPB included the integration of racial equity and DEIA principles into the Bureau Strategic Plan and the CFPB's divisional biannual performance review (BPR) process to facilitate greater management commitment and accountability on equity and inclusion. DEIA was also included as a focus for all divisions during the Spring BPR sessions.

- In March 2022, the CFPB adopted a new DEIA Strategic Plan that includes actions on workplace inclusion and employee engagement to facilitate an inclusive, equitable work environment.

6.2.3 Increasing contracting diversity

In addition to the mandates in Section 342(b)(2)(B) of the Dodd-Frank Act, Goal 4 of the CFPB's DEIA Strategic Plan describes the efforts the CFPB takes to increase contracting opportunities for diverse businesses including Minority- and Women-owned Businesses (MWOBs). The CFPB's OMWI and Procurement offices collectively work to increase procurement opportunities for participation by MWOBs.

6.2.3.a Outreach to contractors

The CFPB promotes opportunities for the participation of small and large MWOBs by:

- Actively engaging CFPB business units with MWOB contractors throughout the acquisition cycle.
- During the reporting period, OMWI and the Office of Procurement held technical assistance events virtually due to COVID-19 restrictions. In fiscal year 2022, OMWI provided technical assistance to approximately 125 MWOBs and added over 150 vendors to its MWOB database. Attendance remained consistent at around 100 registrants and 55 attendees per session. These events included expert advice directly from CFPB procurement and program office professionals. The events aimed to align the CFPB's upcoming needs to vendor capabilities in data analytics, management consulting, and legal support services. In coordination with the Office of Procurement, OMWI attended two in-person events in addition to co-hosting two virtual business inclusion events for vendors and internal stakeholders.

In addition:

- OMWI supports program office stakeholders with updated market research and targeted outreach to engage current and potential MWOBs, and by providing suggestions for Divisions on how to incorporate supplier diversity goals into their diversity and inclusion strategic plans.
- OMWI tracks the percentage of contract dollars spent with MWOBs to advance economic equity. During the first and second quarters of FY 2022, the CFPB's MWOB spend percentage was 31 percent.

- OMWI regularly participates in virtual and in-person national supplier diversity industry days, such as the *31st Annual Government Procurement Conference and Women's Business Enterprise National Council conferences*, that help to foster business partnerships among the federal government, its U.S. prime contractors, and MWOBs.
- As a result of these efforts, 27 percent of the \$96 million in contracts that the CFPB 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 1: DOLLARS SPENT TOWARD MINORITY-OWNED AND WOMEN-OWNED BUSINESSES

Dollars Spent	% of Total	MWOB Category
\$14,304,967	18.2%	Women Owned
\$2,118,882	2.7%	Black/African American
\$1,066,360	1.4%	American Indian/Alaskan Native
\$12,810,098	16.3%	Asian/Pacific Islander American
\$2,039,658	2.6%	Hispanic American

6.2.4 Diversity within the Bureau contractors' workforces

The CFPB requires its contractors and sub-contractors to report their diversity and inclusion data through the Good Faith Effort (GFE) contract requirement. During the reporting period, the CFPB collected GFE compliance data from contractors, providing an opportunity for contractors to demonstrate their efforts to address the six evaluation criteria: 1) Diversity Strategy; 2) Diversity Policies; 3) Recruitment; 4) Succession Planning; 5) Outreach; and 6) Supplier – Subcontractor Diversity. OMWI continues to maximize technical assistance to CFPB contractors throughout this process. During the reporting period the data collection form associated with the Good Faith Effort was broadened to allow for greater customization for Small Businesses. The modified form is awaiting OMB approval.

6.2.5 Assessing diversity of regulated entities

Per Section 342 (b) (2) (c) of the Dodd-Frank Act and Goal 5 of the CFPB's DEIA Strategic Plan, the CFPB continues to collect voluntarily submitted diversity and inclusion assessments from regulated entities. During the reporting period, the CFPB engaged in analysis of public diversity and inclusion data of regulated entities to gain a better understanding of diversity and inclusion within the financial services sector and compiled a report to share its findings. The *Diversity and Inclusion within Financial Services* report was published in January 2022. In addition, the CFPB continued its research of publicly available information related to corporate commitments designed to combat racial inequity. The CFPB followed press updates from institutions on their progress towards meeting these commitments and any new developments.

As part of ongoing the CFPB's self-assessment data collection efforts, the OMWI sent data calls to approximately 1,300 institutions and invited them to submit a diversity self-assessment. The OMWI also met directly with several financial institutions to learn more about their internal programming. These meetings have informed the OMWI about innovative initiatives that institutions have engaged in to address racial inequity within their organizations as well as in the communities they serve. The OMWI continues to welcome institutions to meet to discuss their diversity and inclusion initiatives including opportunities and challenges. The CFPB will continue to follow industry developments related to these initiatives and commitments. The CFPB will also continue its outreach to increase awareness and to encourage voluntary submission of the Diversity and Inclusion self-assessment.

7. Budget

7.1 Justification of the budget request for the previous year

The CFPB's Annual Performance Plan and Report and Budget Overview includes estimates of the resources needed for the CFPB to carry out its mission.⁵⁵ The document also describes the CFPB's performance goals and accomplishments, supporting the CFPB's long-term strategic plan.

7.1.1 Fiscal year (FY) 2022 spending through the end of the second quarter of the FY

As of March 31, 2022, the end of the second quarter of FY 2022, the CFPB had spent approximately \$365.7 million⁵⁶ in FY 2022 funds to carry out the authorities of the CFPB under federal consumer financial law, including approximately \$193.0 million for employee compensation and benefits.⁵⁷ There were 1,604 CFPB employees on board at the end of the second quarter.⁵⁸

TABLE 2: FY 2022 SPENDING BY EXPENSE CATEGORY

Expense Category	Fiscal Year 2022
Personnel Compensation	\$135,685,000

⁵⁵ "Budget and Performance." Consumer Financial Protection Bureau. <https://www.consumerfinance.gov/about-us/budget-strategy/budget-and-performance>.

⁵⁶ This amount includes commitments and obligations. A commitment is a reservation of funds related to an authorized procurement action; 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.

⁵⁷ The CFPB's operations are funded principally by transfers made by the Board of Governors of the Federal Reserve System (Board) from the combined earnings of the Federal Reserve System, up to the limits set forth in the Dodd-Frank Act. The CFPB Director requests transfers from the Board in amounts that they have determined are reasonably necessary to carry out the CFPB's mission within the limits set forth in the Dodd-Frank Act. Transfers from the Board were capped at \$717.5 million in FY 2021 and are capped at \$734.0 million in FY 2022 and \$750.9 million in FY 2023. Funds transferred from the Board are deposited into the Consumer Financial Protection Bureau Fund (Bureau Fund) at the Federal Reserve Bank of New York.

⁵⁸ This figure reflects the employees on board during pay-period 06 of calendar year 2022.

Benefit Compensation	\$57,239,000
Benefit Compensation – Former Employees	\$31,000
Travel	\$48,000
Transportation of Things	\$80,000
Rents, Communications, Utilities & Misc.	\$9,081,000
Printing and Reproduction	\$2,489,000
Other Contractual Services	\$140,994,000
Supplies & Materials	\$4,799,000
Equipment	\$15,208,000
Total (as of March 31, 2022)	\$365,654,000

7.1.2 FY 2022 fund transfers received from the Federal Reserve System

The CFPB 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, 2022, the CFPB had received the FY 2022 transfers listed in Table 2 below.⁵⁹

TABLE 3: FUND TRANSFERS

Date	Funds Transferred
October 01, 2021	\$235.0M
January 04, 2022	\$276.0M
Total	\$511.0M

⁵⁹ Current year spending in excess of funds received is funded from the prior year's unobligated balance.

Additional information about the CFPB's finances, including information about the CFPB's Civil Penalty Fund and Bureau-Administered Redress programs, is available online in the annual financial reports.⁶⁰

Copies of the CFPB's quarterly funds transfer requests are available online.⁶¹

⁶⁰ "Financial Reports." Consumer Financial Protection Bureau. <https://www.consumerfinance.gov/about-us/budget-strategy/financial-reports/>.

⁶¹ "Funds Transfer Requests." Consumer Financial Protection Bureau. <https://www.consumerfinance.gov/about-us/budget-strategy/funds-transfer-requests/>.

8. Appendix A

8.1 2021 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 operated by the State Regulatory Registry LLC (SRR), a wholly owned subsidiary of the Conference of State Bank Supervisors (CSBS), as a contractor for the Bureau. 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 2021.

While administering the SAFE Act during 2021, 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, 2021, there were approximately 390,708 active federally registered MLOs in the NMLS&R.

In February 2021, Bureau staff virtually attended the 2021 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 2021, the Bureau received approximately 22 inquiries concerning the SAFE Act through its "Regulations Inquiries" 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 115 emails in 2021, 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 2021, 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, as implemented in Regulation H. The NMLS&R continues to collect and maintain the information required by the SAFE Act, as implemented in Regulations G and H. 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.

The Bureau is litigating an enforcement action that alleges that Connecticut mortgage company, 1st Alliance Lending, LLC, violated Regulation Z by using unlicensed employees to engage in mortgage-origination activities that required them to be licensed under the SAFE Act, its implementing regulations, and State SAFE Act implementing law. On March 31, 2022, the United States District Court for the District of Connecticut denied 1st Alliance's motion to dismiss this claim finding that the requirement, for loan originator organizations to ensure that their loan originators are licensed as required by state and federal law, is clearly authorized by TILA.

All bank and non-bank mortgage origination exams conducted by the Bureau in 2021 included a review for compliance with the SAFE Act. Examiners tested for accurate licensing and registration as well as related policies and procedures.

During 2021, 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 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.