

**CONSUMER PROTECTION: PROTECTING WORKERS'
MONEY AND FIGHTING FOR THE DIGNITY
OF WORK**

HEARING
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

ON

PROTECTING WORKERS' MONEY AND FIGHTING FOR THE DIGNITY OF
WORK

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C O N T E N T S

WEDNESDAY, DECEMBER 11, 2024

	Page
Opening statement of Chair Brown	1
Prepared statement	34
Opening statements, comments, or prepared statements of:	
Senator Scott	4
Prepared statement	35
WITNESS	
Rohit Chopra, Director, Consumer Financial Protection Bureau	6
Prepared statement	37
Responses to written questions of:	
Senator Scott	39
ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD	
Semi-Annual Report of the Consumer Financial Protection Bureau—Spring 2024	44
Letters and statements submitted regarding the CFPB	131

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WEDNESDAY, DECEMBER 11, 2024

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

The Committee met at 9:45 a.m., via Webex and in room 538, Dirksen Senate Office Building, Hon. Sherrod Brown, Chair of the Committee, presiding.

OPENING STATEMENT OF CHAIR SHERROD BROWN

Chair BROWN. The Committee on Banking, Housing, and Urban Affairs will come to order.

We'll be marking up later today. Attendance is always a problem when there is no bipartisan cooperation on these nominees. So we have delayed it until doing it off the floor today during the afternoon votes.

I want to welcome our two new Members. Senator Schiff from California is joining this Committee. Adam, welcome, and your reputation precedes you of great public service. Senator Kim does not seem to be sitting there, but his does too. And I welcome both of them to the Committee.

When I joined this Committee in 2007, my first month in the Senate, it had a reputation of a bit of a sleepy Committee. Much of Washington seemed to have reached a consensus that Wall Street ought to be left largely to its own devices, that big banks knew best. This Committee was really referred to as the Wall Street Committee, suggesting almost ownership. We know how that turned out.

Less than 2 years later, the economy was in freefall. Banks were collapsing at the end of the Bush administration. Layoff notices, foreclosure warnings were landing in inboxes and mailboxes, ruining lives around the country.

In the wake of the crisis, we passed Dodd-Frank, the Wall Street Reform and Consumer Protection Act. It was the first time in 75 years that we've reined in Wall Street in its reckless obsession with profits at the expense of everyone and everything else.

That law worked. Nearly 15 years later, our banking system is safer. Banks hold more capital and are better prepared to handle a crisis.

Of course, we know Wall Street. Its lobbyists don't give up easy. After we passed Dodd-Frank, one prominent industry lobbyist said, now it's halftime, and they never give up.

Wall Street was true to its word. They immediately went to work trying to roll back and dilute as many of the protections we put in place as possible. When I took over as Chair of this Committee 4 years ago, Washington still called it the Senate Banking Committee or the Wall Street Committee until then, still pretty much a Committee dedicated to protecting Wall Street and the financial industry and fulfilling their lobbyist wish list and particularly tearing down safeguards that protect Americans' money and that protect taxpayers from ever having to bail out Wall Street again.

We changed that. We put the focus on the Committee back where it should be, the people who make this country work. The stock market doesn't drive the economy, workers do. And on the Senate Banking, Housing, and Urban Affairs Committee, we made it our mission to serve them.

That's why we improve public transit around the country for the millions of workers who depend on the bus or the train to go to work. Cleveland is finally replacing railcars that date back to the Reagan administration. Akron Metro got a new maintenance facility. Ohioans in Bryan, Ohio, will have a new Amtrak station.

That's why we came together bipartisanly to crack down on traffickers of deadly fentanyl which devastates working families and their communities in Ohio and across the country. Our law goes after the entire fentanyl supply chain to the chemical suppliers in China to the cartels that traffic the drug from Mexico.

It's why we confirm dedicated talented public servants who can reflect the vibrant diversity of our country and who serve the public. The public, not the financial industry.

That's why we stood up to corporate special interests, whether it's big banks or payday lenders or shady debt collectors.

We had the first ever legislative win against the payday lending lobby, protecting people from exorbitant interest rates that trap Americans far too often in a cycle of debt. We successfully pushed to remove medical debt from people's credit reports, saving them money and protecting them from higher interest rates. Again and again, we stopped corporate interests to try to prevent the CFPB, Director Chopra's bureau, from protecting the public.

We began calling the CEOs of the country's largest Wall Street banks to testify before this Committee and before the American people. Never been done. And we brought the leaders of the biggest financial institution. They hold tremendous power over our economy and over people's lives. Too often that power isn't used wisely.

As important, as effective as Wall Street reform was, surely it was incomplete. We still have an economy where hard work doesn't pay off like it should. For decades, Wall Street has rewarded the companies that squeeze their workers the hardest. When companies raise prices, when they lay people off, when they move jobs overseas, when they bust unions, when they subcontract work to lower-paying companies with fewer benefits, Wall Street analysts, pretty much one chorus, yell, buy, buy, buy.

And look at the result: for almost half a century, productivity has gone up. The stock market has gone up. Executive compensation

has exploded. Profits are up. But workers' wages have been largely flat. It's not always been like that.

When I was growing up, CEO-to-worker pay was about 20 to 1. That was still good money for management, as it should have been. That ratio, not 20 to 1, not 100 to 1, not 200 to 1, that ratio today, 344 to 1, CEOs to pay—average pay.

When the economy fundamentally doesn't reward work while Wall Street continues to rake in profits, not just instead of workers but at the expense of workers, our work is far from over. Some of the most crucial work happening today to hold corporate special interests accountable and level the playing field for the rest of America is with the Consumer Financial Protection Bureau.

The consumer bureau has been among the most successful parts of Wall Street reform. Since 2011, CFPB has returned \$21 billion to 205 million Americans. These are real checks that land in people's mailboxes. Dollars that might mean a little extra breathing room to buy groceries or fill up a tank of gas.

The CFPB has returned more than \$363 million to service men and women and to veterans. That's money that companies took straight from the pockets of people who serve us. And over the next 4 years, the CFPB will be more crucial than ever.

Last time President Trump was in office, his cabinet looked like a Goldman Sachs retreat. He tried to put the CFPB to work for corporations instead of the public. And from what we've seen from his nominees, corporate special interests won't just have a seat at the table this time around, they'll be given free rein and encouraged to rip off workers and consumers. He's opening up our Government to the highest corporate bidders, embodied in billionaire after billionaire after billionaire he's nominated.

It'll be up to you in this room to preserve the CFPB as one place where Americans can go that fight for them. Most people don't have fancy lawyers. They don't have high priced lobbyists. The CFPB is their advocate and their voice. The public servants there fight for the people who make this country work and so must all of us.

This Committee must ready itself for the fights and challenges ahead, rising housing costs, private equity infiltrating more and more of our economy, insurance costs going up, risk building up in the private credit market, new technology that's increasingly being used in our financial system.

All these risks have one thing in common: they have the potential to take money—even more money away from working Americans and funnel it to the same corporate elite that creates more and more and more and more billionaires in this country. Those guys have enough advocates in this town. Our charge, whether in the Senate or out of it, is to look out for workers and put them at the center of everything.

I'm proud of the work we've done together on this Committee.

I want to thank Senator Scott and Senator Crapo, who was my partner, and Senator Toomey, my partner in the past, and all the Members of this Committee on both sides.

I want to thank especially my talented Committee staff, Homer and Beth and Phil and Megan, Elisha and Laura have been with me the entire 10 years I've been Chair or Ranking Member. Sarah,

Jeremy, and Katie in my personal office have also worked diligently for this Committee over the last decade.

And Jeff and Ann and Sunny and John, Mohammad and Shannon and Emily and Ben and Min and Erika and Jonathan, Shanna, Will, Serena, and Sean have made significant contributions during their time on this staff. I want to thank the nondesignated staff, Pat, Lena, and Shelvin and Jason and Sheryl, led by Cameron Ricker, for making this Committee run so smoothly.

I trust Senator Warren to carry on our mission of standing up for working Americans, standing up to corporate interests that hold far too much influence in this town. And they're about to hold a lot more.

That work continues.
Senator Scott.

OPENING STATEMENT OF SENATOR TIM SCOTT

Senator SCOTT. Thank you, Mr. Chairman.

Thank you for your service on this Committee since 2007 and the last several years as the Chair of the Committee. I'll say the cancellation to today's markup really is disappointing and frankly sours the tone. It's another example of the dysfunction and the lack of transparency that is a last gasp of a lame-duck Administration.

But now we turn our attention to Director of the CFPB who also doesn't seem to accept the results of the November election.

As I mentioned earlier, after the November election, a historic win for Republicans and President Trump, which delivered a mandate for this Committee and for this Congress. I sent a letter to each and every Federal agency under the Committee's jurisdiction calling on them to cease all rulemaking.

It is paramount that President Trump can begin his Administration on January 20th with a fresh slate to implement the economic agenda that the American people resoundingly voted for.

And this is not unreasonable. Last month, the prudential regulators, the OCC, the FDIC, the NCUA, and the Federal Reserve agreed with me and committed to pausing rulemaking before the inauguration.

Yet, as we've seen time and time again with Director Chopra, he has ignored these calls and pressed forward with a unilateral partisan agenda.

Many of you have heard my Republican colleagues and I argue that the changes at the CFPB are absolutely necessary, that the agency is unaccountable to Congress.

And Director Chopra seems intent on proving this to be true.

Despite voters' clear message on Election Day, Director Chopra has advanced his agenda at a breakneck speed.

He has issued a final rule expanding the CFPB's own jurisdiction, issued a proposal seeking to upend the fraud prevention industry, has published multiple studies and reports to further his political agenda, and just this week published another rulemaking effort.

The Director has spent years at the CFPB pushing the Biden-Harris administration's partisan messaging on junk fees and seeking a boogiemaster around every corner for the failed economy policies of the Biden administration.

Let me be clear: protecting consumers and building an economy that serves all Americans are principles that guide my work in the Senate. But we can do both without weaponizing our Federal regulators.

Speaking of regulators abusing their authority, the longstanding issue of debanking and Operation Chokepoint have recently resurfaced.

I have focused on this issue for years and the patent inequality it represents for our legal businesses.

I've consistently called out our banking agencies for weaponizing their power and private institutions for bending to the powerful here in Washington.

No legal business should ever be debanked.

This message is something that Director Chopra has latched on to since the election, including direct reference to debanking in his last two rulemakings.

But make no mistake. The Director is not our ally in this fight, and the career bureaucrats of the CFPB are not either.

The Director's recent actions are little more than an attempt to expand the CFPB's jurisdiction and grant the agency more authority to pick winners and losers in the financial services system.

Unelected bureaucrats in Washington, DC, should not be deciding which businesses survive or fail based on their political agendas. All legal businesses should have the opportunity to succeed in America just like every single American.

Washington should be focused on promoting the two greatest tools which can arm all Americans, choice and opportunity.

These were the tools that allowed me as a poor kid in South Carolina to grow up and own my own business and now lead the Republican side of the Senate Banking Committee.

America must continue to be the bedrock of opportunity, and our regulators must work to ensure this every single day. Regulations should provide guardrails, not roadblocks.

I look forward to working with the next Director of the CFPB to increase accountability at the Bureau.

Director Chopra, I look forward to hearing that you will be resigning effective January 20th.

It is unacceptable to have an agency with a budget of almost a billion dollars outside of the appropriations process. And we must find a way to address this issue.

I will end with this, a message of hope. I am hopeful that the next Congress will allow this Committee to return to regular order and pass legislation to increase opportunity for American families and small businesses across our country.

Chair BROWN. Thank you, Senator Scott. There are no election deniers in my party. We accept election results even though President Trump got less than 50 percent of the vote. Hardly a mandate. And as I leave office in 3 weeks, I just hope both parties will stand up to the special interests who too often run this city.

Honorable Rohit Chopra has served as Director of CFPB since October 2021. He worked at the CFPB in its early days serving as Assistant Director and student loan ombudsman shortly after the agency opened its doors. He's also been an FTC Commissioner.

Director Chopra, welcome.

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

Mr. CHOPRA. Thank you, Chairman Brown, Ranking Member Scott, and Members of the Committee. Thank you for inviting me to this hearing regarding the *CFPB Semiannual Report to Congress*.

This is my 27th time testifying before Congress as an Executive branch official and my 10th time before the Senate Banking Committee. And off camera, in my meetings with each of you on both sides of the aisle, I continue to find more and more areas of agreement on how we need to tackle concerns Americans are facing. Let me touch on a few of these.

First is credit card debt. Americans owe roughly \$1.2 trillion in credit card debt and in 2022 alone paid \$130 billion in interest and fees. The CFPB's research has revealed that the credit card market is quite concentrated with a few big players dominating the market. These large behemoths have been able to push up interest rate margins considerably, even when adjusting for broader market interest rate changes. And this increase in margin and lack of competition means that Americans are paying an extra \$25 billion a year compared to 10 years ago. Many borrowers are paying over 30 percent, squeezing their monthly budgets, and small credit unions and community banks offering lower rates find it tougher to compete against the big guys. Further consolidation amongst the biggest players, including one pending mega merger, threatens to jack up rates even further.

The CFPB is taking action to crack down on credit card companies exploiting regulatory loopholes, to make it easier to switch to a new card to ensure consumers can obtain and actually redeem their promised rewards, and more.

But many in Congress are rightfully concerned that the market will not correct on its own. And there is growing bipartisan support for taking action. And in particular, there are proposals to limit annual percentage rates on credit cards on both sides of the aisle. And the incoming Administration has expressed support for an interest rate cap. It will be important for this Committee to ensure that credit cards are a source of credit priced at competitive rates rather than what we see in today's market.

Second is digital surveillance and data privacy at home, at work, and everywhere Americans go. We are exposed every day to stalkers, scammers, and spies due to unchecked digital surveillance across the economy. There is growing bipartisan consensus that we need to do something about all of this intrusive surveillance, and it's critical that this work moves forward.

The CFPB recently proposed a rule on data brokers that would curb access to sensitive financial data by foreign adversaries and others seeking to exploit Americans by spying on their personal information.

Third, account closures and debanking, America's banking and payment system serves as essential infrastructure for our economy and society and an account for a family with a bank, credit union, or digital wallet provider is a necessity. But unfortunately, we have seen too many account closures on questionable grounds.

Over the last few years, the CFPB has been working to make sure that banks and big tech firms are not inappropriately denying households with access to banking and payments. We're especially concerned when funds are frozen or when accounts are closed for reasons not contemplated by Federal law. We are currently engaged in litigation against big Wall Street special interests to defend the agency's authority to investigate when companies unfairly debank customers based on characteristics like religious affiliation.

In addition, we finalized the rule to more closely examine digital payment apps to ensure they're following the law. The CFPB has also proposed a rule that would help to reduce account closures driven by overdraft churning. And we've proposed rules to update Fair Credit Reporting Act regulations to make sure that identity verification algorithms are not leading to improper account closures. We're scrutinizing reputation-based algorithms and artificial intelligence so they are not weaponized in ways that block people from banking. We will continue to defend consumers' rights and to hold companies accountable, and it will be critical for Congress to support that work.

Thank you so much, and I look forward to your questions.

Senator SCOTT. Thank you, Director.

We'll begin the questioning with Senator Smith of Minnesota.

Senator SMITH. Thank you, Mr. Chair, and thank you, Ranking Member Scott.

Mr. Chair, I just want to take a moment to thank you for your leadership on this Committee. You have never lost focus on the importance of this Committee on issues that often haven't gotten a lot of attention.

And particularly, I want to mention the importance of housing as part of the mandate of this Committee. You have brought that back. I believe that focusing on housing, addressing housing supply issues, housing affordability is so important to the future of this country. It also, I believe, is a nonpartisan issue. Certainly, it is in my home State of Minnesota.

And I believe incoming Chair Scott that, as we move into 2025, there should be many opportunities for us to work together on issues of housing. I know that I'm really proud of the bipartisan work that I've been able to do with Senator Rounds and Senator Lummis. And I have high hopes that we can find ways cooperating with one another as we look at continuing that, what I consider to be the legacy of Senator Brown.

Director Chopra, I am just really glad to have you here. And as you know, I have used my time on this Committee really focused on how to help regular Americans afford their rent and afford to buy a home. And I, again, as I've just said, don't see this as a partisan issue. It certainly isn't in Minnesota. So I want to thank you and the CFPB for your responsiveness to my concerns around predatory land contracts or contracts for deed.

Colleagues, this is happening all over the country. It's happening in my home State when unscrupulous home sellers pitch these complex contracts to people who just want to realize the dream of home ownership. And too often these contracts are just frankly designed to fail.

Director Chopra, you heard about this when you visited Minnesota this summer. You heard about the consequences to people, families who think that they are on the path to owning their own home when, in fact, they are on a path to financial disaster. Where one missed payment can mean forfeiting all the money that they put into buying a home as well as the place—losing the place they thought was their home.

And we know that these unscrupulous sellers have exploited people based on their religious beliefs. In Minnesota, they've marketed land contracts as an interest-free alternative to a traditional mortgage. And that has clearly exploited the many Somali Muslim immigrants in my home State who are limited from paying interest under the tenets of their faith.

So Director Chopra, I'm hoping that you can talk to me and the rest of the Committee about the actions that the CFPB has taken to stop these abusive practices and what recourse you're seeing for homeowners if they find themselves trapped in one of these predatory contracts.

Mr. CHOPRA. Well, let me say that home ownership is supposed to be a part of the American dream, not something that is supposed to turn into a nightmare. And for many of these predatory land contracts and other types of bizarre arrangements, they are setting people up to fail. In other words, they are getting people to put down big sums of money only to put them in an arrangement where they can claw all of that for themselves, destroying that person's financial life, their family's future, and their neighborhood and community.

We're doing our best to make sure that we can use the existing law to combat all of these predatory practices. But it's not just these land contracts. We're seeing all sorts of set up to fail loans when it comes to housing.

And people are sick and tired of the high costs of housing and being treated the way they're treated. And we really appreciate you for helping us see and learn more about this. And it will continue to be a focus.

Senator SMITH. Well, I appreciate that. And I hope that it will continue to be a focus at the CFPB as we move forward. This is an example of how regular people need somebody in their corner when they are going up against some really powerful institutions that do not have their best interest at heart. So I appreciate that.

I want to just—I just have a couple of minutes—couple of seconds left. I want to just highlight a little bit about what I think the CFPB has done for consumers in this country over the last several years. In your relatively short existence, you have recouped more than \$21 billion to the benefit of over—

Mr. CHOPRA. Billion.

Senator SMITH. Billion, sorry. I misspoke, \$21 billion to the benefit of over 205 million consumer accounts. Just last week, you returned 1.8 billion to consumers that have been scammed by credit repair companies. And that's 50,000 Minnesotans. So these are folks that see an ad on television saying that they can clean up their credit score, and then they end up dialing that 800 number.

And before you know it, they're actually worse off than they were before they pursued that. So I want to just thank the CFPB for

your work for Minnesotans. Colleagues, that has been—each Minnesotan has got back, I understand, over \$400 each on average thanks to the good work of the CFPB.

So there's not a question in there. I'm out of time. But I wanted to just highlight that success. And thank you very much for your work.

Chair BROWN. Thanks, Senator Smith. Senator Scott.

Senator SCOTT. Thank you, sir. Director Chopra, do you have any plans to resign from the CFPB on January 20th?

Mr. CHOPRA. Well, as you know, we serve and are confirmed for a 5-year term. The President can remove us at any time, any day. And we obviously completely respect that right.

Senator SCOTT. In November, the American people voted for a new direction for our country and our economy. The election was a clear mandate rejecting the policies of the Biden administration and calling for a new approach under President Trump.

And one of the reasons why I think that is true is if you look at your opening statement, there's \$1.3 trillion of credit cards around the country. Eighty-three million households have lost on average a little bit over \$1,075 of spending power under the Biden economy. It's \$83 billion of spending power lost every month by an average American family leading to the largest credit card balance in history of our Nation.

That is why when I sent a letter on November the 17th demanding that the CFPB cease all rulemaking activity, the prudential regulators agreed. But you have pressed forward with a final rule and two new proposals since receiving that letter. Can you explain why you're ignoring both my request and the clear mandate of the American people?

Mr. CHOPRA. Well, I don't think it makes sense for the CFPB to be a dead fish. People between Election Day and inauguration, they are still getting scammed. They're still being subjected to questionable account closures.

They're still being the victims of so much wrongdoing. Some of the things that we have proposed recently, including this week initiating a rulemaking process to help survivors of domestic violence and elder abuse is an area where we received bipartisan letters from Congress even urging us to take action. That process will play through, and I hope you can see that consumer protection is really not something that should be something we fight about but something that we guard against together to make sure that people can have a fair marketplace.

Senator SCOTT. I believe that we should do everything in our power to protect the consumers. I think there are a number of agencies at the OCC and others who already have the mandate authority to do so. I certainly look forward to having an opportunity to look at the overall structure of the CFPB and to see how we can make sure that the mission—the primary mission, not the expanding authority, will be fulfilled.

You recently issued a final rule to expand the CFPB's authority to new industry participants. You also repeatedly attempted to change policy through your seat on the FDIC board. As much as you claim to be doing all of this in support of your mission to protect consumers, it seems to be failing.

I've spoken many times about the harmful effects of many of the CFPB's proposals. But recently, we have confirmed that the CFPB is not even doing the basic jobs it was created to do as part of Dodd-Frank which created CFPB. When a bank transitions in assets above a certain threshold, the CFPB legally becomes responsible for direct supervision of compliance with consumer financial activities.

But a report issued just last week about the CFPB's own inspector general reveals that the agency did not complete most of those transitions timely or effectively. So the specific objectives under the current construct of law focused the attention of the CFPB. And within that jurisdiction, there seems to be a breakdown.

A very basic question arises from this report. How can the CFPB continue to claim that it needs more jurisdiction if it's failing to do its current job?

Mr. CHOPRA. Well, that report was initiated by me. I was concerned about how those transitions occurred. Let me share with you that we've shifted our supervision away from many of the banks and toward the biggest nonbanks who touch almost every wallet in our country.

The rule that we put in place does not expand our jurisdiction. We already have enforcement powers. But when it comes to some of these big tech companies and giants who have more power over our digital wallets, we want to make sure that they're following the same laws that apply to small banks and level the playing field.

That is exactly what Congress wanted. And if you're suggesting that we should put more of our resources against smaller banks, I would just forcefully disagree with that.

Senator SCOTT. Obviously, you did mishear what I said. I'm certainly not making that kind of a statement or suggestion. But it is without question that the CFPB's authority continues to expand under your jurisdiction. I believe it has led to—

Mr. CHOPRA. We are not allowed to expand our authority. Only Congress is able to do that.

Senator SCOTT. I wish that was true. We know that's true, but it does not appear that you can follow those rules. Thank you for being here.

Chair BROWN. Director, every time, as you know, workers and consumers are forgotten in financial regulation, hardworking Americans are the ones who pay the price every single time. We saw during the Great Recession where so many Americans lost their homes and their jobs and their savings. Has Wall Street learned its lesson?

Mr. CHOPRA. In some ways, no, and that's the point. We know that they're always going to be driven by pumping up profits and their own bonuses. And that's why we have to make sure that there's some basic rules that protect the entire economy from some of those excesses. It's pretty basic to me.

Chair BROWN. Thank you. Let me ask it a different way, a similar question. If you were replaced by someone that, in your mind and my mind, doesn't have the guts to stand up to the big companies, the big banks that re fleecing the public that end up resulting in what happened 15 years ago, what happens? I mean, should we

trust Wall Street in that situation when Director Chopra is not there?

Mr. CHOPRA. One of the things that I'm really glad the law puts in place is a ban on officials like me from going to sell ourselves to the companies we regulate. We should not have anyone leading regulatory agencies who's there to kiss up to those they're supposed to oversee. We need to make sure that they are enforcing the law and not looking the other way as people across the country are cheated.

Chair BROWN. Well, that revolving door is far too common in this country as you know, and this Government and this city with Members of Congress and with staff, Committee staff, personal staff, agencies like yours. Let me shift to medical debt for a minute.

We've had the credit—we did a couple things—several things, but two notably that I'm particularly proud of. We've started a tradition here where we bring the bank CEOs, six, seven, eight of the largest—CEOs of the largest banks regularly here to answer—to hold them accountable.

We also have done that with credit rating companies as you know. Understanding and focused on medical debt. Medical debt can happen to anyone. It doesn't matter if you do everything right. Anyone can get sick. Anyone can get in a car accident. It has nothing to do with your credit worthiness or at least it shouldn't.

People should not have to deal with damaged credit scores and harassment from debt collectors on top of massive medical bills and navigating a far too complicated health care system. So Director, are medical bills generally accurate?

Mr. CHOPRA. We have found systemic problems with the accuracy of medical bills, particularly ones that are reported on credit reports. There's problems with coding. There is a ping-ponging going on between the insurance company and the provider. Sometimes multiple co-pays or deductibles are being charged. And it is why those items tend to not be predictive of your performance on loans like credit cards and mortgages.

Chair BROWN. So assuming that and you've proven that's the case, what impact do inaccurate medical bills have on consumer credit scores?

Mr. CHOPRA. Well, we've seen scores go down artificially, pushing up the price to borrow for a home. And in some cases, blocking a person from maybe even getting an apartment or a job.

Chair BROWN. And one of the reasons I hear—my colleagues and I see Wall Street fighting hard against your agency and you're fighting for consumers, not corporate America, is a result—it has a lot to do with medical debt. So talk to us in the last minute or so about the rule which would erase medical debt burden for millions of Americans in terms of credit scores.

Mr. CHOPRA. Well, we proposed a rule that would block the reporting of certain medical bills on credit reports to better protect health privacy. Our proposed rule also blocks creditors from securing loans with wheelchairs, prosthetic limbs, and other medical devices. We think that a lot of the rule has already been implemented voluntarily. The three big credit reporting conglomerates have already eliminated much of it and States across the country have also banned it as well.

Chair BROWN. So why the opposition from my Republican colleagues to this rule and from some of corporate America? Why do they think it's a bad idea?

Mr. CHOPRA. I don't want to paint with a broad brush, and many behind closed doors really support it. But I think that there is too many debt collectors who weaponize this data in order to coerce people into paying. I do not know, and we have looked at every single concern.

We want to protect our rural hospitals. We want to protect access to health care and credit. But we think this is a very wise path forward as we continue to look to finalize it.

Chair BROWN. Thank you. Senator Rounds, before I recognize you, thank you for your work with Senator Smith on housing. I wish we could've convinced some others in the Committee to move forward with a number of pieces of legislation that you did with people on our side that would've expanded the housing supply in rural America and elsewhere. So thank you, Senator Rounds.

Senator ROUNDS. Thank you, Mr. Chairman. And I understand that this is probably the last time that we're going to be together on the dais. And I will just say that I have enjoyed the banter, and I have enjoyed our opportunity to visit with one another.

And although we probably disagree on a number of different areas, we've also found some areas of agreement with regard—along with Senator Smith with regard to improving options for home ownership and particularly with regards to areas on Native American reservations and also with regard to rural areas of our country that really do need to have an upgrade in how we provide mortgage services to them.

Chair BROWN. Thank you, Senator Rounds. Thank you.

Senator ROUNDS. So I appreciate that. Thank you. And Mr. Chopra, I would suspect that you and I probably disagree on the vast majority of our philosophical approaches to the regulatory approach that we should have in this country regarding the availability of credit and so forth.

But also, I wish you the best in your next endeavor. And I think there's no question, but you and I both know that you probably won't be here after the 20th of—or the 21st of January. But I wish you well in your next endeavor.

Let me begin by just working my way through some things that I really do have a concern about. I recently sent you a letter with my colleagues, Senators Hagerty and Daines, regarding your proposed mortgage servicing rules. The stated intent of the proposed changes is to assist borrowers who are experiencing difficulty in meeting their financial obligations.

Unfortunately, the proposal will actually, I believe, make this process more cumbersome and confusing by offering a variety of options at different times during the loss mitigation review cycle. Confusion causes delay. It also causes mistakes and inefficiency.

The intent of this rule is meant to be good. But as proposed, I believe it will be ineffective. And I think it will actually be harmful. Regarding this proposal, did the CFPB's actions in this area, did they stem primarily from consumer complaints? Or is this an initiative driven by internal agency priorities?

Mr. CHOPRA. No, this was actually based on discussions with the mortgage industry. We did a look back during the COVID-19 pandemic at various different ways to create flexibilities in the loan modification process and maybe reduce some of the procedural hurdles to give servicers the ability to modify loans, lower costs to do so, but at the same time, preserve consumer protections.

So what we have proposed is really inspired by the learnings from the industry and others about COVID-19 loan mods. I agree with you that you—and I will share with you that your letter with Senator Hagerty and others highlighted some important issues. It is a very complex way that our mortgage servicing ecosystem—

Senator ROUNDS. Well, here's my concern.

Mr. CHOPRA. —and we do need to find ways to streamline it.

Senator ROUNDS. Look, here's where I'm getting at is I really think that when you do this type of a critical rulemaking, I'm really questioning whether or not you had the opportunity or you took the opportunity to really engage with a lot of the stakeholders on this rulemaking. And I'm concerned that a number of them who have been in contact with our offices really don't believe that they were adequately listened to, for lack of a better term, with regard to what the impacts will be.

So I bring it up only because I think this is going to be critical in the next couple of weeks as we look at congressional resolutions of disapproval and so forth. And this is an area where I think there could've been some common ground. But I'm not sure that you are able to do so.

I also want to just touch base. I know there's been a lot of discussion here about medical debt. Six months ago, CFPB proposed a rule prohibiting credit reporting agencies from including medical debt on consumer credit reports.

And although consumers with unpaid medical expenses may see an improved short term credit score, financial institutions will not be able to accurately conduct underwriting practices, something that may create barriers to accessing credit. In particular, what I was concerned with was the folks who are actually making a billing—and it's doctors and so forth, were you able to actually get feedback from them in terms of how they're going to be looking at providing services if they believe that they're not going to get paid in the first place and whether or not those reports are going to be made available to them? Did you get feedback on that? And what was the sense that you got from these physicians?

Mr. CHOPRA. We did. And in fact, when we looked broadly at different practices within the industry, we actually find that many providers, many facilities do not even engage in credit reporting. I think the question sometimes becomes where inasmuch the debt is sold or reassigned, there may be firms that are putting information on credit reports that is badly inaccurate.

So I think we have serious concerns that people are paying debt that they may not even owe in the first place. And there's a broad recognition that medical bills are very different than the application process you go through when it comes to a mortgage, a credit card. Yeah.

Senator ROUNDS. My time is expired. But I just want to say, first of all, thank you, Mr. Chairman, for your service on the Com-

mittee. And I would just say I think that while the intent of this was right, I think the implementation of this may be doing some harm.

And I'm hoping that we'll be able to review this and perhaps make some modifications because while we don't want that debt to ever be misinformed because of the time it takes for insurance companies to pay back and forth and to pick up debt and so forth. I really am concerned that this may do more harm than it does good for some of those individuals that are perhaps looking to get services that physicians may actually decline to provide or suggest they go elsewhere. But with that, Mr. Chairman, thank you.

Chair BROWN. Senator Reed, you're now recognized.

Senator REED. Well, thank you very much, Mr. Chairman. Let me begin by commending you and saluting you for your great leadership here. We all understand you're the Chairman of this Committee because of the generosity of a senior member. That's a joke. You're the Chairman of this Committee because you care deeply about the issues that affect working men and women.

Chair BROWN. Because I have two grandchildren in Rhode Island, I will visit your State even more and to thank you for doing that.

Senator REED. Well, you're welcome. But let me say thank you very much.

Director Chopra, we passed on a bipartisan basis in 2006 the Military Lending Act to protect our men and women in uniform. And everyone on this dais and on Capitol Hill takes pride in everything we do to protect service men and women. What is the role of CFPB in supervision and enforcement, particularly supervision?

Mr. CHOPRA. Well, we are responsible for making sure that law is faithfully administered. Not only do we enforce it, but we also take a look at how banks and nonbank companies are honoring the rights of servicemembers. We know that they must follow for a set of loans a cap—an APR cap. And where we find any violations, including if they insert illegal arbitration clauses in contracts, we can take those companies to court. And we have done so repeatedly.

Senator REED. And approximately how many enforcement actions and how much money is returned to service men and women?

Mr. CHOPRA. I believe it's been hundreds of millions of dollars. I need to get the exact numbers. In many cases, we have taken action against repeat offenders, those who have routinely violated the law. And these consist of firms who have violated this are largely outside of the chartered banking and credit union industry.

Senator REED. And how integral is supervision to enforcement? Can you—

Mr. CHOPRA. Yeah, I think it's—that examination of companies is really what prevents the problems from spreading. When it comes to the Servicemember Civil Relief Act, the Military Lending Act, companies really should be looking to see if they are serving an active duty servicemember and not breaching the law. And I think that supervisory process helps people prevent a lot of the rip offs that may have even happen unintentionally.

Senator REED. There's another issue that we've talked about previously. That's the buy now, pay it later loans which are increasingly popular. And particularly in the holiday shopping season

when people looking toward gifts and stretch their spending as much as possible, can you give us an update on what your agency is doing to ensure that these buy now, pay later loans are consistent with all the rules?

Mr. CHOPRA. Yeah, we don't want—we want to see new types of products and services. But we don't want to see companies exploit loopholes or arbitrage around congressional mandates. So one of the things that we did is we put forth an interpretive rule that will help those buy now/pay later companies understand how the existing law applies to them. We've gotten some very good cooperation and many are looking to be transparent and really serve consumers fairly.

Senator REED. Over the next few weeks, is it possible to publish updated data that shows what you've been able to do to help improve the buy now/pay later process and also available to support additional rulemaking if necessary?

Mr. CHOPRA. Well, unlike banks, the buy now, pay later companies don't put forth regular data. But we are in constant communication with States who license many of them. So I'll look to see what we can do on that front.

Senator REED. Thank you very much. And I want to thank you also, Director. You've done a superb job. Thank you very much.

Mr. CHOPRA. Thank you so much.

Senator REED. Thank you, Mr. Chairman.

Chair BROWN. Thank you, Senator Reed. Senator Tillis of North Carolina.

Senator TILLIS. Thank you, Mr. Chairman and Mr. Chopra. Thank you for coming before the Committee. Mr. Chair, I'd like to seek unanimous consent, that I had some letters expressing in front of the banking industry, Consumer Bankers Association and others, about some of the concerns with the regulatory overreach of Mr. Chopra in his current capacity.

Chair BROWN. No objection. So ordered.

Senator TILLIS. Thank you. Mr. Chair, before I get started, I also want to thank you for the time that we've spent together on the Committee. The Chair and I enjoy a good personal relationship. That includes a couple of jabs from time to time or the weekend. I know that you're moving out of the Senate, but I hope we can keep those missives going. And I also want to welcome Senator Schiff to the Committee.

Mr. Chopra, I want to get right to—I was trying to figure out how I could ask this question. To what extent do you feel comfortable with the cost-benefit assessment on the dozens of regulations that your agency is putting out and imposing on industry and ultimately consumers?

Mr. CHOPRA. Well, what we do is we take very seriously the requirements. And it's subject to quite a bit of scrutiny—

Senator TILLIS. But at the end of the day—let me—

Mr. CHOPRA. —about the—if I could finish. I think—

Senator TILLIS. No, let me use my time. And we'll let the Chair if he wants to let you expand later on. I'm thinking more in terms of if I took your cost-benefit analysis and I brought it to a staff that used to work at Pricewaterhouse and take a look at how extensive that.

Let's say that your cost benefit analysis was not something you're reporting to members on this panel and to Congress but something that would be subjected to the scrutiny of a C-Suite board of directors. I just don't see the cost-benefit analysis rising to a level of quality that I would expect out of a first-year staff at Pricewaterhouse. I don't want you to respond to it here.

But it'd be great if you could submit for the record why you believe that you've produced an analysis of the impact of the cost of these regulations that ultimately are borne by consumers so that we have a better understanding of just what your regulatory overreach was. I know you do a good job of filibustering. So I'm just asking you to get some of that for the record so that I can move on.

But I'd particularly like to get an understanding. Let's just use your cost-benefit analysis. Can you give me an idea over—since you've been leading the agency since 2021, I'd like to get an idea of what in your assessment is the underlying cost of the regs that you've been responsible for putting in place since 2021 for the purposes of the record.

Mr. Chopra, tell me about why I should reject the notion that you may be one of the most polarizing partisan figures to actually assume your role. And I'm going back to McWilliams. I want to go back to the coup.

I want to go back to what I think is you may get the MVP for making financial regulators outside of the Fed the most partisan agencies in my time in watching this. Tell me why I'm wrong. Tell me why the coup with McWilliams was appropriate. And tell me why some of the behaviors in the other financial regulators and your role in influencing them was appropriate and to what end did it serve the American people.

Mr. CHOPRA. Well, all we are doing is trying to discharge the duties under the law. You ask about the FDIC. Chairman McWilliams resigned amid a DOJ investigation. We were clearly—

Senator TILLIS. And so you had no fingerprints on that?

Mr. CHOPRA. Oh, well, certainly, we wanted to make sure that the law which specifies how votes should be counted. We wanted to make sure it was.

Senator TILLIS. Someday in the future—

Mr. CHOPRA. And I think I want to say that—

Senator TILLIS. —I would love, Mr. Chopra, for you to share that table with former Chair McWilliams so that we can have a full-some debate about that because I have a different interpretation of the facts.

Look, Mr. Chopra, I don't like it and I'm told other regulators—I get no joy out of going after witnesses in this or any other Committee. But as somebody who is trying to work across the aisle and as somebody who has taken tough votes that have put Republicans out of their comfort zone with me, I take exception to people who come before this Committee with some sort of a righteous mandate to be absolutely partisan.

If you can give me one examples of where you've actually stepped up and led and made people of your ideology and your party nervous because you were doing the right policy thing, that would be

something. If the Chair will give you time, I'd like to hear from you.

Mr. CHOPRA. Well, certainly, I took a lot of heat from people who share a lot of my views when it comes to banking and debanking. A few years ago, we actually led efforts to stop people, big tech companies and banks, from purposely closing accounts or freezing funds based on people's political speech. And that, to me, was totally inappropriate.

Senator TILLIS. Probably going to have to—

Mr. CHOPRA. We had—

Senator TILLIS. Well, that's fair. But that's sort of a lob at the net. That's—

Mr. CHOPRA. No, it's not. I can keep going and going.

Senator TILLIS. No, I'm saying that of course you did that. That wasn't a—that's a defensible position that I think any reasonable minded Democrat could get behind. But for you to suggest that you didn't start issuing policies, de facto policies with the FDIC in your post at CFPB is a weak argument to me. Thank you, Mr. Chair.

Chair BROWN. Thank you.

Senator WARNER from Virginia is recognized.

Senator WARNER. Well, thank you, Mr. Chairman. Let me first of all just say how much I have enjoyed working with you not only on this Committee but across the—

Chair BROWN. Thank you.

Senator WARNER. We have not always agreed, but we have been able to disagree respectfully, and I think you have done an extraordinary job. I think this body will be lesser, and a whole lot of folks are going to think back about who stood up for folks who don't always get a fair break time and again, and it has been a real honor to work with you. We are going to miss you, obviously going to miss Senator Tester.

Chair BROWN. Thank you, Mark.

Senator WARNER. And I also just have to say my friend, Senator Tillis, we work on a whole lot of stuff together. And, you know, Director, you and I have had disagreements, but I actually think, you know, the record of the CFPB under your tenure, Lord knows it has been attacked a lot. The constitutionality has been attacked a number of times. Again, I am glad the court stood up for the funding mechanism we have.

But I think about some of the things that you have done and what it is actually doing for Americans and Virginians. You know, recently CFPB announced that it was returning about \$1.8 billion to 4 million consumers who have been misled. I can tell you that the Bureau is now in the process of distributing \$55 million back to Virginians. That is money back in your pockets.

I am not sure that those Virginians who are getting those refunds are going to say, "Gosh, that CFPB, that must be some over-the-top partisan entity."

You know, and something you are working on now that, again, I think probably has some opportunity for broad bipartisan, the proposed rule on data brokers. This is something that, again, I don't think there is a Democrat/Republican view.

We looked recently about the—my head has been exploding about the so-called Salt Typhoon and how the telecoms have all

been penetrated by China. They can get all this information. But the truth is, sometimes our adversaries can buy this information from data brokers, and particularly when you are thinking about even members—I think it was Duke came out with a study around getting critical information about our members of the Armed Forces.

Think about, my goodness, their ability to go—also go after those who are not undercover in the intelligence community. Can you share a little bit about how these data brokers—how adversarial countries like China and Russia use our existing rule structure? They are not—they don't have to hack into us. They can actually just use the existing marketplace. And what kind of valuable information is then potentially put at risk?

Mr. CHOPRA. We used to a long time ago think about data breaches, about, you know, hackers getting into your accounts, taking your money. But when you look at Equifax, Anthem, Marriott, it has all been Chinese Communist Party, Chinese People's Liberation Army, other State and non-State actors designing a way to collect information about us for their purposes.

But now you don't even need to hack in sometimes. You just go and buy it. You can also, if you are a stalker, go buy information about the person who is trying to escape you. You can also, as a scammer, buy lists of people who are vulnerable, maybe suffering from cognitive decline, but it is clear that we received a lot of input to make sure that guarding people's privacy from data brokers is increasingly a national security imperative, too.

Senator WARNER. Well, again, I think this is an area that, you know, does fit clearly squarely into consumer financial protection, and I know there is a lot of interest bipartisan-wise, even on legislation, so I hope we will pursue that.

I want to raise one last topic, because it is a topic that my friend, Senator Kennedy, and I have worked on. As somebody who was here and proud to be part of the Dodd-Frank—proud to be part of the portions of Dodd-Frank legislation that were actually bipartisan, Title I and Title II, you know, one of the things that came out of that was FSOC, you know, this notion of creating an entity that looks above the silos.

And, candidly, under both Democrats and Republicans, I don't think FSOC has been what I hoped it was going to be. And this is as much an appeal to the incoming Administration, but Senator Kennedy and I have got a bill. If there was ever a topic that seemed to be made for an FSOC type review, it would be AI and the ability to have AI manipulate the public markets.

I know you don't have much time, but if you could just touch on the importance of FSOC and also this still overhang we have with AI and financial market manipulation.

Mr. CHOPRA. Yeah. I agree. I think what you and Senator Kennedy have put forward, I really worry about disruptions to our treasury markets, which could really dislocate us and have serious effects on our economy.

I think it is true that the Financial Stability Oversight Council, it is good at writing reports, but it has not really been fully exercising how to make sure that these systemic, potentially dangerous systemic events are avoided. So I think we will want to keep work-

ing with you and Senator Kennedy and others to make sure that that—those are not just initials but it is actually doing something to protect our financial system.

Senator WARNER. And, again, thank you, Mr. Chairman. And I know you are good at, like, cutting off when I try to steal that extra 30 seconds, so—

Chair BROWN. Today I would let you go as long as you want, Mark.

Senator WARNER. Thank you, Sherrod.

Chair BROWN. Senator Kennedy from Louisiana is recognized.

Senator KENNEDY. Thank you, Mr. Chairman. Just a point of personal privilege. Sherrod, I have enjoyed working with you, and I wish you well.

Chair BROWN. Thank you, John.

Senator KENNEDY. And I mean that.

Chair BROWN. Thank you.

Senator KENNEDY. I still remember one of our earliest hearings. I was brand new, green as a gourd, and you and Tillis and I got into a Meat Loaf lyrics discussion.

[Laughter.]

Senator KENNEDY. It was one of the highlights of my life.

[Laughter.]

Senator KENNEDY. Mr. Chopra, can the President of the United States fire you?

Mr. CHOPRA. Yes. Of course.

Senator KENNEDY. OK. Have you had any discussions with the new Administration?

Mr. CHOPRA. That is really for you to discuss with them. But, no, we serve at the pleasure of the President.

Senator KENNEDY. OK. Here is one of the things that I have always wondered. Why haven't you taken a look at what our universities have been doing, in terms of tuition?

I was reading a study the other day put out by the New York Fed. It is a little dated. Things have probably gotten worse. But 60 cents of every dollar that our kids borrow has been diverted into higher tuition payments. And universities have gotten more and more and more expensive, so kids borrow more and more and more money, so universities can hire more and more people and raise tuition to pay for it. And that doesn't seem fair to me.

Why haven't you asked your people—or maybe you have and I don't know about it—to take a look at what, if any, nexus there is between this?

Mr. CHOPRA. Yeah. Well, we have found some nexus. When I was a regulator at the CFPB 10 years ago, we actually went after some of these schools. What they were doing, they were jacking—

Senator KENNEDY. You went out to the for-profit schools. I am talking about some of our more prominent universities that clearly keep raising their tuition as kids borrow more money. I am—

Mr. CHOPRA. I agree with you.

Senator KENNEDY. —not talking about for-profit, but I am talking about the not-for-profit universities.

Mr. CHOPRA. I agree. I agree that there are serious problems with how some universities can steer people into loans to borrow more and more and more.

And I think as we think about fixing our student loan system, I don't know if the existing one is one we want to keep, because not only is it burdening a lot of people but it may be creating the incentives for some universities to really be pushing up the costs, and that is actually a bad cycle. And we have seen it. We have seen it a lot with some of the for-profit schools but also some of the non-profits as well.

Senator KENNEDY. We had a former president at LSU who was asking for yet another tuition increase from our legislature. I am paraphrasing now. And a legislator asked him, he said, "How do you determine how much to increase tuition?"

And in a rare moment of candor he said, "I just go out in the parking lot, student parking lot, and count the BMWs."

He is no longer president, by the way, nor should he be.

I just—I mean, I understand President Biden's approach has been to forgive the debt, but it seems to me that at least a partial root of the problem is universities have gotten greedy, and they are—it is costing more. Kids are spending more to learn less.

And the rubber is about to meet the road because kids are just saying now it is not worth going to college. The numbers are declining. At some point, I mean, demand is not completely inelastic. And I sure would like you folks to take a look at that.

Mr. CHOPRA. Well, we will keep doing that, and I will follow up with you directly. I will share with you that we have got to do something for the 40 million people who have student debt, but we also have to make sure there is not another 40 million who are really going to get into too much debt because of this cycle that you have mentioned as well.

Senator KENNEDY. Let me ask you one last question in my 8 seconds. You are on the FDIC Board?

Mr. CHOPRA. Yes, sir.

Senator KENNEDY. How many people from Silicon Valley Bank and Signature Bank went to jail? How many executives did you all put in jail?

Mr. CHOPRA. Well, I can't comment on any investigations, but we are trying our best to—

Senator KENNEDY. No. I am asking how many—it has been a couple of years. How many of them went to jail?

Mr. CHOPRA. If you are worried that there is not enough accountability, I share that worry and we have got to make—

Senator KENNEDY. They stole money. How many of them went to jail? How many did the FDIC—

Mr. CHOPRA. The FDIC can't put them in jail, but the Justice Department has put zero in jail so far.

Senator KENNEDY. Zero.

Mr. CHOPRA. So we are going to make sure that—I can't disclose everything, but it needs to be fully investigated, the role that every individual played.

Senator KENNEDY. Well, you had better hurry, because I think it is unconscionable.

Thank you, Mr. Chairman.

Chair BROWN. Thank you, Senator Kennedy. You know, and you worked on our RECOUP Act, which we had a strong vote here and

couldn't get it moved on the floor because of industry opposition, as you know, by Senator—

Mr. CHOPRA. Mr. Chairman, can I just make one comment?

Chair BROWN. Sure.

Mr. CHOPRA. I will share that it is pretty upsetting when there are large banks or CEOs who are able to get off scot-free even when there is emergency measures. So I just share what many of you have shared with me, that there has to be some basic level of accountability, including for those at the top. And that is—and that is something that I have put as a priority at the CFPB of looking at the individuals, especially when it comes to these repeat offenders, and many of them need to be banned from the industry altogether.

Chair BROWN. Senator Warren from Massachusetts is recognized.

Senator WARREN. Thank you, Mr. Chairman. Mr. Chairman, you have led this Committee as a fierce fighter for consumers, and someone who has pressed all of America to recognize the dignity of work. And I speak for myself and for millions of people across this country to say we are grateful for your leadership. Thank you.

So President Trump spoke to the concerns of millions when he said he would put a 10 percent cap on credit card interest rates. That is the kind of big structural change that will make a big difference to families across America.

Over the last decade, giant credit card companies have jacked up interest rates to historic levels. Average interest rates have nearly doubled from 13 percent back in 2013 to 23 percent in 2024, now the highest on record. Much of that increase has been driven by credit card companies tacking on just a few extra percentage points of interest to pad their profits, to the tune of an average of about \$250 extra straight out of the pockets of every credit card holder in America in just last year alone.

Director Chopra, thank you for being with us today. Just give us a quick summary about what the CFPB has been doing to help Americans struggling under the weight of credit card debt?

Mr. CHOPRA. Well, we have put into place some rules that will stop credit card exploitation of loopholes to the tune of billions of dollars a year in penalty fees, making it—we are going to make it easier to switch. We are going to ensure that people can actually get those rewards they were promised, and so much more.

Senator WARREN. Good. So, Director Chopra, let me ask you, would President-elect Trump's plan to lower interest rates to 10 percent do more to help unrig the credit card market? And if such a cap were enacted, does the CFPB have the expertise and the capacity to enforce that cap?

Mr. CHOPRA. Well, we certainly have the capacity to enforce it. We enforce other types of interest rate caps. And, by the way, Federal law already has an interest rate cap on credit cards offered by credit unions, and that seems to work just fine.

Senator WARREN. All right. And let me just ask, because I had the rest of this, and that is, would a 10 percent cap on credit card interest rates, as the President-elect as proposed, would that help unrig the credit card system and help consumers across the country?

Mr. CHOPRA. Yes.

Senator WARREN. Good. That is a short answer. Do you want to add any more?

Mr. CHOPRA. Well, I think there is room for debate on where to set the number, but certainly we have found that other rate caps have allowed the market to function. But as the market has grown more and more concentrated, and that there is even more mega mergers potentially on the horizon, we need to make sure that those credit card companies aren't coordinating even subtly to jack up rates even higher.

Senator WARREN. OK. And that concentration means less competition—

Mr. CHOPRA. That is right.

Senator WARREN. —for customers.

Mr. CHOPRA. And that is part of—I think that has contributed to these fat margins. We have found that Americans are paying an extra \$25 billion a year compared to 10 years ago, even when controlling for market interest rates.

Senator WARREN. Wow, \$25 billion. So let me ask, when the President-elect takes on the big credit card companies and lowers credit card interest rates to 10 percent, will he have a strong partner at the CFPB?

Mr. CHOPRA. Well, the CFPB will enforce the law as written, and that is exactly what we would do.

Senator WARREN. OK. So I understand that some people on Team Trump are trying to undermine the President-elect. Billionaires who profit off cheating people are begging him to delete the agency. They are asking President-elect Trump to go back on his promise of a 10 percent cap on interest rates and instead put billionaires' profits ahead of the needs of working people.

The CFPB has been in the trenches fighting for working families for over a decade, and so far it has forced Wall Street banks to return over \$20 billion directly to families they cheated. Now, with a single move, President-elect Trump can smash that record, saving American families tens of billions of dollars in interest payments. And, when he does that, he will have a strong partner at the CFPB.

So I just want to say thank you, Director Chopra, for your extraordinary record of service to people all across this country. Thank you for all you have done.

Thank you, Mr. Chairman.

Chair BROWN. Thank you.

Senator Cortez Masto from Nevada is recognized.

Senator CORTEZ MASTO. Thank you, Mr. Chairman. I want to welcome our new Senators, Senator Schiff and Senator Kim, to the Committee. Welcome. Look forward to working with you.

Chairman Brown, I, too, I have to just say a few words about you, my friend. I want to thank you for your years of leadership, your commitment, not only to this Committee but the work that you have done, but most importantly of everything, what you constantly talk about and believe in, which is the dignity of work. I can't stress how much I truly believe in these words.

You said it, and you say it always, that the dignity of work is the belief that hard work should pay off for everyone, no matter who you are, where you live, or what kind of work you do, whether

you punch a clock or swipe a badge, earn a salary or make tips, or raising children or caring for an aging parent, you deserve financial stability. And I couldn't agree more.

Since I joined the Banking Committee, I have been inspired by your fight for the people not just of Ohio but across this country. I am grateful for your leadership, and I have to thank you for everything that you have done. You are leaving an incredibly enduring legacy, and I thank you for that.

Director Chopra, I, too, want to thank you for being here today. We have had many conversations. I have to say, also, just thank you for standing up for Nevadans, you and your entire team. Thank you for defending them against junk fees, high-cost financial products, illegal debt collection, all of the above. Thank you.

I do want to talk to you a little bit about the data broker proposed rule. And last week, as you well know, the Consumer Bureau requested comments from the public for the proposed rule to prevent data brokers from selling sensitive personal data to scammers, stalkers, and spies, and I think we can all agree that it is an important first step here.

Can you talk a little bit, however—I have been hearing from law enforcement in my State and across the country—what responses from law enforcement have you heard as part of the public comment? And how do we find that balance, that what you are trying to do is protect the data and the privacy of individuals today but also give law enforcement still the tools they need to go after the bad guys, those scammers?

Mr. CHOPRA. Yeah. We want to make sure that law enforcement can locate witnesses, suspects, and ultimately discharge their duties to stop crime and fraud. We think many of the things we are doing as part of this will also increase accuracy of these data bases, which will help fight crime even better.

We have not—the notice has not yet been published in the *Federal Register*. It is coming soon. But as part of that process, we are going to hear from all parts of the public, and the law enforcement community will need to share more with us.

We have also heard, though, Senator Cortez Masto, from law enforcement who are concerned that currently data brokers are used to dox, police officers.

We had one tragic situation in New Jersey where the child of a judge was murdered after information was obtained about them through a data broker. We know that these data brokers are also vectors of how crime can be committed, so we want to make sure that we are also preserving those legal pathways for legitimate uses by law enforcement.

Senator CORTEZ MASTO. Thank you. And for purposes of the law enforcement who have reached out to me, you are open to talking with them, hearing from them, working with them, as you move forward with—

Mr. CHOPRA. This is an important issue.

Senator CORTEZ MASTO. I agree as well. The other thing I have to thank you about is the work that the CFPB does to really protect our servicemembers. In your report, you note that the Bureau secured \$363 million in monetary relief from 45 public enforcement actions that involved harm to servicemembers and veterans.

You and I have talked about this. I have been working for a long time with the CFPB. I have seen it in action at Nellis Air Force Base—

Mr. CHOPRA. Yeah.

Senator CORTEZ MASTO. —talking to our servicemembers, figuring out how we get them the information to protect them. I can't thank you enough for the work that you do.

And I have to stress, it is important because without the CFPB doing this, who else is doing it? AGs. But who else, right? And so I would love for you to talk a little bit about how the Bureau's work holding financial institutions accountable for illegal fees, high interest loans, false advertising, and other violations of the Military Lending Act affect our servicemembers and veterans and what the CFPB does to be there as that enforcement.

Mr. CHOPRA. Yeah. During the George W. Bush administration, there was an important report about how financial readiness really contributes to force readiness, and how many people were separating from active duty service because of issues related to debt, how debt collectors were calling commanding officers.

So it is not just the Military Lending Act. It is also other key laws, and we saw how in the financial crisis, the mortgage crisis, those servicemembers who were ordered to move had some of the biggest challenges, and they were the canary in the coal mine for the rest of the population.

Senator CORTEZ MASTO. Yeah. Thank you. Thank you, again, for everything that you have done, to you and your staff.

Mr. CHOPRA. Thank you.

Chair BROWN. Senator Britt of Alabama is recognized.

Senator BRITT. Thank you, Mr. Chairman. Thank you so much for taking time to be here today.

I want to start by just underscoring the need for serious reform at the CFPB. It is something that I have obviously discussed with you, I have been willing to put in writing, and so I just want to take this last hearing to really cement that.

What we have seen over the last 4 years is just I feel a blatant misuse and a politicization of the agencies in ways that I believe it wasn't intended. The CFPB has transformed into a regulatory nightmare for the exact people and businesses that it is supposed to look out for.

When you look at the way it is structured, you have one director, you have no board, you have no votes, and, really, outside of our opportunity to ask you questions in this setting, no real congressional oversight. And when you have just one solo director with nearly unlimited leeway to push his or her own agenda, you know, that is where I have a real issue.

We have seen over the last several years, and we are seeing even, you know, now after the election, that despite a clear repudiation of this Administration's policies from the American people, that the CFPB is the only financial agency that has continued to push out last-second rulemaking. In my opinion, it is unacceptable, and reforming the CFPB should be an immediate—immediate priority for the next Congress.

I also want to note again my serious concern with some of the regulations that have been promulgated under your direction, your

efforts to eliminate medical debt from credit reports, for instance. I know we had a conversation about this, and we talked about the accuracy of those. And I want to make sure that those are accurate.

But we also talked about what this could do to rural hospitals in my State and in States all across the country that are hanging on by a thread. And so taking these things into consideration, not just conversation but really understanding the cumulative impact of the things we are doing, and understanding that the people that you are trying to help this may actually hurt.

Looking at things in a more comprehensive way I think is imperative. And in this instance, in particular, if more of our rural hospitals close their doors, it is going to leave thousands of people without medical care within hours of their home. Or, if you look at your 1071 rule that you and I had a good back and forth on at a previous hearing, the compliance costs alone are literally putting at risk community banks in a multitude of ways.

And so when we look at, you know, how these things affect the big guy, I always talk about, what is the trickle-down effect to Main Street? What is the trickle-down effect to the community bank, the relationship banking that they get to do?

And so I want to make sure that the agency continues to look at those cumulative impacts and how rules like this immediately hurt truly the most vulnerable.

Meanwhile, we have financial fraud issues that are running rampant. Americans are being scammed out of almost \$9 billion per year, and I believe our own Consumer Protection Agency seems to be nowhere to be found. And so I want to talk to you about that and give you an opportunity to maybe show me where you have been doing something.

So when were you confirmed at the CFPB?

Mr. CHOPRA. I believe it was September 30, 2021.

Senator BRITT. I love that you have got the exact date right there. So, per my review of the CFPB's website since that date, you have published 78 of your speeches as director. Do you know how many of those speeches focused on financial frauds and scam education?

Mr. CHOPRA. Scam education?

Senator BRITT. Yes.

Mr. CHOPRA. Well, I don't know how many of them, but certainly we have done so much when it comes to cracking down and combatting fraud. Just last week, Senator Britt, we sent \$38 million to 93,000 Alabamans—

Senator BRITT. I appreciate that.

Mr. CHOPRA. —who were involved in a very harmful scam. And we are also looking upstream at where these scammers can really get some of the key data to perpetrate their crime.

Senator Cortez Masto just asked me about data brokers, where we know people can buy data about older Americans and others who are vulnerable.

Senator BRITT. And so one of the things that I am concerned about is when I looked at your speeches I found just one that actually addressed that. And then, when I went back and looked at your blogpost, which we know is extremely controversial depending

on who you ask—and kind of regulation by blogposts, which I think is inappropriate—I also only found one when it came down to this.

And when I look at the core functions on your website that say, “What is the CFPB about?” one of your core functions says it is to enhance, you know, financial education. And when I looked at your budget that you put out, it looked that you requested, in addition to the 700 million, about 142 million, so about over \$840 million to be used at your discretion.

But when I looked at the actual investments that were made in—and I know I am out of time, so—but in actual education, it looked that it was only about 5.7 million. And so as the agency moves forward, I feel like actual education of consumers that are being scammed and harmed has to be of the utmost priority.

Mr. CHOPRA. Well, if I could just respond for a bit, one of the things we have also tried to do is cut a lot of waste and drive efficiencies. So, for example, when it comes to disasters, our materials and information are bundled with information that FEMA provides. I think we don’t want to inundate people with different pieces of paper from different agencies, but study specifically where are people consuming information, and how can we get them at the right moment?

So I don’t want the CFPB to be judged by the number of brochures it passes out. We should be judged on how we can arm people with the ability to spot scams and to crack down when it—when it takes place. But thank you.

Chair BROWN. Thank you, Senator Britt. And the work you have done, especially for veterans, to both warn them and educate them and recover money for veterans that are cheated is particularly impressive.

Senator Van Hollen from Maryland is recognized.

Senator VAN HOLLEN. Thank you, Mr. Chairman. I do want to start by thanking you for your leadership on this Committee and all the work you have done in the U.S. Senate on behalf of working people.

On this Committee specifically, of course, it is the Banking, Housing, and Urban Affairs Committee. Thank you for putting the housing and urban affairs piece back into the conduct of this Committee, including all of the affordable housing issues and the transit issues. So I want to thank you.

I know our colleague, Senator Tester, is not here, but we are going to miss his voice as well.

And welcome to Senators Schiff and Kim as new members of the Committee.

Director Chopra, I just want to thank you and the CFPB for what you have done on behalf of consumers, including a lot of Maryland consumers. I looked at the distributions out of the civil penalty fund. These are funds that you collect from organizations engaged in fraudulent activity, cheating people out of their money. And I see that it has been over \$3.3 billion, including \$71 million to over 144,000 Marylanders.

So thank you for your efforts to get that money back because a lot of the powerful organizations that cheat them out of the money, you know, they have the ability to have some of their own lawyers.

You are the people's sort of watchdog and lawyer on this, so I want to—I appreciate that.

And thank you for mentioning the most recent efforts. I think it was going after credit—so-called credit repair organizations, which really, as you know, prey on those who really are struggling. These are people who are trying to fix their credit, and there is some organization out there representing that they are going to be able to do that and return their credit to a good place, only to cheat them out of more money. So thank you for those efforts as well.

There is a lot to cover. You have been very effective when it comes to the student loan issue. We need to do more on that.

On the medical debt piece, I think the evidence is pretty clear that people who get sick and all of a sudden have a big bill to pay should not be—have their credit ratings negatively influenced because of that one-time need. We should be finding ways to reduce the burden of medical debt. And thank you for your work on veterans and folks in the military.

I wanted to just zero in in my final minutes here on the important work that you do with respect to the nonbank platforms, because, as you indicated in an earlier exchange in this Committee, we have—we have small banks that are governed by all sorts of regulations, but then you have these massive platforms that lend to millions and millions of Americans who do not have the same kind of oversight.

And that is a major role of the Bureau. And if you could just elaborate a little bit more on why that piece is so important going forward.

Mr. CHOPRA. Well, we saw in the lead-up to the financial crisis that it wasn't just issues with the banks. It was also these nonbank mortgage companies that were engaged in subprime lending that set people up to fail.

And just recently we finalized a rule to make sure that those digital payment apps that tens of millions of people are using and whose use exploded during the pandemic, that they, too, are not engaging in illegal privacy intrusions, that they are making sure that fraud and errors are minimized, and that they are not improperly freezing people's funds or closing their accounts.

We need to understand that these big firms, some of them touch millions of people across the country, and they, too, should hold up their end of the bargain.

Senator VAN HOLLEN. I appreciate that. If you could also just recap quickly where things stand on some of your student loan efforts.

Mr. CHOPRA. Well, we have taken a major law enforcement action against Navient, formerly known as Sally Mae. Our order bans Navient from ever again re entering the Federal student loan servicing world. We need to make sure that loan servicers actually provide service, and that is going to continue to be a place where we know that people, when they cannot get an affordable repayment plan that they are entitled to, if they are steered into a more expensive option, it is not just bad for them. It is bad for our whole economy.

Senator VAN HOLLEN. Well, thank you.

And thank you, Mr. Chairman, for holding this hearing. And, again, I can tell you that my Maryland constituents appreciate the fact that at the Federal level there is someone looking out to better protect them and provide redress when they get cheated out of their money. Thank you.

Chair BROWN. Thank you, Senator Van Hollen.

Senator Warnock of Georgia is recognized.

Senator WARNOCK. Thank you so very much, Chair Brown, and it has been a real honor serving with you on this Committee. Thank you for recommending me to serve, and I feel like we have done a lot of great work together over the past 4 years. You are an incredible example of public service.

I want to echo what Senator Van Hollen has said. Thank you for putting the housing and the urban affairs back in this Committee. And I can't say enough about your leadership, and I am grateful for your friendship.

Thank you so very much, Director Chopra. As always, good to see you. Thank you for all of the actions that you have taken to improve the financial lives of all Americans. You really have been an advocate and champion for the people. Under your leadership, the CFPB has returned more than \$6 billion to harmed consumers—6 billion.

You have been focused on reducing excessive junk fees, ensuring student loan companies are not taking advantage of borrowers, and putting money back in the pockets of hardworking Americans. I see the impact of this work up close, not only as a Senator but as a pastor. And as someone who had to depend on these student loans to get through my own education, I know the importance of the work that you do.

I especially commend your extensive work to protect consumers in rural communities and underserved communities. And this is critical work that must continue during the next Administration.

I also look forward to working with our incoming chair, Senator Scott, on issues we both care about, like ensuring access to affordable housing and expanding economic opportunity for working families. I look forward to working with Chairman Scott.

Director Chopra, when you appeared before this Committee in June, we discussed the consequences of medical debt, especially for those who are living in rural communities. A medical emergency can literally just change people's lives in deeply consequential ways, and that is why yesterday Chair Brown and I sent you a letter emphasizing the importance of finalizing the CFPB's proposed rule to block medical debt from appearing on most Americans' credit reports.

I think this is so critical and so important. It is an issue that you and I have worked closely on. Medical debt is often unanticipated, it is unplanned, and it can be high even if someone is insured, where it is something that could happen to any one of us. It could happen to anybody.

Medical debt also disproportionately affects those living in States like Georgia where Medicaid has not yet been expanded.

Director Chopra, how would the CFPB's proposed medical debt rule protect Americans from the unfair consequences of medical debt on their credit report? And why is this rule so important?

Mr. CHOPRA. Well, when I think especially about you mentioned rural areas in Georgia, you may know that there are people who have a serious emergency and sometimes need to have an air ambulance. And that air ambulance, they don't get to shop around. They get the one that is available. Or even just a regular ambulance, it is not something that you search online and choose.

And what happens is, is they sometimes are in situations where their insurance company—and there is in network, out of network—they get enormous amounts of debt, and medical issues are a huge driver of bankruptcy, including in rural areas.

We do not want our health care system leading to people being financially ruined. And I think our efforts and our proposed rule to restrict how some of that information gets on credit reports, we don't want there being further impacts on higher rates on loans, not passing an employment verification check, not being able to get an apartment. We shouldn't be kicking people when they are down, and we shouldn't let debt collectors weaponize that credit reporting system.

Senator WARNOCK. Thank you so much. There is so much more I could say about this, but I want to quickly get to another topic.

In July of last year, I held a hearing in my Consumer Protection Subcommittee on unfair overdraft fees charged by some banks, shedding light on how these unnecessary fees harm Americans, while last week the CFPB announced it would begin to send refund checks to Americans who were charged illegal junk fees by a group of credit repair companies.

How much money will this put back in Americans' pockets?

Mr. CHOPRA. Just that one action I believe is about \$2 billion, and I think we sent over 240,000 checks just to Georgia.

Senator WARNOCK. That is right. \$2 billion, 240,000 checks to Georgia, equalling more than \$103 million. This decision should be a warning, it seems to me, to any financial services company that is illegally charging junk fees to any consumer. What lasting change do you think aggressive enforcement like this will have?

Mr. CHOPRA. Well, we need to make sure that not only are we catching it when it is happening, but we are stopping it before it takes place. It is why we have done other work to put into place stronger safeguards to stop illegal junk fees from permeating the American consumer.

Senator WARNOCK. Thank you so much for your work. I look forward to you finalizing the rulemaking on this issue, and we look forward to the work that we will do ahead in protecting consumers.

Mr. CHOPRA. Thank you so much.

Chair BROWN. Thank you, Senator Warnock.

Senator Schiff, welcome, and you are—Senator Schiff from California. Glad you are here.

Senator SCHIFF. Chairman, thank you. I am thrilled to be on your Committee, and I want to begin by thanking you for your extraordinary service and how you have been just an indefatigable champion of working families. You have been the Senate's canary in the coal mine, sounding the alarm whenever the dignity of work was threatened.

Chair BROWN. Thank you, Senator Schiff.

Senator SCHIFF. Truly grateful.

And, Director, thank you for your very important work. In particular, I want to thank you for the efforts you are making to combat the sale of Americans' personal, private, sensitive data, in particular to foreign adversaries. I appreciate your using whatever authority you have to combat that. And whatever authority you don't have, we need to act by statute to make sure that we are protecting the privacy of the American people.

I want to concentrate my few minutes, though, on, really, the top challenge that Californians are facing, and that is housing. And I want to drill down in particular on one issue we discussed a bit earlier, and that is the use of algorithms or AI to set rent when large holders of real estate use these new tools.

On the one hand, it has, I am sure, been a historic practice to try to figure out what will the market bear on rent as any other good or item or necessity? At the same time now, with the use of this technology, it feels a little like calling around to your big competitors and saying, what rent are you going to charge, so that I can charge the same rent or we can all charge a higher rent?

Where does market research cross the line into price fixing? And what should we do about it?

Mr. CHOPRA. Well, we have seen, Senator Schiff, so much use of algorithms and AI in housing. When Chairman Brown started, we talked about how technology should help people get housing, not actually make it worse. We have seen algorithms actually mismatch people, using just their last name and first initial. So imagine S. Brown or A. Kim falsely matched with someone and blocking them from getting an affordable apartment.

But those same software companies also offer arrangements to help you track rent, and we should not allow that to be a vehicle for price fixing. The Department of Justice has sued RealPage for algorithmic price fixing. The complaint details about how the company set up the algorithm in order to push up rents across the country.

In California and across America, people are dealing with rent that is just too damn high, and we need to make sure it is not the result of price fixing or gouging enabled by technology.

Senator SCHIFF. And has that been measurable? That is, can you see in markets when they have used these algorithmic tools what the rent increases have been compared to other places that have not utilized that technology?

Mr. CHOPRA. I don't have it off the top of my head, but I believe the DOJ's complaint and some other research has showed how it can lead to collusive practices. And we need to also look at how certain types of owners of real estate, there has been concerns about certain private equity funds buying all of the rental housing in certain places or buying single-family homes, leaving them vacant, waiting to push up rents.

So this is not just—there is important supply issues, I agree, but we have got to look at these business practices as well to make sure they are not gouging renters.

Senator SCHIFF. And on that issue of corporate ownership of housing, which has become more and more prevalent, what kind of work are you doing in this area? And where are you seeing—where

are you seeing the greatest impacts of that new investment focus of Wall Street?

Mr. CHOPRA. Well, our focus really is on mortgage. We want to make sure that people have lots of options to refinance their mortgage. But you are right, corporate ownership of real estate, after the financial crisis there were so many homes foreclosed on, and many got swallowed up by deep-pocketed investors. Many thought that this would help the market correct, but we haven't seen that. And, in fact, we have seen many people facing rental markets that are so tight that rents just keep going up and up.

Senator SCHIFF. Director, thank you.

Thank you, Chairman. I yield back.

Chair BROWN. Thank you, Senator Schiff.

Senator Kim of New Jersey, welcome. Welcome to the Committee. Welcome to the Senate. Glad you are here.

Senator KIM. Yeah. Thank you, Chairman. And it is an honor to be able to overlap with you, be able to have a chance to be able to serve together, however brief, but just the incredible work that you have done over your career, and that certainly puts a lot on us to make sure that we are continuing this fight.

And, Director, great to see you. I wanted to just kind of get into a few things. One of the biggest things I have tried to wrap my head around in this work is this kind of concept of what I call customer service governance, you know, just trying to make sure that we are being responsive to the people, trying to think through all the different ways in which people interact with Government, and how do we make those interactions as frictionless as possible.

And one thing that I was intrigued by is the work that your organization does direct to, for instance, the people of New Jersey. I think you fielded nearly, you know, 100,000 complaints from people in New Jersey, returned over \$60 million just in the last year. I guess I want to get a sense from you, you know, how that component of CFPB is working. Is there something there that can be scaled? Is there more that we can be doing to ensure that, you know, people are getting their—you know, their returns, getting the resources that they deserve?

Mr. CHOPRA. I love this question, because we want Government to be responsive to real problems, not fake ones. And one of the things that we do is we have a consumer response center, and it is not just a place where you send an email and it goes into a black hole. We, in—since 2021, we have seen cases surge to about 200,000 a month, and we require financial institutions to respond.

And that means without the CFPB spending any resources, people are getting refunds, their credit report corrected, and we have a dashboard that shows where people are complaining and about what.

So, in New Jersey, we know the types of complaints people have and the companies who are the subject of those complaints. This is all shared with law enforcement, and people tell me that when they file a complaint, get a response, sometimes get a refund, they think, wow, actually, their Government is doing something—

Senator KIM. That is right.

Mr. CHOPRA.—for them. And we want—we have been working with other agencies to replicate that.

Senator KIM. Now one of the biggest complaints that I constantly hear, and I hear it not just from my constituents, I hear it from my mother and my father, about—you know, about scams that are targeting elderly in our countries, targeting our seniors. I guess I just wanted a gut check from you. I know there are certainly steps that we have been trying to take on this, but, like, are we making any progress here? Because it feels so overwhelming sometimes just in terms of the sheer volume of these attacks, and I imagine they are getting more and more sophisticated.

So I guess I wanted to just ask you, are we at the scale that we need? Are we moving in the right direction? Or are we still falling behind here?

Mr. CHOPRA. Well, it is pretty tragic because a lot of older Americans actually get texts and calls that seem so authentic. And with generative AI, they can even clone voices of their family members. These are so sophisticated that we need to look upstream.

One of the places where a lot of scam texts come from is actually in Southeast Asia, and it is actually those who are victims of human trafficking that are sending those texts. We have to make sure we are sanctioning—

Senator KIM. The victims of human trafficking—

Mr. CHOPRA. Yes.

Senator KIM. —that are being forced to do this?

Mr. CHOPRA. Yes. They are being forced to scam people in America, and we have to make sure that we are sanctioning. The Treasury Department has done some of that. We have to make sure that our big telecom carriers are blocking some of these scam texts, and we also need to make sure that digital payment services are really identifying fraud and errors earlier.

I worry we sometimes are playing a game of whack-a-mole but need to go upstream to combat this at scale.

Senator KIM. I think that that scaling component is what I am trying to fixate on, because, you know, no doubt that we are taking some steps forward. But, again, just the sheer volume—and as you said, with, you know, the advent of AI and other technologies that are out there, I guess I just wanted to get a sense from you—you know, as you are seeing this across your portfolio, where are we heading here in terms of the capacity for AI to be used in those nefarious ways?

I just imagine that, you know, you can see things in terms of trajectories that are important for this Committee to hear about, to know about, so that as we are trying to make decisions, we have a sense of what it is that we are trying to—trying to stop down the road.

Mr. CHOPRA. Well, I think this Committee played a big role in making sure that reports, dossiers about consumers, are not being misused or weaponized. It is one of the reasons the CFPB is proposing rules to update the Fair Credit Reporting Act regulations, to rein in some of the worst data broker abuses who often sell this data to scammers who are ripping off older Americans.

Senator KIM. Great. Thank you so much.

I yield back.

Chair BROWN. Thank you, Senator Kim.

Director, thank you for joining us. Thanks to the witness. Thanks for all of you.

For Senators who wish to submit questions for the hearing record, those questions are due 1 week from today, Wednesday, December 18.

To the witnesses, please submit your responses to questions for the record 45 days from the day you receive them.

Mr. CHOPRA. And if I could, in addition to welcoming and thanking Senator Kim and Senator Schiff, I also want to offer my huge gratitude to Senator Tester and especially to you, Chairman Brown. I think I have sat before you many, many times over the decade, and you have been an enormous champion for every single consumer in America. And you have taught me so much, and I am forever grateful.

Chair BROWN. Thank you, as you have taught this Committee a great deal. In both jobs that I have seen you do, you have done spectacularly well.

Thank you, and the Committee is adjourned.

[Whereupon, at 11:48 a.m., the hearing was adjourned.]

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

PREPARED STATEMENT OF CHAIR SHERROD BROWN

This Banking, Housing, and Urban Affairs Committee hearing will come to order. When I joined this Committee in 2007 it had a reputation as a bit of a sleepy Committee.

Much of Washington seemed to have reached a consensus—Wall Street ought to be left largely to its own devices. Big banks knew best.

We all know how that turned out.

Less than 2 years later, the economy was in freefall. Banks were collapsing. Lay-off notices and foreclosure warnings were landing in inboxes and mailboxes, ruining lives around the country.

In the wake of the crisis, we passed the Dodd Frank Wall Street Reform and Consumer Protection Act.

It was the first time in 75 years that we reined in Wall Street and its reckless obsession with profits at the expense of everyone and everything else.

That law worked. Nearly 15 years later, our banking system is safer, banks hold more capital, and they're better prepared to handle a crisis.

Of course, we know Wall Street and its lobbyists don't give up easy.

After we passed Dodd-Frank, one industry lobbyist said: "now it's halftime."

Wall Street was true to its word.

They immediately went to work trying to roll back and water down as many of the protections we put in place as possible.

When I took over as Chair of this Committee nearly 4 years ago, Washington still called it Senate Banking.

It was still pretty much a Committee dedicated to protecting Wall Street and the financial industry, and fulfilling their lobbyists' wish-lists—in particular, tearing down the safeguards that protect Americans' money, and that protect taxpayers from ever having to bail out Wall Street again.

We changed that.

We put the focus of this Committee back where it should be—the people who make this country work.

The stock market doesn't drive the economy. Workers do. And on the Senate Banking, Housing, and Urban Affairs Committee, we have made it our mission to serve them.

That's why we improved public transit around the country for the millions of workers who depend on the bus or the train to get to work.

Cleveland is finally replacing railcars that date back to the Reagan administration. Akron Metro is getting a new maintenance facility. Ohioans in Bryan will have a new Amtrak station.

It's why we came together to crack down on traffickers of deadly fentanyl, which is devastating working people and their communities in Ohio and all over the country. Our law is going after the entire fentanyl supply chain—from the chemical suppliers in China, to the cartels that traffic the drug from Mexico.

It's why we confirmed dedicated, talented public servants who reflect the vibrant diversity of our country and who serve the public, not the financial industry.

And it's why we stood up to corporate special interests—whether it's the big banks or the payday lenders or the shady debt collectors.

We had the first ever legislative win against the payday lending lobby, protecting people from exorbitant interest rates that trap Americans in a cycle of debt.

We successfully pushed to remove medical debt from people's credit reports, saving them money and protecting them from higher interest rates.

Again and again, we stopped all the corporate interests that tried to prevent the Consumer Financial Protection Bureau from protecting the public.

And we began calling the CEOs of the country's largest Wall Street banks to testify before this Committee and before the American people. These CEOs and their banks hold tremendous power over our economy and over people's lives.

Too often, that power isn't used wisely.

As important and effective as Wall Street reform was, it was incomplete. We still have an economy where hard work doesn't pay off like it should.

For decades, Wall Street has rewarded the companies that squeeze their workers the hardest.

When companies raise prices, when they lay people off, when they move jobs overseas, when they bust unions, when they subcontract work to lower-paying companies with fewer benefits, Wall Street analysts yell "buy . . . buy . . . buy."

And look at the result:

For almost a half century now, productivity has gone up, the stock market has soared, executive compensation has exploded, but workers' wages are largely flat.

It hasn't always been like this.

When I was growing up, the CEO-to-worker pay ratio was 20-to-1. That was still good money.

Today, that ratio is 344-to-1.

When the economy fundamentally does not reward work, while Wall Street continues to rake in profits—not just instead of workers, but at the expense of workers—our work is far from over.

And some of the most crucial work happening today to hold corporate special interests accountable, and level the playing field for the rest of America, is at the Consumer Financial Protection Bureau.

The consumer protection bureau has been among the most successful parts of Wall Street reform.

Since 2011, the CFPB has returned nearly \$21 billion to more than 205 million Americans.

These are real checks that land in people's mailboxes. Dollars that might mean a little extra breathing room to buy groceries or fill up a tank of gas.

The CFPB has returned more than \$363 million to servicemembers and veterans.

That's money that companies took straight from servicemembers' and veterans' pockets.

And over the next 4 years, the work of the Consumer Financial Protection Bureau will be more crucial than ever.

The last time the President Trump was in office, the cabinet looked like a Goldman Sachs retreat. He tried to put the CFPB to work for corporations instead of the public.

And from what we have seen from his nominees thus far, corporate special interests won't just have a seat at the table this time around—they'll be given free rein to rip off workers and customers.

He's opening up our Government to the highest corporate bidder.

It will be up to all of you in this room to preserve the CFPB as the one place where ordinary Americans can go that will fight for them.

Most people don't have fancy lawyers. They don't have high-priced lobbyists. The CFPB is their advocate and their voice. The public servants there fight for the people who make this country work—and so must we.

This Committee must ready itself for the fights and challenges ahead:

Rising housing costs, private equity infiltrating more and more of our economy, insurance costs going up, risks building up in the private credit market, new technology that's increasingly being used in our financial system—from algorithmic prices to AI to crypto.

All these risks have one thing in common: they all have the potential take even money away from working Americans . . . and funnel it to the same corporate elite that always seem to come out ahead.

Those guys have enough advocates in this town. Our charge, whether in the Senate or out of it, is to look out for workers and put them at the center of everything we do.

I'm proud of the work we've done together on this Committee.

I want to thank Senator Scott, Senator Crapo, with whom I also worked closely and successfully as Ranking Member, and all the members of this Committee.

I want to thank my talented Committee staff . . . Homer, Beth, Phil, Megan, Elisha and Laura have been with me the entire 10 years I have been Chair or Ranking Member. And Sarah, Jeremy, and Katie in my personal office have also worked for this Committee over the last decade.

Jeff, Ann, Sunny, John, Mohammad, Shannon, Emily, Ben, Min, Erika, Jonathan, Shanna, Will, Serena, and Sean have made significant contributions during their time on this staff. I also want to thank the nondesignated staff—Pat, Lena, Shelvin Simmons, Jason Parker and Sheryl Arrington—led by Cameron Ricker—for making this Committee run.

I trust Senator Warren to carry on our mission of standing up for working Americans, and standing up to all the corporate interests that hold far too much influence in this town—and are about to hold a lot more.

The work continues.

PREPARED STATEMENT OF SENATOR TIM SCOTT

Thank you, Mr. Chairman.

Thank you for your service on this Committee since 2007 and the last several years as the Chairman of the Committee. I'll say the cancellation of today's markup really is disappointing and frankly sours the tone. It is another example of the dysfunction and lack of transparency that is a last gasp of a lame-duck Administration.

But now, we turn our attention to the Director of the CFPB, who also doesn't seem to accept the results of the November election.

As I mentioned earlier, after the November election—a historic win for Republicans and President Trump which delivered a mandate for this Committee and for this Congress. I sent a letter to each and every Federal agency under this Committee's jurisdiction calling on them to cease all rulemaking activities.

It is paramount that President Trump can begin his Administration on January 20th with a fresh slate to implement the economic agenda that the American people resoundingly voted for.

And this is not unreasonable. Last month the prudential regulators—the OCC, FDIC, NCUA, and Federal Reserve—agreed with me and committed to pausing rulemaking before the inauguration.

Yet, as we have seen time and time again with Director Chopra, he has ignored these calls and pressed forward with a unilateral partisan agenda.

Many of you have heard my Republican colleagues and I argue that the changes at the CFPB are absolutely necessary, that the agency is unaccountable to Congress. And Director Chopra seems intent on proving this to be true.

Despite voter's clear message on election day, Director Chopra has advanced his agenda at a break-neck speed.

He has issued a final rule expanding the CFPB's own jurisdiction, issued a proposal seeking to upend the fraud prevention industry, has published multiple “studies” and “reports” to further his political agenda, and just this week published another rulemaking effort.

The Director has spent years at the CFPB pushing the Biden-Harris administration's partisan messaging on “junk fees,” and seeking a boogeyman around every corner for the failed economic policies of the Biden administration.

Let me be clear: protecting consumers and building an economy that serves all Americans are principles that guide my work in the Senate, but we can do both without weaponizing our Federal regulators.

Speaking of regulators abusing their authority, the longstanding issue of debanking and Operation Chokepoint have recently resurfaced.

I have focused on this issue for years and the patent inequality it represents for our legal businesses.

I have consistently called out our banking agencies for weaponizing their power, and private institutions for bending to the powerful here in Washington.

No legal business should ever be debanked.

This message is something that Director Chopra has latched onto since the election, including direct references to debanking in his last two rulemakings.

But make no mistake, the Director is not our ally in this fight, and the career bureaucrats at the CFPB are not either.

The Director's recent actions are little more than an attempt to expand the CFPB's jurisdiction and grant the agency more authority to pick winners and losers in the financial services system.

Unelected bureaucrats in Washington, DC, should not be deciding which businesses survive or fail based on their political agendas. All legal businesses should have the opportunity to succeed in America, just like every single American.

Washington should be focused on promoting the two greatest tools which can arm all Americans—choice and opportunity.

These were the tools that allowed me as a poor kid in South Carolina to grow up and own my own business, and now, lead the Republican side of the Senate Banking Committee.

America must continue to be the bedrock of opportunity, and our regulators must work to ensure this every single day. Regulation should provide guardrails, not roadblocks.

I look forward to working with the next Director of the CFPB to increase accountability at the Bureau.

And Director Chopra, I look forward to hearing that you will be resigning effective January 20th.

It is unacceptable to have an agency with a budget of almost a billion dollars outside of the appropriations process and we must find a way to address this issue.

I will end with this—a message of hope. I am hopeful that next Congress will allow this Committee to return to regular order and pass legislation to increase opportunity for American families and small businesses across the country.

PREPARED STATEMENT OF ROHIT CHOPRA
DIRECTOR, CONSUMER FINANCIAL PROTECTION BUREAU

DECEMBER 11, 2024

Chair Brown, Ranking Member Scott, and Members of the Committee, thank you for inviting me to this hearing.

This is my 27th time testifying before Congress as an Executive branch official, and my tenth time before this Committee. In my meetings with each of you, I continue to find more and more areas of agreement on tackling concerns that Americans are facing. I want to touch on a few of these.

Credit Card Debt

First, credit card debt. Americans owe roughly \$1.2 trillion in credit card debt, and in 2022 alone, consumers paid \$130 billion in interest and fees. The Consumer Financial Protection Bureau's (CFPB's) research has revealed that the credit card market is quite concentrated, with a few big players dominating the market. These large players have been able to push up interest rate margins considerably, even when adjusting for broader changes in market interest rates. This increase in interest rate margins and lack of robust competition means that Americans are losing \$25 billion a year compared to 10 years ago. Many borrowers are paying over 30 percent, squeezing their monthly budgets. Further consolidation among big players, including one pending credit card merger, threatens to jack up rates even further.

The CFPB is taking action to crack down on credit card companies exploiting loopholes, to make it easier to switch to a new company, to ensure consumers can obtain and redeem promised rewards, and more.

But, many in Congress are rightfully concerned that the market will not correct on its own. There is growing bipartisan support for taking action. In particular, there are proposals to limit annual percentage rates on credit cards on both sides of the aisle, and the incoming Administration has expressed support for an interest rate cap. It will be important for this Committee to ensure that credit cards are a source of credit priced at competitive rates, rather than what we see in today's market.

Digital Surveillance

Second, digital surveillance and data privacy. Americans are being exposed every day to stalkers, scammers, and spies due to unchecked digital surveillance across the economy, including in the financial services sector. There is growing bipartisan consensus that policymakers need to do something about corporate data surveillance and data privacy, and it is critical that this work moves forward.

The CFPB recently proposed a rule on data brokers that would curb access to sensitive financial data by foreign adversaries and others seeking to exploit Americans by spying on their personal information. We have also incorporated privacy and data security provisions into the CFPB's open banking rule, which will foster innovation and account switching while also protecting consumers' private financial information. At the same time, it is critical that Congress also act to protect against unchecked surveillance of the most sensitive personal data.

Debanking

Third, account closures and debanking. America's banking and payments systems serve as essential infrastructure for our economy and society. An account with a bank, credit union, or digital wallet provider is a necessity. Unfortunately, we have seen too many account closures on questionable grounds.

Over the last few years, the CFPB has been working to ensure that banks and Big Tech firms are not inappropriately denying households access to banking and payment systems. We are especially concerned when funds are frozen or when accounts are closed for reasons not contemplated by Federal banking laws. We are currently engaged in litigation to defend the agency's authority to investigate when companies unfairly debank customers based on characteristics like religious affiliation.

In addition, the CFPB recently finalized a rule to more closely examine digital payment apps to ensure that they comply with Federal laws, where there has been significant concern about debanking. The CFPB has also proposed a rule that would help to reduce account closures driven by overdraft churning. We have also proposed to update rules under the Fair Credit Reporting Act that will make sure that inac-

Statement Required by 12 U.S.C. §5492; The views expressed herein are those of the Director and do not necessarily reflect the views of the Board of Governors of the Federal Reserve System or the President.

curate identity verification algorithms are not leading to improper debanking. And we are scrutinizing whether reputation-based algorithms and artificial intelligence are being weaponized in ways that block people from account access. While the CFPB will continue to defend consumers' rights and to hold financial institutions accountable, it will be critical for Congress to ensure that all American families have access to an account.

Thank you, and I look forward to your questions.

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

Q.1. When you testified before the Committee in June, I asked you to provide the total number of Civil Investigative Demands (CIDs) issued by the CFPB during your tenure as Director. At that hearing, you indicated that you did not have the exact number, and I subsequently submitted the same question to you for the record. Your response to that question also did not provide the total number. Can you explain why you refuse to disclose the aggregate number of CIDs?

A.1. Consistent with practices across law enforcement agencies, the Consumer Financial Protection Bureau (CFPB) does not provide lists or publish statistics on the number of civil investigative demands (CIDs), given law enforcement sensitivities and the fact that the number of CIDs issued may not correlate with the number of investigations or even the quantity of information sought. At the same time, I have asked our staff to answer any questions you might have about the process for issuing CIDs.

Congress directs the CFPB to enforce a substantial set of laws for a wide range of market participants. As part of this authority, the Consumer Financial Protection Act of 2010 authorizes the CFPB to issue investigational subpoenas when looking into potential violations of law. A CID may demand, among other things, documents, emails, reports, answers to written questions, and oral testimony on the record through investigational hearings. These CIDs are often issued to third parties that may have information relevant to an investigation. In some instances, cooperating entities have requested the CFPB issue a CID before providing information to the CFPB.

In these information requests, the CFPB seeks to describe the types of information that may be needed to assess whether a law violation has occurred. Importantly, CFPB procedures provide for a process where recipients can work with the CFPB on ways to reduce the resource requirements for providing this information.

The CFPB approaches this process in a way that seeks to balance the interests of obtaining evidence for a law enforcement investigation with the limitations and constraints faced by the recipient. Recipients also have a statutory right to appeal to the Director. We would be happy to meet with you to discuss this further.

Q.2. Included in the CFPB's final rule entitled, "Overdraft Lending: Very Large Financial Institutions", the agency states, "To the extent that changes to the regulatory framework would result in a reduction in overdraft revenue, smaller financial institutions may have greater difficulty in absorbing a reduction in overdraft revenue without it having some impact on their operations, and this impact could negatively affect consumers at smaller financial institutions." In the accompanying press release to the rule, you stated, "The CFPB is cracking down on these excessive junk fees . . .".

Can you explain why you consider overdraft fees to be "junk fees" when charged by banks over \$10 billion, but not by banks under \$10 billion?

A.2. Although there has been some overall decline in the charging of overdraft fees, a sizeable majority of banks and credit unions

with over \$10 billion in assets (i.e., 68 percent) continue to charge between \$30 and \$37 per transaction incurring an overdraft fee, and more than half charge \$35.

Even with these changes, consumers still paid more than \$5.8 billion in 2023 in reported overdraft and NSF fees. The CFPB has continued to order many large institutions to return illegal overdraft fees to consumers. The CFPB recently brought a \$95 million enforcement action against Navy Federal Credit Union for illegal surprise overdraft fees. The CFPB also took action against Wells Fargo, Regions Bank, and Atlantic Union for illegal overdraft fees, which resulted in refunds to consumers totaling \$205 million, \$141 million, and \$5 million in unlawful fees, respectively.

The CFPB took action to update an outdated overdraft exception that exempted many overdraft loans from lending laws. The agency's final rule on overdraft fees applies to the banks and credit unions with more than \$10 billion in assets that dominate the U.S. market.

In the final rule, the CFPB notes its plans to monitor the market's response to this rule before determining whether to alter the regulatory framework for financial institutions with assets less than or equal to \$10 billion.

Q.3. Did the CFPB conduct any analysis on whether this rule will influence banks over \$10 billion to limit consumers' access to overdraft services?

A.3. Yes. The final rule contains extensive cost-benefit analysis, which discusses the rule's impact on both consumers and covered institutions.

Q.4. During the hearing, I asked you why you have refused to cease all rulemaking activities since the election, to which you responded that you believe the CFPB needs to continue the mission of consumer protection at all times. I agree that our consumer protection laws need to be enforced at all times, but that does not mean you should be deciding new ones on your way out the door. Clearly, you are engaged in continued political exercises, as exemplified by the seemingly coordinated social media post by the outgoing President on your recent overdraft fee rule.¹ The safety and soundness of our banking system is also critical to monitor at all times, yet the prudential agencies agreed not to move forward with major rulemakings until after the inauguration.

Do you believe that the CFPB is in some way different than the prudential agencies?

A.4. The CFPB is the primary Federal regulator charged with implementing and enforcing Federal consumer financial law and ensuring that markets for consumer financial products are fair, transparent, and competitive.

The CFPB has primary enforcement and exclusive supervisory authority over very large banks (defined as insured depository institutions or credit unions with total assets of more than \$10 billion) with respect to Federal consumer financial laws. The CFPB has exclusive supervisory authority over the following nonbanks with respect to Federal consumer financial laws: Nonbanks in the

¹ <https://x.com/POTUS/status/1868360322781724707>

mortgage, private educational lending, and payday lending markets, and larger participants in the consumer reporting, consumer debt collection, student loan servicing, international money transfer, automobile financing, and general-use digital consumer payment applications markets.

The CFPB continues to work to implement the law and ensure that consumers are protected and treated fairly as they use and engage with consumer financial products and services such as bank accounts, credit reports, digital wallets and payment apps, as well as mortgages, auto loans and credit cards. The CFPB has prioritized the implementation of Congressional statutory directives.

Recent actions the CFPB has taken include issuing a final rule to protect homeowners on solar panel loans and other home improvement loans paid back through property taxes, as directed by the “Economic Growth Regulatory Relief and Consumer Protection Act of 2018”; finalizing a rule to supervise the largest digital funds transfer and payment wallet apps to ensure these companies are following the law, just like large banks, credit unions and other financial institutions already supervised by the CFPB; proposing a rule to stop data brokers from selling sensitive personal data to scammers, stalkers and spies to address significant national security and surveillance risks; and approving an application from the Financial Data Exchange to issues standards for open banking, an important action to further implement the Congressional directive related to Section 1033 of the Consumer Financial Protection Act; and proposing a rule to address the harmful effects of inaccurate credit reporting affecting survivors of domestic violence, elder abuse, and other forms of financial abuse.

Q.5. Do you believe that consumer protection laws are more important than safety and soundness laws?

A.5. Both consumer protection and safety and soundness laws are important.

Q.6. In your written responses to my Questions for the Record in connection with your testimony before the Committee on June 12, 2024, you stated, “Medical debt on a consumer credit report is a very different type of debt than a mortgage, an auto loan, or a credit card. Sometimes, as is the case with a visit to the emergency room, the debt is taken on unexpectedly and in a time of crisis.”

While I do not disagree that medical debt is often taken on unexpectedly and in a time of crisis, can you explain why your proposal includes non-emergency, elective medical procedures?

A.6. The CFPB received a number of comments regarding this issue. As stated in the final rule, available data implies that a substantial fraction of medical debt results from unplanned expenditures. The CFPB did not state in its proposal or mean to imply that all medical debt is the result of sudden events.

As noted in the final rule, elective care is inclusive of necessary health care for unanticipated health conditions. Many of the same issues limiting the informational value of information about non-elective care applies to medical debt information about elective care.

Q.7. On December 3, the CFPB issued a new proposal under the FCRA to limit the sale of consumer data. I agree that we must do more to protect consumer’s privacy and data, yet, once again the CFPB has gone about this in all the wrong ways.

Did the CFPB conduct any analysis on the impact this proposal would have on identity verification?

A.7. The intent of the FCRA rulemaking is to protect consumers from the collection and sale of their personal data in violation of the Fair Credit Reporting Act, including for malicious purposes like identity theft, harassment, and fraud, and use by foreign State and non-State actors.

The proposed rule addresses the ability of entities to use consumer reports for identity verification purposes. The CFPB takes seriously the need for financial institutions to be able to prevent identity theft, fraud, and money laundering and does not intend to issue a rule that will prevent financial institutions from meeting the requirements of the Bank Secrecy Act.

Q.8. In January 2024, I introduced S. 3592, the Business of Insurance Regulatory Reform Act. This bipartisan bill rightfully asserts that State insurance regulators have regulatory authority over entities engaged in the business of insurance, not the Consumer Financial Protection Bureau (CFPB). The bill clarifies that if entities engaged in the business of insurance offer products or services that are otherwise subject to consumer financial protection laws, the CFPB has strictly limited authority. We must protect our State-based system of insurance regulation, which has successfully resulted in competitive, fair markets to the benefit of insurers and consumers, from bureaucrats in Washington like those at the CFPB.

Please explain why you feel that the CFPB should step outside its congressionally authorized regulatory authority and encroach upon our State-based regulatory system of insurance?

A.8. The CFPB is not seeking to regulate the business of insurance.

Q.9. On November 21, the CFPB issued a final rule to define larger participants of a market for general-use digital consumer payment applications. Yet, on December 6, the CFPB designated Google Payment Corp. for supervision under separate authority, based in part on the firms’ previous offerings of digital consumer payments applications.

Why did the CFPB conduct the Larger Participants Rulemaking if it has the authority to individually designate firms for the same reason?

A.9. You are correct, the CFPB published an order establishing supervisory authority over Google Payment Corp. While Google Payment Corp. is already subject to CFPB’s enforcement authority, the CFPB determined that Google Payment Corp. met the legal requirements for supervision under a legal provision authorizing the examination of nonbank financial companies that pose risks to consumers.

The Larger Participant Final Rule implements the CFPB’s authority to supervise larger nonbank companies that offer “general-use digital consumer payment applications” such as digital wallets, payment apps and peer-to-peer payment apps. A nonbank covered

person qualifies as a larger participant if it (1) facilitates an annual covered consumer payment transaction volume of at least 50 million transactions as defined in the rule; and (2) is not a small business concern. All larger participants that meet the qualifications will be subject to the CFPB's supervisory authority under the Consumer Financial Protection Act.

This final rule will help level the playing field between banks and nonbank tech companies and help ensure that they follow the law.

Semi-Annual Report of the Consumer Financial Protection Bureau

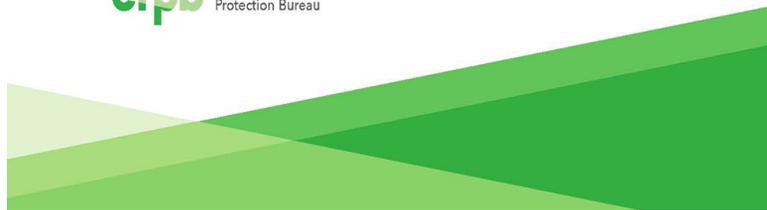


Table of Contents

Table of Contents 1

1. Rules and Orders 3

 1.1 List of significant rules and orders adopted by the CFPB 3

 1.2 List of significant initiatives conducted by the CFPB 7

 1.3 Plan of the CFPB for rules, orders, or other initiatives conducted by the CFPB 16

2. Complaints 26

 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 26

3. Supervisory and Enforcement Actions 29

 3.1 List of public supervisory and enforcement actions 29

 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 69

4. State Consumer Financial Law 70

 4.1 Assessment of significant actions by attorneys general and state regulators relating to federal consumer financial law 70

5. Fair Lending 75

 5.1 An analysis of efforts to fulfill the Fair Lending mission of the CFPB.. 75

6. Workforce and Contracting Diversity 78

 6.1 An analysis of CFPB efforts to increase workforce and contracting diversity consistent with procedures established by OMWI 78

 6.2 Office of Minority and Women Inclusion 78

7. Budget82
7.1 Justification of the budget request for the previous year82

8. Appendix84

1. Rules and Orders

1.1 List of significant rules and orders adopted by the CFPB

During the reporting period of this Semi-Annual Report, the Consumer Financial Protection Bureau (CFPB) adopted the following significant rules and orders.¹

Final rules:

- *Interim Final Rule: Facilitating the LIBOR Transition Consistent with the LIBOR Act (Regulation Z).* In April 2023, the CFPB issued an interim final rule amending Regulation Z, which implements the Truth in Lending Act (TILA), to reflect the enactment of the Adjustable Interest Rate (LIBOR) Act and its implementing regulation promulgated by the Board of Governors of the Federal Reserve System (Board).² Among other things, this interim final rule further addressed the planned cessation of most U.S. Dollar (USD) LIBOR tenors after June 30, 2023, by incorporating the Board-selected benchmark replacement for consumer loans into Regulation Z. The CFPB requested public comment on this interim final rule.
- *Final Rule: Consumer Leasing (Regulation M).* In November 2023, the CFPB and the Board finalized amendments to the official interpretations and commentary for the agencies' regulations that implement the Consumer Leasing Act (CLA).³ The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the CLA by requiring that the dollar threshold for exempt consumer leases be adjusted annually by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Based on the annual percentage increase in the CPI-W as of June 1, 2023, the exemption threshold increased from \$66,400 to \$69,500 effective January 1, 2024.

¹ A complete listing of the CFPB's rulemaking actions taken during this reporting period is available on the CFPB's website: <https://www.consumerfinance.gov/rules-policy/>.

² "Facilitating the LIBOR Transition Consistent with the LIBOR Act (Regulation Z)," Consumer Financial Protection Bureau, Apr. 28, 2023, https://files.consumerfinance.gov/f/documents/cfpb_facilitating-libor-transition-libor-act-regulation-z_2023-04.pdf.

³ "Consumer Leasing Act (Regulation M)," Consumer Financial Protection Bureau, Nov. 29, 2023, <https://www.consumerfinance.gov/rules-policy/regulations/1913/>.

provisions of TILA for violations. PACE financing is financing to cover the costs of home improvements that results in a tax assessment on the real property of the consumer.

- *Proposed Rule: Quality Control Standards for Automated Valuation Models.* In June 2023, the OCC, Board, Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), CFPB, and the Federal Housing Finance Agency (FHFA) (collectively, the agencies) invited comment on a proposed rule to implement the quality control standards mandated by the Dodd-Frank Act for the use of automated valuation models (AVMs) by mortgage originators and secondary market issuers in determining the collateral worth of a mortgage secured by a consumer's principal dwelling.⁸ Under the proposal, the agencies would require institutions that engage in certain credit decisions or securitization determinations to adopt policies, practices, procedures, and control systems to ensure that AVMs used in these transactions to determine the value of mortgage collateral adhere to quality control standards designed to ensure a high level of confidence in the estimates produced by AVMs; protect against the manipulation of data; seek to avoid conflicts of interest; require random sample testing and reviews; and comply with applicable nondiscrimination laws.
- *Small Business Advisory Review Panel for Consumer Reporting Rulemaking.* In September 2023, the CFPB released an outline of proposals and alternatives under consideration for the CFPB's Fair Credit Reporting Act (FCRA) rulemaking,⁹ and released a Panel Report reflecting input from small entity representatives in December 2023.¹⁰
- *Proposed Rule: Required Rulemaking on Personal Financial Data Rights.* In October 2023, the CFPB proposed a rule to implement personal financial data rights under the Consumer Financial Protection Act of 2010 (CFPA).¹¹ The proposed rule would require depository and nondepository entities to make available to consumers and authorized

⁸ "Quality Control Standards for Automated Valuation Models," Consumer Financial Protection Bureau, Jun. 1, 2023, [cfpb_automated-valuation-models_proposed-rule-request-for-comment_2023-06.pdf](https://files.consumerfinance.gov/f/documents/cfpb_automated-valuation-models_proposed-rule-request-for-comment_2023-06.pdf).

⁹ "Small Business Advisory Review Panel for Consumer Reporting Rulemaking," Consumer Financial Protection Bureau, Sept. 15, 2023, https://files.consumerfinance.gov/f/documents/cfpb_consumer-reporting-rule-sbrefa_outline-of-proposals.pdf.

¹⁰ "Final Report of the Small Business Review Panel on the CFPB's Proposals and Alternatives Under Consideration for the Consumer Reporting Rulemaking," Consumer Financial Protection Bureau, Dec. 15, 2023, https://files.consumerfinance.gov/f/documents/cfpb_sbrefa-final-report_consumer-reporting-rulemaking_2024-01.pdf.

¹¹ "Required Rulemaking on Personal Financial Data Rights," Consumer Financial Protection Bureau, Oct. 19, 2023, https://files.consumerfinance.gov/f/documents/cfpb-1033-nprm-fr-notice_2023-10.pdf.

third parties certain data relating to consumers' transactions and accounts; establish obligations for third parties accessing a consumer's data, including important privacy protections for that data; provide basic standards for data access; and promote fair, open, and inclusive industry standards.

- *Proposed Rule: Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications.* In November 2023, the CFPB proposed a rule to supervise larger participants in a market for general-use digital consumer payment applications, such as larger nonbank companies that offer services like digital wallets and payment apps.¹² The proposed rule would help ensure that nonbank financial companies, specifically those larger companies handling more than 5 million transactions per year, adhere to the same rules as large banks, credit unions, and other financial institutions already supervised by the CFPB.
- *Proposed Rule: Overdraft Lending: Very Large Financial Institutions.* In January 2024, the CFPB proposed to amend Regulations E and Z to update regulatory exceptions for overdraft credit provided by very large financial institutions, thereby ensuring that extensions of overdraft credit adhere to consumer protections required of similarly situated products, unless the overdraft fee is a small amount that only recovers applicable costs and losses.¹³ The proposal would allow consumers to better comparison shop across credit products and provide substantive protections that apply to other consumer credit.
- *Proposed Rule: Fees for Instantaneously Declined Transactions.* In January 2024, the CFPB proposed to prohibit covered financial institutions from charging fees, such as nonsufficient funds fees, when consumers initiate payment transactions that are instantaneously declined.¹⁴ Charging such fees would constitute an abusive practice under the CFPA's prohibition on unfair, deceptive, or abusive acts or practices.

¹² "Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications," Consumer Financial Protection Bureau, Nov. 7, 2023, https://files.consumerfinance.gov/f/documents/cfpb_nprm-digital-payment-apps-lp-rule_2023-11.pdf.

¹³ "Overdraft Lending: Very Large Financial Institutions," Consumer Financial Protection Bureau, Jan. 17, 2024, https://files.consumerfinance.gov/f/documents/cfpb_overdraft-credit-very-large-financial-institutions_proposed-rule_2024-01.pdf.

¹⁴ "Fees for Instantaneously Declined Transactions," Consumer Financial Protection Bureau, Jan. 24, 2024, https://files.consumerfinance.gov/f/documents/cfpb_fees-for-instantaneously-declined-transactions-nprm_2024-01.pdf.

Other:

- *Supervisory Designation of World Acceptance.* In February 2024, the CFPB issued an order establishing supervisory authority over installment lender World Acceptance Corporation.¹⁵ This was the first instance in which the CFPB utilized the supervisory designation authority set forth in 12 U.S.C. § 5514(a)(1)(C) as implemented by 12 C.F.R. part 1091 in a contested matter. This provision of the CFPA permits the CFPB to bring a nonbank covered person under its supervisory authority where the CFPB has reasonable cause to determine, by order, after notice to the person and a reasonable opportunity to respond that the person is engaging or has engaged in conduct that poses risks to consumers.

1.2 List of significant initiatives conducted by the CFPB

1.2.1 Reports

- *Report: Medical Credit Cards and Financing Plans.* In May 2023, the CFPB published a report on high-cost specialty financial products, such as medical credit cards, that are sold to patients as a way to alleviate the growing costs of medical care.¹⁶ This report focuses on some of these alternative financing products, including medical credit cards and installment loans, that were once used primarily for elective care but now cover everything from ER visits and specialty care to regular checkups. The report highlights some of the risks to consumers of using financing products such as medical credit cards and installment loans to pay for medical procedures and services. The report provides a background on these products, highlights potential lack of transparency and financial risks to consumers, analyzes data on deferred interest healthcare credit cards, and offers a summary of the terms for a sample of financing products.
- *Issue Spotlight: Analysis of Deposit Insurance Coverage on Funds Stored Through Payment Apps.* In June 2023, the CFPB issued a spotlight analyzing the extent to which popular payment apps, sometimes described as Peer-to-Peer payment platforms, claim to provide federal deposit insurance coverage to users through business arrangements

¹⁵ "CFPB Orders Federal Supervision for Installment Lender Following Contested Designation," Consumer Financial Protection Bureau, Feb. 23, 2024, https://files.consumerfinance.gov/f/documents/cfpb_world-acceptance_decision-and-order_2023-11.pdf

¹⁶ "Report: Medical Credit Cards and Financing Plans," Consumer Financial Protection Bureau, May 4, 2023, https://files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf

with banks.¹⁷ In the Issue Spotlight, the CFPB notes that stored funds can be at risk of loss in the event of financial distress or failure of the entity operating the payment platform, and often are not placed in an account at a bank or credit union and lack individual deposit insurance coverage.

- *Issue Spotlight: Chatbots in Consumer Finance.* In June 2023, the CFPB issued a spotlight addressing the expansive adoption and use of chatbots by financial institutions.¹⁸ These chatbots are intended to simulate human-like responses using computer programming and help institutions reduce costs of customer service agents. Some chatbots use more complex technologies marketed as “artificial intelligence” to generate responses to customers. The spotlight highlights several risks associated with the use of chatbots by financial institutions, including possible noncompliance with federal consumer financial protection laws, diminished customer service and trust, and other possible consumer harms.
- *Report: Office of Servicemember Affairs Annual Report.* In June 2023, the CFPB released its annual report on the top financial concerns facing military families.¹⁹ The report highlights the growth of digital payment app usage in the servicemember community, the unique risks to servicemembers from these services, and the potential abuse from bad actors. Some servicemembers have also indicated in their complaints about incurring serious financial harm from scams and fraud when using these services, and their complaints suggest digital payment app providers often fail to provide timely and substantive resolutions.
- *Data Spotlight: Banking and Credit Access in the Southern Region of the U.S.* In June 2023, the CFPB published a Data Spotlight which examined indicators of banking and credit access in the southern region of the United States.²⁰ The CFPB examined trends in the region as a whole and differences between rural and non-rural areas within the region. Some major characteristics of the region include higher amounts of banking

¹⁷ “Analysis of Deposit Insurance Coverage on Funds Stored Through Payment Apps,” Consumer Financial Protection Bureau, Jun. 1, 2023, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-analysis-of-deposit-insurance-coverage-on-funds-stored-through-payment-apps/full-report/>.

¹⁸ “Chatbots in Consumer Finance,” Consumer Financial Protection Bureau, Jun. 6, 2023, https://files.consumerfinance.gov/f/documents/cfpb_chatbot-issue-spotlight_2023-06.pdf.

¹⁹ “Report: Office of Servicemember Affairs Annual Report,” Consumer Financial Protection Bureau, Jun. 20, 2023, https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report_2022.pdf.

²⁰ “Banking and Credit Access in the Southern Region of the U.S.” Consumer Financial Protection Bureau, Jun. 21, 2023, https://files.consumerfinance.gov/f/documents/cfpb_ocp-data-spotlight_banking-and-credit-access_2023-06.pdf.

deserts, and higher amounts of unbanked households than in other regions of the United States. It also found that communities of color and rural areas within the region are more likely to be denied mortgage loans, even with accounting for credit scores. They also found small businesses in the region, particularly minority and women-owned businesses were not getting access to capital they need. The states covered within this spotlight are: Alabama, Arkansas, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

- *Issue Spotlight: Consumer Risks Posed by Employer-Driven Debt.* In July 2023, the CFPB issued an Issue Spotlight that examined data about, and consumers' experiences with, employer-driven debts.²¹ The CFPB found that consumers face uniquely heightened financial risk relating to employer-driven debts because they can affect consumers' ability to maintain income through employment, and ability to repay the debt. The CFPB also found that consumers may not have the transparency or bargaining power to avoid certain employer-driven debt because consumers are rushed into employer-driven debt agreements that are not fully explained to them and are focused on other aspects of employment, such as wages and other benefits, when seeking employment.
- *Issue Spotlight: Big Tech's Role in Contactless Payments: Analysis of Mobile Device Operating Systems and Tap-to-Pay Practices.* In September 2023, the CFPB published an Issue Spotlight highlighting the impacts of Big Tech companies' policies and practices that govern tap-to-pay on mobile devices like smartphones and watches.²² Consumers are increasingly turning to their mobile devices to make contactless "tap-to-pay" payments at the point-of-sale, which rely on near-field communication (NFC) technology. The dominant mobile device operating systems—Apple's iOS and Google's Android—have different policies governing third-party access to NFC, with potential impacts on consumer competition and choice in the mobile tap-to-pay space. The issue spotlight was part of the CFPB's broader effort to monitor the rapidly evolving consumer payments industry, including the expansion of Big Tech companies into this sphere.
- *Report: Tuition Payment Plans in Higher Education.* In September 2023, the CFPB issued a report finding that students face risk when entering into agreements with

²¹ "Issue Spotlight: Consumer Risks Posed by Employer-Driven Debt," Consumer Financial Protection Bureau, Jul. 20, 2023, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-consumer-risks-posed-by-employer-driven-debt/full-report/>.

²² "Issue Spotlight: Big Tech's Role in Contactless Payments: Analysis of Mobile Device Operating Systems and Tap-to-Pay Practices," Consumer Financial Protection Bureau, Sept. 7, 2023, <https://www.consumerfinance.gov/data-research/research-reports/big-techs-role-in-contactless-payments-analysis-of-mobile-device-operating-systems-and-tap-to-pay-practices/full-report/>.

colleges to spread the upfront cost of tuition into several, interest-free loan payments.²³ The report, which looks at tuition payment plans offered by nearly 450 institutions, finds that many plans have inconsistent disclosures and confusing repayment terms, putting students at risk of missing payments, incurring late fees, and accumulating debt. The report also finds that many institutions withhold transcripts from students as a debt collection tool, a potentially illegal practice that can have severe consequences for students trying to begin their careers or finish their education.

- *Data Point: 2022 Mortgage Market Activity and Trends.* In September 2023, the CFPB issued a Data Point Report that provides an overview of residential mortgage lending in 2022 based on the data collected under the Home Mortgage Disclosure Act (HMDA).²⁴ Institutions covered by HMDA are required to collect and report specified information about each mortgage application acted upon and mortgage purchased. The data include the disposition of each application for mortgage credit; the type, purpose, and characteristics of each home mortgage application or purchased loan; the census-tract designations of the properties; loan pricing information; demographic and other information about loan applicants, such as their race, ethnicity, sex, age, and income; and information about loan sales.
- *Report: The Consumer Credit Card Market.* In October 2023, the CFPB released its sixth biennial report to Congress on the consumer credit card market.²⁵ The report found that in 2022 credit card companies charged consumers more than \$130 billion in interest and fees. Total outstanding credit card debt eclipsed \$1 trillion for the first time since the CFPB began collecting this data. The report highlights areas of concern, including that more consumers faced difficulties paying their credit card bills on time, with delinquency rates rising since the end of pandemic relief programs in 2021.
- *Report: State Community Reinvestment Acts.* In November 2023, the CFPB released a report on state Community Reinvestment Act laws.²⁶ The report, which examined the laws of seven states and the District of Columbia, finds that many of those states adopted

²³ "Report: Tuition Payment Plans in Higher Education," Consumer Financial Protection Bureau, Sept. 14, 2023, https://files.consumerfinance.gov/f/documents/cfpb_tuition_payment_plan_report_2023-09.pdf.

²⁴ "Data Point: 2022 Mortgage Market Activity and Trends," Consumer Financial Protection Bureau, Sept. 27, 2023, https://files.consumerfinance.gov/f/documents/cfpb_data-point-mortgage-market-activity-trends_report_2023-09.pdf.

²⁵ "The Consumer Credit Card Market," Consumer Financial Protection Bureau, Oct. 25, 2023, https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2023.pdf.

²⁶ "State Community Reinvestment Acts," Consumer Financial Protection Bureau, Nov. 2, 2023, https://files.consumerfinance.gov/f/documents/cfpb_state_community_reinvestment_acts_2023-11.pdf.

laws similar to the federal Community Reinvestment Act. The report highlights how states ensure financial institutions' lending, services, and investment activities meet the credit needs of their communities.

- *Report: Fair Debt Collection Practices Act CFPB Annual Report 2023.* In November 2023, the CFPB issued its annual report to Congress on debt collection, which highlights the challenges American families face when debt collectors pursue allegedly unpaid medical bills.²⁷ The report describes how the CFPB and states have worked to stop the collections of medical bills that are inaccurate or not even owed at all. The report also provides updates on the debt collection market more broadly and summarizes activities by the CFPB and other federal agencies relating to debt collection, including the Federal Trade Commission (FTC) and its actions under the FTC Act to protect small businesses from unfair and deceptive debt collection practices.
- *Report: Overdraft and Nonsufficient Fund Fees: Insights from the Making Ends Meet Survey and Consumer Credit Panel.* In December 2023, the CFPB issued a report finding that many consumers are still being hit with unexpected overdraft and nonsufficient fund (NSF) fees, despite recent changes implemented by banks and credit unions that have eliminated billions of dollars in fees charged each year.²⁸ Using the CFPB's 2023 Making Ends Meet survey, the report provides new insights about consumers' experiences with overdraft and NSF fees, including the credit characteristics of consumers with varying levels of overdraft/NSF activity.
- *Report: 2023 College Banking and Credit Card Agreements.* In December 2023, the CFPB released a report presenting new research and data on certain financial products that colleges market to their students in partnership with third-party financial service providers, including deposit accounts, prepaid cards, and credit cards.²⁹ Policymakers, along with federal auditors, banking regulators, and other agencies, have identified risks associated with marketing practices related to college-sponsored financial products and developed laws and policies to address those risks. However, many colleges continue to offer and market financial products in ways that may mislead students under certain

²⁷ "Report: Fair Debt Collection Practices Act CFPB Annual Report 2023," Consumer Financial Protection Bureau, Nov. 16, 2023, https://files.consumerfinance.gov/f/documents/cfpb_fdcpa-annual-report_2023-11.pdf.

²⁸ "Report: Overdraft and Nonsufficient Fund Fees Insights from the Making Ends Meet Survey and Consumer Credit Panel," Consumer Financial Protection Bureau, Dec. 19, 2023, https://files.consumerfinance.gov/f/documents/cfpb_overdraft-nsf-report_2023-12.pdf.

²⁹ "Report: 2023 College Banking and Credit Card Agreements," Consumer Financial Protection Bureau, Dec. 19, 2023, https://files.consumerfinance.gov/f/documents/cfpb_college-banking-and-credit-card-agreements-report.pdf.

circumstances. This report also serves as the fourteenth annual report to Congress on college credit cards pursuant to the CARD Act.

- *Issue Spotlight: Federal Student Loan Return to Repayment.* In January 2024, the CFPB released an Issue Spotlight that highlighted issues consumers faced as the student loan repayment pause ended and borrowers returned to repayment.³⁰ Issues observed include extended servicer call hold times, Income-Driven Repayment (IDR) application processing delays, and inaccurate servicing and billing statements being sent to borrowers starting repayment. The CFPB noted that in earlier student loan servicing examinations similar conduct had resulted in examiners citing certain institutions for an unfair or deceptive act or practice.

1.2.2 Guidance

- *Advisory Opinion: Fair Debt Collection Practices Act (Regulation F: Time-Barred Debt).* In April 2023, the CFPB issued an Advisory Opinion to affirm that the Fair Debt Collection Practices Act (FDCPA) and its implementing Regulation F prohibit a debt collector from suing or threatening to sue to collect a time-barred debt.³¹ Accordingly, an FDCPA debt collector who brings or threatens to bring a State court foreclosure action to collect a time-barred mortgage debt may violate the FDCPA and Regulation F.
- *Consumer Financial Protection Circular 2023-02: Reopening Deposit Accounts That Consumers Previously Closed.* In May 2023, the CFPB released a Circular addressing illegal reopening of deposit accounts by banks after consumers close them.³² The Circular affirms that a bank may violate federal law if it unilaterally reopens a deposit account to process transactions after a consumer has already closed it.
- *Consumer Financial Protection Circular 2023-03: Adverse Action Notification Requirements and the Proper Use of the CFPB's Sample Forms Provided in Regulation B.* In September 2023, the CFPB released a Circular regarding lenders' legal requirements to provide adverse action notices under the Equal Credit Opportunity Act

³⁰ "Issue Spotlight: Federal Student Loan Return to Repayment," Consumer Financial Protection Bureau, Jan. 5, 2024, https://files.consumerfinance.gov/f/documents/cfpb_federal-student-loan-return-to-repayment-report_2024-01.pdf.

³¹ "Fair Debt Collection Practices Act (Regulation F); Time-Barred Debt," Consumer Financial Protection Bureau, Apr. 26, 2023, https://files.consumerfinance.gov/f/documents/cfpb_regulation-f-time-barred-debt_advisory-opinion_2023-04.pdf.

³² "Consumer Financial Protection Circular 2023-02: Reopening deposit accounts that consumers previously closed," Consumer Financial Protection Bureau, May 10, 2023, https://files.consumerfinance.gov/f/documents/cfpb_reopening-deposit-accounts-that-consumers-previously-closed_2023-05.pdf.

(ECOA) and Regulation B, including when using artificial intelligence and other complex models.³³ The Circular describes how lenders must provide specific and accurate reasons when taking adverse actions against consumers and cannot simply use the CFPB sample adverse action forms and checklists if they do not reflect the actual reason for the denial of credit or a change of credit conditions.

- *Advisory Opinion: Consumer Information Requests to Large Banks and Credit Unions.* In October 2023, the CFPB issued an Advisory Opinion regarding section 1034(c) of the CFPA, which requires large banks and credit unions to comply in a timely manner with consumer requests for information concerning their accounts.³⁴ Certain policies—such as charging excessive fees—can unreasonably impede consumers’ ability to get basic information they need and that these institutions must provide under section 1034(c). The Advisory Opinion clarifies that pursuant to this provision, large banks and credit unions are generally prohibited from imposing unreasonable obstacles on customers for basic information about their accounts.
- *Advisory Opinion: Fair Credit Reporting; Background Screening.* In January 2024, the CFPB issued an Advisory Opinion to affirm that, when preparing consumer reports, a consumer reporting agency that reports public record information is not using reasonable procedures to assure maximum possible accuracy under section 607(b) of FCRA if it does not have certain procedures in place.³⁵ For example, it must have procedures that prevent reporting of information that is duplicative or that has been expunged, sealed, or otherwise legally restricted from public access. The Advisory Opinion also highlights certain aspects of the reporting period for adverse items under FCRA section 605(a)(5).
- *Advisory Opinion: Fair Credit Reporting; File Disclosure.* In January 2024, the CFPB issued an Advisory Opinion to address certain obligations that consumer reporting agencies have under section 609(a) of FCRA.³⁶ The Advisory Opinion underscored that, to trigger a consumer reporting agency’s file disclosure requirement under FCRA section

³³ “Consumer Financial Protection Circular 2023-03: Adverse Action Notification Requirements and the Proper Use of the CFPB’s Sample Forms Provided in Regulation B,” Consumer Financial Protection Bureau, Sept. 19, 2023, https://files.consumerfinance.gov/f/documents/cfpb_adverse_action_notice_circular_2023-09.pdf.

³⁴ “Consumer Information Requests to Large Banks and Credit Unions,” Consumer Financial Protection Bureau, Oct. 11, 2023, <https://files.consumerfinance.gov/f/documents/cfpb-1034c-advisory-opinion-2023-10.pdf>.

³⁵ “Fair Credit Reporting; Background Screening,” Consumer Financial Protection Bureau, Jan. 11, 2024, https://files.consumerfinance.gov/f/documents/cfpb_fair-credit-reporting-background-screening_2024-01.pdf.

³⁶ “Fair Credit Reporting; File Disclosure,” Consumer Financial Protection Bureau, Jan. 11, 2024, [cfpb_fair-credit-reporting-file-disclosure_2024-01.pdf](https://files.consumerfinance.gov/f/documents/cfpb_fair-credit-reporting-file-disclosure_2024-01.pdf).

609(a), a consumer does not need to use specific language, such as “complete file” or “file.” The Advisory Opinion also highlighted the requirements regarding the information that must be disclosed to a consumer under FCRA section 609(a). In addition, the Advisory Opinion affirmed that consumer reporting agencies must disclose to a consumer both the original source and any intermediary or vendor source (or sources) that provide the item of information to the consumer reporting agency under FCRA section 609(a).

- *Consumer Financial Protection Circular 2024-01: Preferencing and Steering Practices by Digital Intermediaries for Consumer Financial Products or Services.* In February 2024, the CFPB released a Circular addressing how companies operating comparison-shopping tools can violate the law by preferencing products or services based on financial or other benefits they receive.³⁷ The Circular affirms that, where consumers reasonably rely on an operator of a digital comparison-shopping tool or lead generator to act in the interests of the consumer, the operator or lead generator can take unreasonable advantage of that reliance by obtaining financial or other benefits for giving preferential treatment to their own or other products or services through steering or enhanced product placement.
- *Circular 2024-02: Deceptive Marketing Practices About the Speed or Cost of Sending a Remittance Transfer.* In March 2024, the CFPB issued a Circular warning remittance transfer providers that false advertising about the cost or speed of sending a remittance transfer can violate federal law.³⁸ Companies in the marketplace are charging junk fees on international money transfers and making false claims about the speed of transfers. The Circular highlights several marketing practices relating to sending international money transfers that may violate the CFPB’s prohibition on deceptive acts or practices. This prohibition is enforced by the CFPB, states, and other regulators. Guidance in the Circular applies both to traditional providers of international money transfers and to “digital wallets” that offer the capability to send money internationally from the United States.

³⁷ “Consumer Financial Protection Circular 2024-01: Preferencing and Steering Practices by Digital Intermediaries for Consumer Financial Products or Services,” Consumer Financial Protection Bureau, Feb. 29, 2024, https://files.consumerfinance.gov/f/documents/cfpb_digital-intermediaries_circular_2024-01.pdf.

³⁸ “Circular 2024-02: Deceptive Marketing Practices About the Speed or Cost of Sending a Remittance Transfer,” Mar. 27, 2024, https://files.consumerfinance.gov/f/documents/cfpb_circular_2024-02.pdf.

1.2.3 Other initiatives

- *Policy Statement: Abusive Acts or Practices.* In April 2023, the CFPB issued a policy statement that explains the legal prohibition on abusive conduct in consumer financial markets and summarizes more than a decade of precedent.³⁹
- *Notice re: Revised Methodology for Determining Average Prime Offer Rights.* In April 2023, the CFPB announced the availability of a revised version of its “Methodology for Determining Average Prime Offer Rates,” which describes the data and methodology used to calculate the average prime offer rate (APOR) for purposes of Regulation C and Regulation Z.⁴⁰ The methodology statement has been revised to address the imminent unavailability of certain data the CFPB previously relied on to calculate APORs, as a result of a recent decision by Freddie Mac to make changes to its Primary Mortgage Market Survey® (PMMS). The CFPB has identified a suitable temporary alternative source of the relevant data and will begin relying on those data to calculate APORs on or after April 21, 2023.
- *Joint Statement on Enforcement Efforts Against Discrimination in Automated Systems.* In April 2023, the CFPB, along with the Department of Justice (DOJ), the Equal Employment Opportunity Commission (EEOC), and the FTC, issued a joint statement committing to enforcement efforts against discrimination and bias in automated systems.⁴¹
- *Statement on Examination Principles Related to Valuation Discrimination and Bias in Residential Lending.* In February 2024, the FFIEC issued a statement of principles related to valuation discrimination and bias for member entities to consider in their consumer compliance and safety and soundness examinations.⁴²

³⁹ “Policy Statement on Abusive Acts or Practices,” Consumer Financial Protection Bureau, Apr. 3, 2023, https://files.consumerfinance.gov/f/documents/cfpb_policy-statement-of-abusiveness_2023-03.pdf.

⁴⁰ “Notice of Availability of Revised Methodology for Determining Average Prime Offer Rates,” Consumer Financial Protection Bureau, Apr. 14, 2023, [cfpb_notice-revised-methodology-determining-average-prime-offer-rates_2023-04.pdf](https://files.consumerfinance.gov/f/documents/cfpb_notice-revised-methodology-determining-average-prime-offer-rates_2023-04.pdf).

⁴¹ “Joint Statement on Enforcement Efforts Against Discrimination and Bias in Automated Systems,” Consumer Financial Protection Bureau, Apr. 25, 2023, https://files.consumerfinance.gov/f/documents/cfpb_joint-statement-enforcement-against-discrimination-bias-automated-systems_2023-04.pdf.

⁴² “Statement on Examination Principles Related to Valuation Discrimination and Bias in Residential Lending,” Consumer Financial Protection Bureau, Feb. 12, 2024, https://files.consumerfinance.gov/f/documents/cfpb_ffiec-statement-on-exam-principles_2024-02.pdf.

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

1.3.1 Rules and orders

Upcoming Period:

- *Procedures for Supervisory Designation Proceedings.* In April 2024, the CFPB issued a procedural rule to update how the agency designates a nonbank for supervision under 12 U.S.C § 5514(a)(1)(C). This final rule amends the procedural rule first issued in 2013 and later amended in April 2022 and November 2022. The final rule streamlines the designation proceedings for both the CFPB and nonbanks and reflects changes to the CFPB's organizational structure.⁴³
- *Interpretive Rule: Truth in Lending (Regulation Z); Use of Digital User Access Accounts to Access Buy Now, Pay Later Loans.* In May 2024, the CFPB issued an interpretive rule to address the applicability of subpart B of Regulation Z to lenders that issue digital user accounts used to access credit, including to those lenders that market loans as "Buy Now, Pay Later" (BNPL).⁴⁴ The interpretive rule described how these lenders meet the criteria for being "card issuers" for purposes of Regulation Z. Such lenders that extend credit are also "creditors" subject to subpart B of Regulation Z, including those provisions governing periodic statements and billing disputes. While not required under the Administrative Procedure Act, the CFPB opted to collect comments on the interpretive rule and may make revisions as appropriate after reviewing feedback received.
- *Final Rule: Reg CC Inflation-Adjusted Thresholds.* In May 2024, the CFPB and Board amended Regulation CC, which implements the Expedited Funds Availability Act (EFA Act) and the Check Clearing for the 21st Century Act (Check 21 Act), to fulfill a statutory

⁴³ "Procedures for Supervisory Designation Proceedings," Consumer Financial Protection Bureau, Apr. 16, 2024, https://files.consumerfinance.gov/f/documents/cfpb_procedures-for-supervisory-designation-proceedings_2024-04.pdf.

⁴⁴ "Truth in Lending (Regulation Z), Use of Digital User Access Accounts to Access Buy Now, Pay Later Loans," Consumer Financial Protection Bureau, May 22, 2024, https://files.consumerfinance.gov/f/documents/cfpb_buyl-interpretive-rule_2024-05.pdf.

requirement in the EFA Act to adjust the dollar amounts under the EFA Act for inflation.⁴⁵

- *Final Rule: Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders.* In June 2024, the CFPB finalized a rule requiring certain types of nonbank covered persons subject to certain final public orders obtained or issued by a government agency in connection with the offering or provision of a consumer financial product or service to report the existence of the orders and related information to a CFPB registry.⁴⁶
- *Final Rule: Required Rulemaking on Personal Data Rights; Industry Standard Setting.* In June 2024, the CFPB finalized in part its proposed rule on consumer data rights under section 1033 of the CFPA.⁴⁷ The final rule established minimum attributes a standard-setting body must possess to receive CFPB recognition and to issue consensus standards when the full rule is finalized. The CFPB also released its process for how standard setters apply for CFPB recognition.
- *Proposed Rule: Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V).* In June 2024, the CFPB sought public comment on a proposed rule amending Regulation V, which implements the FCRA, concerning medical information.⁴⁸ The CFPB is proposing to remove a regulatory exception in Regulation V from the limitation in the FCRA on creditors obtaining or using information on medical debts for credit eligibility determinations. The proposed rule would also provide that a consumer reporting agency generally may not furnish to a creditor a consumer report containing information on medical debt that the creditor is prohibited from using.
- *Final Rule: Quality Control Standards for Automated Valuation Models.* In June 2024, the CFPB, along with the OCC, FRB, FDIC, NCUA, and FHFA, adopted a final rule to implement the quality control standards mandated by the Dodd-Frank Act for the use of

⁴⁵ "Availability of Funds and Collection of Checks (Regulation CC)," Consumer Financial Protection Bureau, May 13, 2024, https://files.consumerfinance.gov/f/documents/cfpb_availability-of-funds-collection-checks-reg-cc_final-rule-2019.pdf.

⁴⁶ "Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders," Consumer Financial Protection Bureau, Jun. 3, 2024, https://files.consumerfinance.gov/f/documents/cfpb_nonbank-registration-orders_final-rule.pdf.

⁴⁷ "Required Rulemaking on Personal Data Rights; Industry Standard Setting," Consumer Financial Protection Bureau, Jun. 5, 2024, https://files.consumerfinance.gov/f/documents/cfpb_personal-financial-data-rights_final-rule_2024-06.pdf.

⁴⁸ "Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)," Consumer Financial Protection Bureau, Jun. 11, 2024, https://files.consumerfinance.gov/f/documents/cfpb_fcra-med-debt-proposed-rule_2024-06.pdf.

AVMs by mortgage originators and secondary market issuers in determining the collateral worth of a mortgage secured by a consumer's principal dwelling.⁴⁹ Under the final rule, institutions that engage in certain credit decisions or securitization determinations must adopt policies, practices, procedures, and control systems to ensure that AVMs used in these transactions to determine the value of mortgage collateral adhere to quality control standards designed to ensure a high level of confidence in the estimates produced by AVMs; protect against the manipulation of data; seek to avoid conflicts of interest; require random sample testing and reviews; and comply with applicable nondiscrimination laws.

- *Proposed Rule: Streamlining Mortgage Servicing for Borrowers Experiencing Payment Difficulties; Regulation X.* In July 2024, the CFPB proposed a rule that would amend regulations originally issued in 2013 regarding the responsibilities of mortgage servicers.⁵⁰ The proposed amendments would streamline existing requirements when borrowers seek payment assistance in times of distress, add safeguards when borrowers seek help, and revise existing requirements with respect to borrower assistance. The proposed rule would also require servicers to provide certain communications in languages other than English, such as when a borrower is seeking payment assistance with their mortgage. The proposed rule, if finalized, would increase the likelihood that investors and borrowers can avert the costs of avoidable foreclosure.
- *Interim Final Rule: Small Business Lending under the Equal Credit Opportunity Act (Regulation B); Extension of Compliance Dates.* In July 2024, in light of court orders in ongoing litigation, the CFPB amended Regulation B to extend the compliance dates set forth in its 2023 small business lending rule and to make other date-related conforming adjustments.⁵¹
- *Proposed Rule: Financial Data Transparency Act Joint Data Standards.* In July 2024, the CFPB, OCC, Board, FDIC, NCUA, FHFA, Commodity Futures Trading Commission (CFTC), Securities and Exchange Commission (SEC), and Department of the Treasury invited public comment on a proposed rule to establish data standards to promote

⁴⁹ "Quality Control Standards for Automated Valuation Models," Consumer Financial Protection Bureau, Jun. 24, 2024, <https://www.consumerfinance.gov/rules-policy/final-rules/quality-control-standards-for-automated-valuation-models/>.

⁵⁰ "Streamlining Mortgage Servicing for Borrowers Experiencing Payment Difficulties; Regulation X," Consumer Financial Protection Bureau, Jul. 10, 2024, https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-nurw-proposed-rule_2024-07.pdf.

⁵¹ "Small Business lending under the Equal Credit Opportunity Act (Regulation B); Extension of Compliance Dates," Consumer Financial Protection Bureau, Jun. 25, 2024, https://files.consumerfinance.gov/f/documents/cfpb_sbl-compliance-dates_interim-final-rule_2024-06.pdf.

interoperability of financial regulatory data across these agencies.⁵² Final standards established pursuant to this rulemaking will later be adopted for certain collections of information in separate rulemakings by the agencies or through other actions taken by the agencies. The agencies proposed this rule as required by the Financial Data Transparency Act of 2022.

- *Proposed Rule: Remittance Transfers Under the Electronic Fund Transfer Act (Regulation E)*. In September 2024, the CFPB issued a proposed rule that would amend the disclosure requirements for certain international money transfers, or remittances.⁵³ The proposed amendment would provide consumers clearer information about the types of inquiries that may be better handled by their remittance company before contacting the CFPB or the relevant state regulator.

1.3.2 Other initiatives

Upcoming Period:

- *Issue Spotlight: Banking in Video Games and Virtual Worlds*. In April 2024, the CFPB issued a report examining the growth of financial transactions in online video games and virtual worlds.⁵⁴ The report focuses on the increasing value of gaming assets that are stored on player accounts and used as a medium of exchange for transactions within these virtual worlds, including the purchase of goods and services and person-to-person transfers. The report identifies a number of trends and risks associated with gaming assets.
- *Data Spotlight: Trends in discount points amid rising interest rates*. In April 2024, the CFPB released a Data Spotlight reporting on trends in mortgage discount points.⁵⁵ The 2022 and 2023 housing market was marked by increasing affordability challenges for prospective homebuyers as rapidly rising interest rates reached a peak of 7.79 percent by October of 2023. Concurrent with rising interest rates, a larger share of borrowers paid

⁵² "Financial Data Transparency Act Joint Data Standards," Consumer Financial Protection Bureau, Jul. 30, 2024, https://files.consumerfinance.gov/f/documents/cfpb_financial-data-transparency-act-proposed-rule_2024-07.pdf.

⁵³ "Proposed Rule: Remittance Transfers Under the Electronic Fund Transfer Act (Regulation E)" Consumer Financial Protection Bureau, Sept. 20, 2024, https://files.consumerfinance.gov/f/documents/cfpb_remittance-transfers-under-the-electronic-fund-transfer-act-reg-e-propose_CfpbXsc.pdf.

⁵⁴ "Banking in Video Games and Virtual Worlds," Consumer Financial Protection Bureau, Apr. 4, 2024, https://files.consumerfinance.gov/f/documents/cfpb_banking-in-video-games-and-virtual-worlds_2024-04.pdf.

⁵⁵ "Data Spotlight: Trends in discount points amid rising interest rates," Consumer Financial Protection Bureau, Apr. 5, 2024, <https://www.consumerfinance.gov/data-research/research-reports/data-spotlight-trends-in-discount-points-amid-rising-interest-rates/>.

discount points. This spotlight uses quarterly data collected pursuant to HMDA to look at the borrower and loan characteristics of homeowners that paid discount points between the first quarter of 2019 and the third quarter of 2023, a period that included record-high mortgage interest rates and preceded the Federal Reserve's announcement of its intention to lower interest rates.

- *Data Point: Recent Changes in Medical Collections on Consumer Credit Records.* In April 2024, the CFPB released a report showing that 15 million Americans still have medical bills on their credit reports despite changes by the nationwide credit reporting companies.⁵⁶ Medical collections on consumer credit reports have been an area of focus for CFPB research in recent years. In addition to studying trends in medical debt as a whole, the CFPB's reports have documented the burden of medical debt on older Americans, and the incidence of medical collections in rural counties in Appalachia and the Deep South region.
- *Report: Price Complexity in Laboratory Markets.* In April 2024, the CFPB issued a report that indicates consumers tend to pay more for products that have more complex pricing structures.⁵⁷ The report is based on experiments with multiple rounds of buyers and sellers interacting in simple markets and found that participants tended to pay more when prices were broken into sub-parts and were harder to understand. The research has implications for understanding how junk fees impede fair and competitive pricing in markets like auto loans or mortgages, where consumers have to evaluate extended warranties, add-ons, closing costs, and a wide variety of other fees instead of an all-inclusive price.
- *Issue Spotlight: Health Savings Accounts.* In May 2024, the CFPB released an Issue Spotlight detailing the complex costs and fees that many consumers with health savings accounts are forced to pay.⁵⁸ A health savings account (HSA) is a type of tax-advantaged savings account available to consumers enrolled in High Deductible Health Plans (HDHPs) to use for certain healthcare expenses. The prevalence of HSAs among consumers has surged in recent years, with approximately 36 million HSAs reported in 2023. These accounts collectively hold over \$116 billion in assets, representing an

⁵⁶ "Data Point: Recent Changes in Medical Collections on Consumer Credit Records," Consumer Financial Protection Bureau, Apr. 29, 2024, https://files.consumerfinance.gov/f/documents/cfpb_recent-changes-medical-collections-on-consumer-credit-reports_2024-03.pdf.

⁵⁷ "Report: Price Complexity in Laboratory Markets," Consumer Financial Protection Bureau, Apr. 30, 2024, https://files.consumerfinance.gov/f/documents/cfpb_price-complexity-in-laboratory-markets_2024-04.pdf.

⁵⁸ "Issue Spotlight: Health Savings Accounts," Consumer Financial Protection Bureau, May 1, 2024, https://files.consumerfinance.gov/f/documents/cfpb_health-savings-account-issue-spotlight_2024-04.pdf.

increase of more than 500 percent since 2013. This significant growth has coincided with the rising prevalence of HDHPs, as HSAs were established to provide tax benefits to individuals with HDHPs. An HSA typically has an underlying consumer deposit account, and while HSAs share similarities with healthcare spending accounts like flexible spending accounts (FSAs) and certain tax-advantaged retirement accounts, they also have distinct elements. This report examines these unique characteristics and evaluates consumer experiences in the HSA market. Overall, while the tax benefits associated with HSAs may add value for certain consumers, HSAs also present increased costs, primarily in the form of fees and low interest rates.

- *Issue Spotlight: Credit Card Rewards.* In May 2024, the CFPB released an Issue Spotlight, finding consumers encounter numerous problems with credit card rewards programs.⁵⁹ The role of rewards in the industry has grown substantially, as rewards programs have become increasingly expensive for issuers and important to consumers. For this Issue Spotlight, the CFPB analyzed several hundred consumer complaints relating to the administration of credit card rewards programs and identified four recurring themes that resulted in consumers not receiving the rewards they were promised: (1) unexpected promotional conditions, (2) devaluation, (3) redemption problems, and (4) revocation.
- *Request for Information: Mortgage Closing Costs.* In May 2024, the CFPB issued a Request for Information seeking comments from the public related to fees charged by providers of mortgages and related settlement services.⁶⁰ Mortgages come with many associated fees and costs, referred to as “closing costs,” that are due by the time the loan closes or when the borrower signs the loan agreement. These closing costs, and particularly the costs the lender imposes on the borrower as part of the cost of getting the loan, have recently risen sharply. Lenders are also impacted by rising closing costs. The cost for credit scores, credit reports, and employment verification, for example, have all increased over the last few years. These higher costs are passed on to the consumer or eat into lenders’ bottom lines, in a market where mortgage originators are already facing financial challenges.
- *Consumer Financial Protection Circular 2024-03: Unlawful and Unenforceable Contract Terms and Conditions.* In June 2024, the CFPB released a Consumer Financial Protection Circular indicating that including unlawful or unenforceable terms and

⁵⁹ “Issue Spotlight: Credit Card Rewards,” Consumer Financial Protection Bureau, May 9, 2024, https://files.consumerfinance.gov/f/documents/cfpb_credit-card-rewards_issue-spotlight_2024-05.pdf

⁶⁰ “Request for Information: Mortgage Closing Costs,” Consumer Financial Protection Bureau, May 30, 2024, https://files.consumerfinance.gov/f/documents/cfpb_rfi-closing-costs_2024-05.pdf

conditions in contracts for consumer financial products and services can violate the prohibition on deceptive acts or practices in the CFPA.⁶¹

- *Fair Lending Annual Report to Congress*: In June 2024, the CFPB published its Annual Fair Lending Report to Congress describing the CFPB's fair lending activities in enforcement and supervision; guidance and rulemaking; interagency coordination; and outreach and education for calendar year 2023.⁶²
- *Proposed Interpretive Rule: Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation for Work*. In July 2024, the CFPB issued a proposed interpretive rule to help market participants determine when certain existing requirements under Federal law are triggered.⁶³ The proposed interpretive rule would also address certain costs that are in substantial connection with extensions of such credit, such as expedited delivery fees and costs marketed as "tips."
- *Data Spotlight: Developments in the Paycheck Advance Market*. In July 2024, the CFPB released a Data Spotlight examining employer-sponsored paycheck advance loans.⁶⁴ The report found that workers using these employer-sponsored products take out an average of twenty-seven such loans per year and that the typical employer-sponsored loan carries an annual percentage rate over 100 percent.
- *Interagency Guidance on Reconsideration of Value for Residential Real Estate*. In July 2024, the CFPB, along with the FDIC, FRB, NCUA, and OCC, issued final guidance addressing reconsiderations of value (ROV) for residential real estate transactions.⁶⁵ The guidance advises on policies and procedures that financial institutions may implement to allow consumers to provide financial institutions with information that may not have

⁶¹ "Consumer Financial Protection Circular 2024-03: Unlawful and Unenforceable Contract Terms and Conditions," Consumer Financial Protection Bureau, June 4, 2024, https://files.consumerfinance.gov/f/documents/cfpb_circular_2024-03.pdf.

⁶² "Fair Lending Annual Report to Congress," Consumer Financial Protection Bureau, Jun. 26, 2024, https://files.consumerfinance.gov/f/documents/cfpb_fair-lending-report_fy-2023.pdf.

⁶³ "Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation for Work," Jul. 18, 2024, https://files.consumerfinance.gov/f/documents/cfpb_paycheck-advance-marketplace_proposed-interpretive-rule_2024-07.pdf.

⁶⁴ "Data Spotlight: Developments in the Paycheck Advance Market," Consumer Financial Protection Bureau, Jul. 18 2024, <https://www.consumerfinance.gov/data-research/research-reports/data-spotlight-developments-in-the-paycheck-advance-market/>.

⁶⁵ "Interagency Guidance on Reconsideration of Value for Residential Real Estate," Consumer Financial Protection Bureau, Jul. 18, 2024, https://files.consumerfinance.gov/f/documents/cfpb_interagency-guidance-on-reconsiderations-of-value_2024-07.pdf.

been considered during an appraisal or if the deficiencies are identified in the original appraisal.

- *Consumer Financial Protection Circular 2024-04: Whistleblower Protections Under CFPB Section 1057.* In July 2024, the CFPB released a Consumer Financial Protection Circular indicating that requiring employees to sign broad confidentiality agreements can violate Section 1057 of the CFPB, the provision protecting the rights of whistleblower employees, and undermine the CFPB's ability to enforce the law.⁶⁶
- *Issue Spotlight: Costs of Electronic Payments in K-12 Schools.* In July 2024, the CFPB released an Issue Spotlight on payment processing companies that are used by school districts to process children's school lunch payments.⁶⁷ These private companies process payments made by parents who may have limited or zero payment alternatives. With a captive customer base, these companies can have broad control over fees assessed for each transaction. These fees are widespread and often hit low-income families the hardest.
- *Issue Spotlight: Solar Financing.* In August 2024, the CFPB released an Issue Spotlight that provides an overview of the most common solar financing business models.⁶⁸ The market for residential solar panels continues to grow, in large part due to declining solar panel costs and increased government incentives, including tax credits. With that growth, the marketing and door-to-door sales of solar-related financial products have become more prevalent. Due to the size of the marketplace and the scope of potential consumer harm, this spotlight pays specific attention to risks stemming from the presentation and structure of "solar-specific" loans, which are often facilitated by large financial technology firms via a point-of-sale partnership with solar installers.
- *Report on Contract for Deed Lending.* In August 2024, the CFPB issued a report on contract for deed lending. The report describes how some lenders use contracts for deed to target low-income borrowers, including communities where consumers have limited

⁶⁶ "Consumer Financial Protection Circular 2024-04: Whistleblower Protections Under CFPB Section 1057," Consumer Financial Protection Bureau, Jul. 24, 2024, https://files.consumerfinance.gov/f/documents/cfpb_circular-cfpa-section-1057-whistleblower-protections_2024-07.pdf

⁶⁷ "Issue Spotlight: Costs of Electronic Payments in K-12 Schools," Consumer Financial Protection Bureau, Jul. 25, 2024, https://files.consumerfinance.gov/f/documents/cfpb_costs-of-electronic-payment-in-k-12-schools-issue-spotlight_2024-07.pdf

⁶⁸ "Issue Spotlight: Solar Financing," Consumer Financial Protection Bureau, Aug. 7, 2024, https://files.consumerfinance.gov/f/documents/cfpb_solar-financing-issue-spotlight_2024-08.pdf

English proficiency, and set them up to fail so the sellers can kick them out and repeat the process with a new family.⁶⁹

- *Advisory Opinion: Truth in Lending; Consumer Protections for Home Sales Financed Under Contracts for Deed.* In August 2024, the CFPB issued an Advisory Opinion affirming that the consumer protections and creditor obligations of TILA and Regulation Z apply to transactions in which a consumer purchases a home under a contract for deed.⁷⁰ When a creditor sells a home to a buyer under a contract for deed, that transaction will generally meet TILA and Regulation Z's definition of credit, and, where the transaction is secured by the buyer's dwelling, the buyer will also generally be entitled to the protections associated with residential mortgage loans under TILA. This includes for certain sellers the requirement to provide informative and accurate disclosures and to assess buyers' ability to repay, and well as limitations on mandatory arbitration and balloon payments.
- *Issue Spotlight: Cash-back fees.* In August 2024, the CFPB released an Issue Spotlight that detailed merchant cash-back fees and their impact on consumers.⁷¹ The CFPB estimated that the three retailers highlighted in the paper (Dollar General, Dollar Tree, and Kroger) collected \$90 million in fees annually for people to access their money. The spotlight also noted that some merchants tend to maximize those fees by having low cash-back limits, further capitalizing financial gains. Finally, many consumers with limited banking choices, such as those living in a banking desert or in areas with limited banking and shopping options are more likely to pay these fees.
- *Report: Fair Debt Collection Practices Act CFPB Annual Report 2024.* In September 2024, the CFPB issued its annual report to Congress on debt collection, which highlights aggressive and illegal practices in the collection of medical debt and rental debt.⁷² The report discusses how problems with rental payment companies' "revenue management software" can result in improperly inflated rental debt amounts. The report also focuses on debt collectors' attempts to collect medical bills already satisfied by non-profit

⁶⁹ "Report on Contract for Deed Lending," Consumer Financial Protection Bureau, Aug. 13, 2024, https://files.consumerfinance.gov/f/documents/cfpb_contract-for-deed_report_2024-08.pdf.

⁷⁰ "Advisory Opinion: Truth in Lending (Regulation Z); Consumer Protections for Home Sales Financed Under Contracts for Deed," Consumer Financial Protection Bureau, Aug. 13, 2024, https://files.consumerfinance.gov/f/documents/cfpb_contract-for-deed_advisory-opinion_2024-08.pdf.

⁷¹ "Issue Spotlight: Cash-back fees," Consumer Financial Protection Bureau, Aug. 26, 2024, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-cash-back-fees/>.

⁷² "Report: Fair Debt Collection Practices Act CFPB Annual Report 2024," Consumer Financial Protection Bureau, Sept. 5, 2024, https://files.consumerfinance.gov/f/documents/cfpb_fdcpa-2024-annual-report_2024-09.pdf.

hospitals' financial assistance programs, as well as the fact that many medical bills from low-income consumers do not get addressed by financial assistance in the first place.

- *Consumer Financial Protection Circular 2024-05: Improper Overdraft Opt-in Practices.* In September 2024, the CFPB released a Consumer Financial Protection Circular to help federal and state consumer protection enforcers stop banks from charging overdraft fees based on phantom opt-in agreements.⁷³ Phantom opt-ins occur when banks claim they have customers' consent to charge overdraft fees, but there is no proof they actually obtained that consent. Under the Electronic Fund Transfer Act (EFTA), banks cannot charge overdraft fees on ATM and one-time debit card transactions unless consumers have affirmatively opted in.
- *Office of Servicemember Affairs Annual Report: January – December 2023.* In September 2024, the CFPB issued its annual report summarizing top concerns of servicemembers and their families.⁷⁴ This report includes an examination of the top-rated complaints CFPB received from servicemembers and found that the volume of servicemember complaints has risen over the last year. The report also focused on student lending issues impacting servicemembers, such as issues servicemembers have contacting student loan servicers, which impact their ability to return to repayment successfully and to ensure the repayment plans and entitlements they are eligible for are accounted for. The report highlighted impacts of university transcript withholding and how that impacts servicemember and veterans from employment advancement and completing degrees. Finally, the report found that older veterans are often the targets of financial scams and fraud.

⁷³ "Consumer Financial Protection Circular 2024-05: Improper Overdraft Opt-in Practices," Consumer Financial Protection Bureau, Sept. 17, 2024, https://files.consumerfinance.gov/f/documents/cfpb_improper-overdraft-opt-in-practices-circular_2024-09.pdf

⁷⁴ "Office of Servicemember Affairs Annual Report: January – December 2023," Consumer Financial Protection Bureau, Sept. 24, 2024, https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-cv2023_2024-09.pdf.

2. Complaints

The CFPB has a statutory obligation to collect and monitor consumer complaints.⁷⁵ 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.

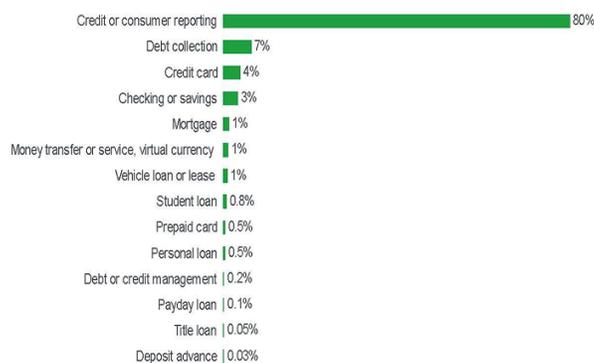
2.1 An analysis of complaints about consumer financial products or services that the CFPB has received and collected in its central database on complaints

During the period April 1, 2023, through March 31, 2024, the CFPB received approximately 1,836,300 consumer complaints.⁷⁶ Consumers submitted approximately 97 percent of these complaints through the CFPB's website and two percent via telephone calls. Referrals from other state and federal agencies accounted for less than one 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.

⁷⁵ 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).

⁷⁶ Complaint data in this report are current as of October 1, 2024. 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>.

FIGURE 1: COMPLAINT VOLUME BY FINANCIAL PRODUCT OR SERVICE

The CFPB sent approximately 1,547,900 complaints received to companies for review and response.⁷⁷ Companies responded to approximately 99.6 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

⁷⁷ The CFPB referred 5 percent of the complaints it received to other regulatory agencies and found 11 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.

Consumer Response uses a variety of approaches to identify trends and possible consumer harm. Examples include:

- Reviewing cohorts of complaints and company responses to assess the accuracy, timeliness, and completeness of an individual company's responses to complaints sent to them for response;
- Conducting text analytics to identify emerging trends and statistical anomalies; and
- Visualizing data to highlight geographic and temporal patterns.

The CFPB publishes periodic reports about its complaint analyses. For example, in March 2024, the CFPB also published the *Consumer Response Annual Report*,⁷⁸ 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.

In addition to public reports, the CFPB makes complaint data available to the public in the Consumer Complaint Database (Database).⁷⁹ 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.

⁷⁸ See "Consumer Response Annual Report," Consumer Financial Protection Bureau, Mar. 29, 2024, https://files.consumerfinance.gov/f/documents/cfpb_cr-annual-report_2023-03.pdf.

⁷⁹ See Consumer Financial Protection Bureau, Consumer Complaint Database, <https://www.consumerfinance.gov/data-research/consumer-complaints/>.

3. Supervisory and Enforcement Actions

3.1 List of public supervisory and enforcement actions

3.1.1 Statement of issues for public supervisory and enforcement actions

The CFPB was a party in the following public enforcement actions from April 1, 2023, through March 31, 2024, which are listed in descending chronological order by filing date.

- *Consumer Financial Protection Bureau, New York, Colorado, Delaware, Illinois, Minnesota, North Carolina, and Wisconsin v. StratFS, LLC (f/k/a Strategic Financial Solutions, LLC), Strategic Client Support, LLC (f/k/a Pioneer Client Support, LLC), Strategic CS, LLC, Strategic FS Buffalo, LLC, Strategic NYC, LLC, BCF Capital, LLC, T Fin, LLC, Strategic Consulting, LLC, Versara Lending, LLC, Strategic Family, Inc., Anchor Client Services, LLC (now known as CS 1 PAAS Services, LLC), Bedrock Client Services, LLC, Boulder Client Services, LLC, Canyon Client Services, LLC, Carolina Client Services, LLC, Great Lakes Client Services, LLC, Guidestone Client Services, LLC, Harbor Client Services, LLC, Heartland Client Services, LLC, Monarch Client Services, LLC (now known as CS 2 PAAS Services, LLC), Newport Client Services, LLC, Northstar Client Services, LLC, Option 1 Client Services, LLC, Pioneer Client Servicing, LLC, Rockwell Client Services, LLC, Royal Client Services, LLC, Stonepoint Client Services, LLC, Summit Client Services, LLC (now known as CS 3 PAAS Services, LLC), Whitestone Client Services, LLC, Ryan Sasson, Jason Blust, Daniel Blumkin, Albert Ian Behar, Twist Financial, LLC, Duke Enterprises, LLC, Blaise Investments, LLC, and Unidentified John Does 1-50 (W.D.N.Y. No. 1:24-cv-00040) (not a credit union or depository institution).* On January 10, 2024, the CFPB and seven state attorneys general – New York, Colorado, Delaware, Illinois, Minnesota, North Carolina, and Wisconsin – filed a complaint and sought a temporary restraining order and preliminary injunction against StratFS, LLC f/k/a Strategic Financial Solutions, LLC, as well as its holding company Strategic Family, Inc.; various of its subsidiaries: Strategic Client Support, LLC; Strategic CS, LLC; Strategic FS Buffalo, LLC; Strategic NYC, LLC; T Fin, LLC; BCF Capital, LLC; Strategic Consulting, LLC; Versara Lending, LLC; Anchor Client Services, LLC; Bedrock Client Services, LLC; Boulder Client Services, LLC; Canyon Client Services,

LLC; Carolina Legal Services, LLC; Great Lakes Client Services, LLC; Guidestone Client Services, LLC; Harbor Client Services, LLC; Heartland Client Services, LLC; Monarch Client Services, LLC; Newport Client Services, LLC; Northstar Client Services, LLC; Option 1 Client Services, LLC; Pioneer Client Servicing, LLC; Rockwell Client Services, LLC; Royal Client Services, LLC; Stonepoint Client Services, LLC; Summit Client Services, LLC; and Whitestone Client Services, LLC (collectively, SFS); and as individuals: SFS Chief Executive Officer Ryan Sasson and Jason Blust. The complaint also named the following relief defendants: Daniel Blumkin; Albert Ian Behar; Strategic ESOP; Strategic ESOT; Twist Financial, LLC; Duke Enterprises, LLC; Blaise Investments, LLC; The Blust Family Irrevocable Trust through Donald J. Holmgren, Trustee; Jaelyn Blust; Lit Def Strategies, LLC; and Relialit, LLC. SFS is a debt-relief company with offices in Buffalo and Manhattan, New York. The CFPB alleges that since at least January 2016, SFS and the individual defendants have operated a debt-relief scheme that collects exorbitant, illegal advance fees from vulnerable consumers suffering financial difficulties through a web of interrelated companies they have created, including law firms, that serve as a facade for SFS's debt-relief operation. The Telemarketing Sales Rule (TSR) prohibits charging and collecting fees before renegotiating the terms of at least one debt and before a payment is made under the renegotiated terms, as well as charging fee amounts that are not tied to the percentage of the enrolled debt settled or reduced or the amount saved. The CFPB alleges that the defendants violated, and substantially assisted violating, these prohibitions. Specifically, under SFS's direction, the web of companies begin debiting fees for the debt-relief services from consumers' escrow accounts long before any of the consumers' debts have been settled, and the fee amounts the companies collect are pre-determined and do not depend on any results the companies might obtain. As alleged in the complaint, since January 2016, defendants have collected at least \$100,000,000 from consumers before any of the consumers' debts were settled, and in some instances when no such settlements ever took place. The complaint seeks permanent and preliminary injunctive relief, redress for consumers, and a civil money penalty. On January 11, 2024, the court granted the CFPB's request for a temporary restraining order. On February 1-2, 2024, the court held an evidentiary hearing on the CFPB's motion for a preliminary injunction, which the court granted on March 4, 2024. On March 4, 2024, several defendants filed motions to dismiss. On March 5, 2024, defendants began filing appeals from the district court's preliminary injunction decision. On March 27, 2024, the CFPB filed an amended complaint. As of the end of the reporting period, the case remains pending.

- *Consumer Financial Protection Bureau and United States of America v. Colony Ridge Development, LLC; Colony Ridge BV, LLC; Colony Ridge Land, LLC; and Loan Originator Services, LLC* (S.D. Tex. No. 4:23-cv-04729) (not a credit union or depository

institution). On December 20, 2023, the CFPB, together with the United States Department of Justice (DOJ), filed a complaint against land development companies Colony Ridge Development, LLC and Colony Ridge BV, LLC, affiliate mortgage company Colony Ridge Land, LLC (collectively, the Colony Ridge defendants), and loan origination company Loan Originator Services, LLC (LOS). The CFPB and DOJ allege that defendants violated the Equal Credit Opportunity Act (ECOA) by targeting Hispanic consumers with a predatory loan product. The CFPB separately alleges that the Colony Ridge defendants violated the Consumer Financial Protection Act of 2010 (CFPA) by making deceptive representations to consumers; that Colony Ridge Development and Colony Ridge BV violated the Interstate Land Sales Full Disclosure Act (ILSA) by making untrue statements, omitting material facts, failing to provide required accurate translations, and failing to report and disclose required information; and that defendants violated the CFPA by virtue of their violations of ECOA and ILSA, respectively. DOJ further alleges defendants' conduct violated the Fair Housing Act (FHA). The joint complaint seeks, among other things, injunctions against defendants to prevent future violations of Federal consumer financial laws, redress to consumers, damages, and the imposition of civil money penalties. In February 2024, defendants filed motions to dismiss and to stay. In September 2024, the district court granted the motion as to LOS, but denied it as to Colony Ridge and allowed the claims to proceed (with the exception of one FHA claim). Colony Ridge filed a motion to certify for interlocutory appeal the district court's decision on the ECOA claim. As of the end of the reporting period, the case remains pending.

- *In the Matter of U.S. Bank National Association (2023-CFPB-0019)*. On December 19, 2023, the CFPB issued an order against U.S. Bank in connection with its administration of prepaid debit cards that held unemployment insurance benefits. U.S. Bank has offered prepaid debit cards to eligible consumers in at least 19 states and the District of Columbia to distribute unemployment insurance benefits through its ReliaCard program. In the summer of 2020, U.S. Bank implemented new freeze criteria to determine whether to freeze a card due to suspected fraud. Using these new fraud controls and its expanded criteria used for freezing accounts, U.S. Bank froze the accounts of tens of thousands of cardholders eligible for benefits. The CFPB found that U.S. Bank engaged in unfair acts or practices in violation of the CFPA by failing to provide those eligible ReliaCard prepaid debit cardholders whose accounts U.S. Bank froze with adequate means to verify their identities and timely regain access to their benefits. For freezes that U.S. Bank imposed in August 2020 through November 2020, on average it took a month or longer for consumers to unfreeze their ReliaCard accounts. And for freezes that U.S. Bank imposed in December 2020 through March 2021, on average it took multiple weeks for consumers to unfreeze their ReliaCard accounts. The

CFPB also found that U.S. Bank violated the Electronic Fund Transfer Act (EFTA), and its implementing Regulation E, by failing to timely investigate ReliaCard prepaid debit cardholders' notices of error concerning alleged unauthorized electronic fund transfers (EFTs). The order requires U.S. Bank to provide \$5.7 million in redress to consumers and to pay a \$15 million civil money penalty. The order also requires U.S. Bank to take measures to ensure future compliance. The Office of the Comptroller of the Currency (OCC) concurrently issued an order against U.S. Bank addressing U.S. Bank's conduct relating to administration of the ReliaCard program, separately fining it \$15 million.

- *In the Matter of Commonwealth Financial Systems, Inc.* (2023-CFPB-0018) (not a credit union or depository institution). On December 15, 2023, the CFPB issued an order against Commonwealth Financial Systems, Inc. (Commonwealth), a Pennsylvania-based third-party debt collection company that collects past-due medical debts and furnishes information about consumers to consumer reporting agencies (CRAs). The CFPB found that Commonwealth violated the Fair Credit Reporting Act (FCRA) and its implementing Regulation V by failing to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of information it furnishes to CRAs; failing to conduct reasonable investigations of consumer disputes about information Commonwealth furnished to CRAs; failing to report the results of direct dispute investigations to consumers; and furnishing information to CRAs without notifying the CRA that the information was disputed. The CFPB also found that Commonwealth violated the Fair Debt Collection Practices Act (FDCPA) by sending debt collection letters to consumers before providing the consumer a verification of the debt when Commonwealth had received a written dispute from the consumer within 30 days of the consumer's receipt of a debt validation notice; misrepresenting to consumers that they owed alleged debts in certain circumstances when Commonwealth lacked a reasonable basis to make those representations; and communicating credit information about alleged debts to CRAs but failing to communicate that the debts were disputed. Among other injunctive relief, the order permanently bans Commonwealth from participating in or assisting others in any debt collection activities, debt buying, debt selling, and consumer reporting activities and requires Commonwealth to submit to all CRAs to whom it previously furnished information about any consumer a request to delete all collection accounts for such consumers. The order also requires Commonwealth to pay a \$95,000 civil money penalty.
- *In the Matter of Atlantic Union Bank* (2023-CFPB-0017). On December 7, 2023, the CFPB issued an order against Atlantic Union Bank, a regional bank headquartered in Richmond, Virginia. Under Regulation E, which implements EFTA, before a bank can charge overdraft fees on ATM or one-time debit card transactions, it must first obtain a

consumer's affirmative consent (or opt-in) to the bank's payment of those transactions. The bank must also provide the consumer with a written notice describing the overdraft service before it can obtain that consumer's consent. The CFPB found that the bank violated Regulation E because, as part of its in-branch, checking account-opening process, its employees requested that new customers orally provide their enrollment decision before providing them with an adequate written notice describing the overdraft service. The CFPB also found that Atlantic Union Bank engaged in unlawful deception in violation of the CFPA by misleading consumers who called in by phone and enrolled in its Opt-In Overdraft Privilege service; the bank misrepresented which transactions the service covered and omitted material information about the terms and conditions of the service. The Bank's actions with respect to consumers who called and opted in by phone also violated Regulation E. The CFPB's order requires Atlantic Union Bank to stop its unlawful conduct and to pay no less than \$5 million in redress to affected consumers and a penalty of \$1.2 million.

- *In the Matter of Bank of America, N.A.* (2023-CFPB-0016). On November 28, 2023, the CFPB issued an order against Bank of America, N.A., which is a national bank headquartered in Charlotte, North Carolina with branches and ATMs located in 38 states and the District of Columbia. The Home Mortgage Disclosure Act (HMDA) and its implementing regulation, Regulation C, require financial institutions to ask applicants for most mortgage loans for their race, ethnicity, and sex. The CFPB found that between 2016 and late 2020, at least hundreds of Bank of America's loan officers were not asking applicants for their race, ethnicity, and sex, as required by law, and instead falsely recorded that the applicants chose not to provide the information. The Bank's conduct violated HMDA, Regulation C, and the CFPA. The order requires Bank of America to pay a \$12 million civil money penalty and to develop policies and procedures to ensure compliance with HMDA and Regulation C, including recording and auditing phone applications to make sure that HMDA data are accurately collected and recorded.
- *In the Matter of Toyota Motor Credit Corporation* (2023-CFPB-0015) (not a credit union or depository institution). On November 20, 2023, the CFPB issued an order against Toyota Motor Credit Corporation (Toyota Motor Credit), which is the United States-based auto-financing arm of Toyota Motor Corporation and one of the largest indirect auto lenders in the country. Toyota Motor Credit provides financing for vehicles and optional "add-on" products and services sold with the vehicles. The CFPB found that Toyota Motor Credit violated the CFPA by: (1) unfairly and abusively making it unreasonably difficult for consumers to cancel unwanted add-ons, including when consumers complained that dealers had forced add-ons on consumers without their consent; (2) unfairly failing to ensure consumers received refunds of unearned

Guaranteed Asset Protection (GAP) and Credit Life and Accidental Health (CLAH) premiums when the products were no longer of any value to consumers because consumers had paid off their loans early or ended lease agreements early; and (3) unfairly failing to provide accurate refunds to consumers who canceled their vehicle service agreements as a result of flawed system logic. The CFPB also found that Toyota Motor Credit violated FCRA and its implementing Regulation V by falsely reporting customer accounts as delinquent, even though customers had already returned their vehicles, and failing to promptly correct the negative information it had sent to consumer reporting agencies; and failing to maintain reasonable policies and procedures to ensure payment information it sent to consumer reporting agencies was accurate. The order requires Toyota Motor Credit to pay \$48 million in consumer redress and a \$12 million civil money penalty. The order also requires Toyota Motor Credit to stop its unlawful practices and come into compliance with the law and prohibits incentive-based employee compensation or performance measurements in relation to add-on products.

- *In the Matter of Enova International, Inc.* (2023-CFPB-0014) (not a credit union or depository institution). On November 15, 2023, the CFPB issued an order against Enova International, Inc., a publicly-traded online small-dollar lender, headquartered in Chicago, Illinois, that markets, provides, and services loans under the brand names CashNetUSA (CNU) and NetCredit. In 2019, the CFPB issued an order against Enova based on the CFPB's finding that Enova violated the CFPA by debiting consumers' bank accounts without authorization and failing to honor loan extensions it granted to consumers. The 2019 order, among other requirements, barred Enova from making or initiating electronic fund transfers without valid authorization and from failing to honor loan extensions. The CFPB found that Enova violated the 2019 Order, and therefore the CFPA, by debiting or attempting to debit consumers' bank accounts in a wide array of circumstances without the consumer's express informed consent; failing to honor loan extensions it had granted to consumers; debiting the full loan payment instead of a loan extension fee on loans for which Enova had granted a loan extension; and making or initiating electronic fund transfers from consumers' bank accounts on a recurring basis without valid authorization identifying the particular bank account the consumer had authorized for EFTs and providing a copy of that authorization to the consumer. The CFPB also found that Enova violated the CFPA's prohibition on unfair acts and practices by debiting or attempting to debit consumers' accounts without their authorization and by canceling previously-granted loan extensions and debiting such consumers' bank accounts for the full loan payment instead of a loan extension fee. The CFPB further found that Enova violated the CFPA's prohibition on deceptive acts or practices by failing to tell consumers who had been granted a loan extension that making an interim partial payment would result in cancellation of the loan extension, misrepresenting the amount

that Enova would charge consumers who made such an interim partial payment, misrepresenting the due date for certain loan payments, misrepresenting that consumers could skip certain loan payments, and misrepresenting the amounts due on certain consumer loans. The order bans Enova from offering or providing certain types of loans, requires Enova to come into compliance with the law, and requires Enova to incorporate compliance into its executive compensation policies and agreements. The order requires Enova to provide redress to all consumers whose accounts it debited without their express informed consent and to pay a \$15 million civil money penalty.

- *In the Matter of Citibank, N.A.* (2023-CFPB-0013). On November 8, 2023, the CFPB issued an order against Citibank, N.A., which is a national bank headquartered in New York City, New York. The CFPB found that Citibank violated ECOA and its implementing Regulation B by discriminating against certain credit card applicants based on their national origin. Specifically, from at least 2015 through 2021, Citibank employees applied extra scrutiny to, negatively assessed, and often denied, certain credit card applications based on the applicants' perceived Armenian national origin. The CFPB also found that Citibank failed to provide applicants with an accurate and adequate statement of the specific reasons for the adverse action when the applicant was denied based on their Armenian national origin in violation of ECOA and Regulation B. Citibank's violations of ECOA also constitute violations of the CFPA. The order requires Citibank to provide \$1.4 million in redress to consumers and pay a \$24.5 million civil money penalty. The order also requires Citibank to stop its illegal discrimination and take measures to ensure future compliance, including increasing oversight of communications and training materials concerning the manual underwriting of consumer credit card applications.

- *In the Matter of Chime, Inc. d/b/a Sendwave* (2023-CFPB-0012) (not a credit union or depository institution). On October 17, 2023, the CFPB issued an order against Chime, Inc. doing business as Sendwave, a nonbank remittance transfer provider headquartered in Boston, Massachusetts. Sendwave offers and provides consumers international money transfer services, known as remittance transfers, in 50 states and the District of Columbia through its mobile application, the Sendwave App. The app enables users to send money to recipients in several countries primarily in Africa and Asia. The CFPB found that Sendwave violated the CFPA's prohibition on deceptive acts and practices by misrepresenting to consumers the speed and cost of its remittance transfers. The CFPB also found that Sendwave violated EFTA and its implementing Regulation E, including Subpart B, known as the Remittance Transfer Rule, by: (1) wrongly requiring customers to waive their rights; (2) failing to provide required disclosures, including the date of fund availability and exchange rate; (3) failing to provide timely disclosures; and (4)

failing to investigate errors properly and maintain required policies and procedures for error resolution. The violations of EFTA and Regulation E also constitute violations of the CFPA. The order requires Sendwave to provide approximately \$1.5 million in redress to consumers and to pay a \$1.5 million civil money penalty. Sendwave must also take measures to ensure future compliance.

- *Federal Trade Commission, and Consumer Financial Protection Bureau v. TransUnion Rental Screening Solutions, Inc. and Trans Union LLC* (D. Colo. No. 1:23-cv-02659) (not a credit union or depository institution). On October 12, 2023, the CFPB and the Federal Trade Commission (FTC) filed a joint complaint and stipulated order against TransUnion Rental Screening Solutions, Inc., a Delaware corporation with its principal place of business in Greenwood Village, Colorado, and its parent company, Trans Union LLC, a Delaware company with its principal place of business in Chicago, Illinois (collectively, TransUnion Rental Screening). TransUnion Rental Screening is a consumer reporting agency that provides tenant and employment background screening reports to thousands of client rental property owners, property management companies, employers, and other background screening companies throughout the United States to assist users in selecting tenants and employees. The complaint alleged that TransUnion Rental Screening violated FCRA by failing in numerous instances to (1) follow reasonable procedures to assure maximum possible accuracy of eviction records in its tenant screening reports; and (2) when it obtained criminal and eviction records from third-party vendors, identify the third-party vendor as a source of the records in its disclosures to consumers. As the complaint alleged, inaccurate and misleading information in tenant screening reports can significantly interfere with consumers' ability to find housing and cause them harm, including prolonged housing searches, additional application fees, time and money spent correcting errors, higher rental payments, temporary housing costs, and denial of housing. The stipulated order, which the court entered on October 18, 2023, requires that TransUnion Rental Screening take specific actions to ensure maximum possible accuracy of its tenant screening reports and provide complete disclosures to consumers who request them. It also requires TransUnion Rental Screening to pay \$11 million in consumer redress and a \$4 million penalty to the CFPB.
- *In the Matter of TransUnion, Trans Union LLC, and TransUnion Interactive, Inc.* (2023-CFPB-0011) (not a credit union or depository institution). On October 12, 2023, the CFPB issued an order against TransUnion and two of its subsidiaries, TransUnion LLC, and TransUnion Interactive, Inc. (collectively, TransUnion), which are headquartered in Chicago, Illinois. TransUnion LLC is one of the three nationwide consumer reporting agencies. Security freezes and locks block certain third parties, such as lenders, from accessing consumers' credit reports to prevent a potential identity thief

from obtaining new credit in those consumers' names. Consumers can remove or lift security freezes upon request to, for example, apply for credit. Starting in September 2018, Federal law has required nationwide consumer reporting agencies to provide security freezes as a free service, whereas locks are a feature of certain paid products. The CFPB found that TransUnion, from as early as 2003, failed to timely place or remove security freezes and locks on the credit reports of tens of thousands of consumers who requested them, including certain vulnerable consumers; in some cases, those requests were left unmet for months or years. The CFPB found TransUnion's failure to place or remove security freezes in a timely manner occurred as a result of problems, including systems issues, that TransUnion knew about but failed to address for years. The CFPB found that TransUnion's failure to place or remove security freezes in a timely manner violated FCRA, and TransUnion's failure to place or remove both security freezes and locks in a timely manner was unfair in violation of the CFPA. Further, the CFPB found that TransUnion engaged in deceptive acts and practices by falsely telling certain consumers that their requests had been successful when they had not. In addition, the CFPB found that from September 21, 2018 to 2020, TransUnion failed to exclude certain consumers, including active-duty military and other potential victims of identity theft, from pre-screened solicitation lists in violation of FCRA. The CFPB's order requires TransUnion to pay \$3 million to consumers in redress and \$5 million in civil penalties. TransUnion must also take steps to address and prevent unlawful conduct, including convening a committee to identify and solve technical and systems problems that can affect consumers.

- *Consumer Financial Protection Bureau v. Freedom Mortgage Corporation* (S.D. Fla. No. 9:23-cv-81373) (not a credit union or depository institution). On October 10, 2023, the CFPB filed a lawsuit against Freedom Mortgage Corporation (Freedom), a residential mortgage loan originator and servicer headquartered in Boca Raton, Florida. In 2020, Freedom reported HMDA data on over 700,000 loans and applications and originated nearly 400,000 HMDA-reportable loans, making it the third largest mortgage lender in the United States by origination volume. In 2019, the CFPB issued an order against Freedom finding that it intentionally misreported certain HMDA data fields from at least 2014 to 2017 (2019 Order). The CFPB's 2023 complaint alleges that the mortgage loan data for 2020 that Freedom submitted pursuant to HMDA contained widespread errors across multiple data fields, in violation of HMDA and its implementing Regulation C. These alleged HMDA violations occurred while Freedom was under the 2019 Order. The CFPB's complaint further alleges that by reporting inaccurate mortgage loan data for 2020, Freedom also violated the 2019 Order and the CFPA. On December 27, 2023, defendants filed a motion to dismiss and a motion to stay. On January 12, 2024, the

court denied defendant's motion to stay. As of the end of the reporting period, the motion to dismiss and the case remained pending.⁸⁰

- *In the Matter of Tempoe, LLC* (2023-CFPB-0010) (not a credit union or depository institution). On September 11, 2023, the CFPB issued an order against Tempoe, LLC, a nonbank consumer finance company, with offices in Cincinnati, Ohio, and Manchester, New Hampshire. Tempoe purchased personal property and services from retailers and then leased them to consumers. Typically, consumers were offered Tempoe's product after applying and being rejected for conventional financing through the retailer. Under the terms of Tempoe's agreements, consumers made periodic payments for an initial term of five months. Then, unless the consumer made an active selection to purchase or return the property, Tempoe continued auto-debiting the consumers for the full month-to-month term of the contract, typically 18 to 36 months. Some consumers discovered only at the conclusion of their initial term that they did not own their items and were required to pay more. The CFPB found that Tempoe engaged in unfair acts and practices in violation of the CFPA by (1) failing to ensure that consumers had access to the terms of the transaction, and (2) prohibiting the return of some goods and services. The CFPB also found that Tempoe violated Regulation M, which implements the Consumer Leasing Act, by failing to provide consumers with required disclosures for leases that extended beyond the initial term by six months or more. The order permanently bans Tempoe from offering or providing consumer leases and requires Tempoe to release all consumers with existing lease agreements from their leases and to allow them to maintain the leased products with no further financial obligation; including approximately 19,300 leases with an aggregate value of approximately \$33 million. The order also requires Tempoe to pay a \$2 million civil money penalty, of which \$1 million will be remitted upon Tempoe's payment of that amount to the states that filed a parallel multi-state settlement addressing the same conduct.
- *Consumer Financial Protection Bureau v. Heights Finance Holding Co. f/k/a Southern Management Corporation; Covington Credit of Alabama, Inc.; Southern Finance of Tennessee, Inc.; Covington Credit of Georgia, Inc.; Southern Finance of South Carolina, Inc.; Covington Credit of Texas, Inc.; Covington Credit, Inc.; and Quick Credit Corporation* (D.S.C. No. 6:23-cv-04177). On August 22, 2023, the CFPB filed a lawsuit against Heights Finance Holding Co. f/k/a Southern Management Corporation as well as its wholly owned, state-licensed subsidiaries: Covington Credit of Alabama, Inc.; Southern Finance of Tennessee, Inc.; Covington Credit of Georgia, Inc.; Southern

⁸⁰ Additional activity has occurred with this matter since the end of the reporting period. More information can be found at: <https://www.consumerfinance.gov/enforcement/actions/freedom-mortgage-corporation-lmda-2023/>.

Finance of South Carolina, Inc.; Covington Credit of Texas, Inc.; Covington Credit, Inc.; and Quick Credit Corporation (collectively Southern). Southern is a high-cost installment lender that operates over 250 brick-and-mortar storefronts located in the states of Texas, Oklahoma, Alabama, Georgia, Tennessee, and South Carolina under a variety of trade names, including Covington Credit, Southern Finance, Quick Credit, and Heights Finance. The CFPB alleges that Southern employs numerous harmful underwriting, sales, and servicing practices for their refinanced loans that are designed to chum delinquent borrowers into continuous fee-laden debt, which erode the borrowers' available credit and increase their total cost of borrowing with each successive refinance. The CFPB further alleges that Southern has generated hundreds of millions in loan costs and fees and that it derives 40 percent of its net revenue through this process of "churning" borrowers in repeated, fee-laden refinances. The CFPB alleges that Southern's loan-churning practices violate the CFPA because they are unfair; they are abusive because they take unreasonable advantage of borrowers' lack of understanding of the material risks, costs, or conditions of a refinanced Southern loan; and they are abusive because they take unreasonable advantage of payment-stressed borrowers' inability to protect their interests in the selection or use of a refinanced loan. The CFPB seeks redress for consumers, injunctive relief, and a civil money penalty. On March 26, 2024, the court stayed the case pending a decision from the Supreme Court in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22-448. As of the end of the reporting period, the case remains pending.

- *In the Matter of Realty Connect USA Long Island, Inc.* (2023-CFPB-0009) (not a credit union or depository institution). On August 17, 2023, the CFPB issued an order against Realty Connect USA Long Island, Inc. (Realty Connect), a real estate brokerage firm based in Suffolk County, New York, for accepting things of value—including valuable subscription services, events, and monthly marketing services agreement payments—in exchange for referral of mortgage loans to Freedom Mortgage Corporation in violation of the Real Estate Settlement Procedures Act (RESPA) and its implementing Regulation X. The order requires Realty Connect to stop its unlawful activities and pay a \$200,000 civil money penalty.
- *In the Matter of Freedom Mortgage Corporation* (2023-CFPB-0008) (not a credit union or depository institution). On August 17, 2023, the CFPB issued an order against Freedom Mortgage Corporation (Freedom), a residential mortgage loan originator and servicer headquartered in Boca Raton, Florida, for providing things of value—including valuable subscription services, events, and monthly marketing services agreement payments—in exchange for referrals of mortgage loans in violation of RESPA and its

implementing Regulation X. The order requires Freedom to stop its unlawful activities and pay a \$1.75 million civil money penalty.

- *Consumer Financial Protection Bureau v. USASF Servicing, LLC* (N.D. Ga. No. 1:23-cv-03433). On August 2, 2023, the CFPB filed a lawsuit against USASF Servicing, LLC, an auto-loan servicer headquartered in Lawrenceville, Georgia. USASF offered both Guaranteed Asset Protection (GAP) and collateral-protection insurance (CPI), which are products that consumers can buy when they buy or lease a car. GAP covers some of a consumer's loan balance if their car is totaled but they still owe money on the loan even with car insurance. CPI is physical-damage insurance that protects the lender if a consumer does not have auto insurance that covers the amount of their car loan. The CFPB alleges that USASF engaged in unfair acts and practices by: (1) wrongfully activating nearly 80,000 times starter-interruption devices, which are devices that warn consumers with beeps or disable their car altogether when they are late with a loan payment; (2) failing to ensure refunds of GAP premiums when consumers were entitled to a refund because they paid off their loan early or their car was repossessed by USASF, totaling millions of dollars for thousands of consumers; (3) erroneously billing 34,000 consumers for CPI by charging them twice each billing cycle, totaling around \$1.9 million; (4) wrongfully applying extra consumer payments first to late fees or CPI instead of accrued interest; and (5) wrongfully repossessing consumers' cars dozens of times due to errors by USASF or its vendor. The CFPB seeks, among other things, restitution and redress to consumers, civil money penalties, and injunctions to prevent future violations. On October 10, 2023, the clerk entered a default against USASF. On January 3, 2024, the CFPB moved for a default judgment. As of the end of the reporting period, the case remains pending.
- *Consumer Financial Protection Bureau v. Snap Finance LLC, Snap RTO LLC, Snap Second Look LLC, Snap U.S. Holdings LLC, Snap Finance Holdings LLC* (D. Utah No. 2:23-cv-00462). On July 19, 2023, the CFPB filed a lawsuit against Snap Finance LLC, Snap RTO LLC, Snap Second Look LLC, Snap U.S. Holdings LLC, and Snap Finance Holdings LLC (collectively, Snap), a group of interrelated companies headquartered in West Valley, Utah. Snap offers and provides "lease-purchase" or "rental-purchase" financing, through which consumers finance merchandise and services from merchants and, in turn, make payments back to Snap. Since January 2017, Snap has offered and provided more than three million financing agreements to consumers in partnership with over 10,000 merchants in 47 states. The CFPB alleges that, during this period, Snap designed and implemented its financing program in ways that misled consumers through the advertising, servicing, and collections of its agreements, failed to provide consumers with required disclosures, and interfered with consumers' ability to

understand the terms and conditions of their agreements. The CFPB alleges that such conduct violated the CFPB's prohibition of deceptive and abusive acts and practices and the Truth in Lending Act (TILA) and its implementing Regulation Z. The CFPB further alleges that Snap violated EFTA and its implementing Regulation E by unlawfully conditioning the extension of credit on consumers' repayment through preauthorized ACH debits, and FCRA and its implementing Regulation V by failing to establish and implement reasonable written policies and procedures concerning the accuracy and integrity of consumer information that it furnished. The CFPB seeks, among other things, injunctions to prevent future violations, rescission, or reformation of Snap's financing agreements, redress to consumers, and civil money penalties. On September 28, 2023, Snap filed a motion to dismiss. As of the end of the reporting period, the case remains pending.

- *State of Washington; State of Oregon; California Department of Financial Protection and Innovation; State of Delaware; State of Minnesota; State of Illinois; State of South Carolina; State of North Carolina ex rel. Attorney General Joshua H. Stein; Commonwealth of Massachusetts; Commonwealth of Virginia; State of Wisconsin; and Consumer Financial Protection Bureau v. Prehired, LLC, Prehired Recruiting, LLC, and Prehired Accelerator, LLC* (Bankr. Del. No. 22-11007). On July 13, 2023, the CFPB and several state partners filed a complaint in an adversary proceeding against Prehired, LLC, Prehired Recruiting, LLC, and Prehired Accelerator, LLC. Prehired has its principal place of business in Delaware and, prior to filing bankruptcy, operated a private, for-profit vocational training program for software sales representatives. Prehired charged up to \$30,000 for its program and encouraged consumers who could not pay upfront to enter into income share loans. Prehired's income share loans required consumers to make minimum payments equal to between 12.5 percent and 16 percent of their gross income for four to eight years or until they had paid a total of \$30,000, whichever was sooner. Prehired transferred ownership of many of these loans to other entities, including Prehired Recruiting and Prehired Accelerator. The complaint alleged that Prehired deceptively represented that its income share loans were not loans; deceptively represented that consumers would pay nothing until they had a job making at least \$60,000 a year; and failed to disclose key financing terms required by TILA and Regulation Z. The complaint also alleged that Prehired Recruiting engaged in unfair acts and practices by filing debt collection lawsuits in a distant forum when consumers neither lived in that forum nor were in that forum when they executed the financing agreement. The complaint further alleged that Prehired Recruiting and Prehired Accelerator violated the FDCPA and the CFPB by deceptively inducing consumers to enter into settlement agreements, and the FDCPA by claiming the consumers owed more than they did. The attorneys general from Washington, Oregon, Delaware, Minnesota,

Illinois, Wisconsin, Massachusetts, North Carolina, South Carolina, and Virginia, and California's Department of Financial Protection and Innovation joined the action. On November 20, 2023, the court entered a stipulated judgment, which requires Prehired to pay consumer redress and prejudgment interest totaling \$4,248,249.30 and a \$1 civil money penalty. It also requires defendants to cease doing business and prohibits them from participating or assisting others in advertising, selling, or assisting in providing any consumer financial product or services relating to vocational education services. The stipulated judgment also voids, and prohibits defendants from collecting on, Prehired's income share loans or other consumer agreements that financed vocational education services.

- *In the Matter of Bank of America, N.A. (2023-CFPB-0007)*. On July 11, 2023, the CFPB issued an order against Bank of America, N.A., which is a depository institution based in Charlotte, North Carolina, to address the CFPB's findings regarding the bank's opening unauthorized consumer financial accounts and its misleading statements regarding certain credit cards rewards. Specifically, the CFPB found that in certain instances Bank of America opened credit card accounts without consumer consent and in doing so, obtained consumer credit reports without a permissible purpose, in violation of TILA and its implementing regulation, FCRA, and the CFPA. The CFPB further found that Bank of America engaged in deceptive acts or practices by: (a) advertising a sign-up bonus for a rewards card on its website, making it appear that it was available to all applicants, but later denying the bonus to consumers who applied over the phone or in person and not online; and (b) offering a sign-up bonus for a rewards card to certain consumers but then failing to provide them the promised bonuses due to employee error. The order requires the Bank to come into compliance, pay redress to consumers and verify previously administered redress, and pay a \$30 million civil money penalty.
- *In the Matter of Bank of America, N.A. (2023-CFPB-0006)*. On July 11, 2023, the CFPB issued an order against Bank of America, N.A., which is a national bank headquartered in Charlotte, North Carolina with branches and ATMs located in 38 states and the District of Columbia. When a consumer writes a check or authorizes an ACH transaction to a merchant or other payee using their deposit account at Bank of America, the merchant or other payee may then present that check or ACH authorization to the bank for payment. Until February 2022, if a consumer did not have sufficient funds in their account to pay for the transaction and the bank decided not to pay it, Bank of America assessed the consumer a \$35 non-sufficient funds fee. Merchants commonly "re-present" these returned transactions—that is, they again try to receive payment—often multiple times. For many years, Bank of America assessed non-sufficient fund fees on ACH and check transactions that it returned unpaid even though it had already assessed a \$35 fee

for the same ACH or check transaction that it had previously returned unpaid (i.e., repeat non-sufficient fund fees). Bank of America would assess these repeat non-sufficient fund fees potentially as soon as the next day after the initial transaction. From September 2018 until February 2022, Bank of America generated hundreds of millions of dollars in such fees. The CFPB found that Bank of America's assessment of repeat non-sufficient fund fees was unfair in violation of the CFPA. The CFPB's order requires Bank of America to refund all repeat non-sufficient fund fees that it collected since September 2018 and has not yet refunded, totaling approximately \$80.4 million in redress. The bank must also pay a \$60 million civil penalty to the CFPB. The OCC concurrently issued an order against the bank separately fining it \$60 million.

- *In the Matter of ACI Worldwide Corp. and ACI Payments Inc.* (2023-CFPB-0005) (not a credit union or depository institution). On June 27, 2023, the CFPB issued an order against ACI Worldwide Corp. and ACI Payments Inc. (collectively, ACI), a nationwide payment processor headquartered in Elkhorn, Nebraska. The CFPB found that ACI's employees improperly accessed and used sensitive consumer financial information for internal testing purposes and without employing appropriate information safety controls. These internal tests created fake payment processing files that were treated as containing legitimate consumer bill payment orders by ACI's consumer bill payment platform. Due to weaknesses in its information handling practices, ACI caused the erroneous bill payment orders to be sent to consumers' banks for processing. These actions initiated debits totaling approximately \$2.3 billion in mortgage payments from nearly 500,000 borrower bank accounts without their knowledge or authorization. The CFPB found that ACI's actions violated EFTA and its implementing rule, Regulation E, as well as the CFPA's prohibition of unfair acts and practices. The order requires ACI to stop its unlawful activities and adopt and enforce reasonable information security practices. The order also requires ACI to pay a \$25 million civil money penalty.
- *In the Matter of Phoenix Financial Services, LLC* (2023-CFPB-0004) (not a credit union or depository institution). On June 8, 2023, the CFPB issued an order against Phoenix Financial Services, LLC (Phoenix), an Indiana-based debt collector that collects primarily past-due medical debts and furnishes information about consumers to CRAs. The CFPB found that Phoenix violated FCRA and its implementing Regulation V by failing to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of information it furnishes to CRAs; failing to conduct reasonable investigations of consumer disputes about information Phoenix furnished to CRAs; and failing to report the results of direct dispute investigations to consumers. The CFPB also found that Phoenix violated the FDCPA by sending debt collection letters to consumers before providing the consumer a verification of the debt when Phoenix had

received a written dispute from the consumer within 30 days of the consumer's receipt of a debt validation notice; and by representing to consumers that they owed alleged debts in certain circumstances when Phoenix lacked a reasonable basis to make those representations. The order requires Phoenix to provide redress to affected consumers by refunding all amounts paid to Phoenix on an unverified debt between January 1, 2017, and the date of the order by consumers who received an unlawful debt collection letter from Phoenix after disputing the validity of the alleged debt. The order also requires Phoenix to abide by certain conduct provisions to prevent it from engaging in the violations found by the CFPB and to pay a \$1.675 million civil money penalty.

- *In the Matter of OneMain Financial Holdings, LLC; OneMain Financial Group, LLC; OneMain Financial (HI), Inc.; OneMain Financial, Inc.; OneMain Financial of Minnesota, Inc.* (2023-CFPB-0003) (not a credit union or depository institution). On May 31, 2023, the CFPB issued an order against OneMain Financial Holdings, LLC; OneMain Financial Group, LLC; OneMain Financial (HI), Inc.; OneMain Financial, Inc.; and OneMain Financial of Minnesota, Inc. (collectively referred to as OneMain). OneMain is an Indiana-based personal loan installment lender with more than 1,400 branches across 44 states. In connection with loan originations and renewals, OneMain markets, sells, and finances add-on products, including credit life insurance, credit disability insurance, and identity theft protection. For several years, OneMain misrepresented to tens of thousands of consumers who purchased and then subsequently canceled optional add-on products that they could cancel the products during what it called a "full refund period" and be returned to the financial position they would have been in had the product never been added to their loan. The CFPB found that OneMain engaged in deceptive acts or practices in violation of the CFPA by misleading consumers into believing they must purchase add-on products to receive loans and that they could cancel the add-on products within a prescribed time period without cost. The CFPB also found that OneMain engaged in unfair acts or practices in violation of the CFPA by charging and failing to refund the full premium and interest that accrued on add-on products consumers did not agree to purchase and by charging and failing to refund interest that accrued on add-on product fees during a purported full-refund period. Finally, the CFPB found that OneMain violated the CFPA by abusively interfering with consumers' ability to understand that add-on products were optional and that OneMain charged non-refundable interest during the purported full-refund period. The order requires OneMain to stop its unlawful activities, adjust its policies to make cancellation of add-on products easier, include interest in refunds after add-on product cancellations, pay at least \$10,000,000 in consumer redress, and pay a \$10,000,000 civil money penalty. OneMain must also take measures to ensure future compliance.

- *Consumer Financial Protection Bureau v. James R. Carnes; Melissa C. Carnes; James R. Carnes, as Co-Trustee of the James R. Carnes Revocable Trust dated February 10, 2010; Melissa C. Carnes, as Co-Trustee of the James R. Carnes Revocable Trust dated February 10, 2010; James R. Carnes, as Co-Trustee of the Melissa C. Carnes Revocable Trust dated February 10, 2010; and Melissa C. Carnes, as Co-Trustee of the Melissa C. Carnes Revocable Trust dated February 10, 2010* (D. Kan. No. 2:23-cv-02151). On April 5, 2023, the CFPB filed a lawsuit against James R. Carnes and his wife, Melissa C. Carnes, both individually and in their roles as co-trustees of two trusts, as a result of James Carnes's efforts to conceal assets and avoid paying a judgment of more than \$43 million to the CFPB. The CFPB obtained the judgment after finding that Carnes and his company, Integrity Advance, LLC, violated multiple laws, including the CFPA, and caused significant harm to consumers. See *In the Matter of Integrity Advance, LLC and James R. Carnes*, 2015-CFPB-0029 (administrative proceeding); *CFPB v. Integrity Advance, LLC and James R. Carnes*, 2:21-mc-206 (D. Kan. July 30, 2021) (judgment). The CFPB's complaint alleges that James Carnes engaged in multiple fraudulent transactions in violation of the FDCA to remove assets and conceal them from the CFPB. Specifically, the complaint alleges that soon after Carnes became aware of the CFPB's investigation into his illegal payday lending business, he began transferring significant assets to his wife's trust and that, in total, he transferred more than \$12 million to the trust during the CFPB's investigation and subsequent administrative proceeding. The CFPB seeks a declaration that the transactions were fraudulent and to recover the value of the transferred assets in partial satisfaction of the CFPB's judgment against Carnes. On May 11, 2023, James and Melissa Carnes each filed a motion to dismiss, both of which the court denied on September 20, 2023. As of the end of the reporting period, the case remained pending.⁸¹
- *Consumer Financial Protection Bureau v. Portfolio Recovery Associates, LLC* (E.D. Va. No. 2:23-cv-00110). On March 23, 2023, the CFPB filed a complaint and proposed stipulated final judgment and order to resolve the CFPB's claims against Portfolio Recovery Associates, LLC, one of the largest debt collectors in the United States. The court entered the order on April 13, 2023. On September 9, 2015, the CFPB issued an order against Portfolio Recovery Associates (2015 Order) to address the CFPB's findings that Portfolio Recovery Associates violated the CFPA and the FDCA in connection with Portfolio Recovery Associates' debt collection practices. The CFPB alleged that Portfolio

⁸¹ 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/james-r-carnes-melissa-c-carnes-james-r-carnes-revocable-trust-melissa-c-carnes-revocable-trust/>.

Recovery Associates violated the 2015 Order, the CFPA, the FDCA, and FCRA and its implementing Regulation V. Specifically, the CFPB alleged that Portfolio Recovery Associates violated the CFPA and, in some instances, the FDCA, when it violated multiple conduct provisions from the 2015 Order, including prohibitions on (1) representing the amount or validity of unsubstantiated debt; (2) collecting on debt without offering to provide necessary documentation to consumers; (3) misrepresenting that it would provide the offered documents within thirty days; (4) collecting on time-barred debt without making required disclosures; (5) initiating debt collection lawsuits without possessing required documentation; and (6) suing to collect time-barred debt. The CFPB also alleged that several of Portfolio Recovery Associates' practices for resolving disputes about information it furnished to CRAs violated FCRA, Regulation V, and the CFPA. Specifically, the CFPB claimed that Portfolio Recovery Associates failed to (1) timely resolve disputes submitted by consumers directly to Portfolio Recovery Associates; (2) properly respond to disputes that Portfolio Recovery Associates deemed frivolous; (3) conduct reasonable investigations of consumer's disputes; and (4) maintain reasonable policies and procedures regarding the accuracy and integrity of consumer information that it furnished to CRAs. The CFPB alleged that Portfolio Recovery Associates illegally collected millions of dollars through its unlawful conduct, and that its illegal dispute resolution practices impacted at least tens of thousands of consumers. The order requires Portfolio Recovery Associates to pay at least \$12.18 million in redress to harmed consumers and a \$12 million civil money penalty. It also imposes broad injunctive relief designed to prevent Portfolio Recovery Associates from violating the law in the future.

- *Consumer Financial Protection Bureau and the People of the State of New York, by Letitia James, the Attorney General of the State of New York v. Credit Acceptance Corporation (S.D.N.Y. No. 1:23-cv-00038)*. On January 4, 2023, the CFPB and New York Attorney General Letitia James filed a joint lawsuit against Credit Acceptance Corporation, an indirect auto lender that funds and services car loans for subprime and deep-subprime consumers. Credit Acceptance is one of the country's largest publicly traded auto lenders, doing business with a network of more than 12,000 affiliated used-car dealers. The joint complaint alleges that Credit Acceptance pushes dealers to sell cars with hidden interest costs and surreptitiously include expensive add-on products with vehicle sales. The complaint further alleges that Credit Acceptance applies complicated algorithms to predict how much it is likely to collect from borrowers to determine how much to offer dealers for each loan, resulting in high-cost loans—with annual percentage rates often exceeding state usury caps—made without regard for borrowers' ability to repay, while still yielding profits for Credit Acceptance. A significant number of Credit Acceptance's most credit-constrained borrowers become delinquent on their loans

within the first year, and many also lose their cars to repossession and auction or suffer other negative effects from the loans. The joint complaint alleges that Credit Acceptance is engaging in deceptive acts or practices in violation of the CFPA by misrepresenting key loan terms, including the true principal, finance charge, and APR. The joint complaint further alleges that Credit Acceptance is engaging in abusive acts or practices by taking unreasonable advantage of consumers' lack of understanding of the risk of default and the severity of the consequences associated with its loans and taking unreasonable advantage of consumers' inability to protect their interests in selecting or using Credit Acceptance's loans. The joint complaint also alleges that Credit Acceptance substantially assists dealers in the deceptive sale of add-on products. The complaint seeks permanent injunctive relief, monetary relief for consumers, and civil money penalties. On March 14, 2023, Credit Acceptance filed a motion to dismiss. On August 7, 2023, the court stayed the case pending a decision from the Supreme Court in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22-448. As of the end of the reporting period, the motion to dismiss and the case remain pending.

- *Consumer Financial Protection Bureau v. ACTIVE Network, LLC (E.D. Tex. No. 4:22-cv-00898)*. On October 18, 2022, the CFPB filed a lawsuit against ACTIVE Network, LLC, a payment processor owned by Global Payments, Inc., with its headquarters in Plano, Texas. ACTIVE provides enrollment and payment processing services to organizers of charity races, youth camps, and other events. The CFPB alleges that ACTIVE engaged in deceptive and abusive acts and practices in violation of the CFPA by enrolling consumers in and charging them for discount club memberships without their knowledge, consent, or a full understanding of the material terms of the transaction. ACTIVE does this by inserting a webpage into the online event registration and payment process that provides an offer for a free trial enrollment in a discount club membership called "Active Advantage." Many consumers click on the highlighted call to action button—which is typically labeled "Accept"—because they believe that by doing so, they are accepting charges to participate in an event. Instead, consumers are enrolling in a trial membership in Active Advantage, which automatically converts to a paid subscription with an annual fee, unless consumers opt out by canceling their membership within 30 days. The CFPB also alleges that ACTIVE violated EFTA and Regulation E when it increased consumers' membership fees without sending the consumer written notice of the new amount and the date of the new payment at least 10 days before initiating the new payment. The violations of EFTA and Regulation E also constitute violations of the CFPA. The CFPB seeks redress to consumers, disgorgement, appropriate injunctive relief, and the imposition of civil money penalties. On November 29, 2022, the court stayed the case pending a decision from the Supreme Court in *CFPB*

v. Community Financial Services Association of America, Ltd., No. 22-448. As of the end of the reporting period, the stay and case remained pending.

- *Consumer Financial Protection Bureau v. MoneyLion Technologies Inc.; ML Plus, LLC; MoneyLion of Alabama LLC; MoneyLion of Arizona LLC; MoneyLion of California LLC; MoneyLion of Colorado LLC; MoneyLion of Connecticut LLC; MoneyLion of Delaware LLC; MoneyLion of Florida LLC; MoneyLion of Georgia LLC; MoneyLion of Idaho LLC; MoneyLion of Illinois LLC; MoneyLion of Indiana LLC; MoneyLion of Kansas LLC; MoneyLion of Kentucky LLC; MoneyLion of Louisiana LLC; MoneyLion of Maryland LLC; MoneyLion of Michigan LLC; MoneyLion of Minnesota LLC; MoneyLion of Mississippi LLC; MoneyLion of Missouri LLC; MoneyLion of Nevada LLC; MoneyLion of New Jersey LLC; MoneyLion of New Mexico LLC; MoneyLion of New York LLC; MoneyLion of North Carolina LLC; MoneyLion of North Dakota LLC; MoneyLion of Ohio LLC; MoneyLion of Oklahoma LLC; MoneyLion of Oregon LLC; MoneyLion of South Carolina LLC; MoneyLion of South Dakota LLC; MoneyLion of Tennessee LLC; MoneyLion of Texas LLC; MoneyLion of Utah LLC; MoneyLion of Virginia LLC; MoneyLion of Washington LLC; MoneyLion of Wisconsin LLC; and MoneyLion of Wyoming LLC* (S.D.N.Y. No. 1:22-cv-08308). On September 29, 2022, the CFPB filed a lawsuit against MoneyLion Technologies Inc. (MoneyLion), ML Plus, LLC, and 37 MoneyLion lending subsidiaries. The CFPB filed a first amended complaint on June 13, 2023. MoneyLion is a fintech company (formerly known as MoneyLion Inc.) that offers online installment loans and other products to consumers through its lending subsidiaries and membership programs through its subsidiary ML Plus. The Military Lending Act (MLA) contains a number of protections for active-duty servicemembers and their dependents, defined as “covered borrowers.” The CFPB alleges that MoneyLion and its lending subsidiaries violated the MLA by imposing membership fees on covered borrowers that, when combined with loan-interest-rate charges, exceeded the MLA’s annual percentage rate cap; inserting illegal arbitration provisions into contracts; requiring covered borrowers to submit to arbitration or, in the case of a dispute, to reject the arbitration provision within 30 days of the date of the contract; demanding that borrowers provide written notice rejecting the arbitration provision within 30 days of the date of the contract as a condition for legal action; and failing to make required disclosures to covered borrowers. The CFPB also alleges that MoneyLion, its lending subsidiaries, and ML Plus engaged in deceptive acts or practices in violation of the CFPA by misrepresenting that covered borrowers owed loan payments and associated fees that they did not in fact owe because loan contracts were void from their inception. The CFPB further alleges that MoneyLion and ML Plus engaged in unfair, deceptive, and abusive acts and practices by not permitting consumers with unpaid loan balances to exit the membership program and stop monthly membership-fee charges; misrepresenting

consumers' right to cancel their memberships for any reason and not clearly disclosing these restrictions on membership cancellation when consumers took out loans; and continuing to charge and collect monthly membership fees after consumers had asked to cancel their memberships or terminate ACH-fee withdrawals. The CFPB's first amended complaint seeks redress for consumers, injunctive relief, and a civil money penalty. On July 11, 2023, the defendants moved to dismiss the first amended complaint. On December 1, 2023, the court stayed the case pending a decision from the Supreme Court in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22-448. As of the end of the reporting period, the motion to dismiss and case remain pending.

- *Consumer Financial Protection Bureau v. Populus Financial Group, Inc., d/b/a ACE Cash Express, Inc.* (N.D. Tex. No. 3:22-cv-01494). On July 12, 2022, the CFPB filed a lawsuit against Populus Financial Group, Inc., which does business as ACE Cash Express, Inc. (ACE). ACE is a payday lender headquartered in Irving, Texas, and has approximately 979 stores in 22 states and the District of Columbia. The CFPB had previously found that ACE abusively induced borrowers with a demonstrated inability to repay their existing loan to take out a new ACE loan with accompanying fees, and on July 10, 2014, the CFPB ordered ACE to cease encouraging or suggesting that a delinquent borrower pay off their loan and then take out a new loan. ACE's loans come with a fee that is equivalent to a triple-digit interest rate, and consumers who cannot afford to pay back the loan and this fee often refinance their loans, incurring another fee to extend their loan for 14 or 30 days. Consumers in 10 states, however, had the contractual right to one free repayment plan per year if they indicated they could not repay their loan, which is designed to help consumers get out of a debt trap. Under the free repayment plan, consumers would owe their outstanding balance in four equal installments over their next four paydays, rather than owing one lump sum, without paying any additional fees or interest. The CFPB alleges that ACE engaged in unfair, abusive, and deceptive acts or practices in violation of the CFPB by concealing this free repayment plan from consumers who were entitled to it, instead inducing them to refinance their loans for additional fees. As alleged in the complaint, since July 10, 2014, hundreds of thousands of consumers have paid ACE over \$240 million in reborrowing fees while eligible for a free repayment plan. The CFPB also alleges that when ACE attempted to collect payment on its payday and title loans, it unfairly made electronic withdrawals of consumers' money without their authorization. The CFPB seeks permanent injunctive relief, redress for consumers, and civil money penalties. On September 23, 2022, ACE filed a motion to dismiss, which remains pending. On December 5, 2022, the court stayed the case pending a decision from the Supreme Court in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22-448. As of the end of the reporting period, the case remains pending but stayed.

- *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. MoneyGram International, Inc. and MoneyGram Payment Systems, Inc.* (S.D.N.Y. 1:22-cv-03256). On April 21, 2022, the CFPB filed a lawsuit jointly with the Attorney General of New York against MoneyGram International, Inc. and MoneyGram Payment Systems, Inc. (collectively, MoneyGram), nonbank remittance transfer providers. The CFPB and New York filed an amended complaint on July 5, 2022. The CFPB alleges that MoneyGram violated the Remittance Transfer Rule and Regulation E, which implements EFTA by failing to disclose accurate fund availability dates, failing to investigate error notices promptly, failing to timely report the results of its error investigations to consumers, failing to provide a written explanation of its findings to consumers, failing to notify senders of their right to request documents related to their investigation, failing to provide fee refunds when required to remedy errors, failing to develop and maintain sufficient error resolution and document retention policies and procedures, and failing to retain documents showing its compliance with the Remittance Transfer Rule and EFTA. The CFPB and New York additionally allege that violations of the Remittance Transfer Rule constituted violations of the CFPA. The CFPB and New York also allege that MoneyGram engaged in unfair acts and practices in violation of the CFPA by failing to timely make remittance transfer funds or refunds available. The CFPB and New York seek relief, including redress to consumers, disgorgement, appropriate injunctive relief, and the imposition of civil money penalties. On August 4, 2022, MoneyGram filed a motion to dismiss and to transfer venue, which remains undecided. On December 12, 2022, the court stayed the case pending a decision from the Supreme Court in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22-448. As of the end of the reporting period, the case remains pending.
- *Consumer Financial Protection Bureau v. TransUnion, TransUnion, LLC, TransUnion Interactive, Inc., and John T. Danaher* (N.D. Ill. No. 1:22-cv-01880). On April 12, 2022, the CFPB filed a lawsuit against TransUnion, parent company of one of the three nationwide consumer reporting agencies, and two of its subsidiaries, TransUnion, LLC, and TransUnion Interactive, Inc. (collectively, the TransUnion Companies), which are headquartered in Chicago, Illinois, as well as former executive John Danaher. On January 3, 2017, the CFPB issued an order against the TransUnion Companies to address the CFPB's findings that they deceptively marketed credit scores and credit-related products, including credit monitoring, to consumers. In this action, the CFPB alleges that the TransUnion Companies and Danaher have violated multiple requirements of the CFPB's Order in violation of the CFPA, including enrolling consumers in negative option products without obtaining required consents; failing to

offer a simple mechanism for cancelling products; and failing to provide required disclosures. The CFPB also alleges that the TransUnion Companies' marketing and sale of its credit-related products have, in several ways, been deceptive in violation of the CFPB, including by misrepresenting that products were free or \$1; misrepresenting that credit card or other payment information provided by consumers would be used for identification purposes rather than payment; misrepresenting the central characteristics of its VantageScore credit score; and misrepresenting that cancellation of products would publicly expose the consumer's personal information and that re-enrolling in the product is the only way consumers can protect their information. The CFPB further alleges that the TransUnion Companies' advertisement of credit-related products on annualcreditreport.com, a website intended to provide consumers access to free credit reports, undermined the purpose of the website, in violation of Regulation V. Also, the CFPB alleges that the TransUnion Companies violated EFTA and its implementing regulation, Regulation E, by failing to obtain required written authorization for recurring charges to consumers' debit cards and for failing to provide consumers with copies of such authorizations. Finally, the complaint alleges that by violating EFTA, Regulation E, and Regulation V, the TransUnion Companies have violated the CFPB. The CFPB seeks redress to consumers, disgorgement, appropriate injunctive relief, and the imposition of civil money penalties. The defendants filed motions to dismiss on July 8, 2022, which the court denied on November 18, 2022. In addition, on December 19, 2022, defendant Danaher filed a motion for the court to certify for interlocutory appeal the question of whether an individual who was not named in a consent order can be liable for violating it. On January 24, 2023, the CFPB moved to amend the complaint to allege a substantial assistance claim against Danaher, which was granted on May 23, 2023, and the CFPB filed the First Amended Complaint on May 24, 2023. Defendant Danaher's motion for certification of an interlocutory appeal was denied on May 23, 2023. On February 28, 2023, the defendants filed a motion to stay the case, which was denied on April 13, 2023. TransUnion filed a counterclaim in June 2023, and the CFPB moved to dismiss the counterclaim, which was granted in November 2023. As of the end of the reporting period, the case remains pending.

- *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 CFPA and the FDCPA. The CFPB's complaint seeks redress for consumers, injunctive relief, and a civil money penalty. The defendants filed motions to dismiss on March 21, 2022, which the court denied on August 22, 2023. On September 1, 2023, the defendants moved to stay the case pending a decision from the Supreme Court in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22-448, which the court denied on February 26, 2024. As of the end of the reporting period, 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. On June 21, 2022, the CFPB filed an amended complaint to add defendants FCFS AL, Inc., Cash America East, Inc., Cash America Inc. of Alaska, Georgia Cash America, Inc., FCFS IN, Inc., FCFS TN, Inc., FCFS OH, Inc., FCFS KY, Inc., Cash America, Inc. of Louisiana, FCFS MO, Inc., Cash America of Missouri, Inc., Cash America, Inc. of North Carolina, FCFS NC, Inc., FCFS OK, Inc., FCFS SC, Inc., Pawn TX, Inc., Cash America Pawn L.P., and Cash America Advance, Inc. (with Cash America West, referred to as the FirstCash Subsidiaries). FirstCash owns and operates over 1,000 retail pawnshops in the United States, offering pawn loans through its wholly owned corporate subsidiaries. The FirstCash Subsidiaries operate pawn stores in Alabama, Alaska, Arizona, Florida, Georgia, Indiana, Kentucky, Louisiana, Missouri, Nevada, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, and Washington. The CFPB alleges that FirstCash and the FirstCash Subsidiaries made pawn loans to active-duty servicemembers and their dependents that violated the MLA. The MLA puts in place protections in connection with extensions of consumer credit for active-duty servicemembers and certain dependents, who are defined as "covered borrowers." These protections include a maximum allowable annual percentage rate of 36 percent, known as a Military Annual Percentage Rate (MAPR), a prohibition against required arbitration, and certain mandatory loan disclosures. The CFPB alleges that, between June 2017 and May 2021, FirstCash and the FirstCash Subsidiaries made thousands of pawn loans 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. 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 amended complaint seeks redress for consumers, injunctive relief, and civil money penalties. On March 28, 2022, the CFPB filed a motion to strike affirmative defenses, and on April 27, 2022, FirstCash and Cash America West filed a motion for partial summary judgment. On June 21, 2022, the CFPB filed an amended complaint naming additional FirstCash subsidiaries as defendants. On October 24, 2022, FirstCash and the FirstCash Subsidiaries filed a motion for judgment on the pleadings. On November 4, 2022, the court stayed the case, pending a decision from the Supreme Court in *CFPB v. Community Financial Services Association of America, Ltd.*, No. 22-448. As of the end of the reporting period, the case remained pending but stayed.

- *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 alleged that Credit Repair Cloud and Daniel Rosen violated the TSR by providing substantial assistance to credit-repair businesses that violated the TSR's advance-fee prohibition. The CFPB also alleged that by violating the TSR, Credit Repair Cloud and Daniel Rosen violated the CFPA. On January 7, 2022, the CFPB filed an amended complaint. The amended complaint sought 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, which the court denied on April 5, 2022. As of the end of the reporting period, the case remained pending.⁸²
- *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-00537). On April 22, 2021, the CFPB filed a lawsuit jointly with the Attorney General of New York against Douglas MacKinnon, who operated a debt-collection enterprise, and Amy MacKinnon, Mary-Kate MacKinnon, and Matthew MacKinnon, relatives of Douglas MacKinnon. 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

⁸² 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/daniel-a-rosen-inc-dba-credit-repair-cloud-and-daniel-rosen/>.

New York, in violation of the FDCPA 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. On October 6, 2023, the CFPB and New York filed a motion for summary judgment. As of the end of the reporting period, the motion remained and the case remains pending.⁸³

- *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 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 CFPB filed a motion to strike a number of defendants' affirmative defenses on March 21, 2022, most of which the court granted on July 24, 2022. Defendants filed a motion to dismiss and a motion to stay pending the Supreme Court's decision in *CFPB v.*

⁸³ 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/douglas-mackinnon-amy-mackinnon-mary-kate-mackinnon-and-matthew-mackinnon/>.

Community Financial Services Association of America, Ltd., No. 22-448 (U.S. cert. granted Feb. 27, 2023); on March 6, 2023, the court continued the motion to dismiss and granted the motion to stay, which remained pending as of the end of the reporting period. As of the end of the reporting period, the case remains pending.

- *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' bonds, 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; on August 7, 2023, the court denied defendants' motion for reconsideration. Defendants appealed the denial of the motion to dismiss to the Fourth Circuit; that appeal remains pending. On February 7, 2023, the magistrate judge ordered defendants to show cause why the district court should not sanction them—including through entrance of default judgment—for various violations of court orders. On May 1, 2023, the defendants filed a motion for judgment on the pleadings, and on May 11, 2023, the district court found the defendants in civil contempt and entered default against them. The court also denied as moot the defendants' motion for judgment on the pleadings. Defendants appealed the district court's denial of their motion for judgment on the pleadings, and the appeal was dismissed on February 21, 2024. On March 31, 2024, the district court granted final judgment to the CFPB and the states, ordering consumer

redress and civil money penalties. As of the end of the reporting period, the case remains pending.⁸⁴

- *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 engaged in various unlawful mortgage lending practices in violation of TILA, FCRA, ECOA, and the Mortgage Acts and Practices Advertising Rule (MAP Rule); and that 1st Alliance, DiIorio, St. Lawrence, and Aramburu engaged in unfair and deceptive practices under 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. On March 13, 2023, the parties filed a joint stipulation dismissing certain counts and all claims against defendant Socrates Aramburu, which the court docketed on March 14, 2023. On January 26, 2024, the CFPB filed a motion for summary judgment on all remaining claims, and on February 29, 2024, the defendants filed a motion for summary judgment on all remaining claims. As of the end of the reporting period, those motions and the case remain pending against the remaining defendants.
- *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

⁸⁴ Additional activity has occurred with this matter since the end of the reporting period. More information can be found at: <https://www.consumerfinance.gov/enforcement/actions/nexus-services-inc-et-al/>.

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. As of the end of the reporting period, the case remains pending against Tucci.

- *Bureau of Consumer Financial Protection v. Townstone Financial, Inc. and Barry Sturner* (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 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 Sturner, 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, which the court granted on February 3, 2023. The CFPB filed a notice of appeal on April 3, 2023; oral argument was held on December 8, 2023. As of the end of the reporting period, the appeal and case remain pending.⁸⁵

⁸⁵ 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/townstone-financial-inc-and-barry-sturner/>.

- *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 CFPA's prohibition against deceptive acts or practices and the TSR's prohibitions against deceptive and abusive telemarketing acts or practices. Massachusetts also alleges violations of Massachusetts laws. The amended complaint seeks redress to consumers, an injunction, and the imposition of civil money penalties. The defendants filed a motion to dismiss the amended complaint on September 30, 2020, 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. On February 17, 2023, the defendants filed a motion for judgment on the pleadings, and on March 22, 2023, they filed a motion to stay the case. The court denied both motions on May 1, 2023. On July 28, 2023, the plaintiffs and defendants separately moved for summary judgment on all claims with all related briefing completed on September 1, 2023. On December 21, 2023, defendants moved to stay the case, which the court denied the next day. The parties' respective motions for summary judgment remained and the case remains pending as of the end of the reporting period.⁸⁶
- *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 CFPA and also violated FCRA, as well as

⁸⁶ 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/commonwealth-equity-group-dba-key-credit-repair-nikitas-tsoukales/>.

TILA, the Truth in Savings Act (TISA), and their 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. As of the end of the reporting period, the case remained pending.⁸⁷

- *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 against Citizens Bank, N.A. (Citizens), alleging violations of TILA and its implementing Regulation Z, including TILA provisions passed under the Fair Credit Billing Act (FCBA) and the Credit Card Accountability, Responsibility, and Disclosure Act (CARD Act), as well as violations of the CFPB due to its violations of TILA and Regulation Z. Specifically, the CFPB alleged that Citizens failed to: (1) reasonably investigate and appropriately resolve billing error notices and claims of unauthorized use by automatically denying such claims for failure to return a fraud affidavit; (2) credit consumers' accounts for fees and finance charges when unauthorized use and billing errors occurred; (3) provide consumers with required acknowledgment and denial notices regarding billing error notices; and (4) disclose required credit counseling information to consumers when consumers called the toll-free number designated for such purpose. On May 23, 2023, the CFPB filed a proposed stipulated final judgment and order, which the court entered the same day. The order requires Citizens to pay a \$9 million civil money penalty. It also imposes injunctive relief designed to prevent Citizens from violating the law in the future.
- *Bureau of Consumer Financial Protection v. Monster Loans, et al.* (C.D. Cal. 8:20-cv-00043). On January 9, 2020, the CFPB filed a lawsuit against Monster Loans, Lend Tech Loans, and associated student loan debt-relief companies and individuals. The CFPB alleged that many of the defendants violated 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 alleged that certain entities and individuals are liable as relief defendants because they received profits resulting from the illegal conduct. 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 imposes an \$18 million redress judgment and a total \$450,001 penalty and bans Monster Loans, Chou, and Cowell from the debt-relief industry. On July 7, 2020, the court entered a stipulated final judgment against Robert Hoose, which imposes a \$7 million redress judgment and \$1 penalty against him and bans him from

⁸⁷ 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/fifth-third-bank-national-association/>.

the debt-relief industry. On October 19, 2020, the court entered a stipulated final judgment against relief defendants Kenneth Lawson and XO Media, LLC, which imposes a \$200,000 redress judgment against them. On May 4, 2021, the court entered stipulated final judgments against Lend Tech Loans, Inc. and David Sklar, which among other things requires Lend Tech Loans to dissolve and bans Sklar from the debt-relief industry. On May 7, 2021, the court entered a default judgment against: Docu Prep Center, Inc., Document Preparation Services, LP; 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; it imposes redress judgments totaling \$19,699,869 and penalties totaling \$11,382,136 and bans them from the debt relief industry. On May 7, 2021, the court also entered a default judgment against Bilal Abdelfattah, which imposes a \$3,262,244 penalty and bans him from the debt-relief industry. On May 11, 2021, the court entered stipulated final judgments against Docs Done Right, Inc., Docs Done Right, LP, Eduardo Martinez, and Frank Anthony Sebreros, which among other things bans them from the debt relief industry. Following a finding of liability, 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 penalty, and injunctive relief including permanent bans from the debt-relief and mortgage industries. Following an appeal, on December 27, 2022, the Ninth Circuit affirmed the district court's ruling.

- *Bureau of Consumer Financial Protection, et al. v. Consumer Advocacy Center Inc., d/b/a Premier Student Loan Center, et al.* (C.D. Cal. 8:19-cv-01998). On October 21, 2019, the CFPB and states of Minnesota, North Carolina, and California filed a complaint against related debt-relief companies Premier, True Count, and Prime, and associated individuals. The CFPB alleges the companies operate as a common enterprise, have engaged in deceptive practices, and charged unlawful advance fees in connection with the marketing and sale of student loan debt relief services. The CFPB also alleges the individuals substantially assisted the student loan debt relief companies. The court granted a temporary restraining order on October 21, 2019 and entered a stipulated preliminary injunction on November 15, 2019. On August 26, 2020, the court entered a stipulated final judgment as to Prime and Horizon, which among other things bans them from telemarketing or offering or providing debt relief services. On August 28, 2020, the court entered a stipulated final judgment as to Tuong Nguyen and relief defendant TN Accounting, which among other things bans Nguyen from telemarketing or offering or providing debt relief services. On December 15, 2020, the court entered a default judgment against First Priority and True Count Staffing, imposing redress judgments of \$55,360,817.14 and \$165,848.05 against True Count and First Priority, respectively, a

\$30 million penalty against True Count, of which \$29,850,000 is payable to the CFPB, a \$3.75 million penalty against First Priority, of which \$2,470,000 is payable to the CFPB, and banning them from telemarketing or offering or providing debt relief services. On July 14, 2021, the court entered a stipulated final judgment as to Consumer Advocacy Center, imposing a \$35,105,017.93 redress judgment and permanently restraining them from participating in any debt-relief service or telemarketing any consumer financial product. On March 22, 2022, the court entered a stipulated final judgment as to TAS 2019 LLC, imposing a \$2,866,314.24 redress judgment and \$1 penalty and permanently banning them from participating in any debt relief service or telemarketing any consumer financial product. On June 10, 2022, the court entered a stipulated final judgment as to Albert Kim, which among other things bans him from participating in any debt relief service or telemarketing any consumer financial product or service. On September 8, 2020, June 15, 2021, July 1, 2021, and May 24, 2022, the court entered stipulated final judgments as to relief defendants Hold the Door, Mice and Men, Judy Dai, 1st Generation Holdings, Infinite Management, and Sarah Kim. On July 7, 2023, the court found Kaine Wen liable, imposing a \$95,057,757 redress judgment, \$148 million civil money penalty, and a permanent, industry-wide ban. On August 3, 2023, Wen filed a notice of appeal. On August 8, 2023, the CFPB voluntarily dismissed its claim against relief defendant Anan Enterprise. As of the end of the reporting period, the case against Wen remains pending on appeal.

- *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 suit against PGX Holdings, Inc. and its subsidiaries, Progrexion Marketing, Inc., Progrexion Teleservices, Inc., CreditRepair.com, Inc., and eFolks, LLC (collectively, Progrexion) and against John C. Heath, Attorney at Law PC, which does business as Lexington Law. Progrexion and Lexington Law offered and provided credit repair services through the brands Lexington Law and CreditRepair.com, which are two of the largest credit repair companies in the country. The TSR requires that fees for telemarketed credit repair services may only be sought and received after the credit repair company provides the consumer with documentation in the form of a consumer report reflecting that the promised results were achieved more than six months after such results were achieved. As alleged in the amended complaint filed on August 17, 2022, Progrexion and Lexington Law violated the TSR by requesting and receiving prohibited upfront fees for their credit repair services. The CFPB also alleged that Progrexion and its subsidiaries violated the TSR and the Consumer Financial Protection Act of 2010 by making deceptive representations in its marketing, or by substantially assisting others in doing so, to entice consumers into

purchasing credit repair services. On March 10, 2023, the district court ruled that defendants violated the TSR's prohibition on upfront fees and granted the CFPB partial summary judgment against the defendants. On August 28, 2023, the CFPB and all defendants filed a proposed stipulated final judgment and order, which the court entered on August 30, 2023. The order imposes a judgment of \$2,660,926,481 for consumer redress against all defendants, a civil money penalty of \$45,817,452 against Progrexion, and a civil money penalty of \$18,408,726 against Lexington Law. The order also imposes a 10-year ban on defendants' telemarketing credit repair services and requires them to send notices to remaining customers who were enrolled through telemarketing of the lawsuit and their right to cancel their credit repair services, among other injunctive relief.

- *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. On April 29, 2022, the Third Circuit granted the petition to appeal. On March 19, 2024, the Third Circuit held that the Trusts are covered persons subject to the CFPA's enforcement authority and the CFPB did not need to ratify its action before the statute of limitations had run. On March 25, 2024, the CFPB filed a letter motion to strike the Intervenor's Answers and exclude them from further participation in the litigation. As of the end of the reporting period, the motion to strike and the case remain 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 alleged 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. On April 6, 2022, the Eleventh Circuit held that the parties intended to preclude new challenges to conduct covered by the parties' prior 2013 settlement agreement's servicing standard, monitoring, and enforcement regime. It vacated the district court's decision and remanded the case for further analysis of the CFPB's claims and the parties' prior 2013 settlement agreement. On May 2, 2023, the district court granted summary judgment to Ocwen.

- *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 alleged that Navient Solutions and Navient Corporation steered borrowers toward repayment plans that resulted in borrowers paying more than other options; misreported to credit reporting agencies that severely and permanently disabled borrowers who had loans discharged under a federal program had defaulted on the loans when they had not; deceived private student loan borrowers about requirements to release their co-signer from the loan; and repeatedly incorrectly applied or misallocated borrower payments to their accounts. The CFPB also alleged 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 sought 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 were pending as of the end of the reporting period. On July 10, 2020, Navient filed a motion for judgment on the pleadings, which the court denied on January 13, 2021. As of the end of the reporting period, the case remained pending.⁸⁸

- *In the Matter of Integrity Advance, LLC and James R. Carnes* (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 CFPB alleged that they deceived consumers about the cost of short-term loans and that the company's contracts did not disclose the costs consumers would pay under the default terms of the contracts. The CFPB also alleged 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 (ALJ) issued a Recommended Decision finding liability and recommending injunctive and monetary relief. The Recommended Decision was appealed to the Director, and the Director remanded the case for a new hearing and recommended decision by the CFPB's ALJ. In response to cross motions for summary disposition, on August 4, 2020, the ALJ issued a Recommended Decision finding in the CFPB's favor on all counts, which the respondents appealed. On January 11, 2021, the Director affirmed and reversed in part the Recommended Decision. She affirmed the ALJ's conclusion that Integrity Advance violated TILA and EFTA and that both respondents violated the CFPA. With respect to the appropriate remedy, she concluded that Integrity Advance and James Carnes were jointly and severally liable for more than \$38 million in restitution and imposed a \$7.5 million civil money penalty against Integrity Advance and \$5 million penalty against Carnes. The Director did not order restitution for conduct that pre-dated July 21, 2011, which is the CFPB's designated transfer date. On September 15, 2022, the Tenth Circuit affirmed the Director's order, and on September 29, 2022, the defendants petitioned for rehearing *en banc*, which the Tenth Circuit denied on November 11, 2022. On March 6, 2023, defendant Integrity Advance petitioned the Supreme Court for writ of certiorari, which the Court denied on June 12, 2023.

⁸⁸ 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/navient-corporation-navient-solutions-inc-and-pioneer-credit-recovery-inc/>.

- *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. (Global Financial), which operated under the names Student Financial Resource Center and College Financial Advisory, and its owner and CEO, Armond Aria. The CFPB alleged that the defendants issued marketing letters instructing students to fill out a form and pay a fee in exchange for the company providing a financial aid program or conducting extensive searches to target or match students with individualized financial aid opportunities. The CFPB also alleged that consumers who paid the fee received nothing or a generic booklet that failed to provide individualized advice. The CFPB also alleged that the defendants misrepresented that missing the deadline indicated in the marketing letter could jeopardize consumers' ability to obtain financial aid when the deadline actually had no consequences. On January 25, 2021, the court granted, in part, the CFPB's motion for partial summary judgment against Armond Aria and default judgment against Global Financial, finding that 76,000 consumers purchased Global Financial's "program" based on its misrepresentations. On February 16, 2021, the CFPB filed an amended complaint dismissing the remaining claims against Aria. On March 29, 2021, the court entered a final judgment and order against both defendants imposing injunctive relief, \$4,738,028 in restitution to consumers, and a \$10 million civil money penalty. Aria filed an appeal of the final judgment to the Ninth Circuit on May 19, 2021. On December 13, 2022, the Ninth Circuit affirmed the district court's decision in its entirety. On February 27, 2023, Aria filed a petition for rehearing or rehearing *en banc*, which the court denied on April 14, 2023.
- *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, alleging that they engaged in abusive and deceptive acts and practices in violation of the CFPA and the TSR regarding a mortgage payment product known as the "Interest Minimizer Program," or IM Program. The CFPB alleges 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 seeks a permanent injunction, consumer redress, and civil money penalties. A trial was held beginning on April 24, 2017, and on September 8, 2017, the court issued an opinion and order finding that the defendants had engaged in deceptive

and abusive conduct in violation of the CFPA and TSR. The court imposed a \$7.93 million civil money penalty but denied the 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 filed notices of appeal. On January 27, 2023, the United States Court of Appeals for the Ninth Circuit issued a decision vacating the district court's September 8, 2017, order and remanding the case to the district court to consider several issues raised on appeal. The Ninth Circuit's decision did not include a ruling on the merits of the parties' respective appeals. As of the end of the reporting period, the case remains pending.

- *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 sued 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 that is not payable to those attempting to collect it. The CFPB alleged that the individuals, acting through a network of corporate entities, used threats and harassment to collect phantom debt. The CFPB alleged the defendants violated the FDCPA and engaged in, or substantially assisted, unfair and deceptive acts and practices. On April 7, 2015, the CFPB obtained a preliminary injunction against the debt collectors. 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. Five of the seven corporate debt collectors defaulted and the CFPB voluntarily dismissed one individual defendant. On March 21, 2019, the court granted the CFPB's motion for summary judgment against individual debt collectors, Marcus Brown, Mohan Bagga, Sarita Brown, and Tasha Pratcher, and against the non-defaulted corporate debt collector WNY Account Solutions. The court also granted the CFPB's motion as to one of its claims against individual debt collector, Sumant Khan. On August 21, 2019, November 15, 2019, and December 15, 2020, the court entered stipulated final judgments against Sumant Khan, Payment Processing Solutions, Mohan Bagga, and Tasha Pratcher, which among other things, permanently ban them from engaging in debt collection activities. On October 20, 2021, the court entered a final judgment against Marcus Brown, Sarita Brown, and WNY Account Solutions and a default judgment against the five corporate debt collectors—Check & Credit Recovery, Credit Power, Universal Debt & Payment Solutions, Universal Debt Solutions, and WNY Solutions Group—which had previously defaulted. The orders impose a \$5,183,947.71 judgment for monetary relief against them, joint and severally, and require them to pay

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 debt collection scheme. On December 17, 2021, the CFPB appealed the district court's August 25, 2017 sanctions order, which the Eleventh Circuit affirmed on June 12, 2023.

- *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, Searns, and Stafford violated Regulation O by taking upfront fees and by failing to make required disclosures, and that some of the defendants also violated Regulation O by directing consumers not to contact their lenders and by making deceptive statements. The court directed that the parties submit briefs addressing what damages, injunctive relief, and civil money penalties, if any, should be awarded. On November 4, 2019, the court issued an opinion and order against defendants CFLG, Macey, Aleman, Searns, and Stafford, imposing a total of \$21,709,022 in restitution (\$18.7 million of which TMLG is also jointly and severally liable for) and \$37,294,250 in civil money penalties. CFLG, Macey, Aleman, and Searns were permanently enjoined from marketing, selling, providing, or assisting others in selling or providing any mortgage-assistance-relief or debt-relief products or services. Stafford was enjoined from marketing, selling, providing, or assisting others in selling or providing mortgage-assistance-relief services for five years. CFLG, Macey, Aleman, Searns, and

Stafford filed an appeal with the Seventh Circuit on December 4, 2019. 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 August 1, 2022, the district court awarded \$10,854,510.85 in restitution and \$18,410,500 in penalties against the defendants and imposed an eight-year ban on all the defendants except Stafford, whose five-year ban remained in place, on mortgage-assistance relief services. On August 11, 2022, defendants filed a notice of appeal, and the CFPB filed a notice of cross-appeal on September 15, 2022. On February 5, 2024, the remaining defendants entered into a settlement under which the parties dismissed their respective appeals, and on February 7, 2024, the Seventh Circuit dismissed the appeals. The settlement requires defendants to pay \$10.9 million in consumer redress and a \$1.1 million penalty. The individual defendants remain subject to the bans from the mortgage assistance relief services under the district court's August 1, 2022 order.

- *Consumer Financial Protection Bureau v. CashCall, Inc.; WS Funding, LLC; Delbert Services Corporation; and J. Paul Reddam* (D. Mass. No. 1:13-cv-13167), transferred to (C.D. Cal. No. 2:15-cv-07522). 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, for collecting money consumers did not owe. The CFPB's amended complaint, filed on March 21, 2014, alleges 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 alleges that CashCall serviced loans it made in the name of an entity, Western Sky, which was located on the Cheyenne River Sioux Tribe's land. The loan agreements included a choice-of-law provision saying that the Tribe's law applied to the loans. 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 uncollectible. 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. 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. On May 23, 2022, the Ninth Circuit affirmed the district court's finding of liability; vacated the district court's penalty, remanding for the district court to reassess the penalty taking into account defendants' reckless conduct; and vacated the district court's decision to award no restitution, remanding to the

district court to determine whether and what restitution would be appropriate in consideration of the Ninth Circuit Court's opinion. On February 10, 2023, the district court issued an order awarding the CFPB a \$33,276,264 civil money penalty and \$134,058,600 in restitution. On March 16, 2023, CashCall appealed the district court's final judgment. As of the end of the reporting period, the case remains pending on appeal.

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 information about the CFPB's supervisory activities at banks and nonbanks without identifying specific companies. The CFPB issued one Supervisory Highlights issue during this reporting period: a Fall 2023 Supervisory Highlights Junk Fees Update Special Edition (Issue 31).⁸⁹

⁸⁹ "Supervisory Highlights," Consumer Financial Protection Bureau <https://www.consumerfinance.gov/compliance/supervisory-highlights/>.

4. State Consumer Financial Law

For purposes of the Section 1016(e)(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 attorneys general and state regulators relating to federal consumer financial law

The CFPB has been apprised of the following developments in pending state attorney general and regulatory actions asserting claims under the Dodd-Frank Act during the October 1, 2023, through March 31, 2024 reporting period.

- *State of Minnesota, by its Attorney General Keith Ellison, v. Evan Azure, in his official capacity as CEO of Island Mountain Development Group, and Geno Levaldo, in his official capacity as Chairman of Island Mountain Development Group.* On October 30, 2023, the Minnesota Attorney General sued individuals that control online lenders Bright Lending, Green Trust Cash, and Target Cash Now. The complaint alleges that defendants engaged in unfair, deceptive, and abusive practices in violation of 12 U.S.C. 5536 related to the marketing, origination, and collection of loans with interest rates in excess of Minnesota’s usury laws. On February 22, 2024, the attorney general filed a settlement pursuant to which defendants agreed to stop offering illegal loans and collecting on interest in excess of Minnesota’s usury caps.
- *Consumer Financial Protection Bureau, New York, Colorado, Delaware, Illinois, Minnesota, North Carolina, and Wisconsin v. StratFS, LLC (f/k/a Strategic Financial Solutions, LLC), Strategic Client Support, LLC (f/k/a Pioneer Client Support, LLC), Strategic CS, LLC, Strategic FS Buffalo, LLC, Strategic NYC, LLC, BCF Capital, LLC, T Fin, LLC, Strategic Consulting, LLC, Versara Lending, LLC, Strategic Family, Inc., Anchor Client Services, LLC (now known as CS 1 PAAS Services, LLC), Bedrock Client Services, LLC, Boulder Client Services, LLC, Canyon Client Services, LLC, Carolina Client Services, LLC, Great Lakes Client Services, LLC, Guidestone Client Services, LLC, Harbor Client Services, LLC, Heartland Client Services, LLC, Monarch Client Services, LLC (now known as CS 2 PAAS Services, LLC), Newport Client Services, LLC,*

Northstar Client Services, LLC, Option 1 Client Services, LLC, Pioneer Client Servicing, LLC, Rockwell Client Services, LLC, Royal Client Services, LLC, Stonepoint Client Services, LLC, Summit Client Services, LLC (now known as CS 3 PAAS Services, LLC), Whitestone Client Services, LLC, Ryan Sasson, Jason Blust, and Unidentified John Does 1-50 (W.D.N.Y. No. 1:24-cv-00040) (not a credit union or depository institution). On January 10, 2024, the CFPB and seven state attorneys general – New York, Colorado, Delaware, Illinois, Minnesota, North Carolina, and Wisconsin – filed a complaint and sought a temporary restraining order and preliminary injunction against StratFS, LLC f/k/a Strategic Financial Solutions, LLC, as well as its holding company Strategic Family, Inc.; various of its subsidiaries; and as individuals: SFS Chief Executive Officer Ryan Sasson and Jason Blust. The complaint also named the following relief defendants: Daniel Blumkin; Albert Ian Behar; Strategic ESOP; Strategic ESOT, Twist Financial, LLC; Duke Enterprises, LLC; Blaise Investments, LLC; The Blust Family Irrevocable Trust through Donald J. Holmgren, Trustee; Jaelyn Blust; Lit Def Strategies, LLC; and Relialit, LLC. See *supra* Section 3.1.1 for a full description.

- *United States of America and the State of North Carolina ex rel. Josh Stein, Attorney General, v. First National Bank of Pennsylvania in its corporate capacity and as successor in interest to Yadkin Bank*. On February 5, 2024, the North Carolina Department of Justice filed a consent order along with the United States Department of Justice, Civil Rights Division in the United States District Court for the Middle District of North Carolina. The consent order resolved allegations that the First National Bank of Pennsylvania violated Regulation B and the state deceptive practices act by engaging in racially discriminatory redlining when providing home mortgage loans in the Charlotte and Winston-Salem areas. The consent order requires the bank to create a \$11.75 million loan subsidy fund that will help increase credit for home mortgage loans for communities of color in the Charlotte and Winston-Salem areas. It also requires the bank to make a number of other investments to provide financial services to increase the availability of credit to residents of color in these areas. The court entered the consent order on February 13, 2024.
- *State of Texas, v. Colony Ridge, Inc.; Colony Ridge Development, LLC; Colony Ridge BV, LLC; Colony Ridge Land, LLC; T-Rex Management, Inc.; John Harris; and Houston El Norte Property Owners' Association, Inc.* On March 14, 2024, the Texas Attorney General filed suit against defendants for allegedly targeting foreign born and Hispanic consumers with limited or no access to credit with promises of cheap, ready to build land and financing without proof of income. The Attorney General alleges that defendants misrepresented conditions that buyers would experience on the property and then churned purchasers through a foreclosure mill. Texas alleges that defendants

violated the CFPB's prohibition against deceptive practices, the Interstate Land Sales Act, and state deceptive sales practice laws.

- *State of Washington; State of Oregon; California Department of Financial Protection and Innovation; State of Delaware; State of Minnesota; State of Illinois; State of South Carolina; State of North Carolina ex rel. Attorney General Joshua H. Stein; Commonwealth of Massachusetts; Commonwealth of Virginia; State of Wisconsin; and Consumer Financial Protection Bureau v. Prehired, LLC, Prehired Recruiting, LLC, and Prehired Accelerator, LLC* (Bankr. Del. No. 22-11007). On July 13, 2023, the CFPB and several state partners filed a complaint in an adversary proceeding against Prehired, LLC, Prehired Recruiting, LLC, and Prehired Accelerator, LLC. *See supra* Section 3.1.1 for a full description.
- *Consumer Financial Protection Bureau and the People of the State of New York, by Letitia James, the Attorney General of the State of New York v. Credit Acceptance Corporation* (S.D.N.Y. No. 1:23-cv-00038). On January 4, 2023, the CFPB and New York Attorney General Letitia James filed a joint lawsuit against Credit Acceptance Corporation, an indirect auto lender that funds and services car loans for subprime and deep-subprime consumers. *See supra* Section 3.1.1 for a full description.
- *State of Tennessee ex rel. Jonathan Skrmetti, et al. vs. Ideal Horizon Benefits, LLC d/b/a Solar Titan USA, LLC, Craig Kelley, Richard Atnip, and Sarah Kirkland, and Solar Mosaic, LLC, Defendants, and Solar Titan Charters, LLC d/b/a Titan Charters* (E.D. Tenn. 3:23-cv-46). On February 6, 2023, the attorneys general of Tennessee and Kentucky filed suit against Solar Titan, its principals and Solar Mosaic, the company that provided financing to consumers for the purchase and installation of solar systems. The states allege that defendants made numerous misrepresentations in connection with the sale and financing of solar systems and that these practices violated the Consumer Financial Protection Act (CFPA)'s prohibitions against unfair, abusive, and deceptive practices, as well as the states' own consumer protection statutes. The attorneys general have also alleged that defendants' have violated the Truth in Lending Act (TILA)'s disclosure and rescission requirements. As of the end of the reporting period, the case remains pending.
- *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. MoneyGram International, Inc. and MoneyGram Payment Systems, Inc.* (S.D.N.Y. 1:22-cv-03256). On April 21, 2022, the CFPB filed a lawsuit jointly with the Attorney General of New

York against MoneyGram International, Inc. and MoneyGram Payment Systems, Inc., nonbank remittance transfer providers. *See supra* Section 3.1.1 for a full description.

- *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. *See supra* Section 3.1.1 for a full description.
- *Commonwealth of Pennsylvania, by Attorney General Josh Shapiro; District of Columbia, through the Office of the Attorney General; Matthew J. Platkin, Acting Attorney General of the State of New Jersey; State of Oregon, ex rel. Ellen F. Rosenblum, in her official capacity as Attorney General; State of Utah, by Attorney General Sean D. Reyes; and State of Washington v. Mariner Finance, LLC* (E.D. Pa. No. 2:22-cv-3253). On August 16, 2022, the attorneys general of Pennsylvania, the District of Columbia, New Jersey, Oregon, Utah, and Washington filed a lawsuit against Mariner Finance, LLC, a subprime installment lender. The attorneys general alleged that: (1) Mariner engages in unfair and deceptive acts and practices in violation of the CFPA by charging consumers for add-on products without obtaining their consent and by loan flipping; (2) the design and implementation of Mariner's loan closing process is abusive in violation of the CFPA; (3) Mariner engages in abusive acts and practices that take unreasonable advantage of a lack of consumers' understanding of the material risks, costs, or conditions of add-on products and by loan flipping in violation of the CFPA; (4) the disclosures Mariner provides to its customers fail to disclose accurate finance charges and annual percentage rates in violation of Regulation Z and the CFPA; and (5) Mariner fails to disclose to consumers the commission payments it retains and deducts from insurance premium payments paid to credit insurers in violation of TILA and the CFPA. The attorneys general of Pennsylvania, Washington, and New Jersey have also alleged that Mariner has violated their respective state consumer protection statutes. As of the end of the reporting period, 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. *See supra* Section 3.1.1 for a full description.

5. Fair Lending

5.1 An analysis of efforts to fulfill the Fair Lending mission of the CFPB

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 ten 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) and the Home Mortgage Disclosure Act (HMDA).

For supervisory communications issued by the Office of Supervision during the reporting period, the most frequently identified issues included lenders issuing inadequate Notices of Incompleteness (NOI) and Adverse Action Notices (AANs) in violation of ECOA and Regulation B and violating HMDA and Regulation C by reporting incorrect information in the HMDA Loan Application Register (LAR).

During this reporting period, the CFPB examiners issued matters requiring attention (MRAs) or memoranda of understanding (MOUs), which direct entities to take corrective actions and are monitored by the CFPB through follow-up supervisory events. Among other things, examiners encouraged mortgage lenders to enhance oversight of redlining risks, to enhance compliance management systems for HMDA compliance, to enhance policies and procedures regarding identifying adverse action reasons under ECOA, and to implement a monitoring program designed to monitor appraisals for risks to consumers, including risks of bias or discrimination.

Fair lending enforcement

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. The CFPB is required to refer matters to the Department of Justice (DOJ) when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.⁹⁰ During this

⁹⁰ See 15 U.S.C. § 1691e(g).

reporting period, the CFPB referred four matters regarding a pattern or practice of lending discrimination to the DOJ pursuant to Section 706(g) of ECOA.

During the reporting period, the CFPB filed four fair lending enforcement actions, two of which pertained to violations of ECOA (Citibank N.A. and Colony Ridge (Colony Ridge Development, LLC, and Colony Ridge BV, LLC, and affiliate mortgage company Colony Ridge Land, LLC)) and two of which pertained to violations of HMDA (Freedom Mortgage Corporation and Bank of America, N.A.). For more information on these matters, see Section 3.1.1 *supra*.

Fair lending-related rulemaking and guidance

During the reporting period, the CFPB engaged in several fair lending-related rulemaking and guidance initiatives. For more information on those matters, see Sections 1.1 and 1.2 *supra*.

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 other enforcement agencies to promote consistent, efficient, and effective enforcement of federal fair lending laws. The CFPB, along with the Federal Trade Commission (FTC), U.S. Department of Housing and Urban Development (HUD), Federal Deposit Insurance Corporation (FDIC), Federal Reserve System (Board), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (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 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.

Further, through the Federal Financial Institutions Examination Council (FFIEC), the CFPB has engagements with other partner agencies that focus on fair lending issues. For example, throughout the reporting period, the CFPB has continued to chair the HMDA/Community Reinvestment Act 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 this Task Force.

APPRAISAL BIAS

The FFIEC Appraisal Subcommittee (ASC), comprising designees from the CFPB and certain other federal agencies, provides federal oversight of state appraiser and appraisal management

company regulatory programs, and a monitoring framework for the Appraisal Foundation. CFPB Deputy Director Zixta Q. Martinez currently serves as the chair of the ASC. Through the ASC, the CFPB addresses topics including discriminatory bias in home appraisals. On February 13, 2024, the ASC held its fourth public hearing on appraisal bias. The discussion examined the Appraisal Foundation, highlighting its deficiencies, including its conflict of interest policies, its insular governance structure that favors private interests, and the lack of transparency in its process to select its president.

Additionally, on February 12, 2024, the FFIEC issued a statement of principles related to valuation discrimination and bias for member entities to consider in their consumer compliance and safety and soundness examinations. The principles aid member entities in assessing whether their supervised institutions' compliance and risk management practices are appropriate to identify and mitigate discrimination or bias in their residential property valuation practices.⁹¹

Fair lending outreach and education

The CFPB regularly engages in outreach with external stakeholders, including consumer advocates, civil rights organizations, industry, academia, sovereign governments, and other government regulators and agencies to educate or communicate about fair lending issues. The CFPB achieves its educational objectives through publication of proposed and final rules, Advisory Opinions, and interpretive rules; Compliance Bulletins and CFPB Circulars; policy statements; requests for information; press releases, blog posts, podcasts, videos, brochures, social media posts, and website updates; *amicus* briefs; 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 international, federal, sovereign, and state regulators and agencies, industry, academia, and consumer and civil rights organizations. During the reporting period, the CFPB also issued a range of content available to the public and to market participants related to fair lending.

⁹¹ "Statement on Examination Principles Related to Valuation Discrimination and Bias in Residential Lending," FFIEC, Feb. 12, 2024, https://files.consumerfinance.gov/f/documents/cfpb_ffiec-statement-on-exam-principles_2024-02.pdf.

6. Workforce and Contracting Diversity

The Office of Minority and Women Inclusion (OMWI) is charged with overseeing all matters at the CFPB relating to diversity in management, employment, and business activities.

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

During the reporting period, the CFPB continued its work to advance diversity and inclusion under the mandates of Section 342 of the Dodd-Frank Act.

6.2 Office of Minority and Women Inclusion

6.2.1 Significant Initiatives

Current period:

In December 2023, OMWI rolled out its first online mandatory training for all employees to facilitate the CFPB's annual performance standards that require CFPB employees to have competencies that cultivate a diverse and inclusive workplace. The training is aligned with the mandates of the Dodd-Frank Act, Section 342.

In addition, OMWI developed and delivered several new inclusion-building trainings, including *Leading Inclusive Teams for Supervision's Examiners-in-Charge* and customized trainings on workplace culture, inclusive leadership styles to the Division of Regulations, Markets, and Research. Moreover, OMWI continued to promote the work of the Disability and Accessibility Program Section (DAPS) by conducting Bureau-wide trainings.

Upcoming Period:

Going forward, OMWI will continue to socialize the leadership and development opportunities developed by the Treasury Executive Institute TEI to supervisory staff members. OMWI, in conjunction with the Office of Human Capital's Talent Management staff and the Office of Civil Rights, also launched a new two-day course for all supervisors, entitled *Coaching Skills for CFPB Leaders*.

6.2.2 An analysis of CFPB efforts to increase workforce diversity consistent with procedures established by OMWI

As of March 2024, an analysis of the CFPB's current workforce reveals the following key points:

- Forty-eight percent of CFPB executives are women and 50 percent of executives identify as minorities.
- Women represent 50 percent of the CFPB's workforce.
- Minority employees (Hispanic, Black, Asian, Native Hawaiian/Pacific Islander, American Indian/Alaska Native, and employees of two or more races) represent 43 percent of the CFPB workforce.
- 15.6 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.
- Twenty-two percent of the CFPB workforce participated in at least one employee resource group during the reporting period.
- The CFPB had 50 new hires, which included 24 (48 percent) women and 26 (52 percent) minorities.

The CFPB's Talent Acquisition and Staffing team within the Office of Human Capital (OHC) has continued to prioritize leveraging technology and strategic outreach efforts to engage well-qualified and diverse applicants from all segments of society.

The CFPB continued its focus on recruiting Persons with Disabilities (PWD) and Persons with Targeted Disabilities (PWTD). Collaborating with organizations and networks that target these populations has enabled us to establish vital connections with potential applicants.

The CFPB continued to implement model employer recommendations from the Equal Employment Opportunity Commission (EEOC) to promote the recruitment of individuals with

disabilities. We utilize government-wide disability programs such as the Workforce Recruitment Program and the Office of Personnel Management's Agency Talent Portal to develop a robust talent pipeline for individuals with disabilities. A Selective Placement Program Coordinator in OHC assists with Schedule A(u) hiring efforts, including the monitoring of conversions, and providing resources and information regarding special hiring authorities to potential candidates and hiring managers.

The CFPB's DAPS provides employees and applicants with disabilities access to reasonable accommodations and other accessibility services required to perform 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 EEOC's Section 501 regulation.

The CFPB continued to enhance its digital recruitment strategy, effectively utilizing platforms such as LinkedIn, eQuest, and Handshake. These social media platforms have proven highly effective for establishing direct connections and ongoing engagement with a diverse range of candidates, including veterans and individuals with disabilities. The CFPB also further enhanced its virtual recruiting capabilities while also increasing attendance at in-person recruitment activities and events.

The CFPB effectively leveraged flagship professional programs, including the Director's Financial Analyst Program, the Honors Attorney Program, and the Pathways Intern Program, onboarding five new entry-level employees. The interns hired through the Pathways program have taken on roles such as administrative and office support, program assistants, and legal assistants, enhancing our organizational capacity while fostering talent development.

6.2.3 Increasing Contracting Diversity

During this reporting period, OMWI aimed to modernize its supplier diversity program. Moving towards a more efficient, data-driven stakeholder approach involves using analytics to conduct guided small-group sessions with program office representatives, vendors, and/or contractors.

6.2.4 Outreach to Contractors

Throughout the reporting period, OMWI and the Office of Finance and Procurement (OFP) worked to broaden representation within the CFPB's supplier registry by targeting events featuring discrete minority and women-owned business (MWOB) populations within the industries that most closely aligned with the CFPB's mission. Going forward, the new approach will redirect resources away from a cost-prohibitive events model and enable OMWI to cultivate partnerships with targeted populations, such as African American and Hispanic vendors.

The CFPB added hundreds of vendors to its supplier registry from partners such as the National Association of Black Accountants (NABA) and Women in Technology. The CFPB also hosted

events and recruited vendors at conferences sponsored by NABA, National Government Procurement, and within the financial regulatory space with the Federal Reserve Board. OMWI also worked with OFP to update employee mandatory training content.

TABLE 1: DOLLARS AND PERCENT SPENT AND AWARDED TOWARD MINORITY-OWNED AND WOMEN-OWNED BUSINESSES

	Spend	Percent
Women Owned	\$20,635,965	21.9%
Minority Owned	\$32,312,744	34.3%
Minority or Women Owned	\$52,948,709	56.2%

6.2.5 Diversity within the CFPB Contractors' Workforces

OMWI enhanced the Good Faith Effort (GFE) user experiences, improved reporting metrics, and applied survey science to help modernize its GFE data collection system. OMWI improved data integrity and integration, by updating the survey field list, optimizing form flow to better guide respondents throughout GFE standards, and automated submission scoring to provide real-time compliance outcomes to contractors.

In addition to updating the GFE form, OMWI developed technical assistance content to help GFE Contractors refine their workforce and supplier diversity practices. OMWI provided access to both online and instructor-led technical assistance on DEIA best practices and adherence to the CFPB's GFE standards. Piloting the new form this Fall will help OMWI to identify potential improvements ahead of its 2025 Office of Management and Budget (OMB) data collection renewal opportunity.

6.2.6 Assessing Diversity of Regulated Entities

As required by Section 342(b)(2)(c) of the Dodd-Frank Act and Goal 5 of the CFPB's DEIA Strategic Plan, the CFPB continued to collect voluntarily submitted diversity and inclusion assessments from regulated entities.

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.⁹² 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) 2024 spending through the end of the second quarter of the FY

As of March 31, 2024, the end of the second quarter of FY 2024, the CFPB had spent approximately \$468.3 million in FY 2024⁹³ funds to carry out the authorities of the CFPB under Federal consumer financial law. There were 1,697 CFPB employees on board at the end of the second quarter.⁹⁴

FY 2024 spending by expense category:

Expense Category	Fiscal Year 2024
Personnel Compensation	\$156,832,000
Personnel Benefits	\$92,911,000
Benefits for Former Personnel	\$1,000
Travel	\$4,520,000
Transportation of Things	\$111,000
Rents, Communications, Utilities & Misc.	\$9,121,000
Printing and Reproduction	\$881,000
Other Contractual Services	\$176,429,000
Supplies & Materials	\$5,792,000

⁹² "Budget and Performance," Consumer Financial Protection Bureau, <https://www.consumerfinance.gov/about-us/budget-strategy/budget-and-performance/>.

⁹³ This amount includes commitments, new obligations, and upward adjustments to previous year obligations.

⁹⁴ This figure reflects the employees on board during the final complete pay-period of the quarter (PPO5, ending March 23, 2024).

Equipment	\$20,623,000
Land & Structures	\$1,118,000
Total	\$468,339,000

7.1.2 FY 2024 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.⁹⁵ As of March 31, 2024, the CFPB had received the following transfers for FY 2024. The amounts and dates of the transfers are shown below.

Date	Funds Transferred
October 25, 2023	\$315.0M
January 3, 2024	\$285.0M
Total	\$600.0M

Additional information about the CFPB's finances, including information about the CFPB's Civil Penalty Fund and CFPB-Administered Redress programs, is available in the annual financial reports and the Chief Financial Officer (CFO) quarterly updates published online at <https://www.consumerfinance.gov/about-us/budget-strategy/financial-reports/>.

Copies of the CFPB's quarterly funds transfer requests are available online at <https://www.consumerfinance.gov/about-us/budget-strategy/funds-transfer-requests/>.

⁹⁵ 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 are capped at \$785.4 million in FY 2024. Funds transferred from the Board are deposited into the Consumer Financial Protection Bureau Fund (Bureau Fund), which is maintained at the Federal Reserve Bank of New York.

8. Appendix

2023 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 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). 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 CFPB 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 CFPB 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 CFPB's jurisdiction; (3) back-up and related authority relating to SAFE Act standards for mortgage loan originator licensing systems at the State level; and (4) certain rulemaking authority. It also transferred to the CFPB the requirement to submit an annual report to Congress on the effectiveness of the SAFE Act's provisions. This section of the CFPB's Spring Semi-Annual Report constitutes the annual SAFE Act report for 2023.

While administering the SAFE Act during 2023, the CFPB worked closely with SRR/CSBS to facilitate sharing mortgage loan originator information between State and federal regulators through the NMLS&R. Officials from the CFPB 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 CFPB 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 mortgage loan originators. As of December 31, 2023, there were approximately 369,163 active federally registered mortgage loan originators in the NMLS&R.

In February 2023, CFPB staff attended the 2023 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 CFPB staff to meet the other participants, build relationships, and share contact information.

The CFPB 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 2023, the CFPB received approximately 16 inquiries concerning the SAFE Act through its "Regulations inquiries" feature accessible on the CFPB's website. Most of the inquiries sought information about mortgage loan originator licensing and registration requirements. The CFPB also maintains a SAFE Act Inquiries e-mail box to manage operational questions about the SAFE Act. The CFPB received approximately 120 emails in 2023, many of which pertained to the registration of mortgage loan originators and the use of the NMLS&R. The CFPB also continues to work with SRR/CSBS officials with inquiries associated to the use of the system.

While the CFPB 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 as contemplated by the SAFE Act. During 2023, all of the required States (including U.S. territories and the District of Columbia) continued to use the NMLS&R for licensing their mortgage loan originators, 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 mortgage loan originators consistent with the statutory objectives of the SAFE Act.

The CFPB 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. Both the CFPB and 1st Alliance have filed competing summary judgment motions. On December 17, 2024, the Court will hold oral argument on the summary judgment motions.

All bank and non-bank mortgage origination exams conducted by the CFPB in 2023 included a review for compliance with the SAFE Act. Examiners tested for accurate licensing and registration as well as related policies and procedures.

During 2023, SRR/CSBS continued to engage the CFPB on issues regarding the NMLS&R and the modernization of the NMLS&R. The desired outcome of the NMLS&R modernization effort is to improve its operations, enhance the user experience, and strengthen supervision. The CFPB continues to provide its feedback and position on current and proposed functions relating to the federal registration process for mortgage loan originators in the NMLS&R to SRR/CSBS.

United States Senate
WASHINGTON, DC 20510

March 22, 2024

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Dear Director Chopra:

We are writing to express our concerns regarding the forthcoming Fair Credit Reporting Act (FCRA) rulemaking from the Consumer Financial Protection Bureau (“the Bureau”). Specifically, the Bureau announced its intention to pursue a rulemaking to amend Regulation V by significantly expanding the scope of entities and data subject to the FCRA.¹ We believe that an inappropriately broad expansion of the FCRA would contravene established federal laws and regulations related to financial crime and fraud prevention and would have a detrimental impact on the ability of law enforcement to investigate criminal activity.

We are very concerned with the Bureau’s stated intention to extend FCRA to apply to credit header and similar data used for identity verification purposes. Credit header information includes nonfinancial personally identifiable information such as name, address, date of birth, and Social Security number. According to the Bureau’s *Small Business Advisory Review Panel for Consumer Reporting Rulemaking Outline of Proposals and Alternatives under Consideration*, “the CFPB is considering a proposal to clarify the extent to which credit header data constitutes a consumer report.” If implemented, the proposal under consideration “would likely reduce, perhaps significantly”, consumer reporting agencies’ ability to disclose credit header data from their consumer reporting databases without a permissible purpose.²

Treating credit header and related data as a consumer report would substantially hinder the ability of financial institutions to prevent money laundering, identify crime, and combat fraud in the financial ecosystem. Consumer financial fraud has intensified over the last several years, including national losses of more than \$10 billion to fraud in 2023, up from \$8.8 billion in 2022 and \$5.8 billion in 2021. Identity theft reports to the Federal Trade Commission remain over 1

¹ <https://www.consumerfinance.gov/about-us/newsroom/remarks-of-cfpb-director-rohit-chopra-at-white-house-roundtable-on-protecting-americans-from-harmful-data-broker-practices/>

² https://files.consumerfinance.gov/f/documents/cfpb_consumer-reporting-rule-sbrefa_outline-of-proposals.pdf (Page 10).

million annually, and credit card fraud was the most common type of identity fraud last year.³ Regulations, such as the FCRA revisions under consideration, that would limit – and in certain circumstances prevent – the ability of financial institutions to obtain this information would only exacerbate the rise in financial fraud.

Further, subjecting credit header information to FCRA runs counter to established anti-crime regulations. For instance, anti-money laundering laws require banks to develop procedures for verifying the identity of any person seeking to open an account, to the extent reasonable and practicable. The FCRA's Identity Theft Red Flags regulations also require financial institutions to develop and implement an identity theft prevention program to detect, prevent, and mitigate identity theft by obtaining identifying information about, and verifying the identity of, a person opening an account.⁴ Credit header data is frequently and effectively used by financial institutions for these purposes. The Bureau's efforts to regulate identifying information would not only undermine these existing anti-fraud regulatory requirements, but would also thwart the ability of banks to comply with them.

Additionally, federal law enforcement agencies, including the Federal Bureau of Investigation (FBI), the Department of Homeland Security, the Drug Enforcement Administration, the Secret Service, and the U.S. Marshals Service, regularly obtain credit header data from credit reporting agencies and use that data in pursuit of law enforcement investigations and objectives. A recent Wall Street Journal op-ed cited an example in which the FBI used credit header data to identify a key witness in their investigation and ultimately prevent an ISIS terrorist attack.⁵ This is one of many cases in which this information has served as an essential tool for law enforcement agencies to curtail criminal activity.

As this rulemaking proceeds, it is critical to recognize that "Know Your Customer" requirements apply before a consumer's identity has been verified. These obligations and associated identity theft prevention activities are not "permissible purposes" under the FCRA. The FCRA framework appropriately applies once a consumer's identity has been verified and they are able to be evaluated for credit-worthiness. If credit header and related data is deemed a consumer report, financial institutions and law enforcement would face significant hurdles in detecting money laundering, terrorism financing, and identity theft. Not only would the proposal restrict the ability of entities to use existing fraud detection methods, but financial institutions would also face competing statutory obligations which would make it untenable to both verify a consumer's identity and also afford them protections under the FCRA.

³ <https://www.ftc.gov/news-events/news/press-releases/2024/02/nationwide-fraud-losses-top-10-billion-2023-ftc-steps-efforts-protect-public>

⁴ <https://www.federalregister.gov/documents/2014/05/29/2014-12358/identity-theft-red-flags-regulation-v>

⁵ <https://www.wsj.com/articles/the-cfpb-targets-an-antiterror-tool-consumer-financial-protection-bureau-credit-header-data-80a038d4>

These issues clearly need to be examined in more depth. Few federal laws have greater impact on the daily lives of American consumers, nonprofit organizations, government agencies, and businesses of all sizes as the FCRA. Therefore, we urge the Bureau to issue an Advanced Notice of Proposed Rulemaking (ANPR) before it publishes a Notice of Proposed Rulemaking (NPRM) to amend Regulation V.

We do not believe a regulatory outcome that makes it more difficult for financial institutions and law enforcement to combat money laundering, terrorism financing, and identity theft is the Bureau's intent, as the impact would devastate consumers and the broader U.S. financial system. Such a result would undermine one consumer protection in furtherance of another. As such, we urge the Bureau to carefully tailor any forthcoming rulemaking to specifically exempt financial crime and fraud prevention activities, thereby ensuring that credit header and other similar data can continue to be used for these purposes, without creating barriers that frustrate the purpose of these other critical laws and requirements.

Thank you for your attention to this important matter.

Sincerely,



Katie Boyd Britt
United States Senator



M. Michael Rounds
United States Senator



Thom Tillis
United States Senator



Bill Hagerty
United States Senator



Steve Daines
United States Senator



1700 G Street NW, Washington, D.C.
20552

June 5, 2024

The Honorable Katie Boyd Britt
United States Senate
502 Hart Senate Office Building
Washington, D.C. 20510

The Honorable M. Michael Rounds
United States Senate
716 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Britt and Senator Rounds,

Thank you for your letter, dated March 22, 2024, regarding the Consumer Financial Protection Bureau's (CFPB) Fair Credit Reporting Act (FCRA) rulemaking. I share your interests in protecting consumers and combating financial crime.

The CFPB is concerned that data companies are assembling and selling profiles of American consumers containing sensitive data that can be used or exploited for a range of malicious purposes, including identity theft, harassment, and fraud. We know that China and other foreign governments have actively sought to acquire this type of sensitive information, as evidenced by a major cyberattack against Equifax by foreign state actors targeting Americans' personally identifiable information.¹ The CFPB is seeking to ensure that the FCRA keeps pace with these market developments by examining, among other issues, the extent to which data brokers are consumer reporting agencies covered under the FCRA.

The CFPB is also aware that some consumer reporting companies sell certain personally identifying data for purposes not authorized under the FCRA and is examining the risks and benefits to consumers of the sale of this data. Accordingly, the CFPB issued an outline of proposals under consideration related to the FCRA and held a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel to receive feedback from small entities. The CFPB has not yet issued a proposed rule, and this rulemaking is in the early stages.

As a law enforcement agency, the CFPB is committed both to upholding consumers' privacy and to ensuring that government officials have the tools they need to enforce the law. The CFPB does not intend to issue a rule that will prevent law enforcement from accessing such tools. The CFPB also takes seriously the need for financial institutions to be able to prevent identity theft, fraud,

¹ <https://www.justice.gov/opa/pr/chinese-military-personnel-charged-computer-fraud-economic-espionage-and-wire-fraud-hacking>; <https://www.consumerfinance.gov/about-us/newsroom/cfpb-fc-states-announce-settlement-with-equifax-over-2017-data-breach/>.

and money laundering and does not intend to issue a rule that will prevent financial institutions from meeting the requirements of the Bank Secrecy Act.

If you have any questions, please feel free to reach out to me or have your staff contact Janel Fitzhugh in the CFPB Office of Legislative Affairs. Ms. Fitzhugh can be reached at (202) 435-7149.

Sincerely,



Rohit Chopra
Director

Cc: The Honorable Thom Tillis, United States Senator
The Honorable Bill Hagerty, United States Senator
The Honorable Steve Daines, United States Senator

Statement for the Record

On Behalf of

Americans for Financial Reform Education Fund

to the

Senate Banking, Housing, and Urban Affairs Committee

“Consumer Protection: Protecting Workers’ Money and Fighting for the Dignity of Work”

December 11, 2024

Statement for the Record
On Behalf of
Americans For Financial Reform Education Fund
Before the
Senate Banking, Housing, and Urban Affairs Committee
December 11, 2024

Americans for Financial Reform Education Fund (AFREF) appreciates the opportunity to provide a Statement for the Record for the Senate Banking, Housing, and Urban Affairs Committee Hearing on “Consumer Protection: Protecting Workers’ Money and Fighting for the Dignity of Work.” AFREF is a nonpartisan and nonprofit coalition of more than 200 civil rights, consumer, labor, business, investor, faith-based, civic and community groups. Formed in the wake of the 2008 crisis, AFREF works to build the foundation for a strong, stable, and ethical financial system that works for everyone. We are committed to eliminating the economic inequity and systemic racism in the financial system and fighting for a just and sustainable economy.

In 2010, Congress created the Consumer Financial Protection Bureau (CFPB) in Dodd–Frank Wall Street Reform and Consumer Protection Act to protect consumers from unfair, abusive, and deceptive financial products. Since its creation 14 years ago, the CFPB has served a critical role in protecting consumers and families, including by reducing junk fees and holding corporations and financial institutions accountable when they engage in unfair and illegal misconduct. The CFPB exemplifies the government working for the people, protecting consumers and families from financial predation and extraction as they navigate everyday financial life, from the moment they use a credit card, or make a purchase, to when they sign up for a bank account or apply for a loan or mortgage.

The CFPB plays a vital role to help make markets stay transparent, competitive, and fair to consumers, families, and small businesses. We have rules to protect people from dangerous and defective cars, consumer products, and pharmaceuticals. The CFPB enforces federal consumer financial protection laws and protects people from dangerous and predatory loans, mortgages, and other financial misconduct that can put people’s savings, homes, cars, and lifelong financial health at risk.

Despite continued industry efforts to dismantle and eviscerate this agency, the CFPB continues to stand strong and independent. This May, the Supreme Court resoundingly sided with the CFPB and reaffirmed the constitutionality of the Bureau’s funding mechanism in *CFPB v. Community Financial Services Association*. More recently, two Texas courts in separate cases once again sided with the CFPB, reiterating the legitimacy of the agency’s funding mechanism.¹

¹ See *Texas v. Colony Ridge, Inc.*, No. CV H-24-0941, 2024 WL 4553111, at *4 (S.D. Tex. Oct. 11, 2024) and *Consumer Fin. Prot. Bureau v. Active Network, LLC*, No. 4:22-CV-00898, 2024 WL 4437639, at *1 (E.D. Tex. Oct. 7, 2024).

In the short 14 years since the CFPB's creation, the Bureau has already:

- **Obtained \$20.7 billion in relief for over 200 million people**² in the form of restitution or cancelled debts through its supervision and enforcement powers, and kept many billions more in people's pockets through new rules, guidance, and other effective oversight policies;
- **Collected \$5 billion in civil money penalties for misconduct and wrongdoing.**³
- **Returned \$363 million back to servicemembers and veterans** through 39 public enforcement actions, including six Military Lending Act violations;⁴
- **Encouraged industry changes that helped 22.8 million people** with at least one medical debt collection removed from their credit reports;⁵ and
- **Ordered \$100 million in redress for harmed student borrowers and put an end to Navient's abusive and illegal actions.**⁶

The Bureau is cracking down on junk fees and working to return billions of dollars of unfair fees back into the pockets of families and people. Customers are vulnerable to fee gouging by companies that exercise market power over people that cannot easily or affordably switch to alternative service providers. The CFPB has taken decisive action to protect consumers from junk fees that cost consumers billions of dollars a year.

- **Curbing excessive overdraft fees could save consumers \$3.5 billion annually.**⁷ In January, the CFPB proposed a rule to close the bank overdraft loophole that had allowed financial institutions to unfairly charge billions in excessive overdraft fees. This rule would lower overdraft fees from as high as \$35 down to much more reasonable rates, between \$3 and \$14.⁸ Approximately 23 million households in the United States pay overdraft fees yearly. This rule may save people \$3.5 billion in excessive overdraft fees.⁹
- **Returning \$1.8 billion to 4.3 million consumers when a ring of credit repair companies illegally charged advance fees and used deceptive bait-and-switch advertising tactics.**¹⁰

² Consumer Financial Protection Bureau (CFPB). [About the Bureau](#). Accessed December 6, 2024.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ CFPB. [Press release]. "[CFPB bans Navient from federal student loan servicing and orders the company to pay \\$120 million for wide-ranging student lending failures.](#)" September 12, 2024.

⁷ CFPB. [Press release]. "[CFPB proposes rule to close bank overdraft loophole that costs Americans billions each year in junk fees.](#)" January 17, 2024.

⁸ CFPB. [Overdraft Lending: Very Large Financial Institutions](#). 89 Fed. Reg. 37. February 23, 2024 at 13853.

⁹ CFPB. [Press release]. "[CFPB proposes rule to close bank overdraft loophole that costs Americans billions each year in junk fees.](#)" January 17, 2024.

¹⁰ CFPB. [Press release]. "[CFPB announces return of \\$1.8 billion in illegal junk fees to 4.3 million Americans harmed in massive credit repair scheme.](#)" December 5, 2024.

- **Effort to save customers \$10 billion annually in junk late fees, halted in court.** In March, the CFPB finalized a rule to lower excessive credit card late fees, bringing credit card late fees from \$32 down to \$8.¹¹ This rule would have saved consumers \$10 billion in excessive late fees every year, but due to litigation initiated by Wall Street banks, the rule has been paused by an industry friendly 5th Circuit Court.¹² This litigation that halted the credit card late fees rule has cost people over \$5.5 billion (and counting, at \$317 per second) in unfair and excessive late fees.¹³
- **Returned \$80 million in illegally charged overdraft fees to servicemembers, veterans, and Department of Defense civilian employees.**¹⁴ In November, the CFPB ordered Navy Federal Credit Union, the country's largest credit union, to stop charging its customers illegal overdraft fees. The credit union must refund \$80 million back to its customers and pay a \$15 million penalty to the CFPB victims relief fund. Navy Federal customers were being charged surprise overdraft fees — \$44 million annually — even when they had sufficient funds at the time they used their debit cards to make a purchase.¹⁵ Another \$4 million was being illegally collected when customers were not informed that money received from payment services, such as Zelle, PayPal, and Cash App, would not be available until the following business day.¹⁶

The Bureau continues to improve the fairness and accuracy of credit reports.

- **Medical debt rule will protect 15 million people with unfairly lowered credit scores due to medical debt.**¹⁷ In June 2024, the CFPB proposed a rule that would prohibit medical debt from being considered in credit underwriting decisions. This rule would protect 15 million people in the United States holding \$49 billion in medical debt.¹⁸ Without these protections, leaving medical debt on an individual's credit report can limit access to needed credit, make loans more expensive, or even limit someone's ability to rent an apartment or get a job.

The Bureau works to keep our personal financial data safe and empowers consumers to maintain control over their personal financial data.

- **The proposed data broker rule will protect online privacy and prevent fraud.**¹⁹ The CFPB's proposed data broker rule will protect consumers from unscrupulous data brokers that sell sensitive personal and financial information and limit the sale of personal identifiers

¹¹ CFPB. [Credit Card Penalty Fees \(Regulation Z\)](#). 89 Fed. Reg. 52. March 15, 2024.

¹² Raymond, Nate. "US judge halts rule capping credit card late fees at \$8." *Reuters*. May 10, 2024.

¹³ Americans for Financial Reform Education Fund. [Wall Street Ripoff Counter](#). Accessed December 6, 2024. Click [here](#) to see how much people have lost from the credit card late fee rule's delay.

¹⁴ CFPB. [Press release]. "[CFPB orders Navy Federal Credit Union to pay more than \\$95 million for illegal surprise overdraft fees](#)." November 7, 2024.

¹⁵ *Ibid*.

¹⁶ CFPB. [Consent Order](#) in the Matter of Navy Federal Credit Union, File No. 2024-CFPB-0014. November 7, 2024.

¹⁷ CFPB. [Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information \(Regulation V\)](#). 89 Fed. Reg. 118. June 18, 2024.

¹⁸ CFPB. [Press release]. "[CFPB proposes to ban medical bills from credit reports](#)." December 6, 2024.

¹⁹ CFPB. [Protecting Americans from Harmful Data Broker Practices \(Regulation V\)](#). (Not yet published in Federal Register). December 3, 2024.

such as Social Security Numbers and phone numbers — a move that protects people’s online privacy and limits fraud.²⁰ Data brokers that sell sensitive consumer information would be considered “consumer reporting agencies” under the Fair Credit Reporting Act (FCRA), requiring them to comply with accuracy requirements, provide consumers access to their information, and maintain safeguards against misuse.

- **The recently finalized Personal Financial Data Rights rule will create a more consumer-friendly and competitive financial services marketplace.**²¹ This open-banking proposal empowers consumers to control their own financial data and allows consumers to more easily switch financial service providers and move their personal financial data at no extra charge. Importantly, covered data would also need to be standardized, with a consistent presentation of bill-payer information, rewards, and other important consumer information, also making it easier for customers to comparison shop between financial service providers.²²

The Bureau holds Wall Street, predatory lenders, and Big Tech accountable when they hurt and defraud people.

- **The recently finalized Big Tech Larger Participants rule will bring much needed oversight and supervision to nonbank fintech providers, so they do not facilitate fraud, and provide the same oversight for their payment apps as banks and credit unions.**²³ As it becomes much more common for consumers to use digital wallets and payment apps to make purchases, the increased oversight and supervision over covered nonbank financial service companies will help bring consistency to payment services and allow regulators to oversee a sector that could otherwise expose consumers to significant financial harms. Improved supervision of large nonbank financial service providers such as Google Pay or Apply Pay should encourage these companies to take payment fraud more seriously and comply with important consumer measures, such as the Electronic Funds Transfer Act and data privacy laws.

These are just a few of the recent, impactful ways the CFPB protects everyday people and their wallets, with a consumer protection mission that is broadly supported on a bipartisan basis. While Wall Street, predatory lenders, and Big Tech will try hard to delay, weaken, and even stop the Bureau’s important consumer protection work, we urge the members of this Committee and the entire Congress to continue supporting the CFPB, keeping a strong and independent agency, so the Bureau can continue to protect consumers and their families, hold institutions accountable when they break the law, and foster a financial marketplace that allows the economy to work fairly for everyone.

²⁰ CFPB. [Press release]. “[CFPB proposes rule to stop data brokers from selling sensitive personal data to scammers, stalkers, and spies.](#)” December 3, 2024.

²¹ CFPB. [Required Rulemaking on Personal Financial Data Rights](#). 80 Fed. Reg. 222. November 18, 2024.

²² *Ibid* at 90873.

²³ CFPB. [Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications](#). 88 Fed. Reg. 221. November 17, 2023.



December 10, 2024

The Honorable Sherrod Brown
Chairman
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tim Scott
Ranking Member
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Consumer Financial Protection Bureau

Dear Chairman Brown and Ranking Member Scott:

I write to express my deep concerns with the Consumer Financial Protection Bureau (CFPB). Since its inception, the CFPB has been used as a weapon to bludgeon financial institutions for engaging in activity that is at odds with the White House's preferred policies and beliefs. An example of regulators compelling financial institutions' behavior started with programs such as [Operation Choke Point](#). Now, the CFPB is arbitrarily and capriciously expanding its authority by issuing rules restricting the collection and distribution of data ultimately necessary to allocate credit to U.S. taxpayers. The agency also recently [finalized](#) regulations that would expand their supervisory authority over large technology firms that operate digital wallets and payment applications.

The CFPB's brazen disregard for the limits on its statutory authority is grounds for the forthcoming Department of Government Efficiency (DOGE) to work with Congress to examine potential avenues for enhanced accountability. The U.S. Supreme Court's decision in [Loper Bright Enterprises v. Raimondo](#) ended the automatic deference courts granted to agency interpretations of ambiguous statute. [West Virginia v. EPA](#) emboldens the major questions doctrine by encouraging courts to rule on whether these rules are indeed economically or politically significant and need to be explicitly authorized by Congress. Finally, [Corner Post v. Board of Governors of the Federal Reserve System](#) leaves the door open for litigation further in the future.

I. Digital Consumer Payment Applications

On November 21, 2024, the CFPB finalized regulations that would enable the agency to supervise business entities that facilitate the transfer of consumer funds. The [proposed rule](#) failed to include a substantive cost-benefit analysis. The agency even admitted that “limited data are available with which to quantify the potential benefits, costs, and impacts of the Proposed Rule.” The CFPB should not implement the final rule since it does not fully understand the economic impacts it could impose on peer-to-peer payments, digital wallets, and other payment applications. **Between January and April 2025, lawmakers will have the opportunity to introduce a joint resolution of disapproval to nullify the rule pursuant to the *Congressional Review Act*.**

The CFPB’s rule also duplicates regulatory efforts at the state level. State regulators actively supervise money transmission. Businesses licensed at the [state level](#) “are required to report certain transaction data to State regulators.” The CFPB’s rule, which encroaches on state’s preexisting authority, is a misguided and unnecessary expansion of its regulatory and supervisory authority.

State level supervision is also more effective and better at enforcing the law. According to one [law review article](#), “[s]tate enforcers also are likely to have a better understanding of local conditions than their federal counterparts, simply by virtue of living and working in the state rather than in Washington, D.C.”

Lawmakers should reject the CFPB’s misguided attempt to define the market for general-use digital consumer payment applications.

II. Data Broker Rule

The CFPB proposed a rule to largely restrict the collection and distribution of data necessary to compose credit reports and scores. The agency is claiming that the rule is needed for national security, a hackneyed excuse often misused in policy debates that have nothing to do with national security. The rule is no more than another attempt by the CFPB to unilaterally expand its statutory authority without explicit congressional authorization. While consumer data should not be misappropriated, the negative repercussions of restricting credit allocation capabilities would slow economic growth and make it harder for taxpayers to gain access to mortgages, credit cards, auto loans and other lines of credit.

Claims that the rule would mitigate instances of abrupt bank account closures is based on presumptions and not concrete data. The CFPB admits as much by [stating](#) that it “does not have data to quantify the impact that inaccurate information plays in the decisions resulting from risk mitigation services provided by such data brokers.” The CFPB again lacks the needed cost-benefit analysis to push forward with this rule. **The proposed rule is a waste of time and taxpayer dollars.**

III. Medical Debt Rule

The CFPB proposed a rule to eliminate the consideration of medical debt from credit reports. Whitewashing credit data distorts allocation of credit to individuals and businesses across the U.S. The *Fair Credit Reporting Act* was crafted to allow consideration of medical debt in credit reports. Eliminating medical debt creates a domino effect where additional consumer data points could be removed from credit reports. Removing this information from consideration will reduce the accuracy of credit assessments and distort the true credit worthiness of borrowers. This will in turn lead to deserving borrowers losing access to credit and reducing economic activity.

Removing medical debt also will have detrimental effects on the U.S. healthcare industry. Small healthcare practices could see a sharp reduction in [cash flow](#), which could lead to rising healthcare costs. The knock-on effects could impact [insurance companies](#) and lead to a rise in healthcare premiums.

The rule would ultimately harm consumers, not help them.

IV. Conclusion

Lawmakers should severely scrutinize the CFPB. While ostensibly created to protect consumers from malicious business operations, it has instead been used as a blunt instrument to target and vilify business entities for their size and scale regardless of any observable evidence of wrongdoing. Republican control of Congress and the executive branch is a perfect opportunity to restrict the CFPB from arbitrary and capricious actions that ultimately harm taxpayers and the American free market enterprise system.

I appreciate the opportunity to discuss my strong concerns with the CFPB and are happy to be a resource to you as policy priorities come together for the 119th Congress.

Onward,



Grover G. Norquist
President
Americans for Tax Reform

CC: Members of the U.S. Senate Committee on Banking, Housing, and Urban Affairs



Consumer Data Industry Association
1156 15th ST, NW, Suite 1200
Washington, D.C. 20005

CDIAONLINE.ORG

December 11, 2024

The Honorable Sherrod Brown
Chairman, Senate Committee on Banking, Housing, and Urban Affairs
Washington, D.C. 20510

The Honorable Tim Scott
Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs
Washington, D.C. 20510

Dear Chairman Brown and Ranking Member Scott,

The Consumer Data Industry Association (CDIA) would like to express our concerns regarding the Consumer Financial Protection Bureau's (CFPB) proposed rule on regulating data brokers under the Fair Credit Reporting Act (FCRA)¹. We strongly believe that this proposed rulemaking could have severe unintended consequences for fraud prevention, public safety, law enforcement, and the consumer economy. In addition, the CFPB is acting well outside the scope of its authority with regard to FCRA in this rulemaking.

Our members recognize the importance of consumer privacy. However, we believe the CFPB's approach is misguided and potentially harmful. This proposal would have far-reaching implications, including:

- **Increasing Fraud Risks:** Retailers and lenders could find it more difficult to identify and prevent fraudulent schemes.
- **Hindering Law Enforcement:** The rule may make it harder for law enforcement to track fugitives or locate missing and exploited children.
- **Impacting Child Support Enforcement:** Government officials may face significant challenges in tracking down parents who are evading child support responsibilities.

These potential negative impacts occur without any clear improvement in the accuracy, reliability, or privacy protections of credit report data. We believe these changes would significantly undermine the integrity of the credit reporting system, which is critical to both the consumer economy and efforts to protect consumers from fraud.

Furthermore, the CFPB's treatment of "credit header" information directly contradicts decades of established legal and regulatory precedent, which consistently maintains that identifying information—such as names, Social Security numbers, phone numbers, and addresses—is not considered consumer report data subject to the FCRA. These concerns were previously raised in a letter to the Bureau earlier this year, authored by several members of this committee. Importantly, the use and disclosure of credit header data is already governed by the Gramm-Leach-Bliley Act

¹ CFPB Proposed Rule: Protecting Americans from Harmful Data Broker Practices (Regulation V), December 3, 2024, https://files.consumerfinance.gov/f/documents/cfpb_nprm-protecting-ams-from-harmful-data-broker-practices_2024-12.pdf.

(GLBA), a fundamental U.S. consumer privacy law. The GLBA restricts the handling of personal data to specific, limited purposes, including law enforcement, fraud prevention, legal compliance, and facilitating consumer transactions. In doing so, the GLBA ensures that consumer data is protected in a manner that safeguards individuals' privacy, promotes societal benefits, and meets consumer expectations for data security and responsible usage.

We believe it is crucial to express our concerns, particularly around the following points:

Expanding the Definition of "Consumer Report": The rule would redefine what constitutes a consumer report, including the incorporation of "credit header" data and de-identified data. This expansion would create significant legal and operational challenges without improving data accuracy or consumer privacy. Importantly, it may also increase fraud risks and hinder law enforcement efforts.

Broadening the Definition of "Consumer Reporting Agency" (CRA): The proposal would redefine the activities that qualify an entity as a CRA. This broadening could result in numerous entities being classified as CRAs without sufficient justification, potentially overburdening the credit reporting system.

Unnecessary Limitations on Data Use: The rule would impose unnecessary restrictions on the use of data, including limitations on marketing activities and further constraints on businesses that rely on consumer reports for legitimate purposes.

We urge the Committee to oppose the proposal, as neither the FCRA nor the Dodd-Frank Act grants the CFPB the authority to arbitrarily expand the definition of a consumer report or a consumer reporting agency. Any decisions around this issue should be made expressly by Congress and should be grounded in authority delegated by Congress to the CFPB. Any rulemaking by an agency shall be done using statutory authority, sound data, a robust economic analysis and appropriate case law in accordance with the Administrative Procedures Act.

Given the potential negative consequences of the proposed rule, we call on Congress – and this Committee – to work with industry stakeholders and lawmakers to address data privacy concerns without undermining the integrity of the credit reporting system, which has been a world-class model and foundation of our consumer credit market.

Thank you for your attention to this important issue. We stand ready to engage in constructive dialogue to ensure that consumer privacy is protected without compromising critical efforts related to fraud prevention, law enforcement, and the consumer economy.

Sincerely,

Dan Smith

Chief Executive Officer
Consumer Data Industry Association (CDIA)

CC: Members of the Senate Committee on Banking, Housing, and Urban Affairs



December 9, 2024

The Honorable Sherrod Brown
 Chairman
 Senate Committee on Banking, Housing, and
 Urban Affairs
 534 Dirksen Senate Office Building
 Washington, D.C. 20510

The Honorable Tim Scott
 Ranking Member
 Senate Committee on Banking, Housing,
 and Urban Affairs
 534 Dirksen Senate Office Building
 Washington, D.C. 20510

Dear Chairman Brown and Ranking Member Scott:

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

CBA hopes Members of Congress will address several areas of concern with the CFPB Director regarding the Bureau's current regulatory posture and the changes that the new administration should make.

- **The CFPB must follow the law.** As discussed throughout this letter, the Bureau frequently flouts required rulemaking procedures and other statutory obligations when issuing its interpretations of law.
- **The CFPB should put consumers first by conducting robust cost-benefit analysis before issuing new policies and avoiding policies that result in consumers being de-banked.** Unfortunately, a number of the Bureau's recent rules and guidance fail this basic test and warrant deeper analysis.
- **Facts matter.** The CFPB frequently misrepresents its own data about the state of the consumer financial services marketplace to justify its policies pertaining to overdraft, data access, credit cards, and others.
- **The Bureau should consider input from all stakeholders so its policies are based on a thorough understanding of how consumers will be impacted by its actions.**

In this letter, we offer legislative and regulatory suggestions to lawmakers, and the Bureau for the purpose of ensuring consumers continue to have access to highly regulated financial products that enable them to achieve their financial goals:

- **Overdraft Proposed Rule:** The CFPB's overdraft proposed rule exceeds the Bureau's statutory authority, fails to appropriately consider how it could harm consumers, and relies on incomplete data. The CFPB should withdraw the overdraft proposed rule.
- **Dodd-Frank Act Section 1033 Final Rule:** The Bureau's Dodd Frank-Act Section 1033 final rule is highly flawed and jeopardizes consumers' control and security of their data. The new administration should reconsider the rule.

Page 1 of 9

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- **Credit Card Late Fees Final Rule:** The CFPB’s credit card late fees final rule will increase the cost of credit, reduce credit availability, and increase the negative outcomes for consumers when paying late. Additionally, the rule will likely cause more Americans to fall into persistent debt. The new administration should rescind the rule.
- **Fraud and Scams:** The CFPB should conduct a consumer education campaign to make consumers aware of the growing problem of fraud and scams and how to avoid them.
- **Process Issues:** The CFPB frequently disregards required rulemaking procedures for the sake of expediency, resulting in policies that are highly flawed and not durable. The CFPB must follow the law.
- **Structural CFPB Reforms:** Congress should enact structural reforms to the CFPB to create more transparency and establish proper checks and balances for an agency with such broad scope and influence over the financial services marketplace.

Overdraft

On January 17, 2024, the CFPB proposed an overdraft rule that would fundamentally restructure and restrict consumer overdraft services offered by banks that exceed \$10 billion of assets. Stated more directly, the proposed rule will create a one-size-fits-all government-mandated banking service that operates under a separate and more restrictive regulatory framework for institutions above \$10 billion of assets, reducing access to checking services for customers at these banks. The proposal would deem overdrafts to be extensions of credit subject to Regulation Z, including the rules applicable to credit cards, unless the bank restricts its overdraft fees to proposed benchmark thresholds (\$3, \$6, \$7, \$14) or calculates its “breakeven” costs.¹

The CFPB’s overdraft rulemaking is an unlawful attempt at government price setting and will cause consumers to lose the freedom to choose a popular and helpful form of emergency liquidity.² The Bureau is attempting to cap overdraft fees under the Truth in Lending Act (TILA). However, TILA is not a tool for regulating overdrafts, much less the pricing of financial products and services. Nothing in TILA suggests that overdraft products are credit. The CFPB should put consumers first and avoid making policies that result in consumers being de-banked. It should also provide real consumer impact data when access to overdraft and checking accounts declines because of the rule.

Besides lacking statutory authority to regulate overdraft in such a way, the CFPB continues to fundamentally misrepresent the current overdraft market.³ For more than a decade, and particularly over the last several years, banks— particularly the largest banks— have innovated and competed to create a range of highly tailored, consumer-friendly products that aim to support each bank’s customers. The CFPB’s market analysis produces tables comparing overdraft services offered by the top 20 banks, with nine different dimensions of product options for consumers ranging from no overdraft fees for any transactions, to daily limits on the number of overdraft transactions, to

¹ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-close-bank-overdraft-loophole-that-costs-americans-billions-each-year-in-junk-fees/>

² <https://consumerbankers.com/press-release/cba-releases-national-empirical-survey-results-showing-consumer-value-and-need-for-bank-overdraft-products/>

³ <https://consumerbankers.com/blog/facts-matter-cfpb-misrepresents-data-showing-dramatic-shift-in-the-overdraft-market/>



extended grace periods, to cushions before overdraft fees are charged—up to \$50.⁴ Further, banks have innovated and may compete by offering additional features not captured by the CFPB’s reports, such as: real-time payment updates, payment control, so that consumers can choose to pay or return certain individual checks and payments when their balances are negative; and low balance alerts.⁵ Alarming, the CFPB’s proposed rule ignores these trends and cites data that is more than a decade old in its evaluation of the overdraft market.⁶ The CFPB’s reliance on this decade-old data means that its proposed rule fails to account for major shifts in market practices and innovations and relies on inaccurate data to justify its rulemaking.⁷

Overdraft fees are projected to have declined by 82 percent since 2008, or \$167 of annual savings per U.S. adult.⁸ While these innovations have been taking place for more than a decade, the CFPB’s own data shows that there has been a \$5 billion reduction of overdraft fees from 2019 to 2022 because of these bank-led—not government-led—innovations, a nearly 50 percent drop since before the pandemic. More recently announced changes to overdraft programs are projected to save consumers \$18.3 billion from 2021 to 2025, more than \$3.5 billion per year.

Yet, as part of the administration’s messaging push regarding so-called “junk fees,” the CFPB has proposed a rule to fundamentally change overdraft. Unfortunately, the CFPB’s proposed rule has not taken any of these changes into account and instead relies on outdated and incomplete data regarding the overdraft marketplace.⁹ The CFPB also has not considered the rule’s true impact on consumers, many of whom would lose access to these important products should the rule be finalized as is. This is not conjecture. CBA recently surveyed our member banks to assess the impact of this rule on overdraft services, and 92 percent of banks that responded to the survey indicated that any of the CFPB’s proposed overdraft fee caps would materially reduce the amount of overdraft-related liquidity they are able to offer to consumers.¹⁰ The Bureau’s overdraft proposal has the potential to undo the years of progress banks have made by instead forcing all banks to offer their overdraft products at certain government-imposed prices. As a result, this proposal’s one-size-

⁴ https://files.consumerfinance.gov/f/documents/cfpb_overdraft-table_2023-05.pdf

⁵ <https://www.consumerfinance.gov/about-us/blog/banks-overdraft-nsf-fee-revenues-evolve-along-with-their-policies>

⁶ https://files.consumerfinance.gov/f/documents/201708_cfpb_data-point_frequent-overdrafters.pdf

⁷ For example, when the proposed rule states that a majority of overdraft fees are paid by frequent overdraft users (ten or more overdrafts a year), who constitute approximately nine percent of all checking accounts, it importantly does not reflect the current state of the market. It fails to account for the significant consumer-friendly innovations introduced into the market by the largest institutions or how those changes have improved consumers’ financial health. More recent surveys of consumers from the Financial Health Network estimate that frequent overdrafters comprise nine percent of all overdrafters (as opposed to overall checking accounts, per the Proposal). CBA’s survey found that only three percent of respondents who reported overdrafting in the last 12 months did so ten or more times (or less than two percent of all consumers in the study). <https://finhealthnetwork.org/research/overdraft-trends-amid-historic-policy-shifts/>

⁸ <https://curinos.com/our-insights/update-competition-drives-overdraft-disruption>

⁹ The proposed rule cites a 2017 CFPB report which analyzes data that is more than a decade old and importantly does not reflect the current state of the market, including the *significant* consumer-friendly innovations introduced into the market by the largest institutions, or consumer financial health. For instance, more recent analyses from third parties, including CBA and the Financial Health Network, have both found varying levels of overdraft use since the CFPB’s analysis in 2017. Additionally, the CFPB’s more recent data on overdraft use from its Making Ends Meet survey does not reflect the use of overdraft by consumers without credit as it pulls from a sample of the CFPB’s Credit Card Panel which only includes consumers with a credit record. https://files.consumerfinance.gov/f/documents/201708_cfpb_data-point_frequent-overdrafters.pdf <https://www.consumerfinance.gov/data-research/research-reports/overdraft-and-nonsufficient-fund-fees-insights-from-the-making-ends-meet-survey-and-consumer-credit-panel/>

¹⁰ <https://consumerbankers.com/press-release/new-cba-survey-illustrates-consumer-harm-of-cfpb-overdraft-proposal/>



fits-all approach would hinder innovation, limit competition, and hamper banks' ability to provide this essential product to the millions of consumers who rely on it. Also, the CFPB has failed to meet its statutory cost-benefit analysis requirements, as it relied on data that did not include overlooked credit invisible consumers, who lack traditional access to bank-offered credit products.

Accordingly, the CFPB literally failed to include the most critical one-fifth of Americans in its impact analysis, who will be irreparably de-banked by their rulemaking.¹¹

The CFPB should not proceed with a final rule on overdraft. Instead, it should collect, analyze, and update data on consumers' use of overdraft services, with particular attention paid to frequent overdrafters and those who struggle to access other alternative forms of credit such as credit cards.

Should the current Director and CFPB finalize the rule, the next Director should do the appropriate analysis to understand the harm to consumers of this rulemaking, and the overreach of its own authority, and should rescind this rule.

Dodd-Frank Section 1033 Implementation

On October 22, 2024, the CFPB issued a final rule implementing Section 1033 of the Dodd-Frank Act, which addresses consumers' personal financial data rights.¹² CBA and our member banks support consumer access to their financial data and a move to a more open banking system. Many banks have already invested heavily in developing open application programming interfaces (APIs), enabling outside parties to build consumer products that draw from their consumers' financial data. With that said, we have significant concerns about a number of aspects of the CFPB's final rule.

First, CBA continues to strongly object to the CFPB's inaccurate assertions that this rulemaking is needed to increase competition in the marketplace. The consumer credit card and deposit account markets are highly competitive and the CFPB should not rely on mischaracterizations of the marketplace to justify the necessity of this rulemaking.

Next, the CFPB must adhere to its statutory authority. The final rule goes far beyond a short section of statute by requiring banks to subsidize a vast open banking marketplace. The rule is also half-baked and does not even specify a standard setter, so banks do not know what they are building toward.

Provisions in the final rule jeopardize consumers' control and security of their data. The final rule will increase fraud in a number of ways— (1) it requires "information to initiate payment to or from a Regulation E account" (account and routing numbers) to be shared with third parties; (2) data recipients will only have to certify compliance but will not be examined; (3) the final rule fails to prohibit screen scraping; and (4) it lacks a liability framework and relies on the existing structure in the Electronic Fund Transfer Act (EFTA) and its implementing regulation, Regulation E, bilateral contracts, and private network rules which would leave banks and even consumers on the hook. Third parties' use and protection of sensitive consumer data is outside of banks' control, which

leaves banks unable to protect their customers from data breaches at third-party companies and from fraud that may result from these breaches. Third parties should be required to address

¹¹ <https://consumerbankers.com/press-release/cba-statement-on-cfpbs-misleading-overdraft-press-release/>

¹² <https://www.consumerfinance.gov/rules-policy/final-rules/required-rulemaking-on-personal-financial-data-rights/>



consumer harm that results from their inadequate controls, and limits on third party access to consumer data should be considered.

The scope of covered accounts should be more than just asset accounts and credit cards— it should include auto loans and non-bank credit alternatives like Buy Now Pay Later (BNPL) and Electronic Benefit Transfer (EBT) cards. If the CFPB wants to create an open banking ecosystem that fosters competition and benefits consumers, all participants in the market should be covered.

The final rule prohibits banks and other data providers from imposing any fees on third parties for accessing consumer data. Such fees, which are now being contemplated in the European Union,¹³ could be imposed by data providers on third parties in order to recover the costs of developing and maintaining new interfaces for third parties. Banks will shoulder the burden of setting up data sharing systems; non-banks should share in the development and operational cost of setting up these systems.

The new administration should reconsider the rule in light of these significant shortcomings.

Credit Card Late Fees

On March 5, 2024, the CFPB finalized its proposed rule that would cut the Federal Reserve Board’s longstanding safe harbor for credit card late fees from \$30 (\$41 for subsequent late payments) to \$8, without an inflation adjustment.¹⁴ The CFPB’s rule is part of the Biden Administration’s campaign regarding “junk fees,” which purports to reduce fees charged to consumers by several industries, including but not limited to hotel and lodging, transportation, groceries, and entertainment.¹⁵

Credit card late fees are not “junk fees.” Credit card late fees are authorized under Regulation Z, which implements TILA. By law, these fees are clearly disclosed to the consumer up front, and are entirely avoidable. In addition to clear and required disclosures, credit card penalty late fees serve an important purpose recognized by TILA: for issuers to charge fees that are reasonable and proportional to the “violation” of the card agreement.

The Bureau attempts to justify the late fees rule by portraying the credit card market in ways that its own data shows are false. The CFPB Director argued that late fees and, by extension credit cards, “aren’t subject to the normal forces of competition.”¹⁶ According to the Director, competition had been “undermined,” so the CFPB needed to intervene to ensure the credit card market is fair and competitive.¹⁷ But the CFPB’s own CARD Act Report clearly shows a highly competitive market for credit cards. CBA detailed these findings in greater detail in a four-part series.¹⁸ For example,

¹³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023PC0360>

¹⁴ <https://www.consumerfinance.gov/rules-policy/final-rules/credit-card-penalty-fees-final-rule/>

¹⁵ <https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/11/biden-harris-administration-announces-broad-new-actions-to-protect-consumers-from-billions-in-junk-fees>

¹⁶ <https://www.consumerfinance.gov/about-us/newsroom/director-chopras-remarks-on-press-call-for-credit-card-late-fees-nprm/>.

¹⁷ Id. and <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-rein-in-excessive-credit-card-late-fees/>.

¹⁸ CBA detailed these contradictions in greater detail in a four-part series. <https://www.consumerbankers.com/cba-media-center/media-releases/facts-matter-cba-uses-cfpb-data-set-record-straight-card-act-report>.



the CFPB's CARD Act Report shows that there were \$53 billion of balance transfers in 2022.¹⁹ To put that number in context, the amount of balance transfers that moved from one issuer to another is greater than the *total* holdings of each of the top seven credit card issuers.

The Bureau also claims that this rule could help some credit card customers, in particular those who frequently pay late. However, the Bureau acknowledged that cardholders who never pay late—which the CFPB's own data indicates is 74 percent of all Americans with credit cards and 47 percent of subprime cardholders²⁰—will not benefit from the reduced fees and could experience "...higher maintenance fees, lower rewards, or higher interest on interest-paying accounts," and increased costs could completely negate any benefits.²¹ As discussed further below, this rule may harm the very consumers it purports to protect. However, in addition to these specific harms, this unnecessary market intervention may limit overall access to credit. As card issuers adjust to manage the risk of more late payers, there is risk that the supply of credit will constrict. This restriction of credit could potentially "debank" existing consumer cardholders, while also making it more difficult for consumers to get access to new credit.

Despite the CFPB's avowed concerns about rising rates of consumers in "persistent debt"²²—when a consumer pays more in interest and fees over an 18-month period than their balances²³—the CFPB either fails to recognize or acknowledge that its late fees rulemaking will almost certainly push additional consumers into "persistent debt." The CFPB's late fees rulemaking is specifically designed to reduce the short-term financial consequences of missing credit card payments (i.e., reducing the late fee from \$30 to \$8). Indeed, the CFPB may be saving a consumer \$22 in the short term. But by reducing the effectiveness of late fees, the CFPB also exposes consumers to increased risks that they will incur costs that may be less salient, because they occur over time, but are ultimately significantly more damaging than a \$30 late fee. The consumer will likely carry a higher balance, resulting in higher interest charges and smaller principal payments. This may lead to a lower credit score, making it more difficult and expensive for the consumer to obtain other types of credit, such as a mortgage or auto loan. While the consumer may save a little money in the short term, these long-term costs will be so much greater. The CFPB did not even attempt to consider these long-term consumer harms in its proposed or final rule, despite them being raised directly by industry during the notice and comment process.²⁴

CBA is a co-plaintiff on a lawsuit led by the U.S. Chamber of Commerce challenging this rulemaking. The U.S. District Court for the Northern District of Texas granted a preliminary injunction on May 10, preventing the rule from going into effect while the merits of the challenge are litigated in court.²⁵

¹⁹ https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2023.pdf#page=116

²⁰ https://files.consumerfinance.gov/f/documents/cfpb_credit-card-late-fees_report_2022-03.pdf

²¹ https://files.consumerfinance.gov/f/documents/cfpb_credit-card-penalty-fees_final-rule_2024-01.pdf#page=227

²² <https://consumerbankers.com/press-release/facts-matter-card-act-report-highlights-banks-positive-impact-on-consumers-financial-resilience/> Overall rates of "persistent debt" remain lower than every pre-pandemic year.

²³ <https://www.fca.org.uk/publications/policy-statements/ps18-04-credit-card-market-study>; see, e.g.,

<https://www.ukfinance.org.uk/our-expertise/cards/financial-conduct-authority-fca-rules-persistent-credit-card-debt-36-months-actions-frequently>

²⁴ https://consumerbankers.com/wp-content/uploads/2024/03/CBA20Comment20on20Docket20No20CFPB-2023-001020RIN203170-AB15_0.pdf#page=4

²⁵ <https://www.uschamber.com/cases/consumer-protection/cfpb-late-fees-rule>



The new administration should rescind the rule and focus on increasing consumer access to affordable credit card products.

Fraud and Scams

While fraud and scams continue to dominate headlines, the types of fraud and scams occurring and the complications facing consumers and banks have evolved over the last year. In light of continued innovation by banks to counter fraud related to instant peer-to-peer (P2P) payment platforms, P2P fraud has begun to slow down while check fraud and synthetic identity fraud have resurged.

CBA commissioned a white paper with Nick Bourke, former Director of Consumer Finance at The Pew Charitable Trusts, to develop a national strategy for preventing fraud and scams against consumers and businesses.²⁶ The white paper was accompanied by a roundtable of relevant stakeholders to discuss the issues raised, which culminated in a policy document highlighting actions that are needed from an inter-governmental and inter-industry perspective for addressing fraud, scams, and cybersecurity.²⁷

The white paper also discusses the importance of consumer education to help inform consumers of how to avoid being defrauded and scammed. Equally as important, education must destigmatize falling victim to fraud and scams and teach consumers what to do if they do unfortunately fall victim. It is critically important that the CFPB use its Civil Penalty Fund to conduct a consumer education campaign to make consumers aware of the growing problem of fraud and scams and how to avoid them. Additionally, the CFPB should work with other federal agencies, such as the FTC and FCC, to crack down on various types of consumer scams. Additionally, law enforcement officials need to be adequately resourced in order to support the prosecution of fraudsters and scammers. One of the likely reasons that fraud and scams have exploded in recent years is because of insufficient prosecutions of these fraudsters and scammers.

Process Issues

The CFPB frequently disregards required rulemaking procedures for the sake of expediency, resulting in policies that are highly flawed and not durable. For example, on October 11, 2023, the Bureau issued an advisory opinion on Section 1034(c) of the Dodd-Frank Act that creates new regulatory requirements and entirely new categories of enforcement liability.²⁸ It contains specific new obligations and establishes new legal penalties, thereby introducing new regulatory expectations more than a decade after the statute was enacted. To the extent that the CFPB has authority to introduce any such new regulatory expectations, it should have done so via a rulemaking under the Administrative Procedure Act (APA). The new administration should withdraw the advisory opinion.

On September 17, 2024, the CFPB issued a consumer circular regarding overdraft opt-in practices.²⁹ This circular attempts to impose new regulatory obligations by increasing record

²⁶ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4897644

²⁷ <https://consumerbankers.com/wp-content/uploads/2024/07/2024-07-21-Fraud-and-Scams-Writeup.pdf>

²⁸ https://files.consumerfinance.gov/f/documents/cfpb-1034c-advisory-opinion-2023_10.pdf

²⁹ <https://www.consumerfinance.gov/compliance/circulars/consumer-financial-protection-circular-2024-05/>



retention requirements for overdraft services. This is yet another example of the CFPB issuing what should be a rule without going through the required APA rulemaking process. Financial institutions that offer overdraft services are required to have consumers affirmatively opt-in for overdraft services and are required to keep a record of that opt-in for two years. The CFPB is trying to change this requirement via a footnote of the circular suggesting that absence of a record suggests that the bank never obtained consent. This wholly ignores the regulation's clear record retention requirements by effectively requiring financial institutions to keep records of overdraft opt-in forever. The new administration should withdraw this circular in light of its legal deficiencies.

The CFPB has also frequently misused its unfair, deceptive, and abusive acts or practices (UDAAP) authority. A prime example of why the CFPB's UDAAP authority is in need of reform is the Bureau's March 2022 update to its UDAAP exam manual, in which it added provisions to reflect its new view that "unfairness" can be applied to alleged discriminatory practices by using disparate impact analysis. However, Congress has historically been very restrictive on granting agencies the ability to apply disparate impact theory due to its inherent inaccuracy of predicting discriminatory outcomes. The CFPB's action created significant uncertainty in the financial services marketplace to the detriment of consumers and banks alike, and it raised profound substantive and procedural legal concerns. In essence, the CFPB went beyond its authority by extending fair lending laws to non-lending products and services, meaning that discriminatory conduct could violate UDAAP even in instances where fair lending laws do not apply. The CFPB's actions left industry with little choice but to pursue legal correction of this overreach. In September 2022, CBA and other trades filed a lawsuit challenging the exam manual update on several grounds, including the agency's lack of statutory authority and failure to follow appropriate rulemaking procedures.³⁰ In September 2023, a U.S. district court granted CBA and other plaintiffs' motion for summary judgment, and denied the CFPB's counter motions. In granting CBA and the other plaintiffs' motion, the court deemed the CFPB's March 2022 update to the UDAAP exam manual beyond the agency's constitutional and statutory authority, and vacated the update in its final judgment.³¹ The CFPB is appealing the decision to the Fifth Circuit Court of Appeals.

The Bureau has also issued interpretive rules on BNPL and earned wage access (EWA) products which should be withdrawn.^{32 33}

³⁰ <https://www.consumerbankers.com/cba-media-center/media-releases/cba-leading-financial-groups-pursue-legal-action-against-cfpb>

³¹ https://www.consumerbankers.com/sites/default/files/CBA-Chamber-of-Commerce-CFPB_Final-Judgment.pdf

³² On May 22, 2024, the CFPB issued an interpretive rule that treats BNPL providers as credit card issuers under TILA and Regulation Z. While CBA supports much of the substance of the interpretation, it creates substantive new obligations on regulated entities and is not a mere interpretation of existing rules. Therefore, it must be submitted as a formal rule through the rulemaking process required by the APA. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-to-ensure-consumers-can-dispute-charges-and-obtain-refunds-on-buy-now-pay-later-loans/> <https://consumerbankers.com/wp-content/uploads/2024/08/BNPL-Interpretive-Rule-Comment-Letter-8-1-24.pdf>

³³ On July 18, 2024, the CFPB proposed an interpretive rule that treats earned wage access (EWA) products as consumer loans subject to TILA and Regulation Z. The interpretive rule creates substantive new obligations on regulated entities and must be promulgated through an APA rulemaking process. Additionally, a cost-benefit analysis must be conducted pursuant to Section 1022 of the Dodd-Frank Act, along with an interagency consultation and an initial regulatory flexibility analysis. CBA urges the CFPB to rescind the interpretation and reevaluate the merits of the proposed policy conclusions. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-interpretive-rule-to-ensure-workers-know-the-costs-and-fees-of-paycheck-advance-products> <https://consumerbankers.com/wp-content/uploads/2024/08/CBA-comment-on-CFPB-EWA-interpretive-rule-CFPB-2024-0032.pdf>



Structural CFPB Reforms

When the new Congress begins, CBA hopes legislators will strongly consider structural changes to the Bureau to bring stability and certainty to the regulatory process.

CBA appreciates the House Financial Services Committee taking action on meaningful reforms to the CFPB. In April 2023, the Committee passed H.R. 2798, the *CFPB Transparency and Accountability Reform Act*, which includes four bills that CBA supports: (1) changing the Bureau's leadership structure from a single Director to a bipartisan commission, (2) placing the Bureau under the annual Congressional appropriations process, (3) requiring robust cost-benefit analysis with rulemakings, and (4) establishing an independent CFPB Inspector General. In May 2024, the Committee passed H.R. 8338, the *Clarity in Lending Act*, which includes three bills that CBA supports: (1) fostering a robust small dollar consumer lending marketplace, (2) reforming the Bureau's UDAAP authority, and (3) obtaining stakeholder input on the Section 1071 balancing test.

These reforms will bring greater accountability and transparency to the Bureau and will apply proper checks and balances to a regulator with broad scope and influence over the consumer financial services marketplace.

Conclusion

The new Congress and the new administration present valuable opportunities for major legislative and regulatory changes to the CFPB. Over the last four years, the Bureau's leadership has prioritized short-term political wins over what is best for consumers. Enacting the legislative changes recommended in this letter would help protect against the radical pendulum shift that has taken place in the last three administrations and result in policies that are more measured and durable. Additionally, the next CFPB Director should rescind the Bureau's most harmful rules that are undoubtedly making it more difficult and expensive for consumers to access financial services. CBA stands ready to work with Congress and the CFPB to implement legislative and regulatory improvements to the Bureau for the benefit of consumers, and we appreciate the opportunity to submit this statement for the record. CBA also looks forward to sharing additional policy recommendations with the new administration and Congress in the coming weeks.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Johnson".

Lindsey D. Johnson
President and CEO
Consumer Bankers Association



Jason Stverak
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December 10, 2024

The Honorable Sherrod Brown
United States Senate
Banking, Housing & Urban Affairs Committee
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tim Scott
United States Senate
Banking, Housing & Urban Affairs Committee
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Brown and Ranking Member Scott:

On behalf of the Defense Credit Union Council (DCUC), representing credit unions serving our nation's service members, veterans, and their families, I write to share our concerns ahead of the Senate Banking Committee's hearing, "*Consumer Protection: Protecting Workers' Money and Fighting for the Dignity of Work.*"

The Consumer Financial Protection Bureau (CFPB) plays an important role in protecting consumers, but some of its recent regulatory priorities risk unintended consequences that could negatively impact service members and the credit unions that serve them. Specifically, we urge the committee to scrutinize CFPB's positions on overdraft protection, credit card late fees, the proposed Section 1033 rule, and broader trends in overregulation. Additionally, DCUC strongly supports reforms to the CFPB to ensure it operates in a fair, transparent, and accountable manner.

Credit unions, including those serving military communities, provide overdraft protection services as a critical safety net for members. These programs are tailored to offer affordable, transparent options that help members avoid more costly alternatives like payday loans. CFPB's continued scrutiny of overdraft fees, coupled with calls to restrict their use, could reduce access to this vital service. For military families facing unique financial pressures, such as unexpected deployments or relocations, overdraft protection often serves as a lifeline. Any regulatory action that restricts access to these services would harm the very consumers CFPB seeks to protect.

DCUC also remains concerned about the CFPB's stance on credit card late fees. Service members rely on credit unions for fair and reasonable credit card options, designed with their financial stability in mind. The CFPB's efforts to impose restrictive caps or further reduce permissible late fees under the guise of "junk fee" regulation will disproportionately harm small financial institutions, including credit unions. Unlike for-profit banks, credit unions reinvest earnings into member services, and these fees support financial readiness programs, technology upgrades, and affordable credit options. Arbitrary fee reductions would limit these resources, undermining the financial well-being of military families.

While DCUC supports transparency and access to financial data, we are deeply concerned that CFPB's proposed Section 1033 rule could inadvertently expose service members and their families to significant cybersecurity and privacy risks. The rule's broad requirements for financial institutions to share consumer data with third parties must be balanced against the critical need to protect sensitive information. For military families, whose financial data is often targeted by bad actors, these protections are especially vital. We urge Congress to ensure CFPB finalizes a rule that does not compromise consumer privacy or impose excessive compliance burdens on credit unions.

Serving Those Who Serve Our Country

Finally, we call attention to the CFPB's broader trend of overregulation, which disproportionately affects smaller financial institutions like defense credit unions. Burdensome compliance requirements strain resources that could otherwise be used to serve members. These regulations threaten the unique role of credit unions on military bases and in veteran communities, where they provide essential services tailored to the needs of those who serve.

DCUC believes that structural reforms to the CFPB are critical to ensuring its accountability, transparency, and balanced oversight of the financial sector. Specifically, we recommend:

1. **Establishing a Five-Member Commission:** Replacing the single-director leadership model with a bipartisan five-member commission would promote greater stability, continuity, and collaboration in CFPB policymaking. This structure, used successfully by other financial regulators, would mitigate abrupt policy swings and ensure diverse perspectives in decision-making.
2. **Placing the CFPB Under the Congressional Appropriations Process:** Currently, the CFPB's funding bypasses congressional oversight by being tied to the Federal Reserve. Subjecting the agency to the appropriations process would enhance accountability and ensure Congress has a more direct role in overseeing how taxpayer resources are utilized. This change would also align the CFPB's funding mechanism with other federal financial regulators.

These reforms would help address concerns over regulatory overreach and improve the agency's ability to support a balanced and efficient financial system, without imposing unnecessary burdens on credit unions and other community-focused institutions.

DCUC urges the Senate Banking Committee to emphasize these concerns during Director Chopra's testimony and to consider necessary reforms to the CFPB that would enhance accountability while safeguarding the interests of consumers and financial institutions. As always, we stand ready to work with the CFPB and Congress to protect consumers while ensuring financial institutions can continue to provide essential services.

Thank you for the opportunity to bring these matters to your attention. Should you have any questions or desire additional information, please do not hesitate to contact me at 202.557.8528 or by email at jstverak@dcuc.org.

Sincerely,



Jason Stverak
Chief Advocacy Officer
DCUC

CC: Senate Banking, Housing and Urban Affairs Members

Record, Tillis, 12/11/24



May 3, 2023

Via Electronic Mail

Comment Intake - 2023 NPRM Credit Card Late Fees
 c/o Legal Division Docket Manager
 Consumer Financial Protection Bureau
 1700 G Street, NW
 Washington, DC 20052
2023-NPRM-CreditCardLateFees@cfpb.gov

Re: Docket No. CFPB-2023-0010 - Notice of Proposed Rulemaking on Credit Card Penalty Late Fees (Regulation Z)

To Whom it May Concern:

The Consumer Bankers Association (CBA)¹ appreciates the opportunity to submit comments to the Consumer Financial Protection Bureau (the Bureau) in response to the notice of proposed rulemaking on credit card penalty late fees (the NPRM).² In addition to the comments shared in the letter CBA submitted jointly with several other trade associations,³ CBA writes separately to express significant concerns with the Bureau's Dodd-Frank Act section 1022(b) analysis ("1022" or "1022 Analysis")⁴ contained within the NPRM.⁵

This comment letter is narrowly focused on addressing the deficiencies in the Bureau's 1022 cost-benefit analysis for this rulemaking. In general, the Bureau did not conduct a thorough and rigorous analysis of the empirical economic literature on the effects of late fees nor conduct its own rigorous analysis with statistically significant findings in a transparent and consistent manner. The Bureau's flawed assumptions, overly narrow estimations, and deficient analyses have resulted in the Bureau reaching incorrect conclusions about the benefits and harms to consumers, as well as the costs issuers face in the marketplace. The Bureau's errors in

¹ CBA is the only national trade association focused exclusively on retail banking. Established in 1919, the association is a leading voice in the banking industry and Washington, representing members who employ nearly two million Americans, extend roughly \$3 trillion in consumer loans, and provide \$270 billion in small business loans.

² Credit Card Penalty Fees (Regulation Z), 88 Fed. Reg. 18,906 (proposed Mar. 29, 2023).

³ ABA et al., *Letter to the Consumer Financial Protection Bureau re: Docket No. CFPB-2023-0010, Notice of Proposed Rulemaking, Credit Card Late Fees and Late Payments (Truth in Lending Act/Regulation Z)*.

⁴ As used in this letter, "1022 analysis" refers to Section 1022(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which requires the Bureau to consider as part of any rulemaking "the potential benefits and costs to consumers and covered persons, including the potential reduction of access by consumers to" the relevant market (here, credit cards), and "the impact of proposed rules" on smaller financial institutions. 12 U.S.C. § 5512(b). A "covered person" is any person that offers or provides consumer financial products or services, or an affiliate of that person that acts as a service provider. 12 U.S.C. § 5481(6).

⁵ Credit Card Penalty Fees (Regulation Z), 88 Fed. Reg. at 18,931-40.

conducting the required 1022 cost-benefit analysis have resulted in proposals that, contrary to the Bureau's stated intent, will harm consumers. These missteps are magnified by actions taken by the Bureau that suggest it is unwilling to alter course based on public feedback to help protect consumers.

* * *

I. Deficiencies in the Bureau's 1022 Analysis

The Bureau has failed to properly quantify the costs to consumers, and is continuing with the rulemaking despite the fact that the majority of consumers are likely to receive little or no benefits from the proposals in the NPRM,⁶ and may actually be worse off. The data the Bureau relied on for this rulemaking is not representative of the credit card market, and the Bureau did not seek out the data necessary to perform the proper cost-benefit analyses for the proposals. The Bureau has also performed an insufficient analysis of the nonrepresentative data in evaluating the costs faced by issuers associated with late payments. This is not the only data analysis misstep the Bureau has made in this NPRM, as the Bureau also inadequately and improperly analyzed the deterrent effect of late fees and ignores the many actions issuers currently undertake to ensure on-time payments by customers.

a. Inadequate Assessment of Costs and Benefits to Consumers

The Bureau is required by law to consider the costs and benefits to both consumers and covered persons (i.e. issuers and their affiliates in this case), including potential reduction in availability of credit. The Bureau has failed to properly quantify the benefits to consumers, and in fact, the proposals would only minimally benefit a small segment of the consumer population at the expense of all consumers. This determination seems premised on the Bureau's lack of awareness of issuers' obligations to manage credit risk, which would require issuers to take actions that may result in a reduction in access to credit, as well as a flawed assumption that the proposals would incentivize issuers to do more to encourage on-time payments.

i. Potential Negation of Any Consumer Benefit

Presumably, the Bureau would not propose, or consider finalizing, a rule that has no consumer benefits. However, it appears the Bureau acknowledges that the proposals may have no consumer benefit, but is carrying on with this rulemaking despite that fact. Issuer costs and consumer benefits are inextricably intertwined in the Bureau's proposals. The Bureau, by its own admission, states that if issuers raise the cost of credit in response to the Bureau's proposals any consumer benefit from the proposal would be completely eliminated:

⁶ As discussed in Part I.b.iv, this NPRM contains several formal and informal proposed changes to current Regulation Z: (i) lowering the late fee safe harbor amount to \$8, (ii) eliminating the tiered fee structure, (iii) creating an analytical framework for calculating the "cost analysis" provision, and (iv) capping the late fee amount at 25% of the minimum payment amount. The Bureau is also requesting comment on providing consumers with a 15-day "courtesy period" for making a payment. For ease of reference, these will be referred to as "the proposals" throughout this comment letter.

“Since the proposal would reduce issuers’ revenue from late fees, issuers may respond by adjusting interest rates or other card terms to offset the lost income. Issuer responses will affect both the sum of consumer gains and their distribution across market segments and populations. Total consumer gains will be the lowest if issuers make up for all lost revenue and any potential cost increase by raising revenue by changing other consumer prices. This full offset could manifest in higher maintenance fees, lower rewards, or higher interest on interest-paying accounts.”⁷

As discussed in Parts I.a.iii and I.a.iv of this letter, the most likely result of the Bureau’s proposal to reduce the safe harbor amount to, effectively, the lesser of \$8 or 25 percent of the minimum payment due, is that issuers will raise the cost of credit (through increasing APRs, reducing or restricting credit lines, or reducing new account approvals). Thus, it’s likely that consumers will see no benefit from the Bureau’s proposal.

ii. Increased Costs to All Consumers and Minimal Benefits to a Small Subset of Consumers

Under the proposals, consumers who pay on time or only occasionally pay late, may incur higher costs associated with access to credit. Put another way, consumers who meet their monthly obligations and responsibly pay on time will be cross-subsidizing consumers who do not pay on time through higher interest rates or lower benefits (e.g., rewards). Further, those who are presumably attempting to manage their finances prudently and always make the minimum payment but may not have enough money to pay the full statement balance each month will be harmed for the benefit of those who do not:

“Cardholders who never pay late will not benefit from the reduction in late fees and could pay more for their account if maintenance fees in their market segment rise in response—or if interest rates increase in response and these on-time cardholders also carry a balance. Frequent late payers are likely to benefit monetarily from reduced late fees, even if higher interest rates or maintenance fees offset some of the benefits. Cardholders who do not regularly carry a balance but occasionally miss a payment would benefit from the proposed changes so long as any increase in the cost of finance charges (including the result of late payments that eliminate their grace period) is smaller than the drop in fees. Cardholders who carry a balance but rarely miss a payment are less likely to benefit on net.”⁸

Given that the cost of credit will increase for all consumers, it is illogical to argue that these costs are outweighed by the benefits to a likely small cohort of “frequent late payers.” In the NPRM, the Bureau neither defines nor quantifies the size of this “frequent late payer” cohort, so industry cannot even meaningfully weigh the size of the population that would allegedly benefit from the Bureau’s proposals.⁹

⁷ Credit Card Penalty Fees (Regulation Z), 88 Fed. Reg. at 18,933.

⁸ *Id.* at 18,934.

⁹ For reference, between the first quarter of 2006 and the last quarter of 2020, the share of accounts that are 60 or more days delinquent were 2.5 percent or lower for general purpose cards and 1.4 percent or lower for private-label

The Bureau argues that consumer costs associated with the proposals would be limited to “increased penalty interest rates or lower credit scores” in the event that the lower fees lead to increased incidence of late payment.¹⁰ This is an incomplete list. A more complete list of the possible costs to consumers would also include: potential curtailment of credit through credit limits, closure of accounts, and reduced approval of applications— all of which the Bureau acknowledges are more significant and pose longer-term costs to consumers than late fees.¹¹ These increased costs may result in consumers meeting their financial needs outside of the well-supervised banking system, including by turning to payday lenders or pawn shops, which are more costly and have the potential to result in more consumer harm.

iii. Issuers are Required to Manage Credit Risk Portfolios

The quantified consumer benefit of the proposal, as calculated by the Bureau,¹² is dependent on issuers taking little to no action, including raising annual percentage rates (APRs), lowering credit lines, or eliminating rewards, in response to a lower late fee safe harbor threshold. However, the Bureau does not fully account for the actions that issuers will likely be forced to take elsewhere in their credit portfolios to recover costs associated with late payment or non-payment in order to properly manage credit risk and other prudential regulatory requirements. For example, the Office of the Comptroller of the Currency (OCC) Handbook on Credit Card Lending¹³ (“OCC Handbook”) generally acknowledges that fees work to spread the financial risks of running an unsecured credit card portfolio across the consumer spectrum. In the Handbook, the OCC explains that it expects that banks will charge fees to ensure an unsecured portfolio is profitable and requires these banks to monitor how fee changes affect that portfolio.¹⁴ Examiners are required to “[d]etermine whether the bank’s process for evaluating the ramifications of changes in late-fee policies, including the dollar amounts and grace periods, is adequate before broad implementation of the changes”¹⁵ and “assess whether the available reports provide the information necessary to evaluate the effect of late fees.”¹⁶ Fee income is also

cards, according to the *Consumer Credit Card Market Figure Data (2021)*, available at https://www.consumerfinance.gov/documents/10205/cfph_consumer-credit-card-market-report-figure-data_2021.xlsx.

¹⁰ Credit Card Penalty Fees (Regulation Z), 88 Fed. Reg. at 18,933.

¹¹ *Id.* at 18,923 (“The Bureau also notes that card issuers have methods other than late fees to address credit risk. Specifically, card issuers may take steps to reduce a cardholder’s credit line. Also, card issuers that charge an interest rate are permitted by § 1026.55(b)(3) to reprice new transactions on the account according to a penalty rate in certain circumstances. In addition, after 60 days, § 1026.55(b)(4) permits these issuers to take actions to reprice the entire outstanding balance on the account according to a penalty rate in certain circumstances.”).

¹² The Bureau calculates the benefits to consumers of the proposed rule by estimating the average late fee currently paid by consumers, calculating what percentage of that would be lost if the late fee safe harbor dollar amount were lowered to \$8, and applying that percentage to the fee income reported in the Y-14 data set. Credit Card Penalty Fees (Regulation Z), 88 Fed. Reg. at 18,932.

¹³ Office of the Comptroller of the Currency, *Comptroller’s Handbook, Safety and Soundness: Credit Card Lending* (April 2021), available at: <https://www.occ.treas.gov/publications-and-resources/publications/comptrollers-handbook/files/credit-card-lending/index-credit-card-lending.html>.

¹⁴ *Id.* at 93 (“Review the policies that govern imposing and waiving late, over-limit, extension, annual, and other fees. Determine whether the policies are reasonable and whether the effect on portfolio performance is adequately monitored, analyzed, and addressed.”).

¹⁵ *Id.* at 97.

¹⁶ *Id.*

discussed in connection with management information systems, and the handbook notes the importance of accurately capturing fee income.¹⁷

Thus, banks are required, via their prudential lending standards, to run a safe and sound credit card portfolio. Late fees serve dual purposes of covering the cost of lending (both pre-charge-off and post-charge-off (discussed in Part I.c) and as a deterrent to consumers paying late (discussed in Part I.d). If issuers are not able to cover their pre-charge-off and post-charge-off costs, and more consumers are defaulting due to a lack of a deterrent against late payment, then issuers are facing a dual impact of increased costs. As a result, they will be forced to make changes, including raising APRs, lowering credit limits, and reducing approvals of new accounts in order to properly balance credit portfolios. There are other safety and soundness risk implications that stem from the proposals, which are discussed in more detail in Part I.c.i.

iv. Likely Reduction in Access to Credit

The Bureau does not appear to consider, in any meaningful or quantitative way, that a reduction in access to credit might result from the proposals. As discussed in Part I.a.iii, issuers will need to take certain actions in order to manage prudential regulatory requirements and properly manage credit risk, which may include raising APRs. Increasing APRs across the credit spectrum will put additional pressure on subprime borrowers, meaning they will incur greater interest expenses for every dollar borrowed, which could lead to increased defaults and follow-on credit expenses for issuers. At some point the cost of engaging with subprime customer accounts may reach an unsustainable level for issuers, and the subprime market segment will see credit access reduced or possibly eliminated. Regardless, the Bureau concludes “that any losses to credit access would be limited.”¹⁸ This assertion is not supported by any qualitative or quantitative data or analysis, and does not consider that consumers may need to go outside of the traditional banking system to meet their credit needs (to places such as payday lenders, vehicle title lenders, pawn brokers, etc.) where they will likely face a much higher cost of credit. The Bureau also acknowledges there is a chance that the proposal could “increase the frequency of late payments”¹⁹ which will negatively impact late payors’ credit scores. Lower credit scores for consumers who more frequently miss payments as a result of the Bureau’s proposals would likely raise the cost and availability of credit for these customers.

The Bureau also fails to evaluate the reduction in access to credit due to the unintended effects the proposals would have on competition in the marketplace, specifically how the proposal would increase barriers to entry and result in distributional effects. The Bureau’s official interpretation of the cost analysis approach says that, in determining whether a late fee is reasonable and proportional, a card issuer must take certain factors into consideration. The first factor listed is, “[t]he number of violations of a particular type [late fee incidences] experienced by the card issuer during a prior period of reasonable length (for example, a period of twelve months).”²⁰ or “reasonable estimates for an upcoming period.”²¹ But new issuers do not have

¹⁷ *Id.*

¹⁸ Credit Card Penalty Fees (Regulation Z), 88 Fed. Reg. at 18,934.

¹⁹ *See id.* at 18,918, 18,921.

²⁰ 12 C.F.R. Part 1026, Supp. I, cmt. 52(b)(1)(i)-1.i.

²¹ 12 C.F.R. Part 1026, Supp. I, cmt. 52(b)(1)(i)-1.iv.