

A NEW ERA FOR THE CFPB: BALANCING POWER AND REPRIORITIZING CONSUMER PROTECTIONS

HEARING BEFORE THE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS OF THE COMMITTEE ON FINANCIAL SERVICES U.S. HOUSE OF REPRESENTATIVES ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

MARCH 26, 2025

Serial No. 119–11

Printed for the use of the Committee on Financial Services



www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

59–940 PDF

WASHINGTON : 2025

HOUSE COMMITTEE ON FINANCIAL SERVICES

FRENCH HILL, Arkansas, *Chairman*

BILL HUIZENGA, Michigan, <i>Vice Chairman</i>	MAXINE WATERS, California, <i>Ranking Member</i>
FRANK D. LUCAS, Oklahoma	SYLVIA R. GARCIA, Texas, <i>Vice Ranking Member</i>
PETE SESSIONS, Texas	NYDIA M. VELÁZQUEZ, New York
ANN WAGNER, Missouri	BRAD SHERMAN, California
ANDY BARR, Kentucky	GREGORY W. MEEKS, New York
ROGER WILLIAMS, Texas	DAVID SCOTT, Georgia
TOM EMMER, Minnesota	STEPHEN F. LYNCH, Massachusetts
BARRY LOUDERMILK, Georgia	AL GREEN, Texas
WARREN DAVIDSON, Ohio	EMANUEL CLEAVER, Missouri
JOHN W. ROSE, Tennessee	JAMES A. HIMES, Connecticut
BRYAN STEIL, Wisconsin	BILL FOSTER, Illinois
WILLIAM R. TIMMONS, IV, South Carolina	JOYCE BEATTY, Ohio
MARLIN STUTZMAN, Indiana	JUAN VARGAS, California
RALPH NORMAN, South Carolina	JOSH GOTTHEIMER, New Jersey
DANIEL MEUSER, Pennsylvania	VICENTE GONZALEZ, Texas
YOUNG KIM, California	SEAN CASTEN, Illinois
BYRON DONALDS, Florida	AYANNA PRESSLEY, Massachusetts
ANDREW R. GARBARINO, New York	RASHIDA TLAI, Michigan
SCOTT FITZGERALD, Wisconsin	RITCHIE TORRES, New York
MIKE FLOOD, Nebraska	NIKEMA WILLIAMS, Georgia
MICHAEL LAWLER, New York	BRITTANY PETTERSEN, Colorado
MONICA DE LA CRUZ, Texas	CLEO FIELDS, Louisiana
ANDREW OGLES, Tennessee	JANELLE BYNUM, Oregon
ZACHARY NUNN, Iowa	SAM LICCARDO, California
LISA McCLAIN, Michigan	
MARIA SALAZAR, Florida	
TROY DOWNING, Montana	
MIKE HARIDOPOLOS, Florida	
TIM MOORE, North Carolina	

Ben Johnson, *Staff Director*

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

ANDY BARR, Kentucky, *Chairman*

BARRY LOUDERMILK, Georgia, <i>Vice Chairman</i>	BILL FOSTER, Illinois, <i>Ranking Member</i>
BILL HUIZENGA, Michigan	NYDIA M. VELÁZQUEZ, New York
ROGER WILLIAMS, Texas	GREGORY W. MEEKS, New York
JOHN W. ROSE, Tennessee	DAVID SCOTT, Georgia
WILLIAM R. TIMMONS IV, South Carolina	BRAD SHERMAN, California
RALPH NORMAN, South Carolina	AL GREEN, Texas
DANIEL MEUSER, Pennsylvania	JUAN VARGAS, California
YOUNG KIM, California	SEAN CASTEN, Illinois
BYRON DONALDS, Florida	STEPHEN F. LYNCH, Massachusetts
SCOTT FITZGERALD, Wisconsin	JOYCE BEATTY, Ohio
MIKE FLOOD, Nebraska	CLEO FIELDS, Louisiana
MONICA DE LA CRUZ, Texas	
TIM MOORE, North Carolina	

C O N T E N T S

Wednesday, March 26, 2025

OPENING STATEMENTS

	Page
Hon. Andy Barr, Chairman of the Subcommittee on Financial Institutions, a U.S. Representative from Kentucky	1
Hon. Bill Foster, Ranking Member of the Subcommittee on Financial Institutions, a U.S. Representative from Illinois	3

STATEMENTS

Hon. French Hill, Chairman of the Committee on Financial Services, a U.S. Representative from Arkansas	4
---	---

WITNESSES

Mr. Bryan A. Schneider, Partner, Manatt, Phelps & Phillips, LLP	5
Prepared Statement	8
Mr. David Pommerehn, General Counsel, Head of Regulatory Affairs, Consumer Bankers Association (CBA)	19
Prepared Statement	21
Ms. Ana Fonseca, President and CEO, Logix Federal Credit Union	29
Prepared Statement	31
Ms. Rebecca E. Kuehn, Partner, Hudson Cook, LLP	50
Prepared Statement	52
Mr. Seth Frotman, Former General Counsel and Senior Advisor to Director Chopra, Consumer Financial Protection Bureau (CFPB)	66
Prepared Statement	68

APPENDIX

MATERIALS SUBMITTED FOR THE RECORD

Hon. Bill Foster:	
Americans for Financial Reform (AFR)	104
Consumer Action	114
National Association of Consumer Advocates (NACA)	117
Hon. Daniel Meuser:	
Association of Credit and Collection (ACA)	120

RESPONSES TO QUESTIONS FOR THE RECORD

Written responses to questions for the record from Mr. Bryan A. Schneider	
Representative French Hill	
Question	
Response	
Representative John Rose	126
Question	
Response	
Representative Maxine Waters	130
Question	
Response	
Written responses to questions for the record from Mr. David Pommerehn	
Representative French Hill	

IV

	Page
Written responses to questions for the record from Mr. David Pommerehn—	
Continued	
Representative Maxine Waters	130
Mr. Seth Frotman	00
Question	
Response	
Written responses to questions for the record from Ms. Ana Fonseca	
Representative French Hill	
Representative Maxine Waters	
Written responses to questions for the record from Ms. Rebecca E. Kuehn	
Representative William R. Timmons	
Representative Maxine Waters	

LEGISLATION

H.R. ———, the Business of Insurance Regulatory Reform Act of 2025	141
H.R. 2183, CFPB Dual Mandate and Economic Analysis Act	144
H.R. ———, CFPB-IG Reform Act of 2025	148
H.R. ———, Commission of the Bureau of Consumer Financial Protection Act	153
H.J. Res. 74, Disapproving the rule submitted by the Bureau of Consumer Financial Protection relating to "Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)	169
H.R. 1606, the Making the CFPB Accountable to Small Businesses Act of 2025	171
H.R. 1652, the Rectifying Undefined Descriptions of Abusive Acts and Prac- tices (UDAAP) Act	174
H.R. 1653, the Civil Investigative Demand Reform Act of 2025	183
H.R. 654, the Taking Account of Bureaucrats' Spending (TABSS) Act of 2025 ...	188
H.R. ———, the Transparency in CFPB Cost-Benefit Analysis Act	208

A NEW ERA FOR THE CFPB: BALANCING POWER AND REPRIORITIZING CONSUMER PROTECTIONS

Wednesday, March 26, 2025

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS,
COMMITTEE ON FINANCIAL INSTITUTIONS
Washington, DC.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 2128, Rayburn House Office Building, Hon. Andy Barr [chairman of the subcommittee] presiding.

Present: Representatives Barr, Huizenga, Williams of Texas, Rose, Norman, Meuser, Kim, Donalds, Fitzgerald, Flood, De La Cruz, Moore, Foster, Scott, Sherman, Vargas, and Casten.

Also present: Representative Hill.

Chairman BARR. The Subcommittee on Financial Institutions will come to order.

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

This hearing is titled, "A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections."

Without objection, all members will have 5 legislative days within which to submit extraneous materials to the chair for inclusion in the record.

I now recognize myself for 4 minutes for an opening statement.

OPENING STATEMENT OF HON. ANDY BARR, CHAIRMAN OF THE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS, A U.S. REPRESENTATIVE FROM KENTUCKY

Thank you to our witnesses for joining us today for our first Financial Institutions Subcommittee hearing in the 119th Congress. I am excited to lead this subcommittee again, especially at a time when we have an administration which understands the costs of burdensome overregulation. Nowhere has overregulation and overreach been more evident than at the Consumer Financial Protection Bureau (CFPB), which became the most unchecked and unaccountable agency in the entire Federal Government under the previous administration. Under former Director Chopra, the CFPB prioritized politics over sound policy, leading to disastrous outcomes for American consumers.

The good news is that a new era has begun under President Trump, an era where businesses are not attacked through press releases or tweets, curtailing their ability to offer financial services

and products. Instead, they are encouraged to provide them in a competitive, safe, and sound manner. An era where the Bureau's approach is not opaque and abusive but transparent and fair. An era where those in charge prioritize administrative law over over-regulation by enforcement, avoiding extortionary Civil Investigative Demands, or Civil Investigation Demands (CIDs). I look forward to working with the CFPB in this new era.

Past abuses, like those under Director Chopra, stem from significant structural flaws at the CFPB, which reduce accountability and lead to regulatory swings that stifle innovation and competition. Republicans have long called for reforms to ensure the Bureau is accountable to the American people. Today, we will propose transitioning the CFPB to a bipartisan commission and bringing it under congressional appropriations.

I recently reintroduced the Taking Account of Bureaucrats' Spending (TABS) Act, which would require the CFPB to go through the traditional congressional appropriations process. This would restore the power of the purse to Congress and ensure that the elected representatives of the American people have a say in the Bureau's operations and budget.

Beyond the structural flaws that we will explore today, I want to highlight two areas where the CFPB has abused its power and threatened—not helped—consumers in the process. The first is the abuse of CIDs.

Under Director Chopra, the Bureau forced law-abiding financial services providers to sift through thousands of pages of business documents and sit for hours of oral testimony without specifying alleged wrongdoing, just hoping to find something. These fishing expeditions were designed to litigate companies into bankruptcy or destroy their reputations, doing nothing to protect consumers, but harming them by eliminating products and services from the market. Alarming, Director Chopra acted as judge, jury, and executioner in each case, rejecting even the appearance of due process.

In response, I introduced the CID Reform Act to impose guardrails on the use, scope, and process surrounding CIDs.

The second is the Bureau's Rectifying Undefined Descriptions of Abusive Acts and Practices (UDAAP) authority. The abusiveness prong in the CFPB's UDAAP authority is undefined. Under Director Chopra, the CFPB identified abusiveness in the same way Supreme Court Justice Potter Stewart did in describing his threshold test for obscenity: "I know it when I see it." This lack of guidance gives institutions no clarity on how to comply and opens the door for abuse by a rogue director.

During President Trump's first term, Bureau Director Kathy Kraninger defined abusiveness. Unsurprisingly, Director Chopra revoked this much-needed guidance. My bill, Rectifying UDAAP Act, defines abusiveness to inject clarity and certainty, encouraging financial services providers to operate confidently, and, in turn, increasing consumer access to vital products and services.

The best consumer protection is consumer choice. A transparent, law-abiding Bureau will foster an environment that promotes competition and delivers better outcomes for all Americans. I look forward to discussing these issues today, and I yield back.

The chair now recognizes the ranking member of the subcommittee, Dr. Foster, for 4 minutes for an opening statement.

OPENING STATEMENT OF HON. BILL FOSTER, RANKING MEMBER OF THE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS, A U.S. REPRESENTATIVE FROM ILLINOIS

Mr. FOSTER. Five.

Chairman BARR. Oh, 5 minutes. Excuse me. 5 minutes for an opening statement.

Mr. FOSTER. Well, thank you, Chair Barr, and to our witnesses.

Under normal circumstances, a change in administration will naturally result in a recalibration of policies and introducing new legislation with ideas old and new to reflect those shifts in policies will be part of that. Our witnesses today make some valid points about some CFPB policies which could be discussed, but these are not normal times.

Since taking office, President Trump, Elon Musk, and Russell Vought have abused their authority to shut down the CFPB and other agencies that Americans rely on for their financial security. After Department of Government Efficiency (DOGE) employees raided the Bureau's headquarters, CFPB employees were told to stop all work. Hundreds were let go. Its contracts were canceled. Lawsuits brought by the agency against bad actors were summarily dropped, and even the Bureau's name was ripped from the building.

These are not reforms. They are illegal attacks on the CFPB's congressionally mandated existence and also attacks on the dedicated civil servants that fight every day to protect consumers and hold big financial firms accountable. In fact, this hearing today, discussing tweaks to the CFPB policies and organizations, feels a bit like Republicans rearranging the deck chairs on the Lusitania after they torpedoed it.

Members who were in office in the wake of the 2008 financial crisis will never forget what it was like. Holding workshops for terrified families facing foreclosure and bankruptcy, but the unregulated storefront mortgage originators that talked them into those mortgage contracts had all gone bankrupt. They were being squeezed by credit card companies using a parade of horrors like double-cycle billing and universal default, with pages of fine print deliberately written to be so complex that no human beings could ever read and understand them. There was almost nothing that we could do to help them. They have signed contracts, and we are a country of laws. The best that we could do is to make sure that it never happens again.

Following the financial crisis, Congress established the CFPB as the primary agency responsible for enforcement of consumer financial protection laws. Since its creation, the financial watchdog has helped millions of Americans get more than \$21 billion back from scammers and financial companies that have violated the law. The Bureau's Office of Servicemember Affairs returned more than \$363 million to military servicemembers harmed by financial companies. The CFPB's Office for Older Americans monitored for abuses targeting senior citizens and shut down nationwide telemarketing

scams. Just one enforcement action by the Bureau returned more than \$53 million to American seniors who had been cheated.

Despite these accomplishments, after the DOGE raid on the CFPB, Bureau employees were informed that new leadership intends to turn the CFPB into a single room with “five men and a telephone.” That is not Congress’ intent.

In the last administration, the CFPB wrote important new rules protecting Americans from overdraft fees, rules giving consumers control over their financial data, and rules to ensure that a medical emergency, domestic violence, or elder abuse, will not ruin an individual’s credit score and financial future.

The Bureau also regulates nonbank financial companies. I expect many of our witnesses today will agree that nonbank financial companies should face similar regulatory requirements to banks and credit unions if they offer similar services, but with the CFPB shut down, that is not going to happen.

The CFPB was the only cop on the beat for consumer finance, and without it, it will once again be open season for scammers preying on hardworking American families. Big Tech companies will have a free rein to invade the regulated financial system without accountability, while banks and credit unions continue to be highly regulated.

Finally, I do not believe it is an accident that Elon Musk and his DOGE crew shut down the CFPB exactly at the time that Musk is planning to turn X into a payments and financial platform that the CFPB would naturally have the authority to regulate.

The CFPB was created to protect consumers from abuses by some of the most powerful financial institutions in their lives. The Bureau’s work is important, it is constitutional, and consumers benefit when financial firms are held accountable. We need to reopen the CFPB and let its employees do their jobs. I yield back.

Chairman BARR. The gentleman yields.

The chair now recognizes the chairman of the full committee, Mr. Hill, for 1 minute.

STATEMENT OF HON. FRENCH HILL, CHAIRMAN OF THE COMMITTEE ON FINANCIAL SERVICES, A U.S. REPRESENTATIVE FROM ARKANSAS

Chairman HILL. Thank you, Chairman Barr. I appreciate your leadership for holding this hearing on the CFPB.

Since its creation, the CFPB has acted as an overreaching regulator. Partisan political agendas have led to burdensome regulations and truly redundant, duplicative supervision that overlooks the impact on Americans’ access to credit and discouraging innovation. The CFPB urgently needs reform to ensure accountability and transparency to Congress and the American people.

Financial institutions, particularly smaller banks and credit unions, have reported increased compliance burdens that are making their operations unnecessarily difficult. Today’s witnesses will discuss real-world consequences of the CFPB’s misguided policies.

I look forward to hearing these ideas for reforms today that will foster clarity and consistency so that financial institutions, in fact, can innovate, grow, and better serve their customers, because it is competition and innovation, not government mandates, that are

the best ways to improve access and reduce costs for financial services. I yield back.

Chairman BARR. The gentleman yields. Thank you.

Today, we welcome the testimony of Mr. Bryan Schneider, a Partner at Manatt, Phelps & Phillips in Chicago, Illinois, where he focuses on advising clients through the gamut of consumer financial services and regulatory and enforcement matters, particularly as it relates to supervision enforcement and fair lending. He previously held roles at the Consumer Financial Protection Bureau and was Secretary of the Illinois Department of Financial and Professional Regulation under Governor Bruce Rauner.

Mr. David Pommerehn is general counsel and head of regulatory affairs at the Consumer Bankers Association, a trade association representing financial institutions offering retail lending products and services.

Mrs. Ana Fonseca is the CEO of Logix Federal Credit Union in Valencia, California, and is testifying on behalf America's credit unions. She has been with Logix for over 20 years and previously served as chief operating officer and chief financial officer.

Mrs. Rebecca Kuehn is a Partner with Hudson Cook, LLP, a consumer financial services law firm in Washington, DC, where she counsels businesses on compliance with financial and consumer laws, fair lending, and other Federal and State regulations. She was formerly an Assistant Director for the Division of Privacy and Identity Protection at the Federal Trade Commission where she was responsible for leading enforcement policy outreach and rule-making activities for the FTC's Fair Credit Reporting Act program.

Finally, Mr. Seth Frotman is the former general counsel and Senior Advisor to Director Rohit Chopra at the Consumer Financial Protection Bureau.

We thank each of you for taking the time to be here. Each of you will be recognized for 5 minutes to give an oral presentation of your testimony. Without objection, your written statements will be made part of the record.

Mr. Schneider, you are now recognized for 5 minutes for your oral remarks.

**STATEMENT OF BRYAN A. SCHNEIDER, PARTNER, MANATT,
PHELPS & PHILLIPS, LLP**

Mr. SCHNEIDER. Thank you, Mr. Chairman, Ranking Member Foster, and members of the subcommittee. Thank you, again, for the opportunity to testify at today's hearing.

My name is Bryan Schneider. I work at the law firm of Manatt, Phelps & Phillips, where I focus my practice primarily on advice concerning consumer financial matters. The views I offer today, however, are my own.

I previously served as Associate Director for Supervision Enforcement and Fair Lending at the CFPB, and prior to that, I did serve as Secretary of the Illinois Department of Financial and Professional Regulation, the chartering, licensing, and supervisory authority for all financial services companies operating in the land of Lincoln.

I appreciate the opportunity to submit written testimony, and I will highlight at this time some points that I believe could be most

relevant as you and your colleagues consider options for setting new priorities for consumer financial regulation.

Acting through rigorous compliance with the Administrative Procedure Act and related laws is indeed the hallmark of careful regulation. Similarly, risk-based supervision is key to the successful oversight of the financial services system. Supervision facilitates the prevention of consumer harm before it occurs, but supervision must be built on confidence that a supervisory exam is not a civil enforcement investigation by another name. The involvement of enforcement staff in the planning or execution of supervisory exams should be prohibited.

Enforcement is a tool that is essential to the CFPB's mission—during my tenure at the Bureau, we brought dozens of enforcement actions—but enforcement should be reserved for situations in which the CFPB has determined that it must proceed against a bad actor whose behavior has caused significant consumer harm, and has allowed it to operate out of compliance to the detriment of its competitors that follow the law.

The aim of enforcement should be on stopping the entity from engaging in the prohibited conduct, and the prompt and fulsome remediation and redress of all consumer harm. Civil penalties unquestionably play a role in a reasoned enforcement regime, but eye-popping finds just for the sake of grabbing headlines should have no place.

Moreover, enforcement should be undertaken only when the entity's actions violate clearly articulated statutory or regulatory requirements. When Congress has given the CFPB broader, less specific authorities—such as the prohibitions against unfair, deceptive, or abusive acts or practices—its enforcement activity should be stayed in advance of development of a procedurally valid regulatory requirement or proceed in an incremental matter that provides clarity for regulated entities through the careful development of the common law.

The CFPB must rigorously abide by its statutory obligations to coordinate with Federal and State prudential banking and financial services regulators. The CFPB should respect their expertise and not discharge its obligation to coordinate by merely listening to the appropriate fellow regulator and then opening its own new duplicative examination or investigation.

I make no quarrel with the CFPB nor the fine people that work there, but because their work occurs within an agency whose very structure seems designed to subvert constitutional principles, it will, in its current form, likely never be able to fulfill its mission.

Some ideas on what to do. In the wake of the recent multiyear blizzard of guidances, blog posts, interpretations, manual amendments, and speeches, the CFPB ought to rescind or repeal those that fail to comply with the Administrative Procedure Act (APA), or that exceed its lawful authority. Pending enforcement action should be similarly reviewed.

The CFPB should balance its resources to effectively deploy each of its four tools: rulemaking, supervision, enforcement, and often overlooked, consumer education. The CFPB's current funding mechanism, while constitutional, is troublingly inconsistent with fundamental principles of separation of powers and ordered liberty.

While serving the government of the State of Illinois, I had to request appropriations for our operations from the Illinois General Assembly. Despite some occasional messiness, Illinois legislators consistently discharged their duties and provided our agency with the necessary resources to do its work in a manner consistent with the authority they gave us. The same can be expected from Congress and should be demanded.

Congress should consider the need for the establishment and strengthening of limitation periods concerning both the issuance of Civil Investigative Demands and underlying conduct, and Congress should evaluate the need to cabin the CFPB's use of its UDAAP authority to situations where the entity has acted in good—has not acted in good faith with respect to its compliance obligations.

Thank you for the chance to testify. I look forward to your questions.

[The prepared statement of Mr. Schneider follows:]

For Release Upon Delivery
10:00 AM March 26, 2025

TESTIMONY OF
BRYAN A. SCHNEIDER¹
before the
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
of the
COMMITTEE ON FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES
MARCH 26, 2025

¹ The views expressed in this testimony are my personal views and do not represent the views of Manatt, Phelps & Phillips, LLP, or any other organization with which I am or have been affiliated.

Chairman Barr, Ranking Member Foster, and members of the subcommittee, thank you for the opportunity to testify at today's hearing focused on the consumer protection landscape and the need for reforms to ensure that the regulatory structure protects consumers while providing financial services companies the stability and predictability to invest in innovation, expand access to credit, and reduce costs to consumers.

My name is Bryan Schneider. I am a partner at Manatt, Phelps & Phillips, a multidisciplinary, integrated national professional services firm focused on specific industry sectors, including all aspects of the financial services industry. As an attorney at the firm, my practice focuses primarily on providing regulatory compliance and enforcement advice concerning consumer finance matters.

I previously served as Associate Director for Supervision, Enforcement, and Fair Lending at the Consumer Financial Protection Bureau (CFPB), where I managed the team of professionals responsible for the oversight of the nation's largest depository institutions and the thousands of non-depository companies that provide the many financial services upon which American consumers rely. Prior to that I served as the Secretary of the Illinois Department of Financial and Professional Regulation, the chartering and licensing authority for all financial services companies operating in that State. Before entering public service, I was regulatory counsel to numerous highly regulated entities. I am grateful for the chance to share my views and answer your questions on this important topic. The views that I offer today are my own and not those of my law firm nor any other organization with which I am or have been affiliated.

Informing my positions are a set of fundamental beliefs based on my experiences on both sides of the regulatory divide:

- The overwhelming majority of businesses operating in the consumer financial services sector want to comply with the law and will strive diligently to do so, provided they understand the law and the obligations it imposes.
- American consumers want and need access to a broad and diverse group of options to access credit and the myriad other financial services available in the marketplace.
- Acting through rigorous compliance with the Administrative Procedure Act and related laws is the hallmark of lawful and careful regulation. The announcement of new regulatory requirements through blog postings, a Director's speech, or other sub-regulatory pronouncements calls into question the legitimacy of the agency and creates a situation where regulatory expectations change rapidly according to the vicissitudes of each incoming administration. This whipsawing is precisely what the APA was designed to prevent. When legal standards are changed without the deliberative process called for by the APA, it becomes increasingly difficult for smaller entities to support necessary compliance functions. This leads to a predictable decline in financial services innovation and an increase in the concentration of financial services in large entities.
- Financial regulation needs to be purged of the fantasy of perfection. Systemized modern data collection ensures that every mistake is recorded. This error data is invaluable to compliance professionals within financial services firms as they work to identify the root cause of errors and develop remediation plans to ensure that the mistakes are not repeated. Such data is also essential to regulators as they seek to better understand the marketplace and to develop rulemaking, supervisory, and enforcement strategies. But it is unreasonable to predicate regulatory action on

extremely low levels of noncompliance. Indeed, the CFPB is expressly charged when executing its rulemaking authority to consider the costs and benefits to consumers and service providers.² The CFPB should fulfill this mandate by studying and articulating tolerable levels of error that are inherent in any complex process.

- Risk-based supervision is key to the successful oversight of the financial services system. However, because supervision is by necessity a confidential process, some protest that supervision is little more than a way to brush problems under the rug and attempt to convert the supervisory process into a pipeline for enforcement investigation. I disagree entirely. The close relationship between a supervised entity and its regulator creates oversight opportunities that not only allow for the rapid identification of areas that require correction, and an equally fast consumer redress schedule, but also those that actually *prevent* consumer harm before it happens. Supervision requires cooperation between the supervised entity and the regulator that is likely to occur only if the supervised entity has confidence that a supervisory exam is not a civil enforcement investigation by another name. The CFPB should enhance guardrails to protect and enhance the supervisory process. Further, if its periodic publication *Supervisory Highlights* continues, the CFPB should recount instances of appropriate compliance protocols identified through its supervisory work.
- Enforcement is a tool that is essential to the CFPB's mission. I can speak from experience. During my tenure at the CFPB we brought dozens of enforcement actions. Indeed, during 2020 the CFPB initiated the fourth highest number of enforcement actions in its relatively brief history. But enforcement should be

² 12 U.S.C. 5512(b)(2)(A)(i)

reserved for situations in which the CFPB has exhausted other available options and has determined that it must proceed against a bad actor whose behavior has caused significant consumer harm and has allowed the entity to operate out-of-compliance to the detriment of its competitors that follow the law. And the aim of enforcement should be focused primarily on stopping the entity from engaging in the prohibited conduct and the prompt and fulsome remediation and redress of all consumer harm. Civil penalties unquestionably play a role in a reasoned enforcement regime, but eye-popping fines just for the sake of grabbing headlines should have no place. Moreover, enforcement should be undertaken only when the entity's actions violate clearly articulated statutory or regulatory requirements. When Congress has given the CFPB broader, less specific authority, such as the prohibitions against unfair, deceptive, or abusive acts or practices (UDAAP), its enforcement activity should proceed in an incremental manner that provides clarity for regulated entities through the careful development of the common law. And prior to a reasoned settling of the law, civil penalties, apart from consumer restitution and redress, should be assessed only when an entity has acted without good faith in complying with its legal obligations.

- In announcing enforcement actions, and indeed in all of its communications, a regulator, especially one with as tall of a bully pulpit as the CFPB, should refrain from gratuitous comments that go beyond the specific allegations of the complaint or facts relevant to the matter under discussion. It is worth calling to mind Rule 3.8 of the American Bar Association's Model Rules of Professional Conduct which instructs that a prosecutor must "except for statements that are necessary to inform

the public of the nature and extent of the prosecutor's action and service a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation" of the entity that is subject to the legal proceeding. The CFPB is vested with significant power; it does not need to resort to bullying and name calling.

- The CFPB must rigorously abide by its statutory obligation to coordinate with federal and state prudential banking regulators. In establishing the CFPB, Congress was clear that it was to eliminate duplicative examination activity as much as possible. Indeed, Congress explicitly charged the CFPB "to coordinate its supervisory activities with the supervisory activities conducted by prudential regulators" and to use the supervisory reports of prudential regulators "to the fullest extent possible."³ As bank partnerships with fintech companies increasingly join the consumer financial services marketplace, the CFPB's adherence to its statutory obligation to coordinate with federal banking regulators is perhaps the most straightforward way to create immediate, meaningful regulatory relief. Bank regulators know banks and bank programs. The CFPB should respect their expertise and not discharge its obligation to coordinate its supervisory activity by merely listening to the appropriate prudential regulator and then opening its own new, duplicative examination. Similarly, the CFPB is charged with coordinating its supervisory activities of non-depository institutions with appropriate state regulators.⁴ This obligation should not be dismissed as a mere check-the-box

³ 12 U.S.C. §§ 5514(b)(3) and 5514(b)(4)(A)

⁴ 12 U.S.C. § 5514(b)(3)

activity that deprives State regulators the chance to meaningfully engage in the identification of entities to be examined and the scope of such reviews.

- Finally, and perhaps most importantly, the CFPB must respect its role as a regulator and not a policy maker. Even the CFPB’s broad UDAAP authority cannot be contorted to achieve the policy goals of the current occupant of the CFPB Director’s office apart from appropriately delegated congressional authority. The Supreme Court has been clear that Congress has no authority to delegate rulemaking authority concerning a “major question” to an administrative agency without providing an “intelligible principle” to which it must conform.⁵ Recently, the CFPB has been prepared to press seemingly well beyond the grant of its authority by claiming, for example, that its “unfairness” authority allows it to create a regulatory regime concerning alleged discrimination outside of the offering or extension of credit notwithstanding Congress’ clearly expressed demarcation of the CFPB’s role in combatting discrimination in the financial markets.⁶ Similarly, the CFPB has claimed the authority to regulate third-party payment processors that provide services exclusively to businesses and not consumers, despite the clear limitation of its jurisdiction to consumer-purpose financial products and services.⁷

It is difficult to object to the CFPB’s statutory mission: “to implement and, where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that

⁵ *West Virginia v. Environmental Protection Agency*, 597 U.S. 697 (2022)

⁶ Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 *et seq.*

⁷ CFPB Press Release, CFPB Launches Inquiry into Practices that Leave Workers Indebted to Employers (June 9, 2022)

markets for consumer financial products and services are fair, transparent, and competitive.”⁸ I make no quarrel with that purpose nor with the work of many of my former CFPB colleagues. But because that work occurs within an agency whose very structure seems designed to subvert constitutional principles, it will, in its current form, likely never be able to fulfill its dual mandate of consistent regulation and enforcement coupled with market stability. In my experience, regulators are justifiably concerned about not acting quickly or forcefully enough to protect the constituencies entrusted to them. Mistakes in fulfilling those responsibilities can be readily and painfully visible. But regulators should, in my judgment, be equally concerned about what they do not see if they act without proper care and deliberation. The innovation lost to agency action unmoored to principles of separation of powers and the rule of law can never be accounted for.

The question remains then what changes need to occur so that the CFPB’s actions align with the specific mandates and authorities conferred on it by Congress:

- As an initial matter, in the wake of the recent multi-year blizzard of guidances, blog posts, interpretations, manual amendments, and speeches, the CFPB ought to conduct a comprehensive review and rescind or repeal those that fail to comply with the Administrative Procedure Act or that exceed that lawful authority granted to the CFPB in the Consumer Financial Protection Act.
- The arrival of a new Senate-confirmed Director will lead naturally to a review of the size and structure of the organization. Since 2020, the CFPB’s annual transfer demand from the Federal Reserve has increased 36% and its headcount has expanded 17%.⁹ It is not clear that these dramatic increases are necessary or

⁸ 12 U.S.C. § 5511(a)

⁹ [Financial Report of the Consumer Financial Protection Bureau for Fiscal Year 2024](#), pages 8-9

sustainable. And it is worth noting that each dollar extracted by the CFPB is one less dollar the Federal Reserve is able to remit to the Treasury for the reduction of our public debt.

- Furthermore, it is not clear that these additional resources have been appropriately allocated. The CFPB is often said to possess four tools – rulemaking, supervision, enforcement, and education. Yet for the most recently completed fiscal year, the CFPB committed a mere 8% of its resources to consumer response and education.¹⁰ American consumers are intelligent and sophisticated. If consumers were armed with thorough educational materials from the CFPB, considerable consumer harm could be *prevented* from occurring, thus reducing the need for other regulatory resources.
- The CFPB should review its staffing and control structure to ensure that supervision and enforcement are two independent tools. The involvement of enforcement staff in the planning or execution of supervisory exams should be prohibited.
- In addition to generally refraining from rude and petulant comments about outside persons and companies, the CFPB should ensure that press releases concerning settlements are reviewed by the affected entity.

However, these internal reforms may not be fully sufficient. The only way to ensure stability across executive administrations is for Congress to act to ensure the agency is accountable to it and the American people:

¹⁰ Id. at 9

- While the Supreme Court has recently held that the CFPB's current funding structure is constitutional, that by no means suggests that it is optimal or even salutary. Indeed, the CFPB's budget is presently subject to no congressional oversight. As a result, it goes without saying, the CFPB's priorities are in no meaningful way subject to the priorities of the American people represented in Congress. Considerable ink has been spilled on just how unusual the CFPB's funding mechanism is within the Federal government, but, speaking as a former State regulator, it is to my eye inconsistent with fundamental principles of separation of powers and ordered liberty. While serving in the government of the State of Illinois, I, like my fellow state regulators in their state Capitols, had to request appropriations for our operations from the Illinois General Assembly. Having your work examined and evaluated by appropriations committees is not something generally welcomed, but it is assuredly the only reliable way for the legislature to ensure that a regulatory agency is tying its activities to the authority granted to it. And despite some occasional messiness, Illinois legislators consistently discharged their duties and provided our agency with the resources necessary to do its work. The same can be expected from Congress.
- Congress should consider the need for the establishment and strengthening of limitations periods concerning both the issuance of Civil Investigative Demands and underlying conduct. Unchecked, the CFPB is free to return in the future to pursuing conduct going back a decade or more.¹¹

¹¹ *E.g., CFPB v. Harbour Portfolio Advisors, LLC*, No. 16-14183, 2017 WL 631914 (E.D. Mich Feb. 16, 2017)

Testimony of Bryan A. Schneider, March 26, 2025

- Congress should evaluate the need to cabin the CFPB's use of its UDAAP authority, especially concerning the untested abusive standard, in situations when the entity has acted in good faith with respect to its compliance obligations.

Thank you, members of the committee, for the chance to speak on these critical issues. It is my hope that through both internal and external reform, the CFPB may yet be positioned to fulfill its mandate to both protect consumers and ensure that they have the innovative products and services that American ingenuity is prepared to deliver.

Chairman BARR. Thank you.

Mr. Pommerehn is now recognized for 5 minutes.

**STATEMENT OF MR. DAVID POMMEREHN, GENERAL COUNSEL,
HEAD OF REGULATORY AFFAIRS, CONSUMER BANKERS AS-
SOCIATION**

Mr. POMMEREHN. Thank you, Chairman Barr, Ranking Member Foster, and members of the subcommittee. The Consumer Bankers Association (CBA) greatly appreciates the opportunity to testify today on the CFPB's recent activities and the agency's future.

My name is David Pommerehn. I am General Counsel for the CBA, the only national trade association focused exclusively on retail banking.

To start, I want to make it clear that CBA supports a credible and durable consumer regulator. However, the political shifts over the past few years have created instability and uncertainty, and we have now directly seen the need for reform at the agency. The reform should be focused on ensuring that the Bureau is following the law while protecting consumers.

In the past, we have worked closely with the Bureau to ensure rulemakings do not have adverse effects. However, under the leadership of the former director, the Bureau has failed to follow the law and exceeded its statutory authority. This has resulted in an unprecedented number of lawsuits against the agency by the entities it regulates. CBA believes that facts matter, and that regulators must represent facts accurately.

Under its previous leadership and in an attempt to justify its rulemakings, the Bureau misrepresented its own data about the state of the consumer financial services market. The prior administration's politicization of the Bureau eroded public confidence, damaged the Bureau's long-term credibility, and led to policy outcomes that were optimized for short-term political gains at the cost of consumers' long-term financial health.

There are a number of positive administrative changes that could easily be implemented by the new leadership at the Bureau. However, as we have seen with the increasingly drastic political swings, any of these changes can just as easily be undone by the next administration. To create long-term stability and credibility for the Bureau, legislative reforms are needed.

CBA supports enacting legislation that would ensure the Bureau operates within its authority and creates greater stability, transparency, and credibility. CBA has long prioritized the need for reform at the Bureau—of the Bureau's UDAAP authority, and we strongly support Chairman Barr's Rectifying UDAAP Act.

Treating customers fairly and closely following consumer protection laws are core to banks' business models. However, the Bureau's UDAAP authority has been largely undefined and closed to input from stakeholders. A clear and defined process will provide guardrails which are needed to ensure regulated entities know what is or is not permitted and how they can comply.

The Bureau has put all companies it regulates at risk of inadvertent noncompliance because it is unclear how and when the abusive standard will be applied. In particular, CBA supports requiring the Bureau to refrain from using its unfair and abusive au-

thorities to seek monetary relief, unless it has previously articulated a specific harm. In other words, the Bureau should not be able to move the target without letting the market know first.

There are additional pieces of legislation that would directly impact the Bureau's oversight. For example, the TABS Act would place the Bureau's funding structure under the appropriations process. This would allow for greater congressional oversight and hold the Bureau more accountable to Congress.

CBA also supports the Consumer Financial Protection Commission Act, which would update the Bureau's leadership structure to a five-person, bipartisan commission instead of a sole director. We believe this would help reduce the radical pendulum shifts between administrations and bring long-term stability to the Bureau.

It is also necessary for the Bureau to conduct a more robust cost-benefit analysis in its rulemakings, which is provided for in the Transparency in CFPB Cost-Benefit Analysis Act. We believe it is also important for the Bureau to have an independent inspector general, which is provided for in the CFPB IG Reform Act. These legislative proposals would ensure the rulemaking processes, and the law are being properly followed.

Other ways Congress could improve the Bureau's regulation and supervision would be to create independent lookbacks to review major rules that would require a rule to sunset or be repropose if that rule's cost outweighs its benefits. We also believe the Bureau should commit to considering self-reporting and remuneration of compliance issues when weighing whether it brings an enforcement action or saddles a supervised institution with a matter requiring attention.

Thank you, Chairman Barr. Thank you, Ranking Member Foster and the subcommittee for the opportunity to testify here today. We appreciate you convening this very important hearing, and we stand ready to work with you and the subcommittee to achieve thoughtful and effective policies to ensure the Bureau is a durable and strong consumer protection regulator. Thank you.

[The prepared statement of Mr. Pommerehn follows:]



Testimony of David Pommerehn

Senior Vice President, General Counsel, and Head of Regulatory Affairs

Consumer Bankers Association

U.S. House Financial Services Committee

Subcommittee on Financial Institutions

Hearing Entitled "A New Era for the CFPB: Balancing Power and Reprioritizing
Consumer Protections"

March 26, 2025

Chairman Barr, Ranking Member Foster, and members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss “A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections.”

I am David Pommerehn, Senior Vice President, General Counsel, and Head of Regulatory Affairs at the Consumer Bankers Association (“CBA”). CBA is a member-driven trade association, and the only national financial trade group focused exclusively on retail banking—banking services geared toward consumers and small businesses. As the recognized voice on retail banking issues, CBA provides leadership, education, research, and federal representation for its members. CBA members operate in all 50 states. They include the nation’s largest bank holding companies as well as regional and super-community banks. Eighty-three percent of CBA’s members are financial institutions holding more than \$10 billion in assets.

Thank you for holding this hearing to examine recent activities at the Consumer Financial Protection Bureau (“CFPB” or “Bureau”) and the agency’s future. CBA is hopeful the new Congress and new administration will present opportunities to reform the CFPB into credible and durable regulator that American consumers deserve.

CBA and our members support strong consumer protection regulation. We believe, however, that for the consumer financial services marketplace to operate effectively, regulators must heed the law. Under the leadership of former Director Rohit Chopra, the CFPB frequently failed to follow the law and exceeded its statutory authority. This has resulted in an unprecedented number of lawsuits filed against the Bureau by entities that it regulates.¹

Under the prior administration, the Bureau frequently sought to score political points by penalizing businesses in the press, rather than prioritizing true consumer protection. While unfortunate, this outcome is no surprise given that the CFPB is statutorily structured to be immune from oversight from elected legislators. Additionally, unlike most other financial regulators, the CFPB is led by a single Director with unilateral authority, which allows for significant political and policy swings when the Bureau’s leadership changes.

We believe that facts matter and that regulators must represent facts accurately. While policymakers are entitled to their own opinions, they aren’t entitled to their own facts. Under the leadership of former Director Chopra, the CFPB frequently misrepresented its own data about the state of the consumer financial services marketplace in an attempt to justify its policies.² The prior administration’s politicization of the CFPB’s policymaking apparatus eroded public confidence in government, damaged the CFPB’s long-term credibility, and led to policy outcomes that were optimized for short-term political wins at the cost of consumers’ long-term financial health.

¹ See, e.g., <https://consumerbankers.com/press-release/cba-statement-on-u-s-district-court-ruling-challenging-legality-of-cfpbs-udaap-manual-changes/>, <https://consumerbankers.com/press-release/cba-joins-litigation-seeking-to-halt-cfpbs-illegal-credit-card-rulemaking/>, <https://consumerbankers.com/press-release/cba-financial-trades-and-banks-file-lawsuit-against-cfpbs-overdraft-final-rule/>, <https://bpi.com/banks-challenge-cfpb-rule-jeopardizing-security-and-privacy-of-consumer-financial-data/>

² <https://cfpbfactcheck.com>

Most importantly, we believe that American consumers deserve regulators that prioritize consideration of the impact of regulation on financial inclusion and consumers' broader access to well-regulated financial services. 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.

The new administration can implement numerous administrative changes— which CBA highlighted in a recent white paper— to mitigate the harm to consumers from many of the rules that were promulgated over the last four years.³ Many of these changes can and should be unilaterally implemented by new CFPB leadership. However, there continues to be significant risk that a future CFPB, acting under a different administration, will only undo these changes or reproduce the dramatic shifts we saw over the last four years. To create long-term stability and credibility for the CFPB, legislative reforms are needed. Congress should enact the following legislative proposals to ensure the CFPB operates within its authority, and to create greater stability, transparency, and credibility of the Bureau.

1. H.R. 1652, the Rectifying UDAAP Act— After more the decade of highly politicized experimentation, the CFPB's unfair, deceptive, or abusive acts or practices (UDAAP) authority remains undefined and needs further guardrails. This is particularly the case for the CFPB's unfairness and abusiveness authorities. Congress should enact this bill to prevent future overreach under UDAAP.
2. H.R. 654, the TABS Act— The CFPB is unaccountable to elected legislators and has little incentive to consider the concerns of Members of Congress. Congress should enact this bill to reform the CFPB's funding structure and place appropriate checks and balances on the agency.
3. Consumer Financial Protection Commission Act— Unlike most other financial regulators, the CFPB is run by a single Director with unilateral authority. Congress should enact this bill to establish a bipartisan commission leadership structure at the Bureau.
4. Transparency in CFPB Cost-Benefit Analysis Act— Many of the CFPB's rulemakings under the previous Director would fail a rigorous cost-benefit analysis. Congress should enact this bill to require the Bureau to show its work and demonstrate that it is putting consumers over politics. Appropriate cost-benefit analysis at the “front end” of the regulatory process, particularly when coupled with a robust lookback process for reviewing and reconsidering rulemakings at the “back end” can be among the most important reforms for the CFPB's rulemaking culture.
5. CFPB-IG Reform Act— Despite the CFPB being such a consequential regulator with significant power over the consumer financial services marketplace, it currently shares an Inspector General with the Federal Reserve. Congress should enact this bill to ensure the CFPB's operations are reviewed by an independent entity full-time.

³ <https://consumerbankers.com/wp-content/uploads/2025/01/CBA-CFPB-White-Paper-1-13-25-updated.pdf>

6. *Additional areas for CFPB reform*— As discussed earlier, we believe that Congress should consider additional ways to improve CFPB regulation and supervision, such as (1) mandatory lookbacks to review major rules, which would require that the CFPB sunset or re-propose problematic rulemakings, and (2) encouraging regulated entities to self-report and remediate compliance issues by weighing such proactive measures in the CFPB’s decision-making process regarding follow-on enforcement activity.

1. **The CFPB’s UDAAP authority is undefined and in need of reform.**

Treating customers fairly and closely following consumer protection laws are core to banks’ business models. However, since the Bureau’s creation by the Dodd-Frank Act, the Bureau’s UDAAP authority has been largely undefined and closed to input from stakeholders. A clear and defined process created by this legislation will provide guardrails, which are needed to ensure that regulated entities know what is or is not permitted and how they can comply.

The Federal Trade Commission Act, which arises under different statutory authorities and is subject to different statutory constraints, similarly prohibits unfair and deceptive acts or practices (UDAP) in commerce. This concept has been developed and refined over many decades by regulation and case law. The prudential bank regulatory agencies— the Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC) and Federal Reserve— have long examined banks for compliance within the confines of the FTC’s concept UDAP authority.⁴ Importantly, in 2021, the Supreme Court unanimously held that, for decades, the FTC had overreached its statutory authority by assessing monetary penalties for practices that the FTC had not previously indicated are prohibited.⁵ Unfortunately, the CFPB’s UDAAP authority lacks comparable statutory limits and, on a number of occasions, the CFPB has retroactively assessed a civil money penalty for a practice that was not previously identified as being prohibited.⁶

By granting new and undefined UDAAP authority to the Bureau, the Dodd-Frank Act created an anomaly within the existing and well-documented regulatory regime. Beyond that, after more than a decade, it is still unclear whether “abusive” acts and practices are not already “unfair” or “deceptive.” This has placed all companies that the Bureau regulates at risk of inadvertent noncompliance because it is still unclear how or when the “abusive” standard will be applied.

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. The CFPB’s action created significant uncertainty in the financial services marketplace to the detriment of consumers and banks alike. Further, 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.

⁴ After the enactment of the Dodd Frank Act, the prudential regulators’ UDAP examinations were limited to banks with less than \$10 billion in assets.

⁵ https://www.supremecourt.gov/opinions/20pdf/19-508_l6gn.pdf

⁶ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-regions-bank-pay-191-million-for-illegal-surprise-overdraft-fees/>

Congress has been deliberate in applying fair lending principles, specifically disparate impact or treatment analysis (e.g., Fair Housing Act). The Bureau's application of these principles to UDAAP is a clear violation of the authority given to it by Congress. UDAAP should not be used as a 'gap filler' where Congress has clearly defined certain principles. To support this notion, in 2015, the Supreme Court in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015), addressed when a statute can support a disparate impact claim. But there, the Supreme Court concluded that "antidiscrimination laws" may be construed to encompass disparate impact claims, but only when certain other conditions were met. Thus, the first prerequisite to imposing disparate impact liability is that the statute must be an antidiscrimination law. The CFPB's UDAAP authority is not an antidiscrimination law.

The CFPB's actions left industry with little choice but to pursue legal correction of this overreach. In September 2022, CBA and other trade associations 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.⁷ 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.⁸ The CFPB is appealing the decision to the Fifth Circuit Court of Appeals.

Given the Bureau's misuse of its UDAAP authority, reforms are needed. CBA calls on Congress to enact due process protections under UDAAP consistent with those adopted by the CFPB in 2020, which were subsequently reversed by the current CFPB Director, among other reforms.⁹ These include:

- Ensuring the CFPB cannot retroactively seek a civil money penalty for a practice that was not previously identified as being prohibited under UDAAP;
- Requiring the Bureau to conduct a rulemaking to clearly define "abusive act or practice";
- Not conflating the concepts of "abusive," "unfair," and "deceptive" with one another, and reining in the CFPB's use of "unfair" and "abusive," in particular; Providing institutions that self-report UDAAP issues with an opportunity to cure violations before enforcement penalties are sought;
- Reiterating that discrimination is not part of UDAAP;
- Seeking monetary penalties only when there has been a lack of good faith effort to comply with the law (not to impede the Bureau's ability to seek restitution for consumers who were harmed); and
- Not challenging conduct as abusive when the benefits to consumers outweigh the alleged harms.

⁷ <https://www.consumerbankers.com/cba-media-center/media-releases/cba-leading-financial-groups-pursue-legal-action-against-cfpb>

⁸ https://www.consumerbankers.com/sites/default/files/CBA-Chamber-of-Commerce-CFPB_Final-Judgment.pdf

⁹ <https://consumerfinance.gov/about-us/newsroom/cfpb-announces-policy-regarding-prohibition-abusive-acts-practices/>

CBA appreciates that the *Rectifying UDAAP Act* would make these important reforms and urges Congress to enact the bill.

2. **The CFPB's funding structure should be reformed to provide proper checks and balances and enable the legislative branch to conduct rigorous oversight.**

The Bureau frequently exceeds the limits on its authority established by Congress because it is almost completely insulated from Congressional oversight. Absent a requirement to justify its budget and regulatory activities to Congress, the Bureau has little incentive to be responsive to oversight from elected legislators. Subjecting the CFPB to the annual Congressional appropriations process would not only compel the Bureau to begin taking oversight seriously— it would also provide Congress with ongoing opportunities to review and adjust the CFPB's budget as needed so that it can appropriately regulate the products and services offered to consumers by financial service providers.

CBA urges Congress to enact the *TABS Act* and to address the CFPB's funding in reconciliation legislation.

3. **The CFPB's leadership structure should be changed to reduce radical pendulum shifts between administrations and bring long-term stability to the Bureau.**

The CFPB's single-Director structure has made the Bureau a political lightning rod instead of a steady and consistent voice for consumer protection regulation and best practices expected from a world class regulator. The lack of long-term consistency in the rules and actions taken by the Bureau adversely affects consumers and the financial services industry by making it difficult for institutions to innovate new products and services and to meet consumers' evolving needs.

If enacted into law, this bill would create a bipartisan commission to lead the CFPB— consistent with the leadership structure of many other financial regulatory agencies— rather than a single agency head. Consistent and durable consumer protection is created by ensuring stability between administrations and is based on transparency between regulatory agencies and the industries they regulate. Passing this much-needed reform would establish a bipartisan commission at the Bureau and with it bring transparency and stability, and insulate this regulator from political shifts.

Additionally, due to the Supreme Court's ruling in *Seila Law v. Consumer Financial Protection Bureau*, the CFPB Director is now removeable at will by the President. While CBA believes this result is positive in that it places a limit on the exhaustive powers of the CFPB Director, it also unfortunately subjects the Bureau to drastic policy shifts based on political ideology. As demonstrated by other financial regulators, a bipartisan commission would create the stability consumers deserve.

CBA urges Congress to enact the *Consumer Financial Protection Commission Act*.

4. **The CFPB should be required to conduct more robust cost-benefit analysis when**

issuing policies to ensure it puts consumers over politics.

Cost-benefit analysis is an important tool for regulators to use to balance the costs of implementing and complying with a regulation for all affected parties. A number of executive branch agencies must conduct cost-benefit analysis as part of the rulemaking process, which is overseen by the Office of Information and Regulatory Affairs (OIRA). However, independent regulatory agencies like the CFPB do not have sufficiently rigorous statutory cost-benefit analysis requirements and are not subject to OIRA review. Section 1022 of the Dodd-Frank Act only requires the Bureau to “consider” the costs associated with rules but leaves the details largely up to the CFPB’s discretion, often resulting in lopsided rules that may sound positive in concept but have damaging consequences. Weighing both the advantages and regulatory compliance burdens of proposed rules will lead to more balanced policies from the CFPB.

Importantly, the *Transparency in CFPB Cost-Benefit Analysis Act* would require the CFPB to (1) publish a justification of the proposed rulemaking, (2) conduct a quantitative and qualitative assessment of all anticipated direct and indirect costs and benefits, (3) identify alternatives to the proposed rulemaking, (4) consult with the Small Business Administration Office of Advocacy if a proposed rule would increase costs for small businesses, (5) ensure the proposed rule is not duplicative, inconsistent, or incompatible with other existing rules, and (6) disclose all assumptions, data, and studies used in preparing the rulemaking.

The Bureau’s credit card late fees rule is a perfect example of why more thorough cost-benefit analysis is needed. The CFPB’s proposed rule to reduce the safe harbor dollar amount for credit card late fees to \$8 noted the Bureau’s lack of data analysis needed to truly understand its consumer impact. In the proposal, the Bureau claimed that it could help some credit card customers. However, the Bureau acknowledged in the proposal that cardholders who never pay late—which the CFPB’s own data indicates is 74 percent of all Americans with credit cards—will not benefit from the reduced fees and could experience “...higher maintenance fees, lower rewards, or higher interest on interest-paying accounts,” and that increased costs could completely negate any benefits.¹⁰ Banks are required by their prudential regulators to manage and offset credit risk, and a reduction of the ability for financial institutions to recoup costs could result in a tightening of credit availability for some consumers. The rigorous review of a detailed cost-benefit analysis would prevent additional burdens from being placed on the consumer.

CBA urges Congress to enact the *Transparency in CFPB Cost-Benefit Analysis Act*.

5. **An agency as important and powerful as the CFPB should be reviewed by an independent entity that is dedicated to the Bureau full-time.**

Most financial services regulators, and more than 30 other federal agencies, have their own dedicated Inspector General (IG), but the Bureau shares one with the Federal Reserve. The *CFPB-IG Reform Act* would ensure the CFPB’s operations are audited by an independent and impartial entity by establishing an independent IG specifically for the agency. Having a dedicated third-party auditor would bring more accountability to the Bureau and provide

¹⁰ https://files.consumerfinance.gov/f/documents/cfpb_credit-card-late-fees_report_2022-03.pdf
<https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-rein-in-excessive-credit-card-late-fees/>

Congress with important information on its internal operations.

6. **Congress should consider additional ways to improve CFPB regulation and supervision such as lookbacks to review major rules and allowing regulated entities to self-report compliance issues.**

Congress should look to ensure the effectiveness and necessity of CFPB regulations through regular lookbacks. As the number and scope of financial regulations increases, there is a lack of understanding as to how effective they are at meeting their stated objectives. There is currently limited effort on the part of regulators to understand how their rules have improved outcomes for consumers and markets, skewed them, or resulted in little to no changes while increasing the regulatory burden. Congress can help the public better understand how effective financial regulations are by requiring regular lookbacks that examine the effectiveness of regulations after a period of time based on how they have either succeeded or failed to meet their primary objectives.

CBA encourages Congress to work in a bipartisan manner on to determine whether a more rigorous regulatory “lookback” requirement could be implemented that requires the CFPB, or possibly the Federal Reserve Board, to regularly assess the effectiveness of major rulemakings to determine whether the benefits of those rules outweigh the costs. These reviews should consider impacts to access to credit, risk-based pricing, compliance costs, and other factors. We believe that a rigorous lookback process could be tied to equally rigorous consequences, for instance, by defaulting the CFPB to Administrative Procedure Act processes to either sunset or repropose rulemakings whose benefits are not shown to outweigh their costs.

Additionally, the Rectifying UDAAP Act would allow regulated entities to self-report and remediate potential UDAAP compliance problems without the threat of heavy-handed enforcement by the CFPB. Congress should consider expanding this to all areas of CFPB regulation and supervision. This would incentivize consumer financial services providers to correct compliance issues promptly for the benefit of their customers.

Conclusion

During the previous administration, the Bureau’s leadership unfortunately prioritized short-term political wins over what is best for consumers. Enacting the legislative changes recommended in this testimony would help protect against the radical pendulum shifts that have taken place in the last three administrations and result in policies that are more measured and durable. CBA is eager to work with Congress and the administration to establish long-term stability and credibility at the CFPB for the benefit of consumers.

Chairman BARR. Thank you.

Ms. Fonseca, you are now recognized for 5 minutes.

**STATEMENT OF ANA FONSECA, PRESIDENT AND CEO, LOGIX
FEDERAL CREDIT UNION**

Ms. FONSECA. Good morning, Chairman Barr, Ranking Member Foster, and members of the subcommittee. My name is Ana Fonseca, and I am testifying today on behalf of America's credit unions. I certainly serve as the President and CEO of Logix Federal Credit Union, a \$9.8 billion institution headquartered in Valencia, California. Thank you for the opportunity to share our thoughts and perspectives on the CFPB and consumer financial protection.

At Logix, we pride ourselves on our programs to serve our members. Logix was founded during the Great Depression as Lockheed Aircraft Employees Federal Credit Union. What started as a small financial cooperative on Lockheed's Burbank campus has grown into a trusted financial institution serving 253,000 members and managing \$9.8 billion in assets.

As we have grown, we remain true to our founding principles. Logix is a member-owned and not-for-profit institution prioritizing affordable, consumer-friendly financial services over profit. This is just part of the credit union difference. Our member-owned cooperative structure makes credit unions the original consumer financial protectors. Still, credit unions find themselves subject to the rules, burdens, and costs associated with being regulated by the CFPB.

For an institution like Logix, our expected crossing of the arbitrary \$10-billion threshold that subjects us to greater CFPB scrutiny has a cost. Our own internal estimates are that those burdens that come with crossing that threshold will average about \$4 million a year, and that does not count the roughly \$10 million a year that we expect to lose in debit interchange income due to the Durbin Amendment, and that is just in the first year.

With such a significant decrease in revenue combined with the substantial increase in CFPB compliance-related expenses, our ability to deliver the superior value our members have come to expect over the past 88 years will be severely impacted.

Credit unions are different than other entities that are regulated by the CFPB in that there are a number of statutory consumer protection provisions included in the Federal Credit Union Act that other types of financial institutions do not have. Credit unions also do not have the armies of lawyers that large Wall Street banks have to keep up with the pace and scope of regulations coming out of the CFPB. Yet, we are still subject to them either directly or indirectly. This has led to significant consolidation in the industry since the passage of the Dodd-Frank Act and the creation of the CFPB.

Recent years have also seen the CFPB focus less on its statutory mission and become more focused on changing the marketplace in a politicized fashion. My colleagues in the credit union industry feel as though they are dying a death of a thousand cuts. The revenue on all fronts is under attack, and their costs to comply with ever-increasing regulation continue to mount. Change needs to come to CFPB, and we believe the time for Congress to act is now.

We support and would recommend a series of legislative changes that include, first, moving the leadership to a bipartisan commission. A single director makes the Bureau more political and does not allow for open robust discussion like a five-person commission would. Second, increasing congressional oversight of the CFPB through subjecting the Bureau to congressional appropriations and creating its own inspector general. Third, providing greater clarity on UDAAP. Fourth, expanding and clarifying exemptions for credit unions from the CFPB. Fifth, increasing CFPB usage of cost-benefit analysis and Small Business Regulatory Enforcement Fairness Act (SBREFA) panels. Finally, reforming the civil investigative demand process.

These statutory changes and clarifications should be combined with the renewed focus and commitment from the Bureau to be data-driven—to be a data-driven organization that focuses on its specific statutory obligations to protect consumers from unregulated entities and bad actors operating in the financial system. Any new CFPB rulemaking should follow the principles outlined in my written testimony that will help ensure this approach.

In conclusion, consumer protection in financial services is important. Making these changes now will help ensure that we have an apolitical focus on consumer protection moving forward. We applaud the subcommittee for beginning this difficult discussion on how to reform and improve the CFPB. I thank you for the opportunity to appear before you today and welcome any questions you may have.

[The prepared statement of Ms. Fonseca follows:]



Testimony of

Ana Fonseca
President & CEO
Logix Federal Credit Union

On behalf of
America's Credit Unions

Hearing: "A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections"

Before the
Subcommittee on Financial Institutions
House Committee on Financial Services

March 26, 2025

Executive Summary

Credit unions, such as Logix FCU, are inherently different from the unregulated entities and bad actors that the Consumer Financial Protection Bureau (CFPB) was created to address. Our member-owned cooperative structure makes credit unions the original consumer protectors. Still, credit unions find themselves subject to the rules, burdens and costs associated with being regulated by the CFPB. For an institution like Logix, crossing the arbitrary \$10 billion threshold that subjects us to greater CFPB scrutiny has a cost that takes millions of dollars away from programs to serve our members.

Recent years have seen the CFPB focus less on its statutory mission and become more focused on changing the marketplace in a politicized fashion. Change needs to come to consumer protection, and we believe the time for Congress to act is now. Should Congress decide to maintain the CFPB and reform it, we would recommend a series of legislative changes that include:

- Moving the leadership to a bipartisan commission
- Increasing Congressional oversight of the CFPB
- Providing greater clarity on UDAAP
- Expanding and clarifying exemptions for credit unions from the CFPB
- Increasing CFPB usage of cost-benefit analysis and SBREFA panels
- Reforming the Civil Investigative Demand (CID) process

These statutory changes and clarifications should be combined with a renewed focus and commitment from the Bureau to be a data driven organization that focuses on its specific statutory obligations to protect consumers from unregulated entities and bad actors operating in the financial system. New CFPB rulemaking should follow principles that will help ensure this approach.

Consumer protection in financial services is important, and we applaud the Subcommittee for beginning this difficult discussion on how to reform and improve the CFPB moving forward to prioritize consumer protection.

Introduction

Good morning, Chairman Barr, Ranking Member Foster, and Members of the Subcommittee. My name is Ana Fonseca, and I am testifying today on behalf of America's Credit Unions. I currently serve as the President and CEO of Logix Federal Credit Union headquartered in Valencia, California. I have worked in the credit union industry for over 35 years, including 33 years at Logix as the COO, CFO, and, for the last 6 years, as the President and CEO. America's Credit Unions is the voice of consumers' best option for financial services: credit unions. The association advocates for over 4,000 institutions who serve their over 142 million members nationwide. I thank you for the opportunity to share my experiences and concerns as a credit union CEO with you today.

About Logix FCU

Logix was founded as the Lockheed Aircraft Employees Federal Credit Union in 1937, during the height of the Great Depression. Twelve charter members started the credit union, which was originally located on the grounds of Lockheed's Burbank facilities. The efforts of those founding members allowed Lockheed employees access to credit when bank loans were unavailable and provided a secure place for savers to deposit their money, with the greater benefit of helping fellow Lockheed employees. This cooperative banking structure remains the core of our organization today even though we expanded to serve groups beyond Lockheed Martin and now have over 253,000 members and \$9.8 billion in assets. Today Logix operates 18 branches in the San Fernando, San Gabriel, Santa Clarita, and Antelope valleys, as well as eastern Ventura County.

At Logix we pride ourselves on our focus on programs to serve our members. This is just part of the credit union difference. We offer our members great rates and flexibility on fees. For example, as part of our courtesy pay or overdraft program, we allow the member the ability to cure an overdraft on the same day it occurs, and do not charge a fee for nominal overdrafts under \$5.00. We are there to help as well. During the recent devastating wildfires in our area of California, we launched a special website and programs to help our members impacted by the fires that included providing emergency access to cash, fee waivers, low-interest loans, and payment deferrals.

Additionally, our focus on members over profits has allowed us to return nearly \$10 million in bonus dividends to our members in recent years as they benefit from our success.

However, we are concerned as we approach the "magical" arbitrary \$10 billion threshold that will subject my credit union to even greater regulatory scrutiny and examination by the CFPB. We expect to cross this threshold in 2026, and it will pose additional costs and challenges, despite us

maintaining the same focus we have always had on serving our members and helping them thrive.

Logix's journey to meet CFPB compliance as a \$10 billion institution has placed a significant burden on operations and has required extensive audits, significant costs, and substantial staffing increases. According to our own internal analysis, we face operational and financial challenges, including \$517,000 for CFPB Exam Readiness Reviews, annual compliance software costs of \$300,000, and an annual budget of \$200,000 for compliance audits and legal services. We expect our compliance staffing will increase by at least 30 employees, which translates to an annual staffing cost increase of \$3.3 million a year once we cross the \$10 billion threshold. These added costs are particularly burdensome given the estimated \$10 million (and growing) in lost annual interchange revenue as a result of the Durbin Amendment's limitation on interchange fees for institutions with more than \$10 billion in assets. With such a significant decrease in revenue, combined with a substantial increase in CFPB compliance-related expenses, our ability to deliver the superior value our members have come to expect over the past 88 years will be severely impacted.

Background on Credit Unions

Credit unions serve a unique function in the delivery of necessary financial services to Americans. Credit unions are the original consumer financial protectors because of our not-for-profit, member-owned cooperative structure that aligns the interest of the credit union with its members. Member-ownership and not-for-profit status results in a wide range of pro-consumer credit union behaviors. Credit union members across the country recognize the real measurable "transformative power" associated with cooperative finance.

Every credit union is a cooperative institution organized "for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes" (12 § USC 1752(1)). Congress established the federal credit union system as an alternative to banks and to meet a precise public need—serving those that banks left behind—and today credit unions provide financial services to over 142 million Americans. Since President Franklin D. Roosevelt signed the Federal Credit Union Act (FCU Act) into law nearly 91 years ago, two fundamental principles regarding the operation of credit unions remain every bit as important today as in 1934:

1. Credit unions remain totally committed to providing their members with efficient, low-cost, personal financial services; and
2. Credit unions continue to emphasize traditional cooperative values such as democracy and volunteerism.

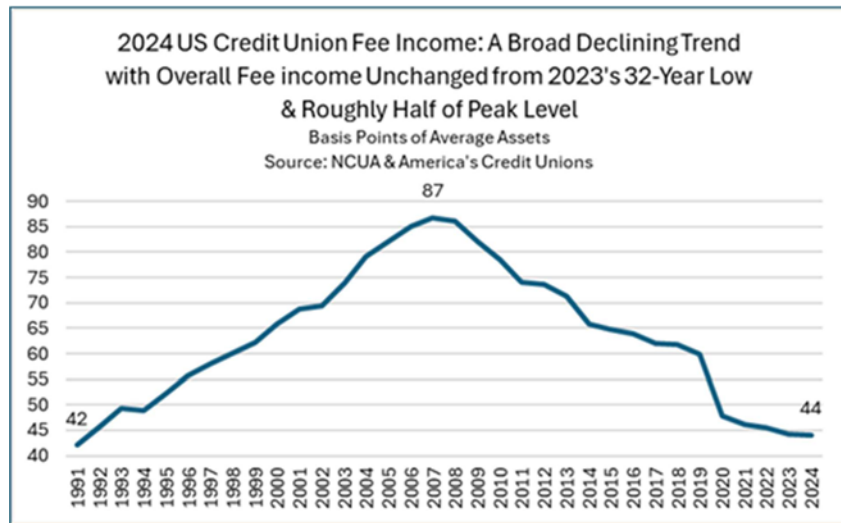
The nation's approximately 4,600 credit unions serve a different purpose and have a fundamentally different structure than traditional banks. Credit unions exist solely for providing financial services to their members, while banks aim to make a profit for a limited number of shareholders. As owners of cooperative financial institutions, united by a common bond, all credit union members have an equal say in the operation of their credit union—"one member, one vote"—regardless of the dollar amount they have on account. These singular rights extend all the way from making basic operating decisions to electing the generally unpaid, volunteer board of directors, something unheard of among for-profit, stock-owned banks. Credit unions continue to play a very important role in the lives of millions of Americans from all walks of life. Since the Great Recession, consolidation of the financial institution sector has progressed at an increasingly rapid rate. At a time when for-profit banks are deemphasizing the human touch for financial services, credit unions are second-to-none in providing their members with quality personal financial services at the lowest possible cost.

Credit Unions and the Consumer Financial Protection Bureau

From the inception of the CFPB, credit unions have expressed frustration with being regulated in the same manner as for-profit banks and non-regulated entities. There are a number of statutory consumer protection provisions included in the FCU Act that the laws governing other types of financial institutions do not have. This is one reason why the industry was concerned about credit unions of any size being placed under the CFPB's direct regulatory authority as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Despite the fact that credit unions are already heavily regulated and did not contribute to the 2008 financial crisis, credit unions of all sizes are still subject to the rulemaking authority of the CFPB. While some may argue that the CFPB "levels the playing field" for community-based financial institutions, the reality could not be further from the truth, as community-based financial institutions do not have the armies of lawyers that large Wall Street banks have to keep up with the pace and scope of regulations coming out of the CFPB. This has led to significant consolidation in the industry since the passage of the Dodd-Frank Act and the creation of the CFPB. There are over 3,000 fewer credit unions today than there were when the Dodd-Frank Act was signed into law.

The last few years have seen the CFPB place even more stress on regulated financial institutions as part of its "junk fees" initiative where the CFPB targeted lawful standard fees charged by financial institutions that included sensible payment guardrails such as credit card late fees and valuable member-requested services like overdraft programs. This initiative has been mislabeled and mischaracterized for political purposes, with the CFPB referring to lawful payment incentives like late fees as "junk fees." These fees bear no resemblance to the type of hotel and resort fees referenced by others as "junk fees" and, in contrast, are all subject to comprehensive federal or state laws and regulations that include clear and conspicuous consumer disclosures.

Service fees for financial products enable credit unions to make financial services overall more affordable and more accessible for Americans, particularly those who are low income. It is important to recognize that fee income at credit unions remains at a 32-year low, as evidenced by recent data published by the National Credit Union Administration (NCUA) and America's Credit Unions (see figure below). It is important to note that this decline started *before* the creation of the CFPB. This is possible in part because of the move towards service fees, such as overdraft or late fees. Credit union members pay for the services they use, such as an overdraft program, which allows the credit union to keep basic services such as checking accounts low-cost or free for their members. The cost of eliminating or reducing overdraft to align with government mandated price caps instead of market forces is that credit unions like mine will have to raise prices for all members to replace that revenue, making basic banking services less affordable.



The CFPB Needs to be Insulated from Dramatic Political Swings

While the concept of an independent entity to protect consumers from unregulated bad actors is a laudable one, the single director structure of the CFPB has created great regulatory uncertainty in the marketplace. The last four years have seen the CFPB too often take an approach that could be called “regulation by enforcement” where press releases on enforcement actions seem to create new standards that entities must comply with to promote a political

agenda, leading to greater uncertainty. This needs to change. Moving forward, the CFPB should, at the very least, agree to counterparty review of press releases on enforcement agreements.

Additionally, the CFPB has often ignored contrary data in rulemaking to advance politically-driven goals, often to the detriment of consumers. For example, on the credit card late fees rule, the Bureau admittedly ignored data that a majority of cardholders will likely see their credit card interest rates increase and credit availability decrease in order to issue the rule that the leadership wanted. This is no way to make regulation. There must be a depoliticization of the Bureau and a return to data-driven rulemaking that focuses on the consumer and sets clear rules of the road for entities to follow.

Finally, we were dismayed to see a number of post-election, non-emergency rulemakings pushed out during the Presidential transition period. These rules seem to represent a transparent attempt by the previous Bureau leadership to rashly impose its regulatory agenda upon the American people without respect for the Administrative Procedure Act (APA), stakeholder feedback, or the bounds of its statutory authority. We believe that the current leadership of the Bureau should take this moment of pause in these rulemakings and review whether the rules:

1. Conform with the Bureau's authority under the Dodd-Frank Act;
2. Have sufficient factual basis to support their proposal;
3. Would not create more costs than benefits; and
4. Adequately address feedback from stakeholders.

These regulations include:

- Overdraft Lending: Very Large Financial Institutions. Final Rule published December 30, 2024.
- Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Reg V). Final Rule published January 14, 2025.
- Protecting Americans from Harmful Data Broker Practices (Reg V). Proposed rule published on December 13, 2024.
- Fair Credit Reporting Act (Regulation V); Identity Theft and Coerced Debt. Proposed rule published on December 13, 2024.
- Electronic Fund Transfers Through Accounts Established Primarily for Personal, Family, or Household Purposes Using Emerging Payment Mechanisms. Proposed rule published on December 15, 2024.

Pausing these rulemakings was a crucial first step to bringing the Bureau back into alignment with its original mandate and beginning the process of actually protecting consumers from financial

harms without damaging the financial institutions created to help them. We hope a review will lead to administrative reconsideration and reform of these proposals.

The Future Direction of the CFPB

We believe the CFPB and Congress must take this moment of administrative transition to recalibrate the Bureau's priorities and operational framework to balance robust consumer protections with a regulatory environment that promotes innovation, transparency, and accountability. The time to act is now. This recalibration must include a more disciplined approach by the CFPB to rulemaking, enforcement, and retrospective regulatory review, as well as fair examinations, and a focus on reducing unnecessary burdens on financial institutions like credit unions that play a vital role in local communities. The new approach by the CFPB and other financial regulators should be a return to focusing on their specific statutory mission and authorities.

Congress established the Bureau to address the reckless lending practices of large, too-big-to-fail banks and unregulated financial institutions. Since its inception, the Bureau has taken several hundred enforcement actions against entities operating in the financial services space, including over 100 against banks. This is where the Bureau should direct its primary attention and resources. By tailoring regulations to target unregulated entities and bad actors the Bureau can achieve its objectives more effectively. Credit unions, which were not part of the problem, should not bear the unintended consequences of broad regulatory measures. There have only been 3 enforcement actions against credit unions in the 15-year history of the Bureau. A new focused approach by the Bureau would be more efficient and avoids imposing unnecessary burdens on financial institutions that have a strong track record of consumer protection.

Credit unions are among the most heavily regulated entities in the country, despite their consumer-friendly practices and role in supporting local communities. Regulatory burdens contribute significantly to the consolidation of small credit unions, with approximately 300 mergers occurring annually. This consolidation reduces competition and consumer choice, leading to higher costs and decreased access to financial products and services. To promote consumer welfare, greater access to credit unions is essential. Their cooperative member-owned structure aligns with consumer interests, discouraging predatory pricing and excessive risk-taking. Credit unions also serve as countercyclical economic forces, stabilizing local economies during downturns. America's Credit Unions has urged the Bureau to focus its regulatory efforts on Wall Street banks and unregulated or under-regulated sectors of the financial services industry. We believe the Bureau should carefully evaluate its proposals to minimize adverse impacts on Main Street institutions like credit unions, which are often the only option for consumers and small businesses seeking fair financial services. Credit unions' cooperative, not-

for-profit structure ensures they prioritize their members' interests over profits, a dynamic absent in for-profit banking.

The 2008 financial crisis, the worst economic disruption since the Great Depression, stemmed from the collapse of the subprime mortgage market. Reckless mortgage originations, fueled by unrealistic expectations of rising home prices and risky credit practices, primarily occurred in the for-profit sector. Large banks and mortgage brokers originated subprime loans, which were then packaged and sold as securities by Wall Street investment banks. This system, driven by profit motives, led to a financial collapse that did not involve credit unions. Out of this crisis, the CFPB was created to establish greater oversight of mortgage brokers and large and often unscrupulous participants in the financial services marketplace.

Credit unions, in contrast, operated conservatively, holding the majority of their mortgages in portfolios and carefully managing risks. This approach shielded credit unions from the volatility that characterized the broader financial system. During the crisis, credit unions continued lending while many for-profit institutions curtailed operations due to weakened balance sheets. This resilience underscores the need for a tailored regulatory approach that reflects credit unions' lower-risk profile. In this era Logix never offered exotic mortgage products and continued to lend during the crisis. We helped members remain in their homes with very few foreclosures and did not take significant losses and recognized positive earnings every year during the downturn.

Legislative Recommendations to Improve the CFPB

There are a series of legislative changes that have been introduced to reform the CFPB. These start with some relatively minor reforms and go all the way up to full elimination. America's Credit Unions supports Congress making changes to improve the CFPB moving forward as we outline below. Should Congress move to completely eliminate the CFPB, we would ask for the opportunity to carefully consider what would take the place of the CFPB, as we are concerned that a patchwork of state laws instead of a federal standard would not serve credit unions and our members. Should the CFPB remain as a stand-alone government agency we recommend the following reforms:

Change Leadership to a Bipartisan Commission

America's Credit Unions believes that, given the broad authority and awesome responsibility vested in the CFPB, a five-person, bipartisan commission has distinct consumer benefits over a single director. Regardless of how qualified one person may be, a commission would allow multiple perspectives and robust discussion of consumer protection issues and debate over the best means to regulate and provide oversight throughout the decision-making process. A diversity of perspectives will enhance the rule-writing process and lead to better outcomes with more

reasoned and data-driven rationales. Additionally, a commission helps ensure some continuity of expertise and rulemaking. The current single director structure can lead to uncertainty during the transition from one Presidential administration to another. The U.S. Supreme Court highlighted this fact when it released a decision in *Seila Law v. the Consumer Financial Protection Bureau* that found the single director, removal only for “just cause” structure of the CFPB to be unconstitutional. It is with this in mind that we urge Congressional action on legislation to transform the structure of the CFPB from a single director to a bipartisan commission. We support legislative efforts that would improve the Bureau by making this change such as proposed in the Consumer Financial Protection Commission Act.

Increase Congressional Oversight of the CFPB

While it is important to ensure funding availability to enforce consumer protection laws, that funding should be subject to greater transparency and scrutiny, and not unlimited. As such, America’s Credit Unions supports subjecting the CFPB to the Congressional appropriations process to ensure greater oversight from Congress, such as proposed in H.R. 654, the Taking Account of Bureaucrats’ Spending (TABS) Act. We also support an independent Inspector General for the Bureau that would also be required to testify before Congress on an annual basis to keep lawmakers better informed as proposed in the CFPB–IG Reform Act of 2025.

Provide Clear Rules of the Road on UDAAP

The CFPB must address persistent concerns about its reliance on vague statutory authorities, particularly under the unfair, deceptive, or abusive acts or practices (UDAAP) standard. The ambiguous nature of the “abusive” prong has caused widespread confusion among regulated entities, as the Bureau has declined to provide meaningful guidance or adopt formal rules clarifying its scope. Instead, the CFPB has relied heavily on case-by-case enforcement actions to define prohibited practices, a method that deprives regulated parties of fair notice, leads to “gotcha” enforcement, and creates a chilling effect on innovation.

For example, the CFPB has initiated enforcement actions against practices common in the financial services industry without prior rulemaking or guidance. In some cases, these actions targeted practices that were previously accepted or explicitly permitted by other regulators. This approach undermines confidence in the regulatory framework, discourages innovation, and ultimately limits consumer choice. To remedy this, Congress should require the CFPB to issue clear rules and guidance through notice-and-comment procedures before pursuing enforcement actions. Monetary sanctions should be reserved for cases where regulated parties had reasonable notice—whether through regulations, judicial precedents, or well-established interpretations by agencies like the Federal Trade Commission (FTC)—that their conduct was unlawful.

While the 2023 Statement of Policy Regarding Prohibition on Abusive Acts or Practices provided some guidance by outlining examples of abusive conduct, it failed to offer the level of clarity necessary for regulated entities to operate with confidence.¹ Unlike the 2020 Policy Statement², which included critical principles like a cost-benefit analysis and limits on dual pleading, the 2023 framework lacks structured guardrails to balance enforcement with fairness. The absence of objective criteria and a “reasonable person” standard exacerbates this ambiguity, leaving institutions to navigate subjective interpretations of what constitutes abusive practices.

Without clear parameters, institutions face increased compliance costs and reduced incentives to innovate, ultimately harming consumers by limiting access to beneficial financial products and services. Congress should pass H.R. 1652, the Rectifying UDAP Act. Until Congress acts, the CFPB should reinstate the principles of the 2020 Policy Statement, including cost-benefit considerations and clear boundaries for enforcement, and define the abusiveness standard through formal rulemaking. Establishing precise thresholds and a consistent framework would reduce uncertainty, foster innovation, and ensure that regulatory actions align with both consumer protection goals and the operational realities of financial institutions.

Expand and Clarify Exemptions for Credit Unions from the CFPB

We believe credit unions should be exempted from efforts aimed at addressing misconduct by bad actors and unregulated entities in the financial marketplace. When broad regulations make it more costly or challenging to access the safe and affordable credit offered by credit unions, consumers ultimately suffer. The Bureau has consistently stated it does not intend to negatively impact credit union lending. The only way to ensure this outcome is to exempt credit unions and credit union service organizations (CUSOs) from regulatory requirements that are not designed to address their practices. The Bureau has legal authority and precedent to use its exemption powers to protect consumers by relieving credit unions and CUSOs of unnecessary regulatory burdens, enabling them to continue providing essential services but it has not fully used it.

Congress anticipated the need for regulatory exemptions and explicitly empowered the Bureau to tailor its rules through the Dodd-Frank Act. Congress deliberately provided this authority in Section 1022 of the Dodd-Frank Act:

*The Bureau, by rule, may conditionally or unconditionally exempt
any class of covered persons, service providers or consumer*

¹ 88 FR 21883.

² CFPB, “Statement of Policy Regarding Prohibition on Abusive Acts or Practices” (Jan. 24, 2020) available at https://files.consumerfinance.gov/f/documents/cfpb_abusiveness-enforcement-policy_statement.pdf.

*financial products or services from any provision of this title, or from any rule issued under this title . . .*³ (Emphasis added.)

The Act’s plain language, supported by legal precedent, confirms the Bureau’s broad discretion to issue exemptions in cases where it serves the Act’s purposes, which include ensuring fair, transparent, and competitive markets for consumer financial products and services. Unfortunately, the Bureau has not used this discretionary authority.

The unique structure and mission of credit unions further support their exemption from inappropriate regulatory requirements. Unlike for-profit financial institutions driven by shareholder returns, credit unions are not-for-profit cooperatives with a statutory mission to promote thrift and provide credit for provident or productive purposes. This mission ensures that credit unions prioritize their members’ financial well-being, offering safe, affordable credit while avoiding harmful practices. Additionally, credit unions are already subject to extensive state and federal regulations, creating a stark contrast between their operations and those of nonbank lenders or large, profit-driven institutions. It is critically important for the Bureau to understand that credit unions are not asking to be exempt from all its rules; instead, we ask the Bureau to carefully consider the downstream impact of its rules and how those rules—without appropriate tailoring—could negatively affect the ability of consumers to access financial products and services from reputable, community-based financial institutions.

Credit unions and CUSOs should be considered for and receive appropriate exemptions from some of the Bureau’s regulatory requirements. Throughout their history, credit unions have been supervised by several different federal agencies. The lesson that comes through clearly, based on these different supervisory arrangements, is that credit unions are best positioned to succeed when policy decisions affecting them are made by a regulatory agency that has significant familiarity with the characteristics that differentiate them from other financial services providers. The NCUA, due to its half-century of experience regulating credit unions, has a special understanding of the credit union model as well as the environmental and operational challenges credit unions face daily. For that reason, the CFPB should work more closely with the NCUA throughout the policymaking process and avoid implementing policies that conflict with or are duplicative of those issued by the NCUA, especially regarding examinations.

To ensure this is accomplished, we support statutory changes that would expand and clarify the exemption authority granted to the CFPB.

³ 12 U.S.C. § 5512(b)(3)(a).

Improving Use of Cost-Benefit Analysis and Small Business Review Panels

Reviewing the cost versus benefit of rules, as well as their impact on smaller entities, should be an important part of the rulemaking process. Unfortunately, the CFPB has moved away from this approach in recent years. Greater use of cost-benefit analysis would also provide the Bureau with a more rigorous framework for evaluating the economic impact of proposed regulations, including unintended consequences such as reduced access to credit or higher consumer costs. For example, the proposals targeting overdraft fees or credit eligibility determinations must be carefully analyzed to ensure they do not exacerbate financial exclusion or disproportionately harm underserved populations. By adopting these principles, the CFPB could foster a regulatory process that is transparent, accountable, and aligned with its mission to protect consumers while maintaining economic stability. We support the efforts in H.R. 2183, the CFPB Dual Mandate and Economic Analysis Act and the draft Transparency in CFPB Cost-Benefit Analysis Act that would seek to accomplish this.

Additionally, credit unions have advocated for Small Business Regulatory Enforcement Fairness Act (SBREFA) panels when it comes to the CFPB. While the CFPB has used this tool on some rules in the past, the voice of panelists was not always heard. There were several instances where SBREFA panel reports clearly recorded specific issues voiced by panelists that were ultimately not addressed in final rules. Unfortunately, the CFPB has addressed this by simply moving away from using SBREFA panels with more recent rulemakings. America's Credit Unions supports efforts to strengthen the SBREFA process as utilized by the CFPB and to require greater cost-benefit analysis as part of rulemakings such as H.R. 1606, the Making the CFPB Accountable to Small Businesses Act of 2025.

Reform the Civil Investigative Demand (CID) process

The CFPB's investigative and enforcement practices require significant reform to ensure fairness and adherence to procedural safeguards. The Bureau's reliance on administrative adjudications has denied respondents key procedural protections available in federal court. These expedited proceedings limit discovery, curtail opportunities for defense, and inappropriately prioritize speed over fairness. At a minimum, the CFPB should issue rules outlining the criteria for choosing between federal court actions and administrative proceedings, and it should prioritize the use of federal courts for cases involving novel legal issues or significant penalties.

Similarly, the Bureau's Civil Investigative Demand (CID) process has drawn criticism for its lack of transparency, procedural fairness, and alignment with statutory protections outlined in the Dodd-Frank Act. While the Bureau has the authority to issue CIDs as part of its investigations into violations of consumer financial laws, these demands often rely on vague, boilerplate language that fails to specify the nature of the alleged violation or the laws implicated. This ambiguity

places an undue burden on financial institutions, which must expend significant resources to comply with these overly broad demands. The CFPB should adopt reforms to ensure that CIDs are narrowly tailored in purpose and scope, providing clear and specific details about the conduct under investigation and the materials requested. Such reforms would help institutions respond more effectively and reduce the risk of unnecessary disruption to their operations.

Additionally, the CFPB should implement procedural safeguards to ensure fairness in the CID process. Current rules, which limit institutions to a 20-day window to petition for modifications or set-asides, provide insufficient time to formulate a meaningful response. This compressed timeline, combined with the lack of confidentiality protections for petitioners, discourages institutions from challenging overbroad or unwarranted demands due to the risk of reputational harm. To address these issues, the Bureau should extend the timeframe for filing petitions, allow challenges at any point during an investigation, and ensure the confidentiality of such proceedings. Strengthening meet-and-confer processes, including requiring decision-making personnel to participate directly, would also enhance the fairness and efficiency of the CID process, fostering a more collaborative approach to resolving disputes. These changes would align the CID process with statutory intent while balancing the CFPB's investigatory authority with the need to minimize undue burdens on financial institutions. We believe enacting H.R. 1653, the Civil Investigative Demand Reform Act of 2025, would be an important step in this process.

Principles That Should Guide CFPB Rulemaking

We would like to take this opportunity to highlight for Congress several key principles we believe should guide any future CFPB activity. These principles were developed in consultation with members of America's Credit Unions.

- *Use the Bureau's authority in a manner consistent with the original purpose of the CFPB and the spirit of the Dodd-Frank Act*

The focus of the Bureau should be to adhere to the law and carry out its statutorily defined functions. The Bureau should dedicate most of its time and resources to unregulated and under-regulated entities. If the Bureau spent fewer resources on regulating and supervising credit unions and other lenders already subject to federal prudential regulation, then it would have more available to focus on unregulated institutions and the businesses actively engaged in objectionable practices that exploit consumers. We believe this balance can be accomplished without sacrificing important consumer protections.

Credit unions remain some of the most regulated entities in the country. Despite our pro-consumer history, credit unions have repeatedly been lumped in with others through the

promulgation of overly broad rulemakings, increasing compliance costs without a material benefit for consumers. In fact, the increasing cost and complexity of regulatory compliance remains a contributing factor in the significant consolidation taking place among community-based financial institutions. Ultimately, consumers lose when fewer choices are in the marketplace, resulting in a higher cost of financial services and reduced access to local community-based providers.

- *Appropriately tailor regulations to reduce disruption for community-based financial institutions*

In the wake of the financial crisis, Congress contemplated the need for exemptions to certain rules and crafted the Dodd-Frank Act to authorize the Bureau to tailor its rules to avoid adverse outcomes for consumers and regulated entities. Congress deliberately provided this express authority in Section 1022 of the Dodd-Frank Act. Congress clearly granted the Bureau broad authority to tailor regulations in a manner consistent with the best interest of consumers. We appreciate that the Bureau has used its Section 1022 authority in some rulemakings to create exemptions based on asset size, loan volume, the merits of a specific product, or other factors. However, we believe the Bureau should use its exemption authority more consistently and to greater effect.

Credit unions and CUSOs should be considered for and receive appropriate exemptions from some of the Bureau's regulatory requirements. It is critically important for the Bureau to understand that credit unions are not asking to be exempt from all its rules; instead, we ask the Bureau to carefully consider the downstream impact of its rules and how those rules—without appropriate tailoring—could negatively affect the ability of consumers to access financial products and services from reputable, community-based financial institutions.

- *Be consistent and transparent during the development and implementation of rulemakings and supervision and enforcement policies*

The current CFPB structure vests substantial authority with the Director. It is critical for the CFPB Director to avoid disrupting the efficient functioning of markets due to unnecessary secrecy, surprise regulation, “gotcha” enforcement, or the pursuit of political goals. Often, it is consumers themselves who are negatively affected by opaque, abrupt, or extreme changes in policy from one administration to the next.

Whatever the future governance structure of the Bureau, we believe the CFPB should emphasize regular and open communication with financial services providers and be transparent during the policymaking process. An open communication posture would generate goodwill with industry

and further both consumer protections and proper due process. To that end, we are ready and willing to assist in communicating and amplifying any critical information from the Bureau to credit unions and their members. We are also at the Bureau's disposal to solicit feedback from our members, as stakeholder input is critical to an efficient and effective regulatory environment.

Relatedly, we encourage the Bureau to regularly conduct reviews of its regulations in the interest of streamlining and eliminating outdated or superfluous requirements, increasing the efficiency of rules, or to provide exemptions where appropriate. However, it is critical that the Bureau keep in mind that any change in regulation—even a change intended to reduce complexity—always comes with a cost. For most Bureau rulemakings, the Dodd-Frank Act and the Regulatory Flexibility Act provide specified review processes intended to assist in identifying necessary or appropriate regulatory changes after the rule has been “in the field” for a reasonable time. Therefore, the Bureau should reserve the adoption of substantial changes to rules or policies for cases where there are compelling data-based reasons for doing so or an imminent need that addresses a specified consumer impact.

- *Consult with the NCUA during the policymaking process and avoid implementing duplicative or contradictory policies*

Throughout their history, credit unions have been supervised by several different federal agencies. The lesson that comes through clearly, based on these different supervisory arrangements, is that credit unions are best positioned to succeed when policy decisions affecting them are made by a regulatory agency that has significant familiarity with the characteristics that differentiate them from other financial services providers. The NCUA, due to its half-century of experience regulating credit unions, has a special understanding of the credit union model as well as the environmental and operational challenges credit unions face daily. If full regulatory and examination authority for credit unions cannot be returned to the NCUA, at the very least the CFPB should work more closely with the agency throughout the policymaking process and avoid implementing policies that conflict with or are duplicative of those issued by the agency, especially regarding examinations.

- *Provide certainty to regulated entities by adopting clear “rules of the road” and prioritizing internal consistency*

Since the passage of the Dodd-Frank Act, there has been a massive increase in new consumer financial services regulations. This environment is particularly burdensome for credit unions which, unlike big banks, do not have scores of legal experts in-house to assist with compliance matters. Given the heightened nature of the regulatory landscape, it is important that the Bureau

provide certainty to regulated entities through the adoption of clear “rules of the road,” internal consistency from the Director’s office down to the field examiners, and robust guidance and implementation support.

In that spirit, we encourage the Bureau to provide helpful compliance resources, especially interactive webinars on final rules and Small Entity Compliance Guides, that help stakeholders understand regulatory expectations. We also encourage the Bureau to be proactive and continue providing compliance resources after final action as questions in need of clarification are identified. For example, the Bureau’s recent implementation of an Advisory Opinion program is a positive development and should be maintained.

Regarding clarity, we oppose the Bureau adopting a “regulation by enforcement” approach to policymaking. We believe if the Bureau wants to make actionable policy, then it should propose clear regulations pursuant to the Administrative Procedure Act (APA) process instead of using its enforcement authority against financial institutions expecting the subsequent consent order to serve as a means for others to determine what practices are in violation of the law. We also caution against an unproductive and inflammatory “regulation by press release” approach to governance characterized by clearly politicized press releases intended to serve as a bully pulpit. The Bureau’s recent reliance on blog posts, guidance, and even amicus brief filings to issue proclamations regarding the application of consumer financial protection laws is inappropriate and denies stakeholders the opportunity to participate in the statutorily mandated notice and comment process.

- *Conduct thorough research prior to the adoption of a new rule or policy and base policy decisions on relevant data*

The Bureau prides itself on being a modern, data-driven regulator. Former Director Cordray often referred to the data underlying consumer complaints as the Bureau’s “compass,” playing a key role in identifying and prioritizing the Bureau’s actions, including in the realm of rulemakings. However, data for data’s sake is insufficient, and it is critical that the Bureau’s policy and regulatory decisions be wholly supported by relevant, timely, and representative data. Unfortunately, it has been common for a CFPB rulemaking to lack (or at least appear to the public to lack) sufficient evidence, data, research, or other information to substantiate assertions within the rulemaking. The Bureau has also refused, in certain instances, to publicly share the data upon which it relies to justify a rulemaking—in direct contravention of its obligations under the APA. We challenge the CFPB to set a new standard for evidence-based rulemaking decisions and processes.

It is critical that the Bureau base its decisions on data specific to the entities it intends to regulate through an action. For example, relying on bank data to justify a rulemaking that also covers credit unions without evaluating credit union-specific data is misguided. Almost equally critical is that the Bureau be wholly transparent in its reliance on data, ensuring the public has access to the same information—absent confidential and personally-identifiable information—the Bureau relies on as a foundation for its rulemakings.

- *Ensure continued access to credit from reputable providers*

Credit unions often provide the safest and most affordable loan options for consumers in need of credit. When developing rulemakings overseeing lending, the Bureau should carefully evaluate and consider the impact a policy decision may have on the availability of credit for consumers, especially when the action is likely to impact the cost of credit. At Logix, we understand the nuances of how our members use our affordable credit cards and we educate them on the potential fees and costs associated with this service. It is important that the CFPB strikes an appropriate balance between its consumer protection mission and the availability of products and services. This balance is critical whether the product is a mortgage, credit card, or emergency loan. Many consumers rely on access to credit to manage their everyday finances, and the Bureau should ensure reputable providers, especially community-based providers, are able to meet those needs.

- *Encourage and support innovation in the consumer financial services marketplace*

Innovation through technology and other creative solutions has the potential to enhance the delivery and quality of financial products and services to consumers. In recent years, credit unions have been at the vanguard of innovation as a byproduct of their cooperative nature, member-driven focus, and relatively small size. Consumers benefit when financial institutions are provided with more opportunities, under the careful oversight of regulators, to pursue fresh answers to traditional questions. However, the Bureau should not approach innovation in a manner that places traditional depository institutions at a disadvantage compared to another business model. Ultimately, credit unions must be given equal access to innovation policies and programs.

- *Expand Retrospective Regulatory Review*

Retrospective review is a critical tool for ensuring that regulations remain relevant and effective in a rapidly changing financial landscape. While the Dodd-Frank Act requires the CFPB to review certain rules every five years, this process is limited in scope and frequency. Unlike the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA), which mandates a 10-year review

cycle for banking regulations, the CFPB's current approach excludes non-significant rules and regulations adopted before its establishment. By adopting a broader retrospective review framework, the CFPB could identify outdated or overly burdensome rules, solicit public input, and issue reports detailing how it will address regulatory inefficiencies.

Conclusion

In conclusion, I want to thank the Subcommittee for holding this important hearing today. While we believe that the CFPB can fill an important role in regulating the previously unregulated bad actors that operate in the financial services marketplace, the time has come to make changes to the CFPB to depoliticize the organization and return it to its intended focus. Changes to improve the CFPB include moving its leadership to a bipartisan commission, increasing Congressional oversight through appropriations and an independent inspector general, increasing cost-benefit analysis and examination of small entity impact of rulemakings, and ultimately providing greater exemptions for credit unions. Consumer protections are important, and we applaud the Subcommittee for beginning this difficult discussion on how to reform and improve the CFPB moving forward to prioritize consumer protection. We welcome the opportunity to have an ongoing dialogue with Congress on ways to improve the structure, governance and authorities of the CFPB.

Thank you for the opportunity to appear before you today. I welcome any questions you may have.

Chairman BARR. Ms. Kuehn, you are now recognized for 5 minutes for your oral remarks.

**STATEMENT OF REBECCA E. KUEHN, PARTNER, HUDSON
COOK, LLP**

Ms. KUEHN. Good morning, Chairman Barr, Ranking Member Foster, and members of the subcommittee. Thank you for the opportunity to appear—

Chairman BARR. Ms. Kuehn, if you could start over and turn on your microphone.

Ms. KUEHN. Push the button. Yes. Thank you, sir.

Chairman BARR. Yes. Thank you. Thank you.

Ms. KUEHN. Good morning, Chairman Barr, Ranking Member Foster, and members of the subcommittee. Thank you for the opportunity to appear before you.

My name is Rebecca Kuehn, and I am a Partner at the law firm Hudson Cook, which focuses on consumer financial services law. Earlier in my career, I worked for the Federal Trade Commission as an assistant director in the Division of Privacy and Identity Protection. I am appearing today in my own capacity, and my remarks are my own and not those of my firm or any particular client of the firm.

The CFPB is a comparatively young agency by Federal agency standards, but its approach to consumer protection, particularly its use of enforcement actions to define the activities that the CFPB violates—believes violates the law, has raised significant concerns about regulatory overreach, and has created uncertainty in the financial services market.

My testimony today will be focused on two areas that are in need of reform: The CFPB's exercise of its enforcement authority over alleged violations of the Dodd-Frank Act, prohibition against unfair, deceptive, or abusive acts or practices or UDAAP, and the CFPB's use of its investigatory authority, in particular, its use of CIDs or Civil Investigative Demands.

The Dodd-Frank Act grants the CFPB the authority to take action against companies to prevent unfair, deceptive, or abusive acts or practices in connection with a consumer financial product or service. The concepts of deception and unfairness have a long history in case law, largely from the work of the Federal Trade Commission, but the concept of abusive does not. The contours of the Bureau's abusiveness authority, particularly how it differs from unfairness and deception—remain unclear to this day.

The Bureau has primarily used its enforcement authority to declare what it believes is abusive, but the cases themselves have not shown how that is different from unfairness or deception, and they have been inconsistent in applying the abusiveness prongs to similar facts and circumstances. The result is that the enforcement looks arbitrary or results-oriented, and, as some have said, it is regulation by enforcement.

This approach has real due process and fairness concerns. The CFPB can simply declare an existing practice abusive and penalize financially companies without giving them a chance to adjust their policies. To provide regulatory certainty, the CFPB should be required to clearly define the standard for finding an act or practice

abusive through a notice-and-comment rulemaking, and the CFPB should only seek monetary relief, where it has defined a specific practice as abusive through formal rulemaking or it has obtained a prior order against a company. This would provide more regulatory certainty while allowing the CFPB the ability to address new and emerging issues.

The CFPB investigative process similarly needs reform. Civil Investigative Demands or CIDs are one of the primary tools used by the CFPB to compel companies to produce documents, answer questions, and even provide oral testimony to the CFPB before any formal enforcement proceedings commence. CIDs impose enormous costs on companies and result in business disruptions that last months, often years. The demands involve a substantial electronic discovery cost, not to mention attorneys' fees, and there is a real human cost for the employees of the companies who are subjected to these demands.

The law allows the CFPB to issue a CID when it has reason to believe that there is a violation. Where there is no reason to believe there is a violation, no CID should be issued, but that is not our experience. The CFPB has not limited its use of the CIDs to that. Rather, they use it to gather information about a particular segment of the market or to conduct top-to-bottom reviews of businesses that have been disfavored by the CFPB, even where they do not have examination authority over those entities.

The law gives companies the right to file a petition to modify or limit a CID, but if you do that, then your investigation is made public. This has the effect of making a confidential investigation open to public view, and it dissuades companies from exercising their rights to object to what are otherwise overbroad, or unduly burdensome consumer investigation demands.

The bill before us, H.R. 10036, would reform the CID process by creating a process to address concerns early in the investigation to adjust the scope of it to an appropriate size, and it would require the CFPB to treat petitions to modify as confidential. This would make the process more fair.

Thank you for the opportunity to testify before you today. I am happy to answer any questions.

[The prepared statement of Ms. Kuehn follows:]

**Statement of Rebecca E. Kuehn
Partner, Hudson Cook, LLP**

**Subcommittee on Financial Institutions
Committee on Financial Services
United States House of Representatives**

**Hearing on “A New Era for the CFPB:
Balancing Power and Reprioritizing Consumer Protections”**

March 26, 2025

Chairman Barr, Ranking Member Foster, and members of the Subcommittee, thank you for the opportunity to appear before you. My name is Rebecca E. Kuehn, and I am a partner at the law firm Hudson Cook, LLP, where I chair the Credit Reporting, Privacy, and Data Security Practice Group. Earlier in my career, I worked at the Federal Trade Commission (FTC), where I was Assistant Director of the Division of Privacy and Identity Protection in the Bureau of Consumer Protection, which oversees issues related to consumer privacy, credit reporting, identity theft, and information security. There, I led the Fair Credit Reporting Act program, and I oversaw the Commission’s enforcement, outreach, and rulemaking activities in that area. I also oversaw investigations and enforcement actions involving the application of Section 5 of the FTC Act, which sets forth the prohibition against unfair and deceptive acts and practices.

I have been privileged to work in the area of consumer financial services on all sides – on behalf of financial services clients, as in-house counsel for companies, and at the FTC. Today, I am appearing today in my own capacity, and not on behalf of my firm or any client of the firm.

The focus of this hearing is on the Consumer Financial Protection Bureau (CFPB), which was established in 2011 as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). The CFPB was established in response to the 2008 financial crisis to “regulate the offering and provision of consumer financial products or services under the

Federal consumer financial laws.” 12 U.S.C. § 5491(a). It is a comparatively young agency by federal government standards, but its approach to consumer protection, particularly its use of enforcement actions to establish activities that the CFPB believes violate the law, has raised significant concerns about regulatory overreach and created uncertainty in the financial services market.

Before the Subcommittee are a number of legislative proposals designed to increase the transparency and accountability of the CFPB and to provide needed regulatory certainty. My testimony today will be focused on two areas that are in need of reform: the CFPB’s exercise of its enforcement authority over alleged violations of the Dodd-Frank Act’s prohibition against unfair, deceptive or abusive acts or practices, and the CFPB’s use of its investigatory authority, in particular its use of the civil investigative demand (CID).

I. The Need for UDAAP Reform

The Dodd-Frank Act grants the CFPB the authority to take action “to prevent a covered person or service provider from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service.” 12 U.S.C. § 5531. Whereas deception and unfairness have a long history of case law and guidance to explain them, the concept of “abusive” does not. The Dodd-Frank Act defines “abusive” acts or practices as conduct that: “(1) materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or (2) takes unreasonable advantage of (A) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service; (B) the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or

service; or (C) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.” 12 U.S.C. § 5531(d). Essentially, the Dodd-Frank Act delineates not just one way that an act or practice can be abusive, but rather four, describing each in broad, undefined terms.

The contours of the Bureau’s abusiveness authority—its limits and how it differs from unfairness and deception—remain unclear to this day. The Bureau has primarily used its enforcement authority to declare what it believes is abusive. The enforcement cases to date have not shown how abusiveness is different from unfairness or deception, and they have been inconsistent in applying different abusiveness prongs to similar facts and circumstances. The result is that enforcement can appear arbitrary and results-oriented or—as some have put it—as “regulation by enforcement.”

Further, although the CFPB issued a policy statement in 2023 identifying certain acts and practices that the agency considers “abusive,” the policy statement affords the CFPB substantial discretion to deem actual practices “abusive.”¹ The statement provides some framework for analyzing whether particular practices could be categorized as abusive, but it is not specific enough to provide meaningful guidance to consumer financial services companies for their compliance programs. For example, the statement notes that taking “unreasonable advantage” of consumers is determined by the specific facts and circumstances, and that “even a relatively small advantage may be abusive if it is unreasonable.” This vague analysis—coupled with the 2023 Policy Statement’s observation that the CFPB believes that it is not necessary for the agency to find any consumer harm or analyze the relevant costs or benefits to consumers—introduces a further level of uncertainty in the financial service market about what acts or

¹ Statement of Policy Regarding Prohibition on Abusive Acts or Practices, 88 Fed. Reg. 21883 (April 12, 2023) (12 C.F.R. Ch. X).

practices the CFPB may consider to be “abusive.” Rather than provide regulatory certainty, the 2023 Policy Statement increases the confusion.²

It has been suggested that the definition of “abusive” cannot be defined in the abstract and will have to be determined based on the facts and circumstances in a matter.³ The problem with that approach is that it will take many years—likely, decades—to develop the contours of the Bureau’s abusiveness authority through court cases. Unlike a formal rulemaking process, allowing for notice and comment, which can elicit comments from industry addressing questions and concerns about a new rule—and providing the agency the opportunity to explain or address those concerns—rulemaking by enforcement has real due process and fairness implications. The CFPB could declare an existing practice “abusive” and penalize financial services companies retroactively, without giving companies a chance to adjust their policies. Given the substantial penalty authority afforded CFPB for UDAAP violations, a financial services company can face significant consequences if the CFPB decides, for the first time, that certain acts and practices are “abusive.” This type of “gotcha” approach to enforcement of UDAAP has been roundly criticized.

The FTC’s UDAP enforcement approach provides a path forward. The FTC generally cannot seek civil penalties for a standalone UDAP violation under section 5 of the FTC Act. Rather, the FTC may only obtain civil penalties where a company violates a rule issued by the

² Although the CFPB invited comments on the Policy Statement, the Bureau announced the immediate applicability of the statement the date it was published. Further, although there have been a number of substantive comments filed that raised significant issues with the Policy Statement, see <https://www.regulations.gov/document/CFPB-2023-0018-0001/comment>, the CFPB has not modified its Policy Statement or otherwise addressed the comments it received.

³ *How Will the CFPB Function Under Richard Cordray: Hearing Before the Subcomm. on TARP, Fin. Servs. & Bailouts of Pub. & Private Programs*, 112th Cong. 112-107, at 69 (2012).

FTC rule defining an act or practice as unfair or deceptive,⁴ or the company violates a previous FTC order.⁵

In order to provide regulatory certainty to the market, but still provide the CFPB with the flexibility and ability to address new or rising threats to consumers, two changes should be implemented. First, the CFPB should be required to set forth more clearly the standard for finding an act or practice “abusive,” preferably through a notice and comment rulemaking. Further, the CFPB should only be permitted to seek monetary relief where either it has defined a practice as an unfair, deceptive, or abusive act or practice through formal rulemaking or where a company has violated a prior order of the CFPB. H.R. 6789 would revise the Bureau’s practices to provide for rulemaking and appropriately restrict the CFPB’s ability to obtain monetary relief to those circumstances where the company has been fairly put on notice of the conduct. These revisions would provide more regulatory certainty while allowing the CFPB the ability to address new or emerging issues.

⁴ Under section 18 of the FTC Act, 15 U.S.C. § 57a, the FTC is authorized to prescribe “rules which **define with specificity** acts or practices which are unfair or deceptive acts or practices in or affecting commerce.” Anyone who violates the rule “with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such act is unfair or deceptive and is prohibited by such rule” is liable for civil penalties. 15 U.S.C. § 45(m)(1)(A).

⁵ This authority to seek civil penalties historically followed an order entered into by the company at issue. In recent years, the FTC has sought to leverage what it refers to as “Penalty Offense Authority” under section 5(m)(1)(B) of the FTC Act, to obtain civil penalties from parties engaging in conduct with actual knowledge that the conduct has previously been found to be unfair or deceptive via a prior administrative order by the Commission. It has done this by sending Notice of Penalty Offenses to thousands of companies in relevant industries. <https://www.ftc.gov/news-events/news/press-releases/2022/11/ftc-takes-action-stop-dk-automation-kevin-david-hulse-pitching-phony-amazon-crypto-moneymaking>. As -Commissioner Wilson observed, however, this practice may not be effective where the Notices do not identify clear-cut violations of the FTC Act. See Dissenting Statement of Commissioner Christine S. Wilson on *Notice of Penalty Offenses Concerning Substantiation of Product Claims* (March 31, 2023), available at https://www.ftc.gov/system/files/ftc_gov/pdf/commissioner_wilson_dissenting_statement_substantiation_npo_3.31.23_final.pdf.

II. The Need to Reform Civil Investigative Demand Practices

One of the primary investigative tools used by the CFPB is the Civil Investigative Demand (“CID”), which may be used to compel companies to produce documents, answer questions, and even provide oral testimony to the CFPB before any formal enforcement proceedings commence. Section 12 C.F.R. § 1080.6 permits the Director, the Assistant Director of the Office of Enforcement, and the Deputy Assistant Directors of the Office of Enforcement to issue CIDs to both targets of investigatory action as well as persons with potential knowledge or evidence of the same. In the experience of my firm and its clients, CIDs impose enormous costs on CID recipients and typically result in business disruptions that last many months, often years. The demands required to respond to CIDs divert company personnel and involve substantial e-discovery costs, well over \$1 million and very often exceed \$250,000, not including the cost of attorney’s fees. Just one recent investigation I worked on involved over the production of over 30 gigabytes of data, hundreds of pages of written CID responses, and multiple days of testimony involving numerous witnesses. These demands are served with minimal time permitted to respond, and the amount of time permitted for extensions has shortened greatly in recent years. That is a substantial burden, particularly for small and mid-sized companies.

The authority to impose such costs and burdens should be more closely held and limited to the CFPB’s senior leadership, specifically to the Director or Associate Director level. Subsection 5562(c) of Dodd-Frank explains that the Bureau may issue a CID when it “has reason to believe” that the CID target may be in possession, custody or control of material, tangible things or information “relevant to a violation....”⁶ Where there is no reason to believe a violation has occurred or is occurring, no CID should issue. The Notification of Purpose

⁶ 12 U.S.C. § 5562(c)(1).

requirement is even more explicit, providing that the CID “shall state the nature of the conduct constituting the alleged violation under investigation and the provision of law applicable to such violation.”⁷

But, in my experience, the Bureau has not limited the use of CIDs as described above.

The Bureau has imposed vast costs and enormous business disruption upon CID targets for other purposes, including:

- i. Gathering information about a particular market segment of the financial services industry;
- ii. Gathering information about a particular target’s policies and procedures;
- iii. Conducting top-to-bottom reviews of a CID target’s business because the target operates in a business that is disfavored by the Bureau (e.g., small dollar lending) and, in effect, requiring the target to prove it has not violated a myriad of consumer financial laws; and
- iv. Using broadly worded CIDs to follow-up on examinations that were already overly-broad and unduly burdensome.

The Bureau’s own Policies and Procedures Manual takes the position that:

The Bureau is authorized to investigate merely on suspicion that any person has violated any provision of federal consumer financial law, or to seek assurance that a violation has not occurred.⁸

In other words, the Bureau believes, as a matter of policy and procedure, that the Office of Enforcement may impose the enormous burden of a CID on a business to make the CID target prove a negative, that a violation has not occurred, or to alleviate a “mere suspicion” of a violation held by the Bureau.

⁷ 12 U.S.C. § 5562(c)(2).

⁸ CFPB Enforcement Policies and Procedures Manual, Version 3.2, February 2021, available at <https://www.consumerfinance.gov/foia-requests/foia-electronic-reading-room/enforcement-policies-and-procedures-manual-version-3-2/>, at 37.

The Bureau has often used the “prove a negative” approach to support very broad investigations concerning compliance with a multitude of consumer financial laws in the belief that if the Bureau can turn the company “inside-out,” some violation will be found. Said more clearly, the Bureau’s procedures encourage the issuance of CIDs that permit Bureau investigators to probe into aspects of the business that have nothing to do with the “mere suspicion” that may have originally led to the CID. There is not even a passing concern noted to the recipient’s due process rights only to be investigated where something more than mere suspicion exists. If that unwarranted probing leads to some practice that can then be declared “unfair” or “abusive,” the investigators can relate that unfairness or abusiveness finding back to the CID’s “very broad” Notification of Purpose whose “direction and scope” was always intended to be uncertain. In my experience, it is historically extremely rare for the CFPB to close an investigation with no finding, and quite common for the investigation to evolve beyond the initial stated purpose. Again, the Bureau’s policy is inconsistent with Dodd-Frank’s Notification of Purpose requirement that the CID “state the nature of the conduct constituting the alleged violation” and identify “the provision of law” applicable to such violation.⁹

In practice, the Bureau’s Notifications of Purpose rarely provide the sort of specificity contemplated by the statute and regulation. The notifications often do not even identify all of the laws that are under investigation, instead using a generic reference to “any other federal consumer financial law.” When a particular law is identified, the notifications do not identify the specific statutory or regulatory section or subsection that is the purported subject of the investigation. Rather, the entirety of a particular consumer financial law may be identified, leaving the CID target to guess at which section or subsection the Bureau believes may have

⁹ *Id.*

been violated. The following is just one example of such a Notification of Purpose from an actual CID:

The purpose of this investigation is to determine whether lenders or other unnamed persons have engaged or are engaging in unlawful acts or practices in connection with the marketing, offering, servicing, or collection of ... loans, in violation of Sections 1031 and 1036 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5536, the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq., the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq., the Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., or any other federal consumer financial law. The purpose of this investigation is also to determine whether Bureau action to obtain legal or equitable relief would be in the public interest.

Taking just the reference to the Fair Credit Reporting Act (FCRA) in the above Notification of Purpose as an example, the FCRA includes: 30 sections, nearly 150 subsections and more than 34,000 words that govern: users of consumer reports; furnishers of information to consumer reporting agencies; and the consumer reporting agencies themselves. The Notification of Purpose does not identify the nature of the conduct constituting the alleged FCRA violation, nor does it identify which provision of the FCRA, or any of the other consumer financial laws, is applicable to the suspected violation giving rise to the investigation.

As counsel for numerous CID targets, the attorneys in my firm have routinely asked Bureau investigators for more information about: (i) why the CID was issued; or (ii) what specific violations are suspected that may have triggered the CID's issuance. Universally, the response has been that the Bureau's policy is not to share such information with CID targets. Effectively, the Bureau has turned the Notification of Purpose requirement on its head. The CID target is not informed of the "nature of the conduct constituting the alleged violation" or "the provisions of law" applicable to the alleged violations.

It is clear, however, that actually complying with the Notification of Purpose requirement would not limit the Bureau's ability to investigate other areas when warranted. If, during any

investigation, the Bureau should learn about other practices that support a “reason to believe” a different violation has occurred, the Bureau can simply issue a new and subsequent CID identifying the new conduct constituting the suspected violation along with the identification of the particular provision of law applicable to such violation.

The costs and burdens of CIDs also are exacerbated by unreasonably tight timelines.

CID production timeframes typically are as follows:

- Ten calendar days (after receipt of the CID) for the CID recipient and Bureau investigators to meet and confer to “discuss and attempt to resolve all issues regarding compliance with the [CID]”;¹⁰
- Twenty calendar days (after service of the CID) for the CID recipient to file a petition to modify or set aside the CID concerning those issues that can’t be resolved with Bureau investigators;¹¹ and
- Thirty calendar days, typically, to respond to the entire CID.¹²

In considering the impact of these deadlines on the CID recipients, it is important to recognize that for many companies, the compliance and/or legal departments who manage the internal aspects of the CID response process consist of just a few employees. Given the short CID timeframes, managing the company’s internal response process becomes a full-time job for these employees, meaning that they are not available to continue their actual job functions. Over the course of the weeks and months that follow the receipt of a CID, the personal stresses experienced by some of these employees in responding to the CID become literally unbearable. My firm’s clients’ employees have quit their jobs because of the stresses imposed by having to respond to the CID while also performing their ordinary job functions.

¹⁰ 12 C.F.R. § 1080.6(c).

¹¹ 12 C.F.R. § 1080.6(e).

¹² Virtually every CID we have reviewed imposes a thirty-day response deadline.

The initial thirty-day return date for the typical CID presents a significant concern. This is because it establishes the mandatory response date for the entire CID unless the deadline is otherwise modified. A modification is only approved if, during the meet and confer process, the CID recipient can convince Bureau investigators to recommend such a modification to the Deputy Enforcement Director. All of this must be done before the twenty calendar day deadline for the filing of a petition to modify or set aside the CID. What this means for the CID recipient is that, within ten days, it must:

- Review its business records to determine whether responsive information and documents even exist;
- Determine how long it will take to collect, review and produce the responsive information; and
- Confer with its counsel to discuss the CID recipient's ability to respond to the CID and to identify the resources and time needed to respond so its counsel can negotiate the possible modification of the CID with Bureau investigators.

Most troubling of all for the CID recipient is that the following must all occur simultaneously during the initial thirty-day response period following receipt of the CID: (i) complete the meet and confer process; (ii) identify those issues where an agreement can't be reached with Bureau investigators and, within twenty days, file a petition to modify or set aside the CID as to those issues; and (iii) identify, collect, screen and process all of the information and documents needed to respond to the CID. Further, because the recipient cannot know what CID requests will be modified or how they will be modified until the modification letter is actually received, the recipient must proceed as though it will fully respond within the initial thirty-day deadline or prepare an unnecessary petition to modify the CID in the event that the modification letter provides insufficient relief.

When my firm has raised concerns with Bureau investigators regarding what seems to be a default thirty-day return date, the concerns have often been met with the response that thirty-days is the Bureau's standard response time which will not be modified except upon a showing of good cause. The result is that the CID recipient and its counsel spend the precious initial days following receipt of the CID developing their "good cause" information for each CID request item where additional time is needed. The time required to develop and make this showing can amount to days of company and attorney time during which the thirty-day response clock is running.

The twenty calendar day deadline for filing a petition to modify is established by statute.¹³ The point of the meet and confer process, which, by rule, must occur within ten calendar days of the CID's receipt, is to allow the CID recipient and Bureau investigators the opportunity to "discuss and attempt to resolve all issues regarding compliance with the [CID]."¹⁴ Except for the most limited of CIDs, "all issues" cannot be identified, much less "resolved," in the ten days for a meet and confer or the twenty days before a petition to modify or set aside the CID must be filed.

H.R. 10036 seeks to address these concerns by incorporating a process through which the CID recipient, through counsel, may seek and obtain clarifications regarding the scope or breadth of the demand, and the deadlines for filing a petition to set aside the CID as well as the return date of the CID would be suspended pending that process.

The Dodd-Frank Act permits a CID target to file a petition to modify or set aside a CID.¹⁵ The statute authorizing such filing says nothing about: (i) the Bureau making the petition public;

¹³ 12 U.S.C. § 5562(f)(1).

¹⁴ 12 C.F.R. § 1080.6(c) (emphasis added).

¹⁵ 12 U.S.C. § 5562(f).

or (ii) withholding the Bureau investigator's response to the petition from the CID target.¹⁶ Nonetheless, the Bureau's implementing regulations generally require the public disclosure of such petitions.¹⁷

By making the petitions public, the Bureau effectively makes the otherwise confidential existence of the investigation itself public before there is any actual finding of a law violation. The effect is to deter CID targets from exercising their right to file a petition, even when the CID requests are unreasonable, to avoid the significant business disruption that could flow from such a public disclosure, including: (i) a drop in share prices for publicly traded companies; (ii) the loss of access to credit facilities needed to run the business; and (iii) negative publicity leading to a loss of market share. All of this, effectively, compels agreement to unreasonable CID requests because the CID target wants to avoid the harms that would flow from the public disclosure of the existence of the investigation.

H.R. 10036 would require the CFPB to treat petitions as confidential and clarify that the grounds to set aside a CID include whether the demand was unduly burdensome, disproportionately expensive, and outside the scope of the inquiry, or it was unreasonably cumulative, or that it could be obtained from some other source that is more convenient, less burdensome, or less expensive. These revisions would allow a recipient to raise legitimate concerns with the scope and burden of a CID, without fearing disclosure of what would otherwise be a confidential investigation.

* * *

¹⁶ *Id.*

¹⁷ 12 C.F.R. § 1080.6(g).

Thank you again for the opportunity to testify before you today. I am happy to answer any questions.

Chairman BARR. Thank you.

Mr. Frotman, you are now recognized for 5 minutes.

**STATEMENT OF SETH FROTMAN, FORMER GENERAL COUNSEL
AND SENIOR ADVISOR TO DIRECTOR CHOPRA, CONSUMER
FINANCIAL PROTECTION BUREAU**

Mr. FROTMAN. Chairman Barr, Ranking Member Foster, my name is Seth Frotman. Until about a month ago, I was general counsel at the Consumer Financial Protection Bureau, but today, I am speaking for myself about the profound disconnect between a hearing that purports to be about, “consumer protection,” and the devastation that this administration’s actions and legislative agenda will unleash for working people.

Over the last 4 years, the CFPB cracked down on junk fees, tackled the crushing impact of medical debt, protected military families from fraud and widowed spouses from scams, and took on Big Tech’s relentless stampede into consumer finance. We stood up to unscrupulous corporations and billionaires on behalf of working families, the people that this administration promised to fight for. The CFPB has gotten back more than \$20 billion for working people on a budget that is the fraction of that size.

All that came to a screeching halt when President Trump, Elon Musk, and Russell Vought, took over the CFPB. They have taken Wall Street’s cops off the beat, granting shameless pardon after shameless pardon to companies that ripped off their own customers. This administration’s attack on the CFPB drips with disdain for everyday Americans. The actions of this administration to take money from working people and give it to the rich speak louder than words, especially in the empty rhetoric about reprioritizing consumer protection that will be said at this hearing.

I will repeat what I told this committee almost 6 years ago about the vital role of the CFPB. It is important to recall what people’s lives looked like, and what this Nation looked like as the CFPB opened its doors in 2011. It had been 3 years since the peak of the financial crisis, but for millions across the country, the crisis was still raging. Families were losing their homes. Servicemembers were falling victim to financial predators who viewed them as dollar signs in uniforms.

Everyday Americans were targeted with bogus add-ons and hidden fees, leading to financial ruin by a thousand cuts. The combined forces of these ripples of deceit and devastation left millions of shattered families and shattered dreams. That is where the CFPB stepped in.

Six years later, we are on the verge of returning to that bleak and dangerous past, and while this is going on, we are now subjected to the same old tired industry talking points. The same push for deregulation that makes too-big-to-fail bankers, Big Tech, and billionaires rich while leaving working people and their communities bankrupt when the music stops.

A lot of people in this town—the K Street lobbyists, the revolving-door lawyers—try to make straightforward things complicated. The battle over the future of the CFPB is not. It comes down to a handful of simple questions. Are you on the side of military families or the predators who lurk outside the base? Are you on the side

of parents struggling with error-ridden medical bills or the debt collectors trying to make a quick buck on their backs? Are you on the side of people who get debanked or the financial institutions that fight like hell to keep doing it?

When you look past the rhetoric, the deceptively labeled bill tout-ing through-the-looking-glass reform, and what is going on in the executive branch alongside what is being pushed here in Congress, it really boils down to one-time tested proposition: Which side are you on?

If you are going to stand idly by while the Nation's consumer watchdog is decimated, if you push a legislative agenda of more junk fees, abusive medical debt collection practices, Big Tech domination, and predatory lending, then the answer is pretty clear.

I want to close with this: You, your family, your neighbors, and your community are at risk today because President Trump and Elon Musk have corruptly handed over the keys of our Nation's consumer watchdog to the largest banks and tech companies in the world. To be clear, the rogue efforts to shut down an agency that was created in the wake of the worst financial crisis in memory are blatantly illegal.

Right now, there is an \$18-trillion ticking time bomb of consumer debt, a real and imminent threat to your family's future. We have seen this movie before, and the sequel may be much worse than the original. It is time to end this debacle. The CFPB must get back to work. A hearing that purports to be about consumer protection that focuses on anything else is an insult to the many hardworking Americans who just want a fair shake in today's economy. Thank you.

[The prepared statement of Mr. Frotman follows:]

House Financial Services Committee
Financial Institutions Subcommittee
Testimony of Seth Frotman
Former CFPB General Counsel and Senior Advisor to the Director
March 26, 2025

Chairman Barr, Ranking Member Foster, members of the Committee. My name is Seth Frotman. Until about a month ago, I was General Counsel and Senior Advisor to the Director at the Consumer Financial Protection Bureau, but today I am speaking for myself about the profound disconnect between a hearing that purports to be about “consumer protection” and the devastation that this Administration’s actions and legislative agenda will unleash for working people.

Over the last four years, the CFPB cracked down on junk fees that make life more expensive for everyday Americans,¹ tackled the crushing impact of medical debt,² protected military families from fraud³ and widowed spouses from scams,⁴ and took on Big Tech’s relentless stampede into consumer finance.⁵ We stood up for hundreds of millions of Americans—the same ones this Administration promised to fight for—who aren’t rich enough to buy a house without a mortgage or to send their kids to school without loans, or who rely on increasingly ubiquitous financial products to make it through the end of the month.⁶

That’s who the CFPB protects. The CFPB stands up to dubious and deceptive products that unscrupulous corporations and billionaires deploy to rip off working families.⁷ In the decade since its creation, the CFPB has gotten back more than \$20 billion for working people, on a budget that is a fraction of that size.⁸ It has made markets from mortgages to international money transfers more “fair, transparent, and competitive.”⁹ It has made sure that honest businesses can compete on a level playing field with companies that try to thrive on tricks and traps.

All that work came to a screeching halt when President Trump, Elon Musk, and Russell Vought took over the CFPB. They have taken Wall Street’s cops off the beat, tearing the signs off the CFPB building and granting shameless pardon after shameless pardon to companies that ripped off their own customers.¹⁰ To give only one example, just a few weeks ago, literally in the middle of a Congressional hearing to confirm the CFPB Director, Russ Vought dismissed with prejudice multiple enforcement actions where consumers had been defrauded.

This Administration’s attack on the CFPB drips with disdain for the everyday Americans that it claims to work for.¹¹ The actions of this Administration to take money from working people and give it to the rich speak louder than words, especially any empty rhetoric about “balancing” or “reprioritizing” consumer protection that will be said at this hearing.

So I will repeat what I told this Committee almost exactly six years ago about the vital role of the CFPB.¹²

It is important to recall what people's lives looked like—what this nation looked like—as the CFPB opened its doors [in 2011].

It had been three years since the peak of the financial crisis, but for millions across the country, the crisis was still raging, leaving real, tangible human affliction in its wake. Families were losing their homes. Servicemembers were falling victim to financial predators who viewed them as dollar signs in uniforms. Everyday Americans were targeted with bogus add-ons and hidden fees, leading to financial ruin by a thousand cuts.

And this affliction was fueled by companies that had no shame when stealing the last dollar in someone's bank account in order to pad their own bottom line—in large part, because they knew they could get away with it. The combined force of these ripples of deceit and devastation left millions of shattered families and shattered dreams.

Across the country, American families needed someone—needed their government—in their corner. That is where the CFPB stepped in.

Six years later, because of President Trump, Elon Musk, and Russell Vought, we are on the verge of returning to that bleak and dangerous past.¹³ The people who stood between American families and the companies ripping them off were told they could pick up their personal items in fifteen-minute intervals at a loading dock. The complaint system that helped people get answers when their bank gave them the runaround has been broken. The offices tasked by Congress to look after students, older Americans, and military families were told to stand down. Nearly a dozen enforcement actions have been dropped.

And while this is going on, we are now subjected to the same old, tired industry talking points—the same push for deregulation that makes too-big-to-fail bankers, Big Tech, and billionaires rich, while leaving working people and their communities bankrupt when the music stops.

A lot of people in this town—the K Street lobbyists and revolving-door lawyers—try to make straightforward things complicated. The battle over the future of the CFPB is not, in fact, complicated. It comes down to a handful of simple questions:

- Are you on the side of military families, or the predators who lurk outside the base?¹⁴
- Are you on the side of parents struggling with error-ridden medical bills, or the debt collectors trying to make a buck on their backs?¹⁵
- Are you on the side of small business owners, or the modern-day loan sharks who peddle predatory products?¹⁶
- Are you on the side of seniors and servicemembers who’ve been scammed on payment apps, or the Big Banks and tech Billionaires who turn a blind eye to fraud?¹⁷
- Are you on the side of people who get “debanked,” or the financial institutions that fight like hell to keep doing it?¹⁸

When you look past the rhetoric—the deceptively labeled bills touting through-the-looking-glass “reform”—what is going on in the executive branch, alongside what is being talked about here in Congress, really boils down to one time-tested proposition:

Which side are you on?

If you are going to stand idly by when the nation’s consumer watchdog is decimated—if you push a legislative agenda of more junk fees, abusive medical debt collection practices, Big Tech domination, and predatory lending—then the answer is pretty clear.

I want to close with this: you, your family, your neighbors, and your community are at risk today because President Trump, Elon Musk, and Russ Vought have corruptly handed over the keys of our nation’s consumer watchdog to the largest banks and tech companies in the world.¹⁹ What is happening at the CFPB is an insult—to Congress, to the rule of law—to all of us.

To be clear: these actions are illegal. The indiscriminate and unjustified firing of staff is illegal.²⁰ If a man with a direct financial conflict of interest—who stands to reap billions out of the wreckage he is reaping—is involved in making these decisions, that is illegal.²¹ The rogue efforts to shut down an agency that was created in the wake of the worst financial crisis in memory are blatantly illegal.²²

Right now, the federal government is failing in its most basic responsibility—to protect the American people. There is a \$18 trillion ticking time bomb of consumer debt—a real and imminent threat to your family’s future. We have seen this movie before—when the mortgage

crisis ripped a hole in the world economy—and the sequel may well be much worse than the original.

It is time to end this debacle. The CFPB must get back to work. A hearing that purports to be about “consumer protection” that focuses on anything else is an insult to the many hardworking Americans who just want a fair shake in today’s economy.

Thank you.

¹ See, e.g., CFPB, *Junk fees*, <https://www.consumerfinance.gov/rules-policy/junk-fees/> (last visited Mar. 22, 2025).

² See, e.g., Press Release, CFPB, *CFPB Takes Aim at Double Billing and Inflated Charges in Medical Debt Collection* (Oct. 1, 2024), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-aim-at-double-billing-and-inflated-charges-in-medical-debt-collection/>; Press Release, CFPB, *CFPB Finalizes Rule to Remove Medical Bills from Credit Reports* (Jan. 7, 2025), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-to-remove-medical-bills-from-credit-reports/>.

³ See, e.g., E. Tammy Kim, *Killing the Military’s Consumer Watchdog*, *The New Yorker* (Mar. 18, 2025), <https://www.newyorker.com/news/deep-state-diaries/killing-the-militarys-consumer-watchdog>.

⁴ See, e.g., CFPB, *Debt collectors that take advantage of surviving spouses and their vulnerabilities* (Sept. 20, 2024), <https://www.consumerfinance.gov/about-us/blog/debt-collectors-that-take-advantage-of-surviving-spouses-and-their-vulnerabilities/>; Ann Carms, *Surviving Spouses May Not Be Responsible for Partners’ Medical Bills*, *N.Y. Times* (Sept. 27, 2024), <https://www.nytimes.com/2024/09/27/your-money/medical-bills-spouse-deceased.html>.

⁵ See, e.g., Press Release, CFPB, *CFPB Finalizes Rule on Federal Oversight of Popular Digital Payment Apps to Protect Personal Data, Reduce Fraud, and Stop Illegal “Debanking”* (Nov. 21, 2024), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-on-federal-oversight-of-popular-digital-payment-apps-to-protect-personal-data-reduce-fraud-and-stop-illegal-debanking/>; Evan Weinberger, *Meta Threatened With CFPB Lawsuit Over Financial Product Ads*, *Bloomberg* (Nov. 1, 2024), <https://news.bloomberglaw.com/banking-law/financial-ads-on-metas-platforms-draw-potential-cfpb-lawsuit>.

⁶ See CFPB, *The CFPB*, <https://www.consumerfinance.gov/about-us/the-bureau/> (last visited Mar. 22, 2025).

⁷ See, e.g., Jason Mikula, *Synapse Investor Marc Andreessen Says CFPB “Terrorizes” Fintech, Crypto To Protect Big Banks*, *Fintech Bus. Wkly.* (Dec. 1, 2024), <https://fintechbusinessweekly.substack.com/p/synapse-investor-marc-andreessen> (discussing Andreessen Horowitz’s “Long List of Questionable Practices By Portfolio Companies,” including by stating that the firm “is one of the most prolific venture investors in fintech and crypto, including companies that have or may be likely to run into regulatory issues, particularly related to consumer protection and anti-money laundering compliance”).

⁸ See, e.g., Press Release, U.S. Senate Comm. on Banking, Housing, and Urban Affairs (Feb. 25, 2025), <https://www.banking.senate.gov/newsroom/minority/warren-trump-musk-attack-on-cfpb-one-of-biggest-cons-on-the-american-people-in-recent-history>.

⁹ 12 U.S.C. § 5511(a).

¹⁰ See, e.g., Douglas Gillison, *Trump admin drops 5 consumer watchdog cases, including Capital One*, Reuters (Feb. 28, 2025), <https://www.reuters.com/legal/us-cfpb-drops-enforcement-action-against-capital-one-2025-02-27/>; @shahid_nacem, Twitter (Feb. 28, 2025, 12:37 PM), https://x.com/shahid_nacem/status/1895528884403425544 (quoting former CFPB Director Rohit Chopra as saying that Capital One was “given a corporate pardon”).

¹¹ See, e.g., Matt Sedensky, *Consumer watchdog agency called ‘vicious’ by Trump seen as a ‘hero’ to many it aided*, AP (Feb. 15, 2025), <https://apnews.com/article/trump-musk-consumer-protection-cfpb-3690f473e8671fbf57a6cdca035e0d01>.

¹² See Testimony of Seth Frotman Before H. Comm. Financial Services 116th Cong. (2019), available at <https://democrats-financialservices.house.gov/uploadedfiles/hhrg-116-ba00-wstate-frotmans-20190307.pdf>.

¹³ See, e.g., *Undermining the Consumer Financial Protection Bureau Would Harm Americans’ Financial Security*, Joint Econ. Comm. Democrats (Oct. 2023), https://www.jec.senate.gov/public/_cache/files/c9dc35e0-1cb4-4db0-b450-e5812aa5e9ab/cfpb-factsheet.pdf; Joe Fisher, *Trump CFPB cuts raise concern about financial crises, conflict of interest*, UPI (Mar. 19, 2025), https://www.upi.com/Top_News/US/2025/03/19/trump-consumer-protection-conflict-interest/3741742319848/.

¹⁴ See, e.g., *Trump is Surrendering Servicemembers to Financial Abuse*, Consumer Fed. of Am. (Feb. 25, 2025), <https://consumerfed.org/reports/trump-is-surrendering-servicemembers-to-financial-abuse/>; Sonner Kehrt, *Military, Vets Depend on Consumer Financial Protection Bureau. Its Future Is Uncertain*, The War Horse (Jan. 11, 2024), <https://thewarhorse.org/supreme-court-cfpb-case-could-risk-military-vet-protections/>.

¹⁵ See, e.g., Press Release, Am. Cancer Soc., *Consumer Financial Protection Bureau Proposed Rule is Important Step in Reducing Devastating Impact of Medical Debt* (Jun. 11, 2024), <https://www.fightcancer.org/releases/consumer-financial-protection-bureau-proposed-rule-important-step-reducing-devastating>.

¹⁶ See Report and Recommendation on Cross Motion for Summary Judgment, *Revenue Based Finance Coalition v. CFPB*, No. 23-24882 (S.D. Fla. Feb. 17, 2025), <https://www.consumerfinanceandfintechblog.com/wp-content/uploads/sites/58/2025/02/PDF-1.pdf>; Press Release, U.S. Senate Comm. on Banking, Housing, and Urban Affairs (May 22, 2024), <https://www.banking.senate.gov/newsroom/majority/brown-presses-door-dash-on-high-cost-loans-to-small-businesses>; Press Release, Fed. Trade Comm’n, *FTC Case Leads to Permanent Ban Against Merchant Cash Advance Owner for Deceiving Small Businesses, Seizing Personal and Business Assets* (Oct. 30, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-case-leads-permanent-ban-against-merchant-cash-advance-owner-deceiving-small-businesses-seizing>.

¹⁷ See, e.g., Press Release, CFPB, *CFPB Sues JPMorgan Chase, Bank of America, and Wells Fargo for Allowing Fraud to Fester on Zelle* (Dec. 20, 2024), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-jpmorgan-chase-bank-of-america-and-wells-fargo-for-allowing-fraud-to-fester-on-zelle/>; Matt Alderton, *How to Avoid Scams on Zelle, Venmo and Other P2P Apps*, AARP (Jan. 19, 2024), <https://www.aarp.org/money/scams-fraud/safely-send-money-on-zelle/>.

¹⁸ See, e.g., Evan Weinberger, *CFPB Says Ruling on Bias Hurts Its Power to Prevent 'Debanking'*, Bloomberg (Aug. 8, 2024), <https://news.bloomberglaw.com/banking-law/cfpb-says-ruling-on-bias-hurts-its-power-to-prevent-debanking>.

¹⁹ See, e.g., *Undermining the Consumer Financial Protection Bureau Would Harm Americans' Financial Security*, Joint Econ. Comm. Democrats (Oct. 2023), https://www.jec.senate.gov/public/?_cache/files/c9dc35e0-1cb4-4db0-b450-e5812aa5c9ab/cfpb-factsheet.pdf; Joe Fisher, *Trump CFPB cuts raise concern about financial crises, conflict of interest*, UPI (Mar. 19, 2025), https://www.upi.com/Top_News/US/2025/03/19/trump-consumer-protection-conflict-interest/3741742319848/.

²⁰ See, e.g., Stacy Cowley & Matthew Goldstein, *Trump Names 2 New Top Financial Regulators*, N.Y. Times (Feb. 11, 2025), <https://www.nytimes.com/2025/02/11/us/politics/trump-financial-regulators-jonathan-mckernan-gould.html> (“The firings at the bureau on Tuesday came despite an internal notice issued to agency leaders last month by Seth Frotman, then the bureau’s general counsel, citing legal grounds for retaining the probationary workers, many of whom are lawyers.”).

²¹ See U.S. Office of Government Ethics, *Criminal Conflict of Interest Laws Summary for Executive Branch Employees*, [https://www.oge.gov/web/oge/nsl/0/7646D1C6EAE9863852585B6005A1A20/\\$FILE/Criminal%20Conflicts%20of%20Interest%20508.pdf](https://www.oge.gov/web/oge/nsl/0/7646D1C6EAE9863852585B6005A1A20/$FILE/Criminal%20Conflicts%20of%20Interest%20508.pdf); see also, e.g., Ben Kaufman, Persis Yu, & Mike Pierce, *Twitter/X Payments: Public Corruption Poses Risks for Consumers and Competition*, Student Borrower Prot. Ctr. (Feb. 11, 2025), <https://protectborrowers.org/wp-content/uploads/2025/02/Twitter-Memo-Feb-2025.pdf>; Stacy Cowley, Jessica Silver-Greenberg, & Kate Conger, *With Attack on Consumer Bureau, Musk Removes Obstacle to His 'X Money' Vision*, N.Y. Times (Feb. 12, 2025), <https://www.nytimes.com/2025/02/12/business/elon-musk-cfpb-x-money.html>; Matt Egan, *Elon Musk is waging war on a key check on his business empire*, CNN (Feb. 11, 2025), <https://www.cnn.com/2025/02/11/business/elon-musk-cfpb/index.html>.

²² See Persis Yu & Erin Witte, *Statutory Requirements for Continuous Operation of the CFPB* (Feb. 13, 2025), <https://protectborrowers.org/wp-content/uploads/2025/02/CFPB-Statutory-Requirements-2.13.25.pdf>.

Chairman BARR. Thank you, Mr. Frotman.

Let us examine who the real predator is, the Orwellian predator, the Consumer Financial Protection Bureau.

Since President Trump took office, we have heard multiple complaints from my Democrat colleagues about executive power and DOGE and Elon Musk controlling funding. For example, Ranking Member Waters referred to Elon Musk as, quote, an unelected billionaire Co-President, end quote, multiple times in front of this committee and that, quote, they attempted to illegally kill the CFPB, end quote, and, quote, unelected billionaire Elon Musk seizes control of American people's money, end quote. My friend, Representative Casten, brought up how Elon Musk is violating Congress' power of the purse.

My question really should be geared toward my friends across the aisle. If you are so concerned about unelected officials in the executive branch controlling funding and the future of the Bureau, why are you not supporting reforms to the Bureau's structure to bring oversight back to Congress? If you are so worried about violations to the power of the purse, why are you not supporting my TABS Act and bringing appropriations powers back to Congress?

Ms. Kuehn, during your tenure at the Federal Trade Commission, did you find that a commission structure or being funded through the normal congressional appropriations process somehow prevented you from protecting consumers?

Ms. KUEHN. No, I did not. The Commission structure at the Federal Trade Commission (FTC) allowed business to continue even through changes of administration, as it is now, and it allowed the work to have the insight of both sides of the aisle. So, issues were fairly considered in front of the Commission.

Chairman BARR. Well, under Director Chopra, the Bureau engaged in fishing expeditions through its CID process, burdening institutions with requests for documentation, time, resources, and other demands without any foreseeable end in sight.

Ms. Kuehn, you, I think, in your written and oral testimony really laid out the abuses from the Bureau, and this is why I introduced the CID Reform Act.

Ms. Kuehn, you have represented clients who have been victimized by these fishing expeditions. Can you describe what these small business owners, these American citizens have to endure with these CIDs?

Ms. KUEHN. Yes, sir. I think it is really telling because I think the focus of Mr. Frotman's opening remarks were talking about large banks, but the clients I represent are not large banks. They are small businesses in your local community trying to serve a variety of needs of consumers, and when they receive a CID, it is exhausting. It is a lot of documents under short time frames.

The usual return date for a CID is 30 days, and there can be 30 or 40 requests in a particular CID. That is a lot of time and effort on the part of the company to try to gather that information, and there are very limited abilities of the company to bring objections in a meaningful way that does not expose the investigation.

Chairman BARR. I think your testimony brings to light who the real predator is here.

Mr. Schneider, how do these demands discourage financial providers from offering financial products and services to consumers?

Mr. SCHNEIDER. Well, if you do not know what the rules of the road are, it is very difficult to innovate. It is very difficult to know what you can bring to the market that is not going to be immediately attacked. You just end up spending a lot of money trying to figure out—hiring lawyers and trying to figure out what you need to do just to keep going with your current products, and your innovation is lost. That is never seen, quite frankly. What does not happen is never seen.

Chairman BARR. We want cops on the beat, but we want due process. CIDs from the Bureau lack due process. Can you speak to that?

Mr. SCHNEIDER. I would echo my colleague's statements. These are extraordinarily broad requests. They are often seeking information about conduct that could never be the subject of an enforcement action. There are extraordinarily tight deadlines. If you have any objection to the scope of the CID, you have to go back and hope to get relief from the entity that has delivered it to you.

I might add, when you do that—if you dare to petition to modify or set the CID aside—that becomes part of the public record. You are tainted with as being an entity under investigation, merely by the action of seeking to make it more reasonable for you to respond.

Chairman BARR. Yes. I think it is also reasonable just to require the CFPB to tell the target why they are actually doing this investigation.

Mr. Pommerehn, last question to you. In fulfilling the America First Agenda, the President has begun removing government waste and overreach and ending the disastrous Diversity, Equity and Inclusion (DEI) cancer that has spread throughout our financial system.

In the finalized Section 1071 small business data collection rulemaking, this rule requires small business lenders to collect 81 data fields from small businesses, including whether the applicant is minority-owned or Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ), the sex, ethnicity, race of the principal owners, et cetera, increasing compliance costs and reducing loan availability.

Can you discuss some of the costs of this rulemaking and elaborate why it must be rescinded to protect small business access to credit?

Mr. POMMEREHN. The 1071 rulemaking has lots of different avenues right now. Of course, it is subject to litigation. The original statutory language only required 13 data fields. I believe the end result was 81 data fields, which is why the Bureau was sued in the first place.

Our concern with the 1071 data fields beyond the 13 is that it will complicate the process. Banks have spent a lot of time going in and out of compliance and preparing for compliance with this rule.

Chairman BARR. My time has expired. I am sure there will be more questions about this later.

The chair now recognizes the ranking member of the subcommittee, Dr. Foster, for 5 minutes.

Mr. FOSTER. Thank you, Chair Barr.

As a threshold manner, do any of our witnesses believe that five men and a telephone will provide adequate consumer protection in our country?

Okay. I will let the record say that I saw no hands here.

What about protecting financial businesses who are good actors against new unregulated online competition? Do you believe that five men and a telephone will provide adequate protection for those good actors?

Again, no hands. I think that is really what is at the heart of this hearing.

Mr. Frotman, can you sort of give us the lay of the land in what is actually currently happening at the CFPB?

Mr. FROTMAN. Thank you, Congressman.

What is happening at the CFPB now is devastating for working people, it is a boondoggle for the billionaires calling the shots in this administration, and it is nothing more than sheer corruption.

Since the beginning of February, this administration has been hell-bent on destroying the Nation's consumer watchdog. The financial inspectors that were spread across the country making sure that businesses were following the law and making sure there was a level playing field for honest businesses were sent home. They are still not back on the job. There have not been exams of financial institutions to make sure they are following the consumer financial protection laws by the CFPB in over a month.

They have dropped nearly a dozen enforcement actions. Just to give you a few examples: They dropped the CFPB's enforcement action against Zelle and the Nation's largest banks for allowing hundreds of millions of dollars of fraud to fester on their payment system.

They dropped the Bureau's case against Cap One where they tricked and deceived people with savings accounts from getting the interest rate that they were entitled to, money that could have been used to help them pay for groceries.

They dropped a case against SoLo Funds, an outfit that was ripping off working people with junk fees and tip schemes and dark patterns that numerous other State attorneys general and regulators from coast to coast had already taken into account. The current CFPB director tried to take credit for this and was shamed so much in a community note on X that we have not heard from him since.

This is what is happening across the board. They shut down the Bureau's office that this Congress created to protect servicemembers, to protect students, to protect older Americans. I do not see who this benefits. It does not benefit the honest businesses that we have heard so much today from our panelists. It does not protect American consumers who desperately need help. The only people this help are too-big-to-fail bankers and Silicon Valley billionaires.

Mr. FOSTER. So, right now, if a servicemember or an elder gets ripped off, who do they go to? Where do they actually get help from today?

Mr. FROTMAN. It is entirely unclear. We have had sworn testimony in Federal court talking about how this administration broke

the consumer complaint system. The system where if servicemembers call in or write a complaint—more than 400,000 military families have done this—that system is not up and running. It is not getting them the information they need.

The examiners on the ground making sure that banks and nonbanks are complying with key military consumer protections like the Military Lending Act, the Servicemembers Civil Relief Act—those inspectors are not on the ground making sure that these companies are following the law.

I spent years of my life at the Bureau trying to protect military families, and the idea that we would just shut off this incredibly important tool—that is not only important for individual families' financial future, but imperative for our military readiness—is just appalling.

Mr. FOSTER. Thank you. One of the key promises from the Trump—from President Trump on the campaign trail was to drive down prices and make America affordable again starting on day one. A key element of that was his promise to cap credit card interest rates at 10 percent, which I do not think we see legislation on this or any action on that front.

Could you say whether overall the shutting down the CFPB and the rest of the actions are actually going to lower costs for Americans?

Mr. FROTMAN. They will do nothing to lower costs. I had a chance to look through the agenda, and it is hard to believe that this is on track with a President who, on the campaign trail, talked a big game about taking on banks and driving down credit card interest rates; nothing in the agenda you see here. The fight to make sure that people pay more junk fees when it comes to their bank account, their credit card or on medical debt will do nothing to make working people's lives better.

Mr. FOSTER. Thank you. I yield back.

Chairman BARR. The gentleman yields.

The gentleman from Michigan, Mr. Huizenga, the sponsor of the Consumer Financial Protection Commission Act, is recognized for 5 minutes.

Mr. HUIZENGA. Thank you, Mr. Chairman. Mr. Chairman, I see Mr. Chopra has surrounded himself with like-minded activists, and I quite honestly never thought I would pine for the days of Richard Cordray to have some reasonableness injected into the CFPB.

But the CFPB's unique structure prevents Congress from conducting meaningful oversight. I know this, because last session, I was Chairman of the Oversight and Investigations Subcommittee, and I know too well the roadblocks and speed bumps and, frankly, brick walls we ran into with the CFPB. A single director who has no accountability, no boundaries, limitless funding, and will go and push the accepted and legal bounds of their organization is a recipe for disaster. I think that is why we have seen this one agency be challenged so much over its own existence and its actions.

Unlike other agencies such as the FDIC, the Federal Reserve System (Fed), the alphabet soup of all the regulators who paused their rulemaking after President Trump was elected, Director Chopra made the very conscious decision to continue to push forward on rules that he knew would be unlawful and overturned.

You saw it with the overdraft. You saw it with medical debt. He was the one regulator that decided to not put his pen down and allow someone else to make some of those decisions.

Mr. POMMEREHN, in your written testimony, you called the Bureau a, "political lightning rod" that can have, "radical pendulum shifts depending on who occupies the White House." My observation would be it seems most of the time when it is the Republicans—that they come in and say, hold on, we have gone too far, too fast, let us just stop in place, while the Democrats just continue to blow through these legal bounds.

Anyway, the idea of converting them into a commission structure is not a new concept. I have been here for now—this is my year 15, and I think for 15 years, this has been a discussion because there is a recognition of the dangers of this structure. What advantages do you see with changing that structure?

Mr. POMMEREHN. We are at a critical point in time, right? There is an inflection point here where we can make the Bureau more credible, more durable going forward. We believe that a five-person commission and a bipartisan commission would allow for the aforementioned dissent and debate that is required to actually form the policy and take some of the political ideology—

Mr. HUIZENGA. Which is the structure that virtually every other regulator—Securities Exchange Commission (SEC), others—they all have internal checks and balances, not CFPB.

Mr. POMMEREHN. CFPB does not.

Mr. HUIZENGA. Is it important to have industry experience when you are leading?

Mr. POMMEREHN. We believe so. I mean, it is good to have the background of industry and how products and services actually work. Oftentimes, they are misunderstood.

Mr. HUIZENGA. Okay. This is a structure that Mr. Barr and I have talked about.

Do you believe that the CFPB can and will actually still protect consumers with this new structure?

Mr. POMMEREHN. I believe so. The CFPB has a statutory-required duty that it has to carry out. I do not think having a commission structure is going to—

Mr. HUIZENGA. So, wait a minute. Just because we changed President does not mean we have automatically thrown out consumer protection. That is what we hear from the other side.

Mr. POMMEREHN. That is correct.

Mr. HUIZENGA. Okay. I just wanted to clarify that. That does not seem to be the narrative.

Okay. Basically, essentially, enforcement has become arbitrary. The current Bureau sends a signal to industry that the Bureau will let you know when you have violated the law or harmed consumers because they have given themselves that broad authority. Not that Congress has, not that anybody else has, but they have now suddenly—through enforcement letters and other things, they are bending the will of the law to what they view as what is proper. By the way, CFPB cannot actually give a clear and consistent, definitive definition to the term "abusive" regarding unfair, deceptive, or abusive acts or practices.

Is there anything that is considered abusive that is not considered unfair or deceptive?

Mr. POMMEREHN. That is unclear at this point.

Mr. HUIZENGA. It seems like a layman would actually be able to discern that, but we are talking about legalese, right?

Mr. POMMEREHN. Without the guidance from the former administration under Director Kraninger, we do not have a definitive definition of abusive.

Mr. HUIZENGA. Yes. All right and I have a few seconds.

Ms. Fonseca, I am sorry. I am running out of time.

Community and financial institutions are often caught in the cross hairs, and we know about the cost of compliance. If the CFPB has its way—and I would like to take your answer in writing, if I could—but if the CFPB has its way, what would the cost of eliminating and reducing overdraft products have on consumers that you serve? I look forward to having that answer in writing. Thank you.

Ms. FONSECA. Okay. Thank you.

Chairman BARR. The gentleman's time has expired.

The gentleman from Georgia, Mr. Scott, is now recognized.

Mr. SCOTT. Mr. Frotman, how are you?

Mr. FROTMAN. Great. Thank you, sir.

Mr. SCOTT. Please excuse my cold.

I think it would be very helpful if you explained this phrase that is being used in these exchanges. They say, "with prejudice." Explain to us what that means in terms of the relationship to the CFPB making any charges.

Mr. FROTMAN. Great. Thank you. If I could just have 1 minute, I would just like to respond to some of the questions before that referenced our agenda.

We are talking a lot about boards and funding. I think that people need to look around. They are firing FTC commissioners. One of the FTC commissioners who was fired is in the room down the hall. They are impounding funds. To be lectured about separation of powers at this moment of time is something else.

We are so through the looking-glass that I think people need to go back to the drawing board in terms of what we are talking about and update the talking points that are now a decade old because, if we want to talk about executive overreach, if we want to talk about separation of powers, we should be talking about how this committee and this Congress created an office to look after military families that was shut down. We should be talking about how this committee, and this Congress, created an office to look after people with student loans that were shut down.

These are the issues that are actually happening around us, but we keep going back to these same old tired talking points and bills, and it is just ever clear what they were always about. They were always about hamstringing the Bureau, making it easier for big banks to rip people off and making it easier for Silicon Valley to steal people's data when they make a transaction. We should just be honest. If you care about separation of powers, if you care about executive overreach, we could talk about that because that is what is happening right now at 1700 G Street.

Congressman Scott, I think to your question—if I understand it correctly—what we have seen now is the current leadership of the CFPB has dropped nearly a dozen cases where the Bureau brought forward credible evidence that companies were ripping off their own customers to the tune of billions and billions of dollars. In each of those instances, the current leadership chose to dismiss, with prejudice, those cases, meaning that the Bureau could never again try to get money back on behalf of those people, whether they were ripped off because a company lied to them when they were trying to buy manufactured housing, when they were just trying to take out a loan to make it through the week.

Student loan borrowers who were ripped off by an enormous student loan company who was collecting on discharged debt, that is this administration's priority now. Dropping those cases and making sure the Bureau can never again help those borrowers, your constituents.

Mr. SCOTT. Yes. I think that is very important for people to understand that the CFPB—once they use that “with prejudice,” it means that case goes bye-bye. How damaging is that?

Mr. FROTMAN. It is tremendously damaging. I mean, it is damaging for the Bureau, but it is damaging for the people on the ground.

I think one of the things that we heard on the campaign that we heard from the administration is they want to help people with costs. You know what would help people pay for groceries and pay for eggs? If they had a little more interest in their savings account at Capital One. But that company chose to deceive their own customers into not getting billions of dollars of interest. That would have helped real people, and that case was dismissed with prejudice.

Mr. SCOTT. Had it been dismissed without the CFPB first trying to provide help to them?

Mr. FROTMAN. No. I think this is one of the most frustrating things to see, which is each of these cases involved thousands of hours of people's time. These are cases before a Federal judge, and all of that work—all of the work to try to make working people's lives a little better basically lit on fire, for what?

Mr. SCOTT. I hope, Chairman, that we can find a way to really address the impact that this is having on the lower income and the people who need the help the most.

Chairman BARR. The gentleman's time has expired.

The gentleman from Texas, the Chairman of the Small Business Committee, Mr. Williams, is now recognized.

Mr. WILLIAMS of Texas. Thank you, Mr. Chairman. Thank you all for being here.

I must say, listening to all of this, that under a Trump Administration, my business, my family, my friends, and my bank are much better off today with a diluted CFPB. The CFPB's 1071 small business lending rule requires financial institutions to report 81 unnecessary data points on the loan. For smaller institutions, this rule creates a mountain of compliance, burdens, and will harm the relationship with consumers, which many are community banks and credit unions, and who they rely on. This also leads to a reduc-

tion in the amount of small business loans, and the cost of a loan will skyrocket and decrease excess to capital.

Now, my bill, the 1071 Repeal Protect Small Business Lending Act, will repeal this burdensome rule and give relief to the financial institutions who serve small businesses every single day.

Ms. Fonseca, how will complying with these burdensome 1071 data requirements impact your ability to provide affordable access to credit for your small business members, and could you expand on the benefits of repealing this burdensome regulation?

Ms. FONSECA. Yes. Complying with this burdensome requirement is going to limit our ability to lend to small businesses.

Mr. WILLIAMS of Texas. Regulations keep you from loaning, basically?

Ms. FONSECA. Absolutely.

Mr. WILLIAMS of Texas. Okay. When I talk to friends of mine that are bankers, accountants back home in Texas, one of the biggest concerns with CFPB is regulatory agenda and the compliance burdens that accompany that agenda under former President Biden and former Director Chopra. The CFPB was left unaccountable and regulated through blog posts, speeches, and other illegitimate means. This left the financial service industry in a constant state of worry, never knowing what regulations or enforcement was coming next and how it would affect them and their customers.

We must prevent this approach to regulation, the uncertainty it brings to smaller entities and other institutions and hold the CFPB accountable to Congress. That is a new word to them, by the way.

Mr. Schneider, can you explain to the compliance—can you explain the compliance difficulties that financial institutions face when dealing with the CFPB, those always expanding and often opaque regulatory regime?

Mr. SCHNEIDER. During the past—preceding 4 years, it was certainly an exciting time to pick up the trade press in the morning because there was going to be a new blog or a post or something that your clients would be calling you about because it seemed to speak with the force of law that there is some new requirement that you have to deal with.

There was absolutely no formal process that surrounded that. Not only are you questioning the legitimacy of the rule itself because of the manner in which it was announced, but you have no real way to understand what is required. You are searching in the dark, you are spending a lot of money seeking advice from counsel, but I guess that is great for lawyers, but I am not sure it is good for institutions that could be devoting those resources to lowering the cost of credit and providing more innovative products.

Mr. WILLIAMS of Texas. Mr. Pommerehn, in your testimony, you mention that CFPB had misrepresented data to justify their policy decisions. I agree with you when you say facts matter and regulators must represent facts accurately.

It is deeply troublesome the CFPB misrepresented data to support their highly politicized actions, and industry participants should be able to trust that regulators are not falsifying information to achieve a political victory. This kind of behavior could have detrimental effects on our financial system.

Mr. Pommerehn, could you elaborate on the most serious examples of the CFPB misrepresenting data and explain the harm caused by these practices?

Mr. POMMEREHN. Sure. Take the credit card late fee rule. This is a rule that would exponentially lower the late fee from \$32 down to \$8. The Bureau's justification for this was that there was a lack of competition in the marketplace and that the four largest issuers actually kind of dominated that market, when actually their data shows that those four issuers actually lost 4 percent of the market the previous year.

It is important for them to be intellectually honest with the data when they are presenting it to the public. Otherwise, we are being led down roads based on intellectual dishonesty that will possibly affect the access to credit, especially for some prime borrowers, if we are not actually looking at the data correctly.

Mr. WILLIAMS of Texas. Thank you. I just would close by saying the Trump Administration, I said earlier, is right on the right path with the CFPB. As a business owner myself for over 50 years, car business in Texas, an economy with a lesser CFPB is much better than one that is under steroids like we have seen in the past.

Thank all of you for being here. I yield my time back.

Chairman BARR. The gentleman yields.

The gentleman from California, Mr. Sherman, is recognized.

Mr. SHERMAN. Ms. Fonseca, I want to thank you and the other Southern California credit unions for helping us after the Palisades fire. I represent the Pacific Palisades.

Mr. Chair, I could not agree with you more that we need oversight. A hearing like this, we do not have any government witnesses. In fact, this committee and its subcommittees have not had a government witness except from the Fed, but none that are part of the administration. You cannot have meaningful oversight by Congress if you do not have government witnesses, and I look forward to us bringing Russell Vought and others before this committee.

Mr. Huizenga tells us that Chopra should not have taken action that might be overturned by the court. Boy, I wish we had a current administration that not only adhered to court rulings but even was reluctant to take action that they thought might face a credible attack in the court.

I have been here for a long time and today is a throwback to the committee that I have understood for so long. We are talking about the structure of the CFPB and the regulation process, and we have businesses telling us that there are high compliance costs, and the Republicans are making some good—some good points about the CID system. We are being told by—that regulations are too tough, and Democrats are—God, this feels like nine—90 days ago.

Today is different. Today is not a hearing about whether the CFPB has a good or bad regulation. Today is a day when Elon Musk says CFPB RIP, and we have thousands of people sitting at home subscribing to Netflix and being paid by the U.S. Government. The question that is really before us is, how do the generals react—how would the generals react when they are instructed by the President to arrest all the leaders of Democratic Party?

We are acting like this is normal times. It makes me feel better to spend these—this last hour in a normal committee hearing where Democrats and Republicans are saying the normal things they always say but that is not the real situation here. It is not a matter of do we get rid of this or that regulation.

The CFPB has returned \$21 billion to Americans since 2011 when it was founded, collected \$5 billion in penalties. We have to not defund the police if we are going to deal with crime in the suites. Not only do we have the enforcement actions with the dollar amounts I indicated, but think of all the crimes and all the abuses that are not occurring that never even get past the thinking stage because we have had a CFPB.

Of course, the CFPB has protected veterans and secured \$363 million in monetary relief for them. The structure of the CFPB was approved in a decision by Justice Clarence Thomas, not a member of my political party.

We also have a major conflict of interest in that we see that Elon Musk is moving to make the X platform a payment system.

Mr. Frotman, could that payment system be more profitable if there was no CFPB?

Mr. FROTMAN. Thank you for the question, Congressman.

I think that this is one of the central issues, I think, before the committee if we are going to talk about oversight, if we are going to talk about separation of powers, is there is no secret that Elon Musk wants to turn Twitter into a payment system.

I found this tweet on the platform from him speaking in 2003 that says, “Elon Musk says if done right, X would become half of the global financial system.” That should be petrifying to—

Mr. SHERMAN. Now, this payment system, we have bank regulators that regulate most of the folks represented here and credit union regulators. Musk would not have any of that regulation and he would not have any CFPB regulation.

Correct me if I am wrong. I mean, the—they sent up the most recent email saying, oh, we did not tell you not to do any work, we just told you to do no work except the statutorily required work.

Is anybody at the CFPB doing any consumer protection today?

Mr. FROTMAN. They are certainly not overseeing the nonbank payment system in this country, which is the direct ambitions of Elon Musk and most of Silicon Valley.

Mr. SHERMAN. Thank you.

Chairman BARR. The gentleman’s time has expired.

Before we move on to the next question, I ask unanimous consent to insert into the record a bill I have sponsored in the past, the Financial Protection for Our Military Families Act. The bill helps correct the record from the testimony of Mr. Frotman, former CFPB Director Kraninger alerted us that she did not have the statutory authority to supervise Military Lending Act violations and asked that Congress grant the Bureau this authority. My bill would have done that, but we were never, never able to get Democratic support to move it.

[The information referred to can be found in the appendix.]

Chairman BARR. The gentleman now from Tennessee, Mr. Rose, is recognized for 5 minutes.

Mr. ROSE. Thank you, Chairman Barr and Ranking Member Foster, for holding this hearing. Thank you to our witnesses for taking time to be with us. I will dive right in.

Mr. Kuehn, can you talk about why many financial institutions would prefer to settle with the CFPB versus having their name dragged through the mud by an activist CFPB in litigation? I am sorry, Ms. Kuehn.

Ms. KUEHN. Thank you for that question.

A lot of companies are pressured to settle because CFPB has enormous penalty authority. It has a lot of tools in its ability to issue expansive demands on companies. Rather than drag this out, they seek the certainty of a settlement rather than the uncertainty of lengthy litigation.

Mr. ROSE. Thank you. From your experience of watching this, do those settlements—would you say that the decision to settle has anything to do with the settling party's belief that they have done—that they have acted inappropriately?

Ms. KUEHN. If you look at the language of settlements, the companies do not admit that they have done anything wrong. A lot of times there is uncertainty, particularly where new or innovative—I will put a nice word on it—theories are brought by the CFPB. Rather than risk uncertainty in going to litigation and fighting over it, they will resolve it even if they do not agree with it. That includes whether or not they think the CFPB has authority to bring the enforcement action.

There have been several enforcement cases settled with companies who do not appear to be under the CFPB's jurisdiction, but they would rather settle than have to deal with that uncertainty which impacts their businesses.

Mr. ROSE. Thank you for that further insight. That is my experience and observation as well.

Mr. Pommerehn, can you discuss how government price controls like those that the CFPB instituted on credit card late fees and overdraft service limits—services limit—limit the ability of financial institutions to offer products and services to consumers?

Mr. POMMEREHN. Yes. Thank you for the question.

Placing artificially low fee caps on services will ultimately result in those services not being available or that credit not being available to consumers. Who is going to hit the hardest? That is probably going to hit the subprime borrowers the hardest because they are harder to underwrite and there is more risk involved.

When you place these—and overdrafts, a whole another thing, because of this issue around whether or not it is actually credit or not and whether or not the alternatives given in the overdraft rule are actually real alternatives. Most banks will have to get rid of those products, and the customers that utilize them and depend on them will no longer have access to short-term liquidity.

Mr. ROSE. From my experience—and you might just give me whether you agree with this or not. From my experience, the alternatives that consumers face are far less desirable than perhaps a modestly higher fee. Is that a fair assessment of what the alternatives are then?

Mr. POMMEREHN. I think that is a fair assessment, and we believe that consumers ultimately fare better in the depository system.

Mr. ROSE. I appreciate that.

Ms. Kuehn, what is the purpose of the Administrative Procedures Act, and how does adhering to its requirements benefit consumers?

Ms. KUEHN. The purpose of the Administrative Procedures Act is to allow a regulator a full opportunity to develop a record in support of whatever it wants to do. Basically, you take in evidence, you take in comments, you look at cost-benefit analysis in connection with a regulation that you are looking to promulgate.

The Administrative Procedures Act allows for sunshine on the process, full notice and comment, so that all participants and folks who can be affected by a particular regulation will have an opportunity to provide information to the agency to consider in development of its rule.

Mr. ROSE. Thank you.

Unfortunately, many banks have withdrawn from small-dollar consumer lending due to the significant uncertainty regarding regulatory treatment of these products.

Mr. SCHNEIDER, during your tenure at the CFPB, you oversaw small-dollar lending. Can you discuss the importance of the CFPB issuing clear, well-justified rules with robust cost-benefit analysis for the small-dollar lending industry? You have 20 seconds.

Mr. SCHNEIDER. Small dollar—many companies that provide small-dollar products are smaller companies. The compliance costs are going to hit them even harder, quite frankly, on a proportionate basis. If they do not know what they are supposed to do, if they do not know how they are to do it, they have no choice but to raise costs on everybody or withdraw from the market.

Mr. ROSE. Thank you. My time has expired. I appreciate those answers, and I yield back.

Chairman BARR. The gentleman yields back.

The gentleman from Illinois, Mr. Casten, is recognized.

Mr. CASTEN. Thank you.

Quick question first. Ms. Fonseca, Mr. Pommerehn, would you both agree that nonbanks that engage in bank-like activities should abide by the same consumer protection rules that are required of banks? Just yes or no.

Mr. POMMEREHN. Yes.

Ms. FONSECA. Yes.

Mr. CASTEN. Okay. I thought you would say that.

I raise that because I want to respond to something that Mr. Barr said in his opening testimony. He said that we have entered a new era where businesses are not attacked by tweets. Of course, they are not because the owner of Twitter put a couple hundred million dollars into President's election campaign and, in exchange, got himself a job in the White House where he is hoping to earn a return on that investment.

If the President were to attack Twitter or if the President's sycophantic enablers in the Republican Party were to attack him on Twitter, I mean, I do not know, that would require a level of patriotism, courage, and public-mindedness that they have never shown.

Of course, they are not—does not make it right. Of course, they are not attacking by tweet.

Let us talk instead about how Elon Musk plans to get a return on his \$200 million because if we give a damn about consumer protection, if we give a damn about competition and functioning markets, we should be petrified by what Musk is doing.

Mr. Frotman, you mentioned briefly with Mr. Sherman that Elon Musk is talking about this new payment system, X Money, that is expected to launch later this year. I believe you had referred to his quote when he said he hopes—I am going to misquote it. He said he hopes to have users conduct their entire financial world on X.

The former Certified Financial Planner (CFP) Chief Technologist said that he has been given “God-tier access” to the CFPB system. I guess my first question for you, Mr. Frotman, is have you ever seen a CEO of a bank, a nonbank, or anybody being given God-tier access to the CFP data system before?

Mr. FROTMAN. Absolutely not.

Mr. CASTEN. Can you describe exactly what that means and what data Musk is now getting that nobody else in the private sector has access to?

Mr. FROTMAN. Sure. This is tremendously concerning, I think, for consumers and competition is that here is a person who has billions of dollars on the line when it comes to the dream of turning Twitter not only into a payments company but into a super app, like we see happening in China and other places. You have the person who stands to benefit from this seemingly in charge and making decisions over what is basically their only Federal regulator.

I think there are significant questions, if we want to talk about oversight by this committee, if we want to talk about investigations by the Inspector General about what happened when DOGE employees were in the CFPB on February 7th, and then that same day Elon Musk is tweeting “CFPB RIP.”

Mr. CASTEN. Can you just clarify, though, because he is getting information that Zelle, Venmo, Cash App, they do not have that information about specific consumers, right?

Mr. FROTMAN. I think he is not only getting information about consumers; he is getting information about his competitors.

Part of the job of the CFPB, as tasked by Congress, is to make sure we understand markets and where there is risk. There is a ton of risk when it comes to nonbank payments.

Mr. CASTEN. I want to say something very partisan. I think the richest man in the world is rich enough, but apparently that is not a widely held opinion.

Justice Brandeis famously back in the 1930s said that when you have great concentrations of wealth in society, you only have three options. You can either allow wealth to take over the government, which is to embrace fascism; you can allow the government to take over the wealth, which is to embrace communism; or you can break up the wealth and embrace competition.

What is clear and the fact that it is so partisan to attack the fact that the richest man in the world is now taking over our system is that it is partisan to attack fascism. To say anything else in this committee at this hearing at this moment is naive.

Now, we are shortly going to move to marking up stablecoin legislation. It is my understanding that Mr. Musk is saying he would also like to use a stablecoin rule in order—some stablecoin legislation in order to facilitate what he is doing in the CFPB, which would—unless we put really strict guardrails, is going to make it even harder.

So I guess, with the last 40 seconds, Mr. Frotman, let us assume that he has all that data. Let us assume that he has a very permissive stablecoin environment. It sounds to me like we have a nonbank that is going to compete the hell out of all of the banks and all the systems that we have right now in a way that is deeply anti-competitive. Please tell me if I am wrong.

Mr. FROTMAN. You are a hundred percent correct.

Mr. CASTEN. Are we going to defend capitalism around here? We are going to defend competition or are we going to put in a ball gag, climb down to the dungeon and just do whatever Trump tells us to do?

I yield back.

Chairman BARR. The gentleman yields back.

The gentleman from South Carolina, Mr. Norman, the sponsor of the Congressional Review Act (CRA) disapproving the Bureau's prohibition on creditors and consumer reporting agencies concerning medical information, is recognized for 5 minutes.

Mr. NORMAN. Thank you, Mr. Chairman. I think it is—and thank all of you for taking the time to come.

I am a businessman. I am a real estate developer.

Mr. Frotman, your comments are outrageous, to be honest with you. You are talking to Democrat points. I am glad you are bringing up Elon Musk. The American people owe a debt of gratitude to a man that is showing where tax money is going. They do not agree with it. Seventy-seven million people do not agree with the former President, and in your—you resigned twice under Trump. You resigned most recently in February 2025. I kind of wish you had stayed because you would be the first one to get fired. Let me just say this. The fact that—

Mr. FROTMAN. Congressman, could I reply?

Mr. NORMAN. The fact that you—on the student loan, you formed the Student Borrower Protection Center. You took part in the Biden Administration's forgiveness of loans. The people that you talk about, the veterans and the poor families, their tax dollars meant to pay student loans, they are forced to pay—

Mr. FROTMAN. Congressman, I think what—

Mr. NORMAN. I am reclaiming my time. I am reclaiming my time.

Mr. FROTMAN [continuing]. is appalling is this is a man in America telling dedicated public servants who want to protect servicemembers and students—

Mr. NORMAN. Do you not have any decency? Do you not have any—this is not your platform. I have 3 minutes left. I am going to ask some sane people over here. The fact that you took money, took part in paying off loans that the taxpayers had no say-so in is unbelievable.

Ms. Kuehn, one of Dr. Chopra's midnight rulemaking moves before he left, was to remove medical debt information from the consumer report and prohibits lenders from examining the credit his-

tory of a borrower. We have a bill that we are trying to get out of committee, but do you think the CFPB even has the authority under the Fair Credit Reporting Act to require the removal of a debt that they owe? The payment of it I think is an important part of a credit report. Why is it being removed, and does the CFPB have that right to do it?

Ms. KUEHN. I do not believe they have that right. The Fair Credit Reporting Act actually addresses medical debt—and it protects consumers' privacy with respect to their medical information. It allows financial institutions to use the financial aspect—does a consumer have significant medical debt, and consider that in connection with making a loan or a larger mortgage transaction, for example.

The rule ignores the restrictions and requirements of the Fair Credit Reporting Act. It ignores data that had been supplied. It relies on 10-year-old studies that really have no bearing on what today's market looks like.

From the time those studies were conducted by the CFPB to the issuance of the rule, the market had changed. It had already made significant changes, and so it is based on faulty premises. It has a terribly weak record associated with it, and even the Small Business Administration filed comments raising concerns about the process that led to the rule.

I agree that I do not believe they have the authority, and even under the administration—Administrative Procedures Act, they do not have the record that supports the steps that they took.

Mr. NORMAN. That is the audacity of Mr. Chopra and his disdain for the American people.

If you go—exclude medical debt, what about paying your credit card off? What about paying your loan on your house off? Why not exclude that? Why not just exclude everything so you really—and student loan repayments, what is left, that was so much advocated by Mr. Frotman to give away from—or to force the American people to pay for, what about excluding that?

Ms. KUEHN. That is one of the concerns about the approach that the CFPB took in the medical debt rule. What is the next thing that is not popular is that they want to take out of the financial system to hide or mask information?

The legal theory that they use to support the actions they took and the rules which support them basically anything they are not happy with, small dollar or student loans or things like that, it is my view that is the role of Congress to make those decisions.

The Fair Credit Reporting Act has a whole section where Congress has decided what is fair to include and what is not, and they ignore that entirely in the rule.

Mr. NORMAN. Okay. Thank you so much.

Chairman BARR. The gentleman's time has expired.

The gentleman from Pennsylvania, Mr. Meuser, the author of the CFPB IG Reform Act, is now recognized.

Mr. MEUSER. Thank you, Mr. Chairman. Thank you to our witnesses.

Mr. Chairman, we are maybe pleased Mr. Frotman is here. His testimony outlines precisely why the CFPB needs to be completely overhauled. Mr. Chairman, I mean, the level of arrogance that we

saw when the CFPB was in existence, the seemingly superiority complex, the dogmatic ideology, the narrow-mindedness, the unwillingness to listen to even the testimony that is here, the unchecked power, Mr. Chairman, is dangerous to our government. Clearly, absolute power corrupts absolutely.

Listening to what has been cited by the other witnesses, they fail to follow the law, that is a pretty serious comment from an objective stakeholder. Dying a death of a thousand cuts, meaningless to the previous CFPB and to one of the witnesses up here. Weaponizing the Bureau to use \$700 million to carry out its unauthorized mission, while being asked simply for credible and durable Consumer Protection Bureau is what is being asked, Mr. Chairman.

I have never heard anything from stakeholders that was positive about the CFPB under Mr. Chopra and apparently under this Mr. Frotman, except from Democrats who on this committee are protecting bureaucratic power while they could control it.

To get to questions. Ms. Fonseca, the—many institutions cap their growth quite deliberately to avoid crossing the \$10 billion triggering the CFPB activities. However—and I know this from—speaking of those in the field and throughout the industry—10 billion—under 10 billion still feel the pressure to build out compliance teams just in case.

Can you give us an example of what sort of fear existed and forced you to slow down or scale back services to your members?

Ms. FONSECA. Yes. We have not scaled back services. However, we have spent the last four, now going on the fifth year of preparing for CFPB oversight.

As I mentioned in my testimony, that is going to cost us about \$4 million a year. We have spent at least half a million dollars so far, and that is in addition to the \$10 million-plus that we are going to incur in lost interchange revenue from debit cards.

Mr. MEUSER. Thank you.

Ms. Kuehn, over the last 4 years, CFPB stretched its authority, ignored the law, as been pointed out. Can you provide some examples where the CFPB was intrusive, not helpful, even damaging?

Ms. KUEHN. The CFPB has taken upon itself in the last several years to look at companies that are on the edge and often outside of their authority. Using their CID authority, they have the ability to look at a company to see if they are covered. They have not thought about that first.

So they have issued expansive demands on companies in areas that have nothing to do with consumer financial services, and they require those companies to expend a lot of money just to prove a negative to say, hey, no, we are not covered by you, we have not violated the law, there is nothing here.

Mr. MEUSER. What did that look like in terms of business loss, operations disrupted, reputations damaged?

Ms. KUEHN. For many of these companies, they have a relatively small compliance group. These are small-to mid-sized businesses that requires everyone to put work on hold to comply with these demands. It required a lot of expenses from electronic discovery demands.

There is a several-page list of specifications that the CFPB will send and say, we want your data, but you have to synthesize it and make it fit in exactly the way we want to look at it. That is very expensive for small-to mid-sized businesses.

Mr. MEUSER. Many irrational disclosure requirements, sure.

Do you all agree that CFPB should become more focused or maybe even solely focused on addressing consumer fraud?

I will start with you, Mr. Schneider.

Mr. SCHNEIDER. It is certainly an important part of their mission and would be resources well spent.

Mr. MEUSER. To the other witnesses?

Mr. POMMERHEHN. I would agree that they are an important part of the equation. There are many parts of the government that should be claimed in that space as well.

Ms. FONSECA. I agree as well. Fraud has grown significantly, and many consumers are being impacted by fraud.

Mr. MEUSER. Okay, great. What do you all think as well about the CFPB being structured with a bipartisan commission, like the FTC, with a three-member bipartisan board?

Mr. SCHNEIDER. It would certainly facilitate discussion. Staff would have to appeal to a broader set of interests as they make presentations.

Mr. POMMERHEHN. I would agree. I would say a five-person bipartisan board would work best here. For the reasons mentioned, we certainly have to have debate and dissent. It is important in the policy.

Mr. MEUSER. Thank you. My time has expired. I yield back.

Chairman BARR. The gentleman yields back.

The gentleman from Wisconsin, Mr. Fitzgerald, is now recognized, and he is the author of the Making the CFPB Accountable to Small Business Act.

Mr. FITZGERALD. Thank you, Chairman Barr. Thank you for holding this hearing. Thank the witnesses for being here today.

Seems to be a little bit of revisionist history going on here this morning, kind of in line with everything else I have seen in my other committee, Judiciary.

For years, I mean, the CFPB has operated kind of with significant regulatory power, and Director Chopra sat before us many times with that grin on his face because I think that certainly he enjoyed the havoc that he was creating and raising throughout the private sector. He thought that was part of his mission, I am convinced of it.

While consumer protection is critical, the regulations are overly burdensome and are poorly analyzed. They can reduce access to financial products and that has been the issue since the CFPB came into play on these issues.

The bill that the chairman is referring to, I think the CFPB being accountable to Small Business Act, it kind of addresses some of the concerns that we have been discussing here this morning. I think strengthening the agency's obligation to do the cost-benefit analysis—I mean, that is fine if you are going to come up with ideas, how you are going to have a direct effect on financial institutions, but if you do not have any cost-benefit analysis, it flies in

the face of financial services, right. I mean, that is—we kind of live and die by the idea that the numbers tell the truth.

Mr. Pommerehn, can you discuss how kind of failing to tailor the regulations for a small business institution has a direct effect on their ability to serve small business and consumers? This has been the problem for us, is that you cannot come in here and listen to Director Chopra tear apart the banks and the credit unions of this Nation and then on Tuesday bring in the same committee and have a discussion about, well, it just does not seem like the banks or the credit unions are really helping the average consumer at this point.

So, there was this discussion that continued over the last 2 years that really made no sense, but there were never any numbers to back it up. I was wondering if you could comment on that.

Mr. POMMEREHN. We are certainly in favor of a more robust cost-benefit analysis when the Bureau is considering policy considerations that are going to affect either the consumer or small businesses. Oftentimes, the Bureau will ignore its own data that shows that there will be detrimental effects to actual small businesses or consumers but proceeds with those rulemakings because of ideological guidance.

We believe that the cost-benefit analysis needs to be paid attention to. We need to understand how it is going to affect the economy, how it is going to affect consumers, and not just throw out pejorative terms to prove a point.

Mr. FITZGERALD. Thank you.

Under former Director Chopra, the CFPB saw a significant shift in its approach to consumer protection, right. I mean, it was characterized by overextension of its power. I think the Director was proud of the idea that he could continue to kind of stir the pot on many of these different fronts.

Ms. Kuehn, how would greater statutory clarity and limits on the Bureau's authority to improve regulatory certainty just bring more of a competitive and consumer-friendly marketplace?

Ms. KUEHN. When companies know what the rules are, then they are better able to compete. If it is more of a gotcha game—right—where you have already innovated and created new products and then to find out that someone in Washington has decided they do not like that. That is unfair to companies, and it really does stifle innovation and the creation of new products and services to serve consumers.

Mr. FITZGERALD. I do not want to put you on the spot, but is there something—is there an example of that really comes to mind where everyone, whether you were in a banking or credit union environment, knew that it was absolutely an overextension of the CFPB's authority?

Ms. KUEHN. I think the most recent example is a rule that is still out for comment, which is the revisions to the Fair Credit Reporting Act rule. There are a lot of proposed new interpretations that are well outside the statute.

Companies have built their businesses with an understanding of the law and if what the CFPB has proposed were to go forward as a rule, it would require a complete overhaul of the consumer data industry of financial services uses of consumer reports. That is a significant change and will result in a significant cost. It also will

drive many companies out of business, because in the proposed rule, the CFPB says we want to now declare these companies who have not been viewed as a consumer reporting agency to be ones, and then they will have to comply.

Mr. FITZGERALD. Thank you, Chairman. I yield back.

Mrs. KIM [presiding]. Time is up. Thank you.

I now recognize myself for 5 minutes of questioning. I know we have—subcommittee Chairman Andy Barr just left, but I want to thank him for holding this hearing and I want to thank all the witnesses for joining us today. This is an important hearing as we discuss the future of the Consumer Financial Protection Bureau.

The CFPB was created to, as the namesake says, to look out for the American consumers, and at times it has lived up to that mantle. However, in most cases it has become a political tool with little to no oversight. That is why the Senate must confirm Director McKernan so that the important process of refocusing the agency back on consumer protection can finally begin.

Ms. Fonseca, I want to ask you a question. Thank you for making the trip all the way from Southern California, where I am from, to testify before us today about how the CFPB has hurt your ability to better serve your—or in our communities.

As an institution that is approaching the \$10 billion threshold for greater CFPB scrutiny, have you examined the impact and costs that will be crossing this arbitrary threshold?

Ms. FONSECA. Yes. Thank you very much for that question, Congresswoman, and nice to see you again.

Mrs. KIM. Nice to see you.

Ms. FONSECA. Yes. As I mentioned in my testimony, we have spent the last 4 years, going on our fifth year, preparing for regulatory oversight by the CFPB and that we have already spent over half a million dollars, and we will be spending about \$4 million a year forward. That includes the addition of at least 30 staff members to oversee compliance related to CFPB regulation.

Mrs. KIM. Would you say your focus on how you serve your members be any different as a \$10.1 billion institution or if you are a \$9.9 billion institution?

Ms. FONSECA. Yes. It does not even make sense that it would have to change at all but having to focus on CFPB oversight takes that focus away from our ability to serve our members, and that is why we are here. Credit unions are here to serve our members.

Mrs. KIM. Thank you.

Ms. Kuehn, as you know, CFPB is required to maintain a consumer complaint system and publish an annual report to Congress. That report should summarize complaints received in the previous year, and this system is used by the CFPB to sometimes even support agency actions or include the major rulemaking.

I have heard that the system has been overrun by large volumes of fraudulent disputes by bad actors that have distracted from their legitimate wrongful conduct complaints. This is not only unfair, but it skews the complaints and also undermines the integrity of the complaint data. Do you share my concerns regarding this integrity of the data?

Ms. KUEHN. I do. The CFPB's consumer portal was stood up to collect complaints for consumers. What it has become for a lot of

companies is an avenue for credit repair and that is affecting not only consumer reporting agencies, but also financial institutions who want to hear from their consumers if they have an issue. Instead, these third-party companies are flooding the system with disputes about credit reporting that have nothing to do with the complaints about a financial product or service.

Mrs. KIM. As Director McKernan comes in, do you have any advice for him to improve the customer compliance system? How would he do a better job?

Ms. KUEHN. Yes. I think that he could direct his office that runs the complaint system to meet with industry, to look at these complaints, and to talk through ways in which we can identify when it is being abused by third parties and not for the benefit of a consumer.

Mrs. KIM. Thank you.

Ms. Fonseca, let me come back to you again. You are part of an institution that is regulated by a bipartisan board, the National Credit Union Administration. We all know that regulated entities do not always agree with everything that comes from the regulator. Would you say that the—overall, the regulatory environment is more stable and transparent when you are regulated by the National Credit Union Administration (NCUA) board?

Ms. FONSECA. Absolutely. There is transparency, we are able to add insights into their board meeting discussions, and there are not—there is not a lot of volatility, but you are right, we do not always agree with them, but it works, and it works very well.

Mrs. KIM. Given its long track records, I think you would agree that NCUA has been able to be an effective financial regulator with a bipartisan board.

Ms. FONSECA. Absolutely.

Mrs. KIM. Thank you. I think the NCUA is a great example of how we could reform the CFPB to be more bipartisan and accountable. Thank you for being here.

Now, I yield back my time.

I want to recognize the gentleman from California, Representative Vargas, for 5 minutes of questioning.

Mr. VARGAS. Thank you very much, Madam Chair. I appreciate it. Apologize, I had to slip out for a second. That is what happens when they double-book you around here, but I am back, and I heard most of the testimony earlier.

I represent the San Diego region. The San Diego region is blessed by having the Navy there and many, many military personnel. We are very blessed because many of them stay there. They retire there. Unfortunately, they become victims oftentimes of financial scams.

Mr. Frotman, in San Diego—in the San Diego region, we have 96 percent more CFPB consumer complaints filed by servicemembers. You know that, I am sure. Could you talk a little bit about what is happening right now and how we have helped them before and how we are not helping them right now? Because I am getting these complaints right now from people, and they are saying they are calling, there is nobody there.

Mr. FROTMAN. Thank you so much for the question, Congressman. I have actually visited the Marine Corps depot and training facility with Holly Petraeus.

So this is critically important. One of the central tasks that Congress directed the CFPB to do was look after military families, and the track record of the Bureau across administrations before the most recent change, I think, was stellar. We got back more than \$200 million for military families through enforcement actions. We helped with 400,000 complaints.

What you see now is just devastating to military families. They told the people who staff the office that the Congress required the Office of Servicemember Affairs to stop working. They broke the complaint system.

We heard a ton today about overreach. We have heard these amorphous vague comments about CFPB overreach. Is it overreach when the Bureau took enforcement actions against a bunch of scammers who ripped off military families, who ripped off veterans, who ripped off retirees?

We have heard a lot in the abstract about the Bureau and the prior leadership, but we have not heard specifics because I think this is one example of exactly what the Bureau was tasked to do, and they are not doing right now.

Mr. VARGAS. The other thing that I think is very important also is to talk about the elderly. Again, San Diego is a young town, but it is not that young. I mean, a number of us are retired—not me, I am not retired, for the record—but a number of people are, and there are a lot of scams, again, against the elderly.

Before, I got all these positive comments about how the CFPB was doing its job. Now, I am getting all these complaints because nobody is there. Could you comment about that?

Mr. FROTMAN. That is correct. The acting Director Vought told the Office of Older Americans to stop working. The people who submit complaints about themselves or an elderly parent or grandparent saw that system broken.

There have been a lot of charges leveled, but I think one of the things that I think we all agree on is that the CFPB needs to work. The CFPB needs to work on behalf of consumers and servicemembers and older Americans. It needs to work on behalf of honest businesses, and it is not now.

The inspectors that are supposed to take care of servicemembers and older Americans are sitting at home instead of doing their job.

Mr. VARGAS. Mr. Frotman, I want this on the record because I think that I have been around long enough now that you see cycles and the unfortunate cycles are this. We have talked about predators, and we have seen this. Oftentimes, my colleagues on the other side ultimately control government, and then you do see an overreach all right, but by the banks and others, and we get into a financial slide. Then we get into a recession, then we get into real trouble. Then consumers, we saw in 2008, get ripped off.

We heard today that the CFPB is the predator, that you guys are the predator, that you were the predator. Could you straighten the record out on that? I want this on the record because I think it is going to happen again, and I want to make sure that you tell the truth. Go ahead, sir.

Mr. FROTMAN. Thank you so much. We have heard a lot of attacks on CFPB leadership, but these are really attacks on dedicated public servants who wake up every single day just trying to make their neighborhoods safe.

So many of us who work at the CFPB lived through the financial crisis and watched community after community decimated, while a bunch of billionaire bankers got off scot-free. What we do every day at the Bureau or what we did every day at the Bureau was to try to make sure that does not happen again.

What is happening now at the Bureau where there is no oversight over massive nonbanks in this country is bad for businesses. It is bad for consumers. They are setting up the situation that there will be another financial crisis in this country, and you all or the people sitting in the chairs after you will be forced to deal with it once again.

Mr. VARGAS. I agree.

I do want to last, with 10 seconds, just thank the people, the dedicated servants of the CFPB, for all their hard work. Thank you.

I yield back.

Mrs. KIM. Thank you.

I now recognize the gentlewoman from Texas, Representative De La Cruz, for 5 minutes.

Ms. DE LA CRUZ. Thank you, Chairwoman and thank you, witnesses, for being here today.

My district lies in deep south Texas on the border of Mexico and Texas encompassing Hidalgo County, which is over 80 percent Hispanic. That being said, in speaking with my community banks in my district, we are a rural area. Community banks, regional banks play an important role in our community and helping first-time entrepreneurs, which I once was as a Hispanic female-owned business; It is hard. It was hard to be a first-time entrepreneur and not have a wealthy family that could help subsidize my desire to 1 day be a business owner. I leaned into my regional banks that provided me the American dream as a Hispanic female in a rural community.

That being said, the work that the regional banks and the community banks do in our community is very, very important. Unfortunately, under the Biden Administration, the CFPB became a political organ for the administration. It pushed partisan rulemaking, like the 1071 rule, which everyone disliked, including minority depository institutions, as I said, that are in my district.

I am a proud original cosponsor of my fellow Financial Services Committee member and Chair of the Small Business Committee, Roger Williams, to repeal section 1071. We have to use our control in Congress to set the CFPB straight and enhance transparency and establish guardrails.

As a freshman in the last Congress, it baffled me that in a House that had a very slim majority, where Republicans and Democrats could hardly agree on anything, there was one thing that we agreed on in both the House and the Senate and that is—that 1071 was bad for minority communities like mine, it was bad for entrepreneurs like I once was, it was bad all the way around.

I want to remind everybody in this room that the House agreed that 1071 was bad. The Senate agreed that 1071 was bad, and when it went to the White House, the Biden Administration, President Biden, vetoed the repeal of 1071. Thus saying that the people's voice in the House, the people's voice in the Senate did not matter and that they were going to put this burdensome regulation on community banks, regional banks that make a real difference in Hispanic districts and minority districts like mine—that they were going to forge forward in having 1071 hurt communities like mine.

It is despicable. It was gross that the Biden Administration moved forward and vetoed what the House and Senate wanted to move forward in repealing this.

That being said, I am going to ask Mr. Pommerehn, can you share the benefits of passing Chair Williams' bill to repeal 1071 and why it is necessary to ensure small businesses are able to access the critical capital and continue to serve our communities?

Mr. POMMEREHN. A repeal of the rule would certainly reduce compliance costs for lenders to lend to small business. That would increase the number of small businesses out there, and, of course, that is good for the economy.

Absent a repeal, the rule should be looked at and possibly re-proposed to lessen that burden going forward.

Ms. DE LA CRUZ. What I am hearing is the repeal of 1071 is going to be good for minority communities like mine, it is going to be good for entrepreneurs who have the American dream of owning their small business, and that it is going to be good for the economy. Is that correct?

Mr. POMMEREHN. That is correct, Congresswoman.

Ms. DE LA CRUZ. Then I see no reason why it should not be repealed.

With that, I yield back.

Mrs. KIM. Very well. Thank you very much.

I now recognize the gentleman from Nebraska, Representative Flood, for 5 minutes.

Mr. FLOOD. Thank you, Madam Chairman.

There is a fundamental problem that I think is going to continue to come up in this committee related to the CFPB. The Bureau has been at work extending its authority for as long as possible when led by Democrat-appointed directors. A good example of this is CFPB's larger participant rulemaking targeting consumer payment applications.

The rulemaking lumps several different types of payment actors under the same umbrella. The Bureau even hinted via an employee's speech that merchants might be implicated as large payment players in the future.

Last year, I asked Director Chopra about the merchant exclusion and whether payments alone constituted commerce. In a response via question for the record, the director made the case that a merchant, quote, that incorporates payment capabilities directly into a website, end quote, could potentially blur the lines between banking and commerce and, therefore, be subject to CFPB oversight in the future.

To be clear, Dodd-Frank—Mr. Frotman—Dodd-Frank explicitly calls for an exclusion for merchants from the CFPB's regulatory

purview. The idea that a merchant engaged in consumer financial activity due to payments activities in the merchant's own store or website is ridiculous. Using that logic could lead the CFPB to have examination authority over every mid-size to large retailer in the country.

This part of a larger pattern from the Bureau, it extends its—this is part of a larger pattern by extending its reach and authority as far as possible over time with limited checks. That is why it is so incredibly important that Congress work to rein in the Bureau's authority and lack of accountability.

Mr. Schneider, given your experience working at the CFPB, do you have any thoughts on how Congress and the new Director should aim to keep the Bureau from expanding its own authority in the future?

Mr. SCHNEIDER. Put them under appropriations, then they have to explain to you what they want to use resources for, and you can decide if you wish to approve that.

I think putting meaningful restrictions on their use of their Unfair, Deceptive and Abusive Practices (UDAP) authority is too broad. They should articulate a principle before they bring an enforcement action. There is a case that they brought that would upend the entirety of indirect auto lending, and it is brought on a UDAP theory that, I might add, stands in contravention of their own interpretations of an actual regulation. I think that is ripe for—that is certainly ripe for reform.

Mr. FLOOD. Continuing with you, Mr. Schneider. One of the interesting things about your testimony is that you made the observation that enforcement staff should not be involved with directly planning or executing the exams.

Can you speak to why it might be problematic to have enforcement staff directly involved with planning routine examinations?

Mr. SCHNEIDER. Supervision is a confidential prudential process. It is quite powerful, in my experience. It requires cooperation between the Bureau and the entity, and it can result in a very quick action to stop unlawful activity and to redress consumers.

If the entity feels that this is really just a fishing expedition that is going to get handed off to the enforcement team, they are going to treat it like it is a law enforcement matter. They are not going to cooperate, and the entire thing is just going to become an enforcement action, which is going to delay redressing to consumers.

So there has to be a divide, and having any involvement of enforcement personnel in supervisory activities I think is troubling.

Mr. FLOOD. As a Member of Congress who is very interested in our housing supply issues and getting first-time homeowners into homes, I think it is interesting that the cost to originate a mortgage has gone up nearly 50 percent over the last 4 years. It is nearly triple what it was before 2010.

Mr. Schneider, to what degree do you think this increase in the cost of mortgage origination is a result of regulatory burden, including from the CFPB?

Mr. SCHNEIDER. It intuitively seems a lot can be attributed there. There are State regulators that have always regulated mortgage services. They are quite well-equipped. They have extraordinarily broad powers that are extended to them by their State govern-

ments. They have been working very dutifully in the past several years to coordinate their activity on a nationwide basis.

Simply layering on another level of Federal oversight, to some extent, is adding additional costs that could very easily be handled by the State system.

Mr. FLOOD. Thank you very much.

At the end of the day, we do need to protect consumers. We need to think about fraud. We need to think about deepfakes. Fraud is monopolizing the time of a lot of folks in this lane, and I want to see the consumer protection of the Federal Government folks more on fraud and less on gotcha tactics.

With that, I yield back.

Mrs. KIM. Thank you.

Before I go to the next member, I would like to recognize Ranking Member Foster.

Mr. FOSTER. Thank you.

I would like to ask unanimous consent to enter three statements into the hearing record from groups strongly opposing the Republican bills that we are considering today that would undermine the CFPB and weaken consumer protections, including one from Americans for Financial Reform, a second one from Consumer Action, and a third from the National Association of Consumer Advocates.

Mrs. KIM. Without objection. Thank you.

[The information referred to can be found in the appendix.]

Mrs. KIM. Now I recognize the gentleman from North Carolina, Representative Moore, for 5 minutes.

Mr. MOORE. Thank you, Madam Chair.

A little bit about—I am the—I guess I am the newest member on the committee, which is why I get to speak last. Before becoming a Member of Congress, for 30 years I was an attorney, and I actually represented consumers during that time, represented businesses, represented a number of folks, and had the opportunity to deal with fraud cases over time.

When I came as a new Member of Congress, I wanted to see, well, what does the CFPB do. I actually had somewhat high hopes, which I guess proved my naivete on that subject. As I dealt with this, becoming a member of this committee, I realized that the comments made by members like Ms. De La Cruz to my left and others of the abusive practices, Madam Chair, of this agency just shocked my conscience. This is as an American, as an attorney, seeing this happen.

The fact that financial institutions could not even rely with any certainty on what was legal and what was not. It was completely a game of gotcha. An agency that is not funded by the normal appropriations process but is incentivized, incentivized to get money by levying fees and fines, it is almost like if you had a police officer out there paid more to write more tickets or something. I mean, it is antithetical. It is completely antithetical to any notion of due process and equal protection in any way.

I think what you have with the way CFPB under the prior administration governed was actually—was actually the predator in this case by preying on businesses, preying on companies to exert fines, forfeitures, and fees.

With all due respect to Mr. Frotman—I read your comments, heard your comments. I have been an attorney for 30 years and to approach something like this when it comes to a significant part of regulatory law affecting somebody in this country with a clear political agenda just shocks my conscience.

I would ask that—I am glad the new agency is not doing that, and I would just ask those that ever want to serve in these positions, certainly do not do this. This is—you have millions of Americans who count on having access to capital. You have individuals, you have companies, businesses that are built on providing that capital.

The one thing that folks need to know is what are the rules, what are the rules of the road, and follow those rules, and do not change them midstream, and do not do them in such a punitive way simply to either exercise or abuse power or to try to obtain more money from these entities.

The more I have studied this, Madam Chair—and I hope that it comes to the attention of the American people who see this absolute abuse in government, and it is exhibit A of what is wrong or what has been wrong in so many things.

I did think about something. Under the former—under the former director, it seems that the CFPB made a habit of bypassing the Administrative Procedures Act notice and comment requirements, just enacting things. I think there was a whole host of these, what, midnight entries. I do not know if they were done with an auto pen, I do not know how they were done, but they were done.

I have a question for Mr. Schneider. You have extensive experience with enforcement at the CFPB, as well as the APA. I am just curious, first off, would you agree that the APA applies to the CFPB?

Mr. SCHNEIDER. Of course. Yes, sir.

Mr. MOORE. Is agency guidance, is that a rule?

Mr. SCHNEIDER. It should not have the binding effect of law if it has not gone through the appropriate approval process.

Mr. MOORE. What about a press release?

Mr. SCHNEIDER. No. No question there.

Mr. MOORE. All right. How about just a statement by the director? Is that a rule?

Mr. SCHNEIDER. No.

Mr. MOORE. So should a press release or a statement by the director be the basis of an enforcement action?

Mr. SCHNEIDER. It certainly should not be.

Mr. MOORE. My understanding is that did happen under this prior administration. Is that correct?

Mr. SCHNEIDER. Certainly, the prior administration took enforcement actions that did not seem to be well grounded on any properly promulgated rule and, in some cases, stood in contrast to properly promulgated rules.

Mr. FROTMAN. That is 100 percent not correct. Over and over again—

Mr. MOORE. Mr. Frotman, you are clearly a political hack. I did not ask you a question. I did not ask you a question.

Mr. FROTMAN. If you want the truth, we could have a conversation.

Mr. MOORE. I did not ask you a question, sir.

I would just simply say that the comments from——

Mrs. KIM. It is still the gentleman's time.

Mr. MOORE [continuing]. Mr. Frotman are disregarding the rules of this committee. His disregarded rules there simply show the problems with this agency.

With that, Madam Chair, I yield back.

Mrs. KIM. Thank you.

I now recognize the gentleman from Florida, Representative Donalds, for 5 minutes.

Mr. DONALDS. Thank you, Madam Chair.

In this committee it goes without question my views on the CFPB. I have been very clear that this agency is a rogue agency that was created on a partisan basis at a time period when, frankly, the Democrats were choosing to solely blame bank activity for the financial collapse, as opposed to looking at the regulatory environment that had been set up which—based upon faulty underwriting which cascaded through the financial economy.

There were many people who bear the burden of what happened in the economy in 2008 and 2009. Just setting up this regulatory behemoth with no oversight and no accountability to the American people except to the whims of Democrat politicians has always been wrong; in my view, is still unconstitutional, and this agency should be repealed never to be seen again.

I think that the argument of this is the only way to have consumer protections at the Federal level is a complete folly, and it is wrong, and it is shortsighted. Consumer protections have existed in every Federal agency long before the CFPB was ever contemplated or created. Those are the facts.

That being said, if the least we could do is actually reform the CFPB and actually be an agency that is responsive to Congress and responsible as it executes rulemaking in the marketplace, that could have some positive benefits. But my position remains that this agency just needs to be completely removed and then we move forward to a real and responsible regulatory environment that allows our economy to grow in a responsible manner going into the future.

That being said, Ms. Fonseca, as the head of a company right on the cusp of being subject to CFPB overreach, can you describe how the CFPB stifles growth and innovation?

Ms. FONSECA. Thank you for the question.

As I mentioned previously, we have been very focused on preparing for CFPB oversight and also concerned about classification of junk fees for programs that our members want. We are spending way too much time on that and not enough time on innovating new products and services for our members.

Mr. DONALDS. Thank you.

Mr. Schneider, what is the actual cost of compliance imposed on the private sector by former Director Chopra over the last 4 years?

Mr. SCHNEIDER. I will be perfectly honest, Congressman. I do not know that figure. I know, just to respond to an initial Civil Investigative Demand, given the short scope of time involved and the

massive amount of data, it could be tens if not hundreds of thousands of dollars. Much less just thinking about what a particular proposed speech idea might have, the cost to your compliance department would be enormous.

Mr. DONALDS. Tens of thousands or hundreds of thousands of dollars just for one company?

Mr. SCHNEIDER. For one company for one investigation.

Mr. DONALDS. Okay. Ms. Kuehn, what was the consumer protection regulatory landscape before the creation of the CFPB?

Ms. KUEHN. Before the creation of the CFPB, you had prudential regulators who had authority to look at the companies that they examine for consumer protection. In addition, you had the Federal Trade Commission. I want to take exception that there has never been a cop on the beat. As someone who ran a division at the Federal Trade Commission, we investigated companies for violations of consumer financial protection laws and brought cases against those companies.

Mr. DONALDS. Okay. Thank you so much.

Mr. Pommerehn, how would financial institutions, businesses, consumers, and the economy as a whole benefit from the abolition of the CFPB?

Mr. POMMEREHN. First and foremost, we need a strong consumer regulator. We need one that is going to be fair and reasonable.

I think that, to the points made earlier, when we have rules and guidance and even racking to blogs and circulars, things of that nature, it is hard to comply with what is actually needed to be complied with. It is unclear to comply with the uncertainty that is created by an agency that does not go through an APA process with notice and comment and the like.

I think consumer protection needs to be had. We need a durable, credible consumer regulator that is going to be fair to all the policy stakeholders going forward.

Mr. DONALDS. To add on to your comment—and I think people will hear me say get rid of the CFPB. Trust me, I mean it; get rid of it. But to that point, yes, there are consumer protections that should be durable that follow the Administrative Procedures Act and not have an agency which is rogue, in my view, depending on the Presidential Administration and just moving through our economy with no accountability whatsoever.

With that, I yield back.

Mrs. KIM. The gentleman's time is up. Thank you.

Please join me in thanking all of our witnesses for joining today and answering the questions from the members.

Without objection, all members will have 5 legislative days to submit additional written questions for the witnesses to the chair and the questions will be forwarded to the witnesses for your responses. The witnesses, you will have until April 30th to provide written responses if you receive that question.

[The information referred to can be found in the appendix.]

Thank you very much for being with us today.

With that, the hearing is now adjourned.

[Whereupon, at 12:13 p.m., the subcommittee was adjourned.]

APPENDIX

MATERIALS SUBMITTED FOR THE RECORD

104

Statement for the Record

On Behalf of

Americans for Financial Reform

to the

House Committee on Financial Services
Financial Institutions Subcommittee

“A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections”

March 26, 2025

Statement for the Record
On Behalf of
Americans For Financial Reform
Before the
House Financial Services Committee,
Financial Institutions Subcommittee

March 26, 2025

Americans for Financial Reform (AFR) appreciates the opportunity to provide a Statement for the Record for the House Financial Services Committee, Financial Institutions Subcommittee on “A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections.” AFR is a nonpartisan and nonprofit coalition of more than 200 civil rights, consumer, labor, business, investor, faith-based, and civic and community groups. Formed in the wake of the 2008 crisis, AFR continues to work towards a strong, stable, and ethical financial system. We are committed to eliminating the inequity and systemic racism in the financial system and fighting for a just and sustainable economy.

The U.S. banking regulators failure to appropriately oversee the consumer financial marketplace and protect consumers from predatory mortgages was a central cause of the financial crisis that devastated the U.S. and global economies, that led to 16 million foreclosures, the elimination of \$17 trillion of U.S. household wealth, and cost millions of their jobs that suppressed their earnings for years.¹ Congress created the Consumer Financial Protection Bureau (CFPB) to prevent another financial crisis, and for the past 14 years, the CFPB has diligently served everyday people, held financial firms accountable when they engaged in unfair, deceptive, abusive, and illegal misconduct, cracked down on junk fees, and protected people from fraudulent practices and financial rip-offs. The Bureau has obtained \$21 billion in relief for over 200 million people through restitution or cancelled debts² as well as saving families tens of billions of dollars more through its supervisory and enforcement actions. As the primary agency charged with enforcing the Military Lending Act, the CFPB also returned \$363 million to servicemembers and veterans through 39 enforcement actions (including 6 Military Lending Act violations).³

Recently, the CFPB finalized rules that will save people billions of dollars in junk fees, keep people safe from fraud and scams on digital-payment apps, provide immediate relief to 15 million people from unjustly lowered credit scores due to medical debt and millions more for year to come, make sure people have equitable access to credit free from discrimination, and make it easier for people to switch financial service providers. Any legislative actions to undo these rules through Congressional Review Act (CRA) resolutions of disapproval not only strips necessary and critical protections from everyday people that could create regulatory blind spots that let bad actors impose junk fees, deceive, or unfairly disadvantage their customers.

¹ ATTOM. [Press release]. “[U.S. foreclosure activity increases from 2022 but still below pre-pandemic levels.](#)” January 11, 2024. There were 16.6 million foreclosures between 2007 and 2015 before foreclosures dropped below 1 million a year; Emmons, William R. and Bryan J. Noeth, Federal Reserve Bank of St. Louis. “[Household financial stability: Who suffered most from the crisis.](#)” July 1, 2012; Greenstone, Michael et al. Brookings Institution. “[Unemployment and Earnings Losses: A Look at Long-Term Impacts of the Great Recession on American Workers.](#)” November 4, 2011.

² Consumer Financial Protection Bureau (CFPB). [About the Bureau.](#) Accessed December 6, 2024.

³ *Ibid.*

A strong and independent CFPB that continues to meaningfully enforce consumer protections and fair lending laws keeps the financial marketplace fair, transparent, and stable and these factors foster consumer confidence and a more competitive marketplace. Industry stakeholders, servicemember and veterans' organizations, consumer advocacy groups, and the public all agree that Congress and the administration must not undermine the independence, weaken the structure, roll back the rules, or defund the CFPB. The Bureau was intentionally designed to function independently, led by an independent director, and with a secure funding stream to insulate the agency from political and economic pressures so that it can rigorously pursue its mission to protect the public.

This past May, the Supreme Court resoundingly reaffirmed the constitutionality of the Bureau's funding mechanism in *CFPB v. Community Financial Services Association*.⁴ More recently, two Texas courts in separate cases reiterated the legitimacy of the agency's funding mechanism.⁵ In an amicus brief supporting the CFPB, the Mortgage Bankers Association, the National Association of Homebuilders, and the National Association of Realtors agreed, "virtually all financial transactions for residential real estate in the United States depend upon compliance with the CFPB's rules, and consumers rely on the rights and protections provided by those rules. Importantly, the industry has invested billions of dollars into structuring its operations for compliance with the CFPB's regulations and other guidance." Any disruption to this "could set off a wave of challenges and the housing market could descend into chaos, to the detriment of all mortgage borrowers."⁶

More than a dozen organizations representing millions of servicemembers and veterans noted in their amicus brief that "[t]he CFPB thus plays a critical and unique role in promoting the financial wellbeing of America's 16.5 million veterans, over 2 million servicemembers, and their families. Congress gave CFPB enforcement authority over the Military Lending Act and other consequential laws and regulations. At a pragmatic level, the national scope of the CFPB's work is critical, since servicemembers live and are deployed across the country and overseas. At an individual level, amici and their members have seen firsthand how the CFPB combats products and services that target, exploit, and harm the military community. Amici do not typically weigh in on Supreme Court cases, but the practical impact... is simply too consequential to ignore. Namely, if the Fifth Circuit's ruling stands, it would imperil not only enforcement of the Military Lending Act—which provides vital protections for servicemembers and their families—but also halt the enforcement of many other consumer laws and regulations that protect servicemembers, veterans, and their families."⁷

Earlier this month, Ballard Spahr attorney Alan Kaplinsky, who represents banking and financial institutions noted, "there are a lot of folks in the industry that say, we don't want the CFPB to go away...it will create utter chaos...there are a lot of regulations the industry has gotten used to and they don't want to see drastic change, so they are worried to see what happens if the CFPB is shuttered."⁸

⁴ *Consumer Fin. Prot. Bureau v. Cmty. Fin. Servs. Ass'n of Am., Ltd.*, 601 U.S. 416, 416, 144 S. Ct. 1474, 1475, 218 L. Ed. 2d 455 (2024).

⁵ 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).

⁶ Brief of Mortgage Bankers Association et al. as Amicus Curiae in Support of Petitioners, *CFPB v. Community Financial Services Association*, No. 22-448 (U.S. May 15, 2023).

⁷ Brief of military and veterans' organizations, as Amicus Curiae in Support of Petitioners, *CFPB v. Community Financial Services Association*, No. 22-448 (U.S. May 15, 2023).

⁸ Kaplinsky, Alan. Ballard Spahr. [Podcast]. "Prof. Hal Scott Doubles Down on His Argument That CFPB is Unlawfully Funded Because of Combined Losses at Federal Reserve Banks." March 13, 2025 at 51:55.

Indeed, Independent Community Bankers of America (ICBA) President and CEO Rebeca Romero Rainey recently issued a statement opposing the consolidation of the nation's banking regulators, noting, "[w]hile Wall Street bank executives and others have called for consolidating the nation's banking regulators, ICBA and community bankers have long supported the independence of the federal banking agencies and our nation's dual banking system. Federal banking regulators should be objective, nonpartisan, and protected from political influence, which is essential to promoting a safe and sound banking system, consumer confidence, and a strong national economy. Wall Street calls for consolidating the agencies undermine consumer confidence in the financial system."⁹ The National Alliance of Trade Associations, a trade group representing small businesses associations in 11 states, urged Director Vought, "...to support the CFPB and its work so that the nation's largest banks do not have free rein to abuse our small business members across the nation."¹⁰

Despite strong public support for the CFPB and its consumer protection mission, the Trump administration and Acting Director Vought, working with Elon Musk and the Department of Government Efficiency (DOGE), have aggressively pursued efforts to undermine and stop the Bureau's work. Hundreds of CFPB staff were illegally fired and the rest were ordered to stop working. Ten enforcement actions have already been dropped "with prejudice," effectively terminating the CFPB's ability to seek justice and restitution forever and anointing corporate wrongdoers with what amounts to a pardon.¹¹ These actions send a signal to Wall Street banks, predatory lenders, Big Tech, and a slew of shady businesses, that it's fine to cheat, rip off, bully, and generally make life more expensive and difficult for families across the country with no accountability and no consequences for misconduct.

Congress must not further weaken the CFPB's ability to protect everyday people and maintain a stable, fair, and transparent financial marketplace. Stripping away the protective guardrails that were intentionally designed to reduce the likelihood and severity of another 2008 financial crisis will set this country up for another economic disaster. Furthermore, Congress must actively protect the CFPB rules that have been finalized, including voting against any legislation that would undo the CFPB's overdraft-fees rule, medical debt rule, larger participant (Big Tech payment app oversight) rule, and any and all legislation that would weaken the CFPB's underlying statutory authority to enforce consumer protection and fair lending laws. Instead of siding with predatory lenders and Wall Street banks, members of this Committee must side with everyday people and vote to keep them safe from fraud, junk fees, and the unjust impacts of medical debt on credit reports.

Congress should maintain the CFPB's stable and constitutional funding stream: The CFPB, like most federal financial regulators, was given a stable funding stream to ensure the rules of the road that govern large segments of our financial architecture and our economy are consistently supervised and comply with statutory requirements. When Congress created the CFPB in the wake of the 2008 financial crisis, it transferred many of the powers from the prudential regulators such as the Federal Reserve, the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) to the Bureau and thus wanted it to retain a similar funding stream as

⁹ Independent Community Bankers of America. [Press release]. "[ICBA Statement Opposing Consolidation of the Nation's Banking Regulators](#)." February 26, 2025.

¹⁰ Dosani, Yousef. National Alliance of Trade Associations. Letter to Russell Vought, Director, Office of Management and Budget. Acting Director, Consumer Financial Protection Bureau. February 10, 2025. On file with Americans for Financial Reform Education Fund.

¹¹ Laurel Wamsley. "[The CFPB drops its lawsuit against Capital One, marking a major reversal](#)." National Public Radio. February 27, 2025.

its sister agencies. Like the other bank regulatory agencies, the CFPB is currently funded in a way that ensures that it has consistent funding to engage in regular oversight of Wall Street and the other financial sectors it regulates—including payday and other high-cost lenders, as well as debt collectors and credit bureaus. The noticed Taking Account of Bureaucrat’s Spending Act of 2025 (H.R. 654) introduced by Rep. Andy Barr (Ky.) would subject the CFPB entirely to the annual appropriations process. Congress has not passed all of its annual appropriations bills before the start of the fiscal year since 1997.¹² Shifting the CFPB’s funding from a dedicated Federal Reserve transfer would leave the CFPB vulnerable to congressional shutdowns, budget paralysis, deregulatory appropriations riders, and constant threats to the funding it needs, unlike its partner bank regulators the Federal Reserve, the OCC, and the FDIC. This would treat consumer financial protection as a less important mission. Subjugating CFPB funding to the deeply flawed annual appropriations process would give Wall Street and the worst members of the financial industry endless lobbying opportunities to deny the CFPB stable funding to protect financial customers.

Congress should oppose efforts to undermine the CFPB structure: The financial industry has attacked the CFPB’s single director structure since before the Bureau was established in 2011. This single director structure is a large part of the CFPB’s success at fulfilling its public interest mission without bowing to special interest pressures or revolving door insiders. A single director can be held responsible and accountable for the Bureau’s actions, good or bad. The much larger Office of the Comptroller of the Currency (OCC) has been led by a single director since it was established in 1863. The Federal Housing Finance Agency and the Social Security Administration are also headed by single directors. But a commission diffuses responsibility and accountability that makes it easier for industry lobbying to successfully hold sway over agency decisionmaking. This is why Wall Street, Big Tech, and other financial interests and congressional critics of the CFPB favor a commission structure for the CFPB. The noticed draft Consumer Protection Commission Act proffered by Rep. Bill Huizenga (Mich.) would establish a five-member bipartisan commission with at least two commissioners selected for their financial industry experience that would subject the agency to regulatory capture, gridlock, and inertia, and effectively prevent the Bureau from actually protecting consumers.

Multi-member commissions and boards often fall into patterns of gridlock, inactivity, and a chronic unwillingness to challenge the industries they are charged with supervising. It is five times harder to appoint and confirm multi-member commissions and deadlocked politics can mean that many multi-member commissions can have prolonged periods with vacancies that further compromise or preclude oversight and enforcement. Multi-member commissions, even with strong chairs, tend to have difficulty setting regulatory agendas and deciding upon enforcement priorities, which rewards the industries under their jurisdiction with lighter oversight and limited enforcement. The regulators at the multi-member Federal Reserve and the Securities and Exchange Commission, did little or nothing to combat the reckless banking, lending, and trading practices that fueled the 2008 financial crisis.

Congress should not dilute or weaken the consumer protection mission of the CFPB: Congress established the CFPB to create a single accountable agency to enforce consumer protection laws. Prior to the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act,

¹² McClanahan, Kate P. et al. Congressional Research Service. “[Continuing Resolutions: Overview of Components and Practices](#).” April 19, 2019.

consumer complaints and regulatory oversight was housed at different banking regulators and consumers and state regulators struggled to get the banking regulators to address legitimate complaints about violations of consumer protection law. For example, federal banking regulators received about 2,000 credit card complaints annually but the Office of the Comptroller of the Currency (OCC) made only a single informal enforcement action against credit card issuers between 1999 and 2008.¹³ In 2007, Consumer Reports testified that the byzantine maze of federal regulatory hurdles prevented consumers from getting meaningful resolution of credit card complaints that effectively let likely violators of consumer protection laws off the hook.¹⁴ A 2006 Government Accountability Office study found that although the OCC received the most complaints and that two-fifths were about credit cards, the consumer complaint process was viewed by state regulators and consumer advocates as biased in favor of banks and rarely led to enforcement actions.¹⁵

Several of the pieces of legislation noticed for today's hearing corrode the CFPB's mission which would make it harder to robustly enforce consumer protection and civil rights laws and make it more difficult for consumers to seek and achieve redress for unlawful, unfair, or deceptive practices by financial firms. The CFPB Dual Mandate and Economic Analysis Act (H.R. 2183) introduced by Rep. Tom Emmer (Minn.) would devolve the CFPB mission to include "strengthening private sector participation in markets, without government interference or subsidies, to increase competition and enhance consumer choice." The TABS Act (H.R. 654) would rename the CFPB the Consumer Financial Empowerment Agency, suggesting that consumers need to be released from the burdens of consumer protection and civil rights enforcement. Congress established the CFPB and its statutory mission to address real flaws in the regulatory structure that favored the financial industry and failed to provide needed relief and enforcement against unlawful and unfair practices by financial firms. Congress should not subvert the CFPB's consumer protection to the interests of financial firms.

Congress should not establish a new inspector general for the CFPB: The CFPB is already uniquely accountable to congressional and interagency oversight and the draft CFPB-IG Reform Act legislation noticed by Rep. Dan Meuser (Penn.) is unnecessary and duplicative. There are already multiple mechanisms that provide accountability and transparency to the CFPB's operation. The CFPB is already accountable to the independent Inspector General for the Federal Reserve Board of Governors and to the Government Accountability Office. The GAO, both on its own behalf and in response to Congressional requests, has conducted oversight and audits of the CFPB on repeated occasions. Additionally, the CFPB must report to Congress twice a year, an obligation shared only with the Federal Reserve. As a practical matter, the effect of the proposed CFPB-IG proposals would be to undermine the CFPB's ability to carry out its mission and address additional, duplicative oversight demands even though the CFPB operates under more oversight than other financial regulators.

¹³ Government Accountability Office (GAO). "Credit Cards: Fair Debt Collection Practices Act Could Better Reflect the Evolving Debt Collection Marketplace and Use of Technology." GAO 09-748. September 2009 at 31 to 32.

¹⁴ Kenney, Jeannine. Consumers Union. "Financial Consumer Hotline Act of 2007: Providing Consumers with Easy Access to the Appropriate Banking Regulator." Testimony before the Subcommittee on Financial Institutions and Consumer Credit. House Committee on Financial Services. December 12, 2007.

¹⁵ GAO. "OCC Consumer Assistance Process Is Similar to That of Other Regulators but Could be Improved by Enhanced Outreach." GAO 06-293. February 2006.

Congress should not impose duplicative, unnecessary hurdles to the CFPB pursuing its mission to protect consumers and enforce the law: Several of the pieces of legislation noticed for today's hearing establish new burdensome, duplicative, and unnecessary hurdles for the CFPB that intentionally interfere with the ability of the Bureau to pursue its statutory mission to protect consumers and enforce the law. The CFPB already operates under more regulatory considerations than other agencies and has additional, specific requirements to issue proposed regulations. The pieces of noticed legislation (including the CFPB Dual Mandate and Economic Analysis Act H.R. 2183, the draft Transparency in CFPB Cost-Benefit Analysis Act offered by Rep. Barry Loudermilk (Ga.), the Making the CFPB Accountable to Small Business Act of 2025 H.R. 1606 offered by Rep. Scott Fitzgerald (Wis.), the Rectifying UDAAAP Act H.R. 1652 and the Civil Investigative Demand Reform Act H.R. 1653, both offered by Rep. Barr, would establish additional barriers to prevent the CFPB from protecting consumers from unlawful, deceptive, and abusive practices and prevent the Bureau from rigorously enforcing consumer protection and civil rights statutes.

The CFPB already operates under all the federal statutes that govern federal agency rulemaking such as the Administrative Procedures Act (APA) and the Paperwork Reduction Act. The Dodd-Frank Act imposed specific additional requirements on the CFPB that exceed the requirements of other agencies. The CFPB is subject to the APA and must follow notice-and-comment procedures that take public comments into account and respond to comments during the promulgation of regulations.¹⁶ The CFPB has an additional requirement to review its regulatory impact on small businesses, a requirement that other banking regulators are not subject to.¹⁷ The CFPB is already required to make particular findings, including cost-benefit analysis, in order to exercise its authority to restrict or prohibit acts and practices as unfair, deceptive, or abusive.¹⁸ And unlike any other financial regulator, the CFPB's regulatory actions can be vetoed by the Financial Stability Oversight Council.¹⁹ The proposed pieces of legislation are designed and intended to prevent the CFPB from protecting people from the excesses of the big banks, Big Tech, and predatory financial firms and give a green light to unlawful, unfair, abusive, and deceptive practices by the financial industry.

Congress should not add unnecessary barriers to the already limited but important CFPB work on insurance matters: The CFPB and all federal regulators already have extremely limited ability to monitor and supervise the insurance market or protect consumers under the McCarran-Ferguson Act, which exempts the insurance industry from most federal regulation including a partial exemption to antitrust enforcement. Homeowners and property owners already face surging premiums, increasing denials of renewals, widespread industry withdrawals, limited coverage, and increasing difficulty getting claims paid as climate-change driven natural disasters have increased in severity and frequency. The draft Business of Insurance Regulatory Reform Act of 2025 offered by Rep. Bryan Steil (Wis.) would not meaningfully change or reduce the actual federal oversight of the insurance industry. Currently, the CFPB conducts extremely minimal insurance-related work that is focused on consumer financial education.²⁰ The noticed draft legislation is unnecessary and does not impact the CFPB's essentially non-existent oversight of the insurance industry but is solely intended to chill any regulatory efforts by any federal agency over the insurance industry, including consumer protection.

¹⁶ Dodd-Frank Wall Street Reform and Consumer Protection Act. *Pub. L. 111-203*, July 21, 2010 at §1053.

¹⁷ *Ibid* at §1100G.

¹⁸ *Ibid* at §1031.

¹⁹ *Ibid* at §1031.

²⁰ CFPB, "Learning about insurance," August 25, 2022.

Congress must vote against any legislation that would permanently undo the medical debt protections: The CFPB's medical debt rule removes medical bills from most credit reports and will prohibit credit reporting companies from sharing this irrelevant, yet harmful information with lenders.²¹ Many medical debts are involuntary and unpredictable — even someone covered by health insurance can find themselves left with thousands of dollars' worth of medical bills — and 15 million people in the United States are punished with lower credit scores and more expensive loans when medical debts either appear on their credit reports or are factored into any credit eligibility determinations. Studies repeatedly show that medical debt is not an accurate predictor of someone's ability to repay a loan and should not be considered in credit eligibility determinations.²² In fact, people who had all medical debts completely removed from their credit reports experienced an average increase of 20 points on their credit score, enough in some cases to push them into a higher credit score tier and qualify for more access to credit and more affordable loans.²³

Congress must vote against any legislation that would permanently undo the overdraft fee rule, which will save families \$5 billion each year: The CFPB's overdraft fee rule reduces most overdraft fees to \$5, while allowing safer, more transparent overdraft lines of credit with no price limit.²⁴ These savings amount to \$225 annually per household that pays overdraft fees, and addresses one of the most common reasons people become unbanked and underbanked. The rule simply increases transparency, so that covered banks and credit unions — the very largest institutions with over \$10 billion in assets — cannot dupe people into paying excessive fees. Banks can and do manipulate the order and timing of transactions to increase overdraft fees or even charge surprise overdrafts when customers have sufficient money in their accounts.²⁵ Most debit card overdrafts are for less than \$26 — far below the typical fee — and are repaid within 3 days, resulting in the equivalent of a 16,000 percent annual percentage rate (APR) loan, often for transactions consumers would rather have denied.²⁶

The rule would also help residents living in rural communities who often have extremely limited options for banking, as well as servicemembers and military families, 80 percent of whom use checking accounts.²⁷ Excessive overdraft fees are particularly harmful for junior enlisted service members, who are often young, less financially savvy, and struggling to make ends meet.²⁸ Curbing excessive overdraft fees will lessen financial challenges faced by financially vulnerable military families who report being unable to save money (51 percent of military families) and who are food insecure (14 percent of enlisted military families).²⁹ For these households, excessive overdraft fees

²¹ Consumer Financial Protection Bureau (CFPB). *Final Rule, Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)*. Docket No. CFPB-2024-0023. January 7, 2025.

²² VantageScore. "Impact of VantageScore Credit Scores Due to Changes in Medical Debt Collection Information Reporting." August 2022 at 4.

²³ CFPB. [Report]. "Early impacts of removing low-balance medical collections." May 16, 2024.

²⁴ CFPB. [Press release]. "CFPB closes overdraft loophole to save Americans billions in fees." December 12, 2024.

²⁵ CFPB. "Supervisory Highlights Junk Fees Special Edition." Issue 29, Winter 2023 at 3; CFPB. [Press release]. "CFPB orders Navy Federal Credit Union to pay more than \$95 million for illegal surprise overdraft fees." November 7, 2024.

²⁶ CFPB. [Fact sheet]. "The CFPB's proposed rule to curb excessive fees on overdraft loans by very large banks and close a decades old loophole." 2024.

²⁷ Armed Forces Bank. [Report]. "Military Readiness Financial Readiness Report." May 2024.

²⁸ Marrone, James and Carter, Susan. CFPB. "Financially Fit? Comparing the credit records of young servicemembers and civilians." July 2020.

²⁹ Armed Forces Bank (2024); Toropin, Konstantin. "As US Troops and Families Go Hungry, They Don't Trust the Pentagon for Help." Military.com. November 19, 2021.

can literally take food off the table for military families living paycheck to paycheck while dutifully serving their country.

Congress must vote against any legislation that would permanently undo the digital payments apps oversight rule which will protect people from scams and fraud: The CFPB's larger participants rule provides supervisory oversight over Big Tech companies that provide digital payment or wallet services, including some of the biggest nonbank companies such as PayPal, Venmo, Cash App, Apple Wallet, and Elon Musk's X-Money (once its activities meet the larger participants threshold).³⁰ This rule closes a loophole that permits non-bank payment app companies to operate without supervisory reviews, unlike bank app funds transfer services. Its provisions allow the CFPB to monitor payment app companies so that transactions are safe and that people receive remedies for errors and unauthorized charges. Banks that offer digital wallets and payment apps such as Zelle are already supervised,³¹ while a regulatory blind spot exists for nonbank digital payment apps such as PayPal and Venmo. Making sure all payment apps are properly supervised, whether owned by a bank or a nonbank will keep users safer from fraud and scams.

Voting to undo this rule permanently will leave millions of people who use digital payment apps vulnerable to fraud, unauthorized transactions, commodification of their sensitive personal information, and having their accounts deactivated or frozen, often without notice or explanation. Servicemembers, especially those overseas, are more likely to use payment apps and have been particularly harmed, based on skyrocketing complaints to the CFPB.³²

Congress must vote against any legislation that would repeal or weaken small business and farm lending transparency (Section 1071 of the Dodd-Frank Act): The CFPB's final 1071 rule makes it possible to identify community development small business and farm capital needs, to improve transparency in small business and farm credit and lending markets, and to assess and enforce compliance with fair lending and anti-discrimination statutes. Small businesses and farms owned by women and people of color have faced historic and persistent inequitable access to financing and credit related to structural racial wealth inequality, patterns of disparate treatment and outcomes securing loans, and discrimination.³³ Collecting data helps make it easier to see otherwise missed patterns of discrimination in small business and farm credit markets — discrimination which ultimately disadvantages certain small businesses and farms, which results in a less competitive marketplace that hurts all small business owners and farmers and the communities they serve. This transparency in small business and farm credit markets not only promotes governmental fair lending enforcement but provides vital tools for community groups, local governments, and small business and farm advocates to assess the availability of credit necessary to promote community development, especially in lower-income areas and communities of color. Weakening Section 1071 will only hurt small businesses and farms, which are important engines for economic growth and household wealth building.

³⁰ CFPB, *Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications*, 89 Fed. Reg. 237, December 10, 2024.

³¹ CFPB, [Press release], "Federal regulators fine Bank of America \$225 million over botched disbursement of state unemployment benefits at height of pandemic," July 14, 2022.

³² Marek, Lynne. "US servicemembers ensnared by digital payment app scams," Dive Brief, June 22, 2023.

³³ de Zeeuw, Mels G. and Victor E. da Motta. Federal Reserve Bank of San Francisco. "Minority-owned enterprises and access to capital from Community Development Financial Institutions" Community Development Innovation Review, May 19, 2021 at 6 to 7.

• • • • •

The vehemence of the Wall Street bank, Big Tech, and predatory financial industry's attacks on the CFPB are a testament to its effectiveness in successfully standing up for people and protecting them from abusive practices, deception, and junk fees. AFR urges this committee to support a strong CFPB with an independent director and a secure funding stream not beholden to political interests. The Bureau must be allowed to continue protecting people from scams, fraud, misconduct, and deceptive and predatory lending practices as they navigate through everyday financial life. People living paycheck to paycheck, those living in rural areas with fewer banking options, military families, and older individuals all benefit from and deserve a fair and transparent financial marketplace, made possible by meaningful enforcement and oversight. Businesses that operate responsibly and fairly also benefit from a stable marketplace made possible by meaningful enforcement and oversight. Undermining or weakening the CFPB would allow financial misconduct and predatory and deceptive lending practices to go unchecked, and with no measure of accountability, which will only harm the marketplace and contribute to its instability.

Congress must maintain a robust, independent, and fully funded CFPB as well as oppose any legislation that would permanently undo the already finalized rules that protect people from common mistreatment, junk fees, and fraud. We urge members to side with their constituents: families, older people, servicemembers, and their local small businesses and farms, and oppose any legislation that would permanently undo protections against junk fees, medical debt impacts on credit, fraud and scams on digital payment apps, and legislation that undermines the equitable access to small business and farm loan credit that is free from discrimination.

consumeraction

Honorable Maxine Waters
U.S. House of Representatives
Rayburn House office Building
Independence Ave. Washington D.C.

March 25, 2025

Dear Ranking Member Waters,

Consumer Action¹ appreciates the opportunity to offer this statement for the record in support of the Consumer Financial Protection Bureau (CFPB). The CFPB is the only federal financial regulator whose mission it is to protect and empower consumers. The public requires that the Consumer Financial Protection Bureau continue as the strong, independent agency it is and that any votes to diminish its duties or funding or repeal its rules be soundly rejected.

Congress established the CFPB as part of the Dodd Frank Wall Street Reform and Consumer Protection Act, in 2010, as a response to the financial crisis where gluttonous corporate greed left millions of people without homes and no recourse for resolution.

In its brief 13 year history, the Consumer Bureau has successfully and efficiently helped defend people against fraud, discrimination and financial abuse.

The CFPB is a critical federal agency that provides consumers with the information and resources they need to wisely function in today's marketplace, and provides the protection needed when actors in the marketplace fail, deceive and harm individuals for profit. The CFPB has the tools to assist cheated consumers and the means to detect abusive patterns to apply its supervisory and enforcement authority to hold the worst offenders accountable.

The CFPB has returned \$21 billion to 200 million people, has held predatory companies to account through lawsuits and rules that impact the mortgages, credit reports, credit cards and banking products consumers use. It conducts research and educates consumers on financial products, fights discrimination in housing and lending, and relies on consumers' complaints to assist individuals and learn where patterns of mistreatment are occurring.

¹ Consumer Action has been a champion of underrepresented consumers since 1971. // Consumer Action has championed the rights of underrepresented consumers since 1971. A national, nonprofit 501(c)3 organization, Consumer Action focuses on financial education that empowers low to moderate income and limited-English-speaking consumers to financially prosper. It also advocates for consumers in the media, and before lawmakers and regulators, to advance consumer rights and promote industry-wide change particularly in the fields of consumer protection, credit, banking, housing, privacy, insurance and telecommunications. www.consumer-action.org

Consumer Action represents consumers who depend on the CFPB, and thousands of community based organizations (CBOs) across the country that are the on-the-ground—counselors, educators, and advocates who are the conduits for all the valuable tools and rules that the Bureau creates on behalf of consumers.

Financial educators tell Consumer Action they rely on the CFPB's excellent, actionable resources, such as *Your Money Your Goals*², to help consumers achieve their financial objectives.

"The CFPB is an invaluable, trusted resource that enables us to support our [housing counseling] clients effectively, particularly when they are facing infringements on their financial rights. Whether addressing credit issues, debt collection practices, or disputes with financial institutions, the CFPB offers a centralized platform for clients to find solutions and take action. We rely on their materials to ensure our clients are well-informed and equipped to advocate for themselves, and we commend the CFPB for its ongoing efforts to protect consumers." (Ashley from Indiana)

"Efforts to weaken or dismantle the CFPB risk exposing consumers to exploitative practices, particularly at a time when financial stability is crucial for many households. Protecting the CFPB is not just about preserving an agency; it is about ensuring that individuals and families have a trusted ally in the financial system." (Lei from a large bank)

One essential tool that consumers, and the agency, rely on is its first-rate complaint process and database. The system helps real people get problems addressed and empowers consumers to make smart financial choices using the CFPB's public, searchable complaint database.

The CFPB addresses individual financial complaints and analyzes consumers' complaints, and companies' responses. The agency identifies patterns of deceptive practices and targets the worst violators, holding companies accountable. The Bureau considers which of its tools: enforcement, supervision, regulation or education would be most effective in combating the harm.

Consumers tell Consumer Action they rely on the CFPB:

"The CFPB has been a godsend for consumers. I understand why financial institutions don't like it. The CFPB forces them to deal fairly with customers or pay a price when they don't," (Joel from Arkansas).

"I was completely blown away by how quickly they responded to my complaint and helped me get to a resolution." The financial institution I was dealing with at the time, made no effort to resolve the issue at a customer service level and when escalated at the manager level they claimed that they could not assist. I felt powerless. Within a week, I heard from an executive of my bank... I was able to get this all resolved just before the due date and my credit was not impacted. ALL BECAUSE OF THE CFPB. THANK YOU CFPB!" (Lisandra from Tennessee)

Under the Trump Administration, demolition of the agency is underway. Staff has been banished from the offices and ordered not to work. Statutory duties, such as bank supervision and complaint handling, have not been complied with. Lawsuits have been dropped and restitution has been halted.

What this means is that real harm will come to real people without having this federal financial watchdog to defend us.

² <https://www.consumerfinance.gov/consumer-tools/educator-tools/your-money-your-goals/>

- Student loan borrowers who turn to the CFPB to assist with debt relief disputes will be disregarded. The student loan ombudsman who fights those fights was recently fired as part of the purge.
- Consumers who file complaints with the CFPB will not see their problems pursued.
- Refunds from settlements with companies that harmed consumers will be delayed or denied. Investigations into new financial violations will be ignored.

We call on Congress to use its authority to reject all efforts to dismantle and destroy one of the most effective government agencies, and to do everything in its power to ensure that the Consumer Bureau can continue to fulfill its mission to protect consumers.

Thank you for your attention,

A handwritten signature in cursive script, reading "Ruth Susswein".

Ruth Susswein
Director of Consumer Protection
Consumer Action



March 25, 2025

The Hon. Andy Barr, Chairman
 The Hon. Bill Foster, Ranking Member
 U.S. House Committee on Financial Services
 Subcommittee on Financial Institutions
 Washington, DC 20515

Re: Statement for the hearing entitled: A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections

Dear Chairman Barr, Ranking Member Foster, and Members of the Subcommittee on Financial Institutions:

The National Association of Consumer Advocates (NACA) strongly requests this subcommittee to uphold the existing structure, authorities, and work product of the Consumer Financial Protection Bureau (CFPB). Congress established the bureau in the aftermath of the 2007-2009 global economic crisis, which resulted from an era of recklessness and predatory lending, leading to millions of home foreclosures and job losses, trillions of dollars in investment losses, and the downfall and taxpayer-rescue of large financial institutions.

In creating the Bureau, Congress filled a gaping regulatory hole in the financial system. The new agency now assists struggling homeowners facing preventable foreclosures and servicemembers and veterans targeted by predatory lenders. Borrowers surprised by deceptive junk fees, car owners fighting shock repossessions, and digital payment application users encountering sudden account closures, have all found relief in the federal agency that enforces consumer financial laws for their benefit. The bureau has proven repeatedly that it is essential to upholding a fair, competitive, and innovative but stable consumer finance market.

Congress should reject any era with a weakened CFPB. According to its title, this hearing is expected to cover a “new era for the CFPB.” Indeed, the CFPB over the last two months is starkly different from its performance over the previous 14 years when it monitored the market, enforced the law, and returned \$21 billion to more than 200 million harmed individuals including \$363 million back to servicemembers and veterans. In approximately the last 50 days under the new acting director, the bureau has experienced an abrupt closure of its headquarters, the firing of hundreds of its staff, threats to restrict its funding, and an inexplicable work stoppage.¹

In addition, the bureau has issued corporate pardons by dismissing law enforcement actions against financial institutions, such as Capital One and Wells Fargo, that it had previously accused

¹ See, e.g., Fin Daniel Gomez, *Russ Vought orders Consumer Financial Protection Bureau to stop work*, CBS NEWS, Feb. 9, 2025.

of egregious violations of the law.² While many of these actions are being challenged in court,³ this blatant rejection of the bureau's statutory mission and responsibilities is already causing serious harm to the millions of Americans that participate in the financial system.⁴ Continued obstruction of the CFPB emboldens corporate lawbreakers, which will wreck the financial market and the welfare of working families, military members, veterans, and seniors. A CFPB in ruins will provoke another economic collapse.

The legislation under consideration would undermine the bureau's mission. Unfortunately, the subcommittee is considering bills that aim to weaken the bureau's foundation and authorities. For example, a bill would eliminate the CFPB's independent funding and turn it over to the congressional appropriations process, and another would create a multimember commission in place of its single director. By specifying a permanent and independent funding structure and a single director for the bureau, the framers of the Dodd-Frank Wall Street Reform and Consumer Protection Act correctly sought to insulate the bureau's work from overt political interference powered by Wall Street lobbyists.⁵

Proponents of the bills may argue that the CFPB needs more accountability. However, under Dodd-Frank, the bureau is already publicly accountable through numerous avenues, including via a U.S. Senate-confirmed director who, among other tasks, is required to appear before Congress regularly, report on its budget to multiple congressional committees and the Federal Reserve, and accommodate an annual audit by the Government Accountability Office.⁶

Another bill, H.R. 1652, would interfere with the bureau's authority to rein in abusive corporate actions and recover penalties against financial services providers that break the law. The consumer finance market needs a CFPB that will assess and identify risks for unfair, deceptive, and abusive practices, including discriminatory conduct. One that will write rules to address those risks and hold financial institutions accountable for wrongdoing that falls into these categories. These and the other proposals listed for this hearing, including a resolution to eliminate a rule that protects patients with medical debt, would undercut the CFPB and endanger the financial wellbeing of millions of American families.

Financial institutions may recoil at the prospect of a debilitated CFPB. Big banks reportedly are wary of big-tech, non-bank financial services that may evade CFPB oversight.⁷ Meanwhile, large and small financial providers are focused on maintaining a level regulatory playing field with

² See, *CFPB v. Early Morning Services, LLC*, Plaintiff Consumer Financial Protection Bureau's Notice of Dismissal (D. Arizona); See, also, *Trump admin drops 5 consumer watchdog cases, including Capital One*, REUTERS, <https://www.reuters.com/legal/us-cfpb-drops-enforcement-action-against-capital-one-2025-02-27/>.

³ See, *National Treasury Employees Union v. Voight* (D.D.C. 2025); *Mayor and City Council of Baltimore v. Voight* (D. Maryland 2025)

⁴ See, Derek Cravitz, *The Dismantling of a Financial Watchdog Is Already Harming Consumers—and Worse May Be to Come*, Consumer Reports, Feb. 20, 2025, available at <https://www.consumerreports.org/consumer-protection/cfpb-dismantling-is-harming-consumers-worse-may-be-to-come-a1107755689/>.

⁵ Rachel E. Barkow, *Insulating Agencies: Avoiding Capture Through Institutional Design*, 89 Tex. L. Rev. 15, 65, 2010, available at <https://ssrn.com/abstract=1717037>. "Agencies charged with protecting consumers have a difficult task because the industries they are charged with regulating are typically far more powerful and well financed than the consumers whose interests they are charged with protecting."

⁶ See, U.S. Government Accountability Office, *Financial Audit: Consumer Financial Protection Bureau's FY 2024 and FY 2023 Financial Statements*, Nov. 14, 2024, <https://www.gao.gov/products/gao-25-107479>.

⁷ Hugh Son, *Here's why banks don't want the CFPB to disappear*, CNBC, March 10, 2025, <https://www.cnbc.com/2025/03/10/why-banks-dont-want-the-cfpb-to-disappear.html>.

their competitors, benefits that the CFPB provides.⁸ Further, in an amicus brief before the Supreme Court, the Mortgage Bankers Association wrote that invalidating the CFPB “could destabilize critical segments of the national economy” and that the mortgage market would “very likely all but grind to a halt as lenders would be unable to have any confidence that their transactions comply with law.”⁹

American families, honest businesses, and the U.S. financial marketplace cannot afford to be exposed to unchecked predatory financial schemes run by unaccountable financial institutions. Therefore, we urge you to reject every bill under consideration, and any resolution under the Congressional Review Act that seeks to overturn a CFPB regulation.

Thank you for considering our views. Please feel free to contact me at *Christine@consumeradvocates.org* to further discuss these issues.

Sincerely,

Christine Hines
Senior Policy Director

cc: Members of the U.S. House Committee on Financial Services

⁸ *Id.*

⁹ Brief for the Mortgage Bankers Ass’n, et al. as Amicus Curiae, p. 10, *Sella Law LLC v. Consumer Financial Protection Bureau*, 140 S. Ct. 2183, available at https://www.supremecourt.gov/DocketPDF/19/19-7/125625/20191216140130784_USSC%2019-7%20Amicus%20Brief%20TheMortgageBankersAssociation.pdf.



March 25, 2025

Chairman Andy Barr
House Financial Services Subcommittee
Financial Institutions
Washington, D.C. 20510

Ranking Member Bill Foster
House Financial Services Subcommittee
Financial Institutions
Washington, D.C. 20510

Dear Chairman Barr and Ranking Member Foster:

On behalf of ACA International, the Association of Credit and Collection Professionals ("ACA International" or "ACA"), I am writing regarding your hearing entitled, "A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections." ACA represents approximately 1,500 members, including credit grantors, third party collection agencies, asset buyers, attorneys, and vendor affiliates, in an industry that employs more than 113,000 people worldwide.

Background about ACA International

ACA International is one of the nation's largest trade groups for creditors and debt collectors. ACA members range from small family-owned businesses that operate within a single state to the country's largest publicly-held, multinational corporations. The majority of ACA-member debt collection companies, however, are small businesses. According to recent ACA member data, 35% of ACA members have 10 employees or fewer, 56% of ACA members have 25 employees or fewer, and 70% of ACA members have 100 employees or fewer. ACA's debt collector members work with consumers to resolve consumer debt, which saves every American household, on average, more than \$700 each year. ACA's members also help keep America's credit-based economy functioning with access to low-cost credit. For example, in 2018 the accounts receivable management (ARM) industry returned more than \$90 billion to creditors for goods and services the creditors had provided to customers.

Consumer harm can result in several ways when unpaid debt is not addressed, and ACA members work to help consumers understand their financial situation and what can be done to address it and improve it. This often includes helping consumers understand their options for charity care or insurance payments. Unfortunately, the recent work of the CFPB has overlooked the highly regulated and beneficial work of ACA members, and instead has made them a target for political gain. This in turn has increased the cost of credit, health care, and other services for Americans.

Medical Debt CRA

During the previous Administration, the CFPB engaged in a misguided public relations campaign to target ACA members' compliant and beneficial work collecting on accounts for medical providers. It started with a truncated Small Business Regulatory Enforcement Fairness Act process, which was severely criticized by the Small Business Administration Office of Advocacy. There, the CFPB did not invite medical providers or the health insurance industry to participate in its policymaking process—despite the fact that the CFPB would be effectively regulating health care with its new rule. It was clear the CFPB had a pre-determined outcome (aligned with the election). Subsequently, the CFPB moved forward despite concerns raised by credit unions, community banks, credit reporting agencies, healthcare trade associations, and a variety of other stakeholders providing evidence of significant disruptions in the market, as well as harm to consumers and small businesses. At record speed, with severely outdated and flawed data, the CFPB engaged in midnight rulemaking.

The CFPB ignored laws written by Congress, calls from Chairman Hill and Senator Scott not to engage in midnight rulemaking, and engaged in an arbitrary and capricious process to finalize the rule. We appreciate Congressman Norman's efforts in H.J.Res.74 and his leadership in pushing back on this overreach that harms medical providers, ACA members, small community financial institutions, and consumers as a whole. The vote of the American people made it clear they did not agree with policies of the Biden/Chopra era. Without overturning this rule, Congress is allowing an unelected bureaucrat to dictate loan underwriting standards and pick winning and losing professions in the credit reporting system. ACA also appreciates the [support](#) of the Trump Administration and White House in highlighting that the CFPB's proposal, "unilaterally buried \$50 billion in medical debt."

Below are links to graphics & information about the CFPB's rule:

- [Harm to the credit ecosystem and making credit more expensive and less accessible.](#) (PDF)
- [Harm to the patient community in reducing access to healthcare for the most vulnerable.](#) (PDF)
- [The real risk of how thwarting the underwriting standards will lead more people to forgo health insurance altogether.](#) (PDF)
- [Coalition letter of both lenders and healthcare providers supporting the CRA that is also supported by 13 cosponsors, in addition to Congressman Norman.](#) (PDF)

Complaint Database

The bureau has on numerous occasions reported that the debt collection industry receives the highest number of complaints. However, the bureau fails to contextualize the number of complaints as compared to the number of contacts the ARM industry makes with consumers in a given year, which the Philadelphia Federal Reserve estimates to be well over one billion.

Debt collection complaints account for only a fraction of a percent of all consumer contacts made in a given year by debt collectors. Many complaints often address issues that are not fundamentally about the debt collection industry. For example, a consumer may submit a complaint that his or her insurance company should have paid a medical bill.

The most troubling aspect of the complaint database is: (1) the Bureau's broad definition of a complaint and (2) the Bureau's failure to verify the accuracy of the complaints it receives and 3) not specifying contacts vs. complaints. A significant volume of items running through the complaint portal today are inquiries or disputes, erroneously classified as complaints. Additional safeguards to the portal are needed to curb abuses from form-letter social influencers and "complaints" being generated with AI tools. There are thousands of identical complaints in the database.

The Dodd-Frank Act requires the Bureau to report annually to Congress about the number of consumer complaints in general and to report semi-annually to the President and designated congressional committees certain analyses of the complaints the Bureau has collected in its databases from the prior year. However, nothing in the statute mandates that the Bureau make the consumer complaint database public. ACA urges Congress to consider how it can reform the complaint database, so that it can not distort information and data for political purposes.

By redefining what a complaint is and aligning it with Congress's original intent, the CFPB also would be poised for a meaningful headcount reduction. It requires CFPB personnel to manage all items flowing through the portal today.



Scott Purcell
Chief Executive Officer
On behalf of ACA International

Questions for the Record
Subcommittee on Financial Institutions Hearing, entitled “A New Era for the CFPB:
Balancing Power and Reprioritizing Consumer Protections”
March 26, 2025

Chairman Hill:

Questions for Mr. Schneider:

1. Mr. Schneider, I have heard from several financial institutions, both large and small, that the frequent shifts in regulatory approaches with changes in administrations create uncertainty, making it challenging for firms to plan and invest in innovative products. Can you elaborate on how this regulatory uncertainty impacts the ability of financial institutions to invest in low-cost, innovative products for their customers?
2. Mr. Schneider, I understand that you have experience serving as the Secretary of the Illinois Department of Financial and Professional Regulation. Could you discuss the provision in Dodd-Frank that allows states to bring actions to enforce federal consumer protection laws?
 - a. Follow-up: Do you believe this structure promotes consistency and clarity, or does it create further confusion by involving multiple government bodies in enforcement?
3. Mr. Schneider, I'd like to address the issue of overlapping supervisory authorities between federal prudential regulators, the CFPB, and state financial regulators. When Congress passed Dodd-Frank, it consolidated the enforcement of federal consumer protection laws under the CFPB, but allowed federal and state regulators to continue overseeing compliance with those laws. How has this supervisory structure affected financial institutions? Has it led to greater consistency and clarity in rules and enforcement, or has it caused confusion for businesses and consumers?

Bryan A. Schneider
161 W. Harrison Street, Unit 1008
Chicago, IL 60605

April 30, 2025

Hon. French Hill
Chairman
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hill:

I am providing the following in response to the questions submitted to me following the March 26, 2025, hearing titled "*A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections*."

.Questions from Chairman Hill

1. Every material shift in regulatory policy can be expected to result in tens of thousands of dollars in additional legal, compliance, and process costs for affected companies. When financial institutions perceive a regulatory environment in a state of flux, especially when it is disrupted by blog posts, speeches, and other guidance materials not subjected to the rigor of public notice and comment, they will refrain from developing new products and services that may be immediately disrupted by ever-changing and uncertain regulatory requirements.
2. Section 1042 does permit States to enforce federal consumer protection laws. When this authority is used in a coordinated fashion, it may result in enhanced consumer protection. But when States seek to act unilaterally, there is significant risk of duplicative litigation and contradictory results.
3. When federal prudential regulators, state regulators, and the CFPB coordinate their supervisory activity, consumers benefit from enhanced oversight while supervised entities are not overburdened by multiple duplicative exams. But when the CFPB proceeds on its own without meaningful coordination with other regulators, as it did regularly in the prior

Administration, supervised entities are bogged down with seriatim exams that yield little, if any, additional consumer protection.



April 29, 2025

The Honorable French Hill
Chairman
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Maxine Waters
Ranking Member
House Committee on Financial Services
4340 O'Neill House Office Building
Washington, D.C. 20515

Dear Chairman Hill and Ranking Member Waters,

Thank you for the opportunity to testify at the March 26, 2025 Subcommittee on Financial Institutions hearing entitled "A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections." My responses to questions for the record are below.

Questions from Chairman Hill

1. *Mr. Pommerehn, one concern I have regarding the Consumer Financial Protection Bureau's (CFPB) approach under former Director Chopra is the potential for a heavy-handed regulatory stance to result in many financial institutions withdrawing from offering products and services, particularly to consumers who already face limited access to financial services. Please discuss how Consumer Bankers Association members are finding the regulatory landscape for consumer financial products and services increasingly difficult due to the high costs of compliance?*

Response:

One must consider not only the effect of one rule or policy, but the cumulative impact that many different rules and policies can have on a specific service, such as checking accounts.

If the Federal Reserve's current proposal to reduce the debit interchange fee cap is finalized, research suggests consumers will pay an extra \$1.3 billion to \$2 billion annually in higher bank account fees. In this scenario, interchange fee revenue for banks drops by \$3 billion annually. As with the original implementation of the Durbin Amendment, these fee increases result from a variety of changes to account terms that make it harder for consumers to avoid fees. When interchange declines, "free" bank accounts with no maintenance fees become less common and the average minimum deposit required to qualify for fee waivers increases— which may disproportionately affect lower income consumers.¹

The CFPB's overdraft rule would have had similar impacts. When asked if the CFPB's overdraft rule was finalized as proposed, and capped overdraft fees at the \$3, \$7, or \$14 level, 92 percent of banks that responded to the question reported they would have to reduce the overdraft liquidity offered to their customers. The retail banks that responded to the survey provide overdraft services to an average of 1.7 million consumers, and the majority of

¹ <https://consumerbankers.com/wp-content/uploads/2024/03/SSRN-id4705853.pdf>



respondents reported that if the CFPB were to cap overdraft fees at \$3 or \$7, they would have to reduce overdraft liquidity by 76 to 100 percent.²

Put simply, if a typical large, regional bank were to pass through just 50 percent of its lost revenue to break even, the annual cost for each mass market consumer would increase substantially by an estimated 29 to 42 percent in annual checking account fees. If the CFPB were to cap overdraft fees at \$14, the highest price cap in its proposed rule, one-third of reporting banks responded that they would have to reduce overdraft liquidity by at least 25 percent.³ Similar regulations on other consumer financial products like credit cards will also cause consumers to lose access to those products.⁴

- Before the CFPB released its overdraft proposal, many financial institutions proactively changed their overdraft programs to reflect competitive developments within the industry. These innovations include sending low balance alerts, imposing a de minimis threshold triggering an overdraft fee, capping total fees that the bank may charge per day, and providing overdraft “grace periods” during which a customer can make a deposit and avoid a fee. Additionally, some banks no longer charge overdraft or NSF fees, and many banks offer overdraft-free accounts that meet the Bank On initiative’s National Account Standards.⁵
- The CFPB’s own research confirms that, as a result of banks’ innovations, consumers are paying less in overdraft and NSF fees now than they did four years ago.⁶ The CFPB’s own data shows that there was a \$5 billion reduction of overdraft fees from 2019 to 2022 because of these financial institution-led— not government-led— innovations, a nearly 50 percent drop since before the pandemic.⁷ More recently announced changes to overdraft programs are projected to save consumers \$18.3 billion from 2021 through 2025, more than \$3.5 billion per year.⁸

a. *Follow Up: Do you think this limits competition thus ultimately hurting consumers?*

Response:

Yes. Undue restrictions will lead to less competitive markets and fewer, and often more expensive, alternatives for consumers. As an example, the use of buy now, pay later (BNPL)

² <https://consumerbankers.com/press-release/new-cba-survey-illustrates-consumer-harm-of-cfpb-overdraft-proposal/>

³ <https://consumerbankers.com/blog/the-data-desk-cumulative-impact-what-do-reg-ii-and-overdraft-proposals-mean-for-consumers-and-consumer-banking/>

⁴ <https://consumerbankers.com/blog/facts-matter-correcting-the-record-on-the-biden-chopm-cfpbs-own-brand-of-debanking/>

⁵ <https://cfefund.org/bank-on-national-account-standards-2023-2024/>

⁶ <https://www.consumerfinance.gov/about-us/blog/banks-overdraft-nsf-fee-revenues-evolve-along-with-their-policies/>

⁷ <https://www.consumerfinance.gov/data-research/research-reports/data-spotlight-overdraft-nsf-revenue-in-q4-2022-down-nearly-50-versus-pre-pandemic-levels/full-report/>

⁸ <https://consumerbankers.com/press-release/cba-reaffirms-opposition-to-ideologically-driven-campaign-misrepresenting-well-regulated-bank-fees/>

products is higher among younger consumers.⁹ This comes in the wake of the CARD Act's restrictions on offering credit cards to consumers younger than 21 years old.

2. *Mr. Pommerehn, many of the actions taken by the CFPB under Director Chopra were introduced within the framework of the Biden administration's focus on so-called "junk fees," though this term has not been clearly defined. Could you explain the trade-off between fees and access to credit? Why do banks charge fees in the first place, and what are the implications of government-imposed caps on such fees?*

Response:

Yes, more fees restrictions will lead to less access. The so-called "junk fee" rules, primarily overdraft and credit card late fees, failed to appropriately consider potential costs to consumers, particularly including how they may reduce consumer access to critical services and products that they rely on to make ends meet.¹⁰ This means that the rules did not grapple with their most glaring deficiency: because of the rules, many consumers are likely to lose access to overdraft services and basic credit cards, leaving them to have to turn to more costly, less safe non-bank alternatives to meet their liquidity needs. Yet the rule writers made almost no effort to quantify the detrimental impacts to consumers, such as the likelihood that consumers will have less liquidity to pay for rent, utilities, or groceries, potentially leading to late fees and other adverse outcomes. It is also worth mentioning that the previous administration defined "junk fees" as fees that are not adequately disclosed and hard for consumers to avoid. On the contrary, overdraft services and credit card late fees are highly disclosed (by law) and easily avoidable.

- To further illustrate the consumer harms associated with the CFPB's credit card late fees rule, 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 cardholders¹¹— 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.¹²

⁹ <https://www.federalreserve.gov/econres/notes/feds-notes/the-only-way-i-could-afford-it-who-uses-bnpl-and-why-20241220.html>

<https://libertystreeteconomics.newyorkfed.org/2023/09/who-uses-buy-now-pay-later/>

¹⁰ <https://consumerbankers.com/blog/facts-matter-correcting-the-record-on-the-biden-chopra-cfpbs-own-brand-of-debanking/>

¹¹ https://files.consumerfinance.gov/f/documents/cfpb_credit-card-late-fees_report_2022-03.pdf

¹² https://files.consumerfinance.gov/f/documents/cfpb_credit-card-penalty-fees_final-rule_2024-01.pdf#page=227



Sincerely,

David Pommerehn
General Counsel and Head of Regulatory Affairs
Consumer Bankers Association



April 30, 2025

The Honorable French Hill
Chairman
House Committee on Financial Services
Subcommittee on Financial Institutions
Washington, D.C. 20515

Dear Chairman Hill:

Thank you for the opportunity to testify before the Subcommittee on Financial Institutions at the hearing titled "A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections" held on March 26, 2025.

Please find attached my responses to the Questions for the Record submitted following the hearing. I appreciate the Subcommittee's thoughtful engagement on these important issues impacting credit unions and the communities we serve.

Should you or your staff have any questions regarding my responses or require further information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Ana E. Fonseca". The signature is written in a cursive, flowing style.

Ana E. Fonseca
President and CEO
Logix Federal Credit Union
afonseca@lfcu.com

(818)565-2250

cc: Brad Thaler, Head of Legislative Advocacy, America's Credit Unions

Responses to Questions for the Record

Ana Fonseca, President and CEO, Logix Federal Credit Union

Hearing Title: "A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections"

Date of Hearing: March 26, 2025

Chairman Hill's Questions:

1. Could you share how much additional time, money, and resources your credit union has spent preparing for the possibility of surpassing the \$10 billion threshold?

Response:

Preparing for CFPB supervision has imposed a significant operational and financial burden on Logix Federal Credit Union. Over the past four years, we have invested heavily in both preparation efforts and structural changes to ensure readiness for heightened regulatory oversight. Key impacts include:

- **\$517,000** spent on CFPB Exam Readiness Reviews
- **\$300,000** in annual compliance software costs
- **\$200,000** in annual compliance audits and legal services
- **\$800,000** in additional enterprise risk management resources (staff and systems)
- Planned hiring of **30 additional compliance staff**, resulting in an estimated **\$3.3 million annual increase** in staffing costs
- A projected **\$10 million (and growing) annual loss in interchange income** due to Durbin Amendment implications
- **Thousands of staff hours** redirected from product and service innovation to regulatory preparedness and long-term mitigation planning

These investments (and losses to revenue) divert critical resources away from member-facing innovation and strategic growth.

a. Follow-up: How have you modified your growth strategies to avoid CFPB supervision?

Response:

While we remain committed to serving our members and growing responsibly, we will take deliberate steps to slow asset growth in the short term. Our goal is to delay crossing the \$10 billion threshold until we can achieve the economies of scale necessary to absorb the financial impacts of CFPB supervision and the Durbin Amendment. Tactics to slow asset growth impact our ability to provide value to members in the form of better loan and deposit rates. However, we continue to explore options, including partnerships with other credit unions and third parties, that will allow us to continue serving members while moving assets off-balance sheet.

Even with \$10 billion in assets, Logix is still considered a relatively small financial institution with limited resources. The regulatory and revenue implications of surpassing this threshold are significant and could hinder our ability to fulfill our mission to “Help our Members Thrive.”

b. Could you also explain how this dynamic might impact innovation and services offered to your members?

Response:

The combination of increased regulatory costs and reduced interchange income threatens our ability to maintain the level of value and innovation our members have come to expect. Impacts include:

- **Reduced investment in technology and security**
We currently spend millions annually on digital banking enhancements and fraud mitigation tools. Under financial pressure, we may be forced to slow these investments—making it harder to keep pace with consumer expectations and rising fraud risks, subsequently reducing our competitiveness against large banks and fintechs.
- **Pressure on product pricing**
A \$10 million reduction in debit interchange income could result in changes to rates offered to members—affecting loan and deposit pricing by up to **1%**. For individual members, this could mean **hundreds to more than \$1,000 annually** in additional costs or reduced earnings.
- **Elimination of member value programs**
We recently discontinued our Debit Rewards program, which returned more than **\$2.5 million annually** to members, due to economic constraints tied to surpassing the \$10 billion threshold. Other rewards and financial wellness programs may also be at risk, limiting our ability to promote positive financial behaviors.

This regulatory dynamic directly undercuts the not-for-profit, member-first model that credit unions like Logix are built upon.

FRENCH HILL, AR
CHAIRMAN



MAXINE WATERS, CA
RANKING MEMBER

United States House of Representatives
One Hundred Nineteenth Congress
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Questions for the Record
**Subcommittee on Financial Institutions Hearing, entitled “A New Era for the CFPB:
Balancing Power and Reprioritizing Consumer Protections.”**
March 26, 2025

Ranking Member Waters:

Mr. Bryan Schneider:

1. Which of the following options best describes your self-identified race? (you may choose more than one)
 - a. White or Caucasian
 - b. Black or African American
 - c. Hispanic/Latinx
 - d. Asian
 - e. Middle Eastern/North African
 - f. Choose not to answer
 - g. Prefer to self-describe (please specify)
2. Which of the following options best describes your gender identity?
 - a. Woman
 - b. Man
 - c. Non-binary
 - d. Transgender Man
 - e. Transgender Woman
 - f. Choose not to answer
 - g. Prefer to self-describe (please specify)

FRENCH HILL, AR
CHAIRMAN



MAXINE WATERS, CA
RANKING MEMBER

United States House of Representatives
One Hundred Nineteenth Congress
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Questions for the Record
Subcommittee on Financial Institutions Hearing, entitled “A New Era for the CFPB:
***Balancing Power and Reprioritizing Consumer Protections.*”**
March 26, 2025

Ranking Member Waters:

Mr. David Pommerehn:

1. Which of the following options best describes your self-identified race? (you may choose more than one)
 - a. White or Caucasian
 - b. Black or African American
 - c. Hispanic/Latinx
 - d. Asian
 - e. Middle Eastern/North African
 - f. Choose not to answer**
 - g. Prefer to self-describe (please specify)

2. Which of the following options best describes your gender identity?
 - a. Woman
 - b. Man
 - c. Non-binary
 - d. Transgender Man
 - e. Transgender Woman
 - f. Choose not to answer**
 - g. Prefer to self-describe (please specify)

FRENCH HILL, AR
CHAIRMAN



MAXINE WATERS, CA
RANKING MEMBER

United States House of Representatives
One Hundred Nineteenth Congress
Committee on Financial Services
2120 Rayburn House Office Building
Washington, DC 20515

Questions for the Record
**Subcommittee on Financial Institutions Hearing, entitled “A New Era for the CFPB:
Balancing Power and Reprioritizing Consumer Protections.”**
March 26, 2025

Ranking Member Waters:

Ms. Ana Fonseca:

1. Which of the following options best describes your self-identified race? (you may choose more than one)
 - a. White or Caucasian
 - b. Black or African American
 - c. Hispanic/Latinx
 - d. Asian
 - e. Middle Eastern/North African
 - f. Choose not to answer
 - g. Prefer to self-describe (please specify)
2. Which of the following options best describes your gender identity?
 - a. Woman
 - b. Man
 - c. Non-binary
 - d. Transgender Man
 - e. Transgender Woman
 - f. Choose not to answer
 - g. Prefer to self-describe (please specify)

FRENCH HILL, AR
CHAIRMAN



MAXINE WATERS, CA
RANKING MEMBER

United States House of Representatives
One Hundred Nineteenth Congress
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Questions for the Record

**Subcommittee on Financial Institutions Hearing, entitled “A New Era for the CFPB:
Balancing Power and Reprioritizing Consumer Protections.”**

March 26, 2025

Ranking Member Waters:

Ms. Rebecca Kuehn:

1. Which of the following options best describes your self-identified race? (you may choose more than one)
 - a. White or Caucasian
 - b. Black or African American
 - c. Hispanic/Latinx
 - d. Asian
 - e. Middle Eastern/North African
 - f. Choose not to answer
 - g. Prefer to self-describe (please specify)

2. Which of the following options best describes your gender identity?
 - a. Woman
 - b. Man
 - c. Non-binary
 - d. Transgender Man
 - e. Transgender Woman
 - f. Choose not to answer
 - g. Prefer to self-describe (please specify)

Questions for the Record
Subcommittee on Financial Institutions Hearing, entitled “A New Era for the CFPB:
Balancing Power and Reprioritizing Consumer Protections”
March 26, 2025

Rep. Rose:

1. **Mr. Schneider**, your prepared testimony states that “... enforcement should be reserved for situations in which the CFPB has exhausted other available options and has determined that it must proceed against a bad actor whose behavior has caused significant consumer harm...”

I agree with you. The CFPB should first try and work with companies to remedy compliance issues before bringing enforcement actions. Unfortunately, I believe that some regulators use the gross number of enforcement actions as a misguided metric of success.

2. **Mr. Schneider**, can expand on the point you made in your prepared testimony about the importance of exhausting other available options before bringing an enforcement action?

138

Bryan A. Schneider
161 W. Harrison Street, Unit 1008
Chicago, IL 60605

April 30, 2025

Hon. French Hill
Chairman
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hill:

I am providing the following in response to the questions submitted to me following the March 26, 2025, hearing titled "*A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections*."

Question from Rep. Rose

The CFPB has four powerful tools - education, regulation, supervision, and enforcement. Enforcement should be reserved for cases where clearly established rules have been violated and where the enforcement action will send a clear message to other actors. Notably, if the CFPB appropriately deploys its other tools through clear rulemaking, robust education, and supervision aimed at preventing harm, the overall need for enforcement will decline.

Thank you for the opportunity to testify concerning this important topic.

Very truly yours,



Schneider

•

HUDSON
COOK

Hudson Cook, LLP • Attorneys at Law • www.hudco.com

1909 K Street, NW, 4th Floor | Washington, DC 20006
202.223.6930 • Fax: 202.223.6935

Offices in: California, Maine, Maryland, Massachusetts, Michigan, New York,
Oklahoma, Pennsylvania, Tennessee, Texas, Virginia and Washington, DC

Rebecca E. Kuehn, Partner

202.715.2008 • rkuehn@hudco.com
Admitted in Maryland, Virginia, and the District of Columbia

April 29, 2025

Chairman French Hill
United States House of Representatives
One Hundred Nineteenth Congress
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Hill:

Thank you for the opportunity to testify before the Subcommittee on Financial Institutions of the House Committee on Financial Services on March 26, 2025, at the hearing titled "A New Era for the CFPB: Balancing Power and Reprioritizing Consumer Protections." Attached hereto are my responses to the questions that were submitted following the hearing. Please let me know if you have any follow up questions or whether I can be of further assistance to the Committee and Subcommittee.

Very truly yours,

A handwritten signature in blue ink, appearing to be "Rebecca E. Kuehn", with a long horizontal flourish extending to the right.

Responses to Questions for the Record by Rebecca E. Kuehn**Question from Representative Timmons:**

CFPB Data Broker Rule

Ms. Kuehn, I want to turn to the CFPB's data broker rule that was proposed in December. The more I read about the proposal the more troubled I am. It appears to go well beyond the remit of the CFPB and it could facilitate fraud activity and undermine law enforcement investigations.

1. Do you generally agree? What's your evaluation of the rule?

Thank you for your question, Representative Timmons, and for the opportunity to provide my thoughts on the CFPB's proposed Data Broker Rule ("Proposed Rule"). The Proposed Rule seeks to largely rewrite the Fair Credit Reporting Act ("FCRA") in a way that far exceeds the CFPB's statutory mandate. Therefore, I generally agree with you – the Proposed Rule is troubling.

The Proposed Rule seeks to expand and change several fundamental definitions under the FCRA. The CFPB does not have the authority to attempt to change the fundamental nature of key definitions under the Fair Credit Reporting Act through regulation. The CFPB seeks to redefine "consumer reporting agency" and "consumer report" to cover companies that are clearly not consumer reporting agencies nor providing consumer reports. The changes to these definitions will have significant effects on the consumer financial services industry and impact businesses across industries, including by potentially bankrupting many small to medium-sized organizations. For this reason alone, the Proposed Rule should be abandoned.

Additionally, the Proposed Rule will create a fundamental shift in how the consumer financial services industry has treated personal identifiers, such as name, address, or birthdate. This information has not historically been viewed by courts, regulators, consumer reporting agencies, and consumer report users as consumer report information, but is governed by another well-established law, the Gramm-Leach-Bliley Act. This information is often used to prevent fraud, as you point out, and its usefulness is predicated on the nature of how this information evolves over time. Incorporating personal identifiers into the definition of "consumer report" and the FCRA's accuracy standard could severely limit the industry's ability to see whether and how a consumer's identifiers are changing or have changed over time. Fraudulent activity will increase because lenders, law enforcement, property managers, and others will no longer be able to detect fraud and prevent it, at least not using tried and true methods standard in fraud prevention.

Because of the potentially devastating effects that the Proposed Rule is likely to have and because the CFPB does not have the authority to fundamentally rewrite the FCRA through rulemaking, the Proposed Rule, at a minimum, should be withdrawn and reconsidered.

G:\M\19\STEW\STEWI_004.XML

[118H7000]

(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Consumer Financial Protection Act of 2010 to clarify the authority of the Bureau of Consumer Financial Protection with respect to persons regulated by a State insurance regulator, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. STEIL introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Consumer Financial Protection Act of 2010 to clarify the authority of the Bureau of Consumer Financial Protection with respect to persons regulated by a State insurance regulator, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Business of Insurance
5 Regulatory Reform Act of 2025”.

G:\M\19\STEWI\STEWI_004.XML

2

1 **SEC. 2. CLARIFICATION TO THE AUTHORITY OF THE BU-**
2 **REAU WITH RESPECT TO PERSONS REGU-**
3 **LATED BY A STATE INSURANCE REGULATOR.**

4 Section 1027(f) of the Consumer Financial Protec-
5 tion Act of 2010 (12 U.S.C. 5517(f)) is amended—

6 (1) in paragraph (2)—

7 (A) by striking “DESCRIPTION OF ACTIVI-
8 TIES.—Paragraph (1)” and inserting: “EXCEP-
9 TIONS.—

10 “(A) AUTHORITY.—Paragraph (1)”; and

11 (B) by inserting after subparagraph (A)
12 (as added by this Act) the following new sub-
13 paragraph:

14 “(B) LIMITATION.—With respect to a per-
15 son regulated by a State insurance regulator—

16 “(i) and if such person is offering or
17 providing a consumer financial product or
18 service, the Bureau may not enforce this
19 title with respect to such person to the ex-
20 tent such person is engaged in the business
21 of insurance; or

22 “(ii) and if such person is subject to
23 any enumerated consumer law or any law
24 for which authorities are transferred under
25 subtitle F or H, the authority of the Bu-
26 reau to enforce such law with respect to

G:\M\19\STEIWI\STEIWI_004.XML

3

1 such person shall be narrowly construed to
2 the extent such person is engaged in the
3 business of insurance.”; and

4 (2) by adding at the end the following new
5 paragraph:

6 “(4) RULE OF CONSTRUCTION.—The enforce-
7 ment of this title shall be broadly construed in favor
8 of the authority of a State insurance regulator with
9 respect to a person regulated by a State insurance
10 regulator.”.

G:\M\19\EMMER\EMMER_005.XML

[118H2489]

.....
 (Original Signature of Member)

119TH CONGRESS
 1ST SESSION

H. R. _____

To amend the Consumer Financial Protection Act of 2010 to update the purpose of the Bureau of Consumer Financial Protection, and for other purposes.

 IN THE HOUSE OF REPRESENTATIVES

Mr. EMMER introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Consumer Financial Protection Act of 2010 to update the purpose of the Bureau of Consumer Financial Protection, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “CFPB Dual Mandate
 5 and Economic Analysis Act”.

6 **SEC. 2. PURPOSE.**

7 Section 1021(a) of the Consumer Financial Protec-
 8 tion Act of 2010 (12 U.S.C. 5511(a)) is amended—

G:\M\19\EMMER\EMMER_005.XML

2

1 (1) by striking “fair, transparent, and competi-
2 tive” and inserting: “fair and transparent”; and

3 (2) by adding at the end the following: “In ad-
4 dition, the Bureau shall seek to implement and,
5 where applicable, enforce Federal consumer financial
6 law consistently for the purpose of strengthening
7 private sector participation in markets, without Gov-
8 ernment interference or subsidies, to increase com-
9 petition and enhance consumer choice.”.

10 **SEC. 3. OFFICE OF ECONOMIC ANALYSIS.**

11 (a) IN GENERAL.—Section 1013 of the Consumer Fi-
12 nancial Protection Act of 2010 (12 U.S.C. 5493) is
13 amended by adding at the end the following:

14 “(i) OFFICE OF ECONOMIC ANALYSIS.—

15 “(1) ESTABLISHMENT.—The Director shall es-
16 tablish an Office of Economic Analysis.

17 “(2) REVIEW AND ASSESSMENT OF PROPOSED
18 GUIDANCE, ORDERS, RULES AND REGULATIONS.—
19 The Office of Economic Analysis shall—

20 “(A) review all proposed guidance, orders,
21 rules and regulations of the Bureau;

22 “(B) assess the impact of such guidance,
23 orders, rules and regulations on consumer
24 choice, price, and access to credit products; and

G:\M\19\EMMER\EMMER_005.XML

3

1 “(C) publish a report on such reviews and
2 assessments in the Federal Register.

3 “(3) MEASURING EXISTING RULES, REGULA-
4 TIONS, GUIDANCE, AND ORDERS.—The Office of
5 Economic Analysis shall—

6 “(A) review each rule, regulation, guid-
7 ance, and order issued by the Bureau after 1,
8 2, 5, and 10 years;

9 “(B) measure the rule, regulation, guid-
10 ance, or order’s success in solving the problem
11 that the rule, regulation, guidance, or order was
12 intended to solve when issued; and

13 “(C) publish a report on such review and
14 measurement in the Federal Register.”.

15 (b) CONSIDERATION OF REVIEW AND ASSESSMENT;
16 RULEMAKING REQUIREMENTS.—Section 1022(b) of the
17 Consumer Financial Protection Act of 2010 (12 U.S.C.
18 5512(b)) is amended by adding at the end the following:

19 “(5) CONSIDERATION OF REVIEW AND ASSESS-
20 MENT BY THE OFFICE OF ECONOMIC ANALYSIS.—

21 “(A) IN GENERAL.—Before issuing any
22 guidance, order, rule, or regulation, the Direc-
23 tor shall consider the review and assessment of
24 such guidance, order, rule, or regulation carried
25 out by the Office of Economic Analysis.

G:\M\19\EMMER\EMMER_005.XML

4

1 “(B) NOTICE OF DISAGREEMENT.—If the
2 Director disagrees with any part of a review
3 and assessment described under subparagraph
4 (A) with respect to any guidance, order, rule, or
5 regulation, the Director shall accompany any
6 such guidance, order, rule, or regulation with a
7 statement explaining why the Director so dis-
8 agrees.

9 “(6) IDENTIFICATION OF PROBLEMS AND
10 METRICS FOR JUDGING SUCCESS.—

11 “(A) IN GENERAL.—The Director shall, in
12 each proposed rulemaking of the Bureau—

13 “(i) identify the problem that the par-
14 ticular rule or regulations is seeking to
15 solve; and

16 “(ii) specify the metrics by which the
17 Bureau will measure the success of the
18 rule or regulation in solving such problem.

19 “(B) REQUIRED METRICS.—The metrics
20 specified under subparagraph (A)(ii) shall in-
21 clude a measurement of changes to consumer
22 access to, and cost of, consumer financial prod-
23 ucts and services.”.

G:\CMTE\FS\19\BANK\BUREAU_IG.XML

[118H1411]

[DISCUSSION DRAFT]119TH CONGRESS
1ST SESSION**H. R. _____**

To require Senate confirmation of Inspector General of the Bureau of
Consumer Financial Protection, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MEUSER introduced the following bill; which was referred to the
Committee on _____

A BILL

To require Senate confirmation of Inspector General of the
Bureau of Consumer Financial Protection, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Bureau of Consumer
5 Financial Protection-Inspector General Reform Act of
6 2025” or the “CFPB-IG Reform Act of 2025”.

G:\CMTE\FS\19\BANK\BUREAU_IG.XML

2

1 SEC. 2. APPOINTMENT OF INSPECTOR GENERAL.

2 Chapter 4 of title 5, United States Code, is amend-
3 ed—

4 (1) in section 401—

5 (A) in paragraph (1), by inserting “the
6 Bureau of Consumer Financial Protection,”
7 after “the Export-Import Bank of the United
8 States,”; and

9 (B) in paragraph (3), by inserting “the Di-
10 rector of the Bureau of Consumer Financial
11 Protection,” after “the President of the Export-
12 Import Bank of the United States,”; and

13 (2) in section 415—

14 (A) in subsection (a)(1), by striking “and
15 the Bureau of Consumer Financial Protection”;

16 (B) in subsection (c), by striking “For
17 purposes of implementing this section, the
18 Chairman of the Board of Governors of the
19 Federal Reserve System shall appoint the In-
20 spector General of the Board of Governors of
21 the Federal Reserve System and the Bureau of
22 Consumer Financial Protection. The Inspector
23 General of the Board of Governors of the Fed-
24 eral Reserve System and the Bureau of Con-
25 sumer Financial Protection shall have all of the
26 authorities and responsibilities provided by this

G:\CMTE\FS\19\BANK\BUREAU_IG.XML

3

1 Act with respect to the Bureau of Consumer Fi-
 2 nancial Protection, as if the Bureau were part
 3 of the Board of Governors of the Federal Re-
 4 serve System.”; and

5 (C) in subsection (g)(3), by striking “and
 6 the Bureau of Consumer Financial Protection”.

7 **SEC. 3. REQUIREMENTS FOR THE INSPECTOR GENERAL**
 8 **FOR THE BUREAU OF CONSUMER FINANCIAL**
 9 **PROTECTION.**

10 (a) ESTABLISHMENT.—Section 1011 of the Dodd-
 11 Frank Wall Street Reform and Consumer Protection Act
 12 (12 U.S.C. 5491) is amended—

13 (1) in subsection (b)—

14 (A) in the subsection heading, by striking
 15 “AND DEPUTY DIRECTOR” and inserting “,
 16 DEPUTY DIRECTOR, AND INSPECTOR GEN-
 17 ERAL”; and

18 (B) by inserting after paragraph (5) the
 19 following:

20 “(6) INSPECTOR GENERAL.—There is estab-
 21 lished the position of the Inspector General.”; and

22 (2) in subsection (d), by striking “or Deputy
 23 Director” each place it appears and inserting “,
 24 Deputy Director, or Inspector General”.

G:\CMTE\FS\19\BANK\BUREAU_IG.XML

4

1 (b) HEARINGS.—Section 1016 of such Act is amend-
2 ed by inserting after subsection (c) the following:

3 “(d) ADDITIONAL REQUIREMENT FOR INSPECTOR
4 GENERAL.—On a separate occasion from that described
5 in subsection (a), the Inspector General of the Bureau
6 shall appear, upon invitation, before the Committee on
7 Banking, Housing, and Urban Affairs of the Senate and
8 the Committee on Financial Services and the Committee
9 on Energy and Commerce of the House of Representatives
10 at semiannual hearings regarding the reports required
11 under subsection (b) and the reports required under sec-
12 tion 405 of title 5, United States Code.”.

13 (e) FUNDING FOR OFFICE OF INSPECTOR GEN-
14 ERAL.—Section 1017(a)(2) of such Act is amended—

15 (1) by redesignating subparagraph (C) as sub-
16 paragraph (D); and

17 (2) by inserting after subparagraph (B) the fol-
18 lowing:

19 “(C) FUNDING FOR OFFICE OF INSPECTOR
20 GENERAL.—Each fiscal year, the Bureau shall
21 dedicate 2 percent of the funds transferred pur-
22 suant to paragraph (1) to the Office of the In-
23 spector General.”.

24 (d) PARTICIPATION IN THE COUNCIL OF INSPECTORS
25 GENERAL ON FINANCIAL OVERSIGHT.—Section

G:\CMTE\FS\19\BANK\BUREAU_IG.XML

1 989E(a)(1) of such Act is amended by adding at the end
2 the following:

3 “(J) The Bureau of Consumer Financial
4 Protection.”.

5 (e) DEADLINE FOR APPOINTMENT.—Not later than
6 60 days after the date of the enactment of this Act, the
7 President shall appoint an Inspector General for the Bu-
8 reau of Consumer Financial Protection in accordance with
9 section 403 of title 5, United States Code.

10 **SEC. 4. EFFECTIVE DATE.**

11 (a) IN GENERAL.—The amendments made by this
12 Act shall take effect on the date on which the first Inspec-
13 tor General of the Bureau of Consumer Financial Protec-
14 tion is confirmed by the Senate.

15 (b) APPOINTMENT.—The President may appoint, and
16 the Senate may confirm, an Inspector General of the Bu-
17 reau of Consumer Financial Protection before the amend-
18 ments made by this Act take effect.

19 (c) TRANSITION.—The Inspector General of the
20 Board of Governors of the Federal Reserve System and
21 the Bureau of Consumer Financial Protection shall, upon
22 the date on which the first Inspector General of the Bu-
23 reau of Consumer Financial Protection is confirmed by the
24 Senate, become the Inspector General of the Board of
25 Governors of the Federal Reserve System.

[DISCUSSION DRAFT]119TH CONGRESS
1ST SESSION**H. R. _____**

To amend the Consumer Financial Protection Act of 2010 to make the Bureau of Consumer Financial Protection an independent agency led by a commission, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HUIZENGA introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Consumer Financial Protection Act of 2010 to make the Bureau of Consumer Financial Protection an independent agency led by a commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commission of the Bu-
5 reau of Consumer Financial Protection Act”.

G:\CMTE\FS\19\BANK\BUREAU_COMMISSION.XML

2

1 **SEC. 2. MAKING THE BUREAU AN INDEPENDENT AGENCY**
2 **LED BY A COMMISSION.**

3 The Consumer Financial Protection Act of 2010 (12
4 U.S.C. 5481 et seq.) is amended—

5 (1) in section 1011—

6 (A) in subsection (a)—

7 (i) by striking “in the Federal Reserve
8 System,”; and

9 (ii) by striking “independent bureau”
10 and inserting “independent agency”;

11 (B) by striking subsections (b), (c), and
12 (d);

13 (C) by redesignating subsection (e) as sub-
14 section (j);

15 (D) in subsection (j), as so redesignated,
16 by striking “, including in cities in which the
17 Federal reserve banks, or branches of such
18 banks, are located,”; and

19 (E) by inserting after subsection (a) the
20 following new subsections:

21 “(b) **AUTHORITY TO PRESCRIBE REGULATIONS.—**

22 The commission of the Bureau may prescribe such regula-
23 tions and issue such orders in accordance with this title
24 as the Bureau may determine to be necessary for carrying
25 out this title and all other laws within the Bureau’s juris-
26 diction and shall exercise any authorities granted under

1 this title and all other laws within the Bureau’s jurisdic-
2 tion.

3 “(c) COMPOSITION OF THE COMMISSION.—

4 “(1) IN GENERAL.—The management of the
5 Bureau shall be vested in a commission, which shall
6 be composed of 5 members who shall be appointed
7 by the President, by and with the advice and consent
8 of the Senate, and at least 2 of whom shall have pri-
9 vate sector experience in the provision of consumer
10 financial products and services.

11 “(2) STAGGERING.—The members of the com-
12 mission shall serve staggered terms, which initially
13 shall be established by the President for terms of 1,
14 2, 3, 4, and 5 years, respectively.

15 “(3) TERMS.—

16 “(A) IN GENERAL.—Except with respect to
17 the initial staggered terms described under
18 paragraph (2), each member of the commission,
19 including the Chair, shall serve for a term of 5
20 years.

21 “(B) REMOVAL.—The President may re-
22 move any member of the commission for ineffi-
23 ciency, neglect of duty, or malfeasance in office.

24 “(C) VACANCIES.—Any member of the
25 commission appointed to fill a vacancy occur-

G:\CMTE\FS\19\BANK\BUREAU_COMMISSION.XML

4

1 ring before the expiration of the term to which
2 that member's predecessor was appointed (in-
3 cluding the Chair) shall be appointed only for
4 the remainder of the term.

5 “(D) CONTINUATION OF SERVICE.—Each
6 member of the commission may continue to
7 serve after the expiration of the term of office
8 to which that member was appointed until a
9 successor has been appointed by the President
10 and confirmed by the Senate, except that a
11 member may not continue to serve more than 1
12 year after the date on which that member's
13 term would otherwise expire.

14 “(E) OTHER EMPLOYMENT PROHIBITED.—
15 No member of the commission shall engage in
16 any other business, vocation, or employment.

17 “(d) AFFILIATION.—Not more than 3 members of
18 the commission shall be members of any one political
19 party.

20 “(e) CHAIR OF THE COMMISSION.—

21 “(1) INITIAL CHAIR.—The first member and
22 Chair of the commission shall be the individual serv-
23 ing as Director of the Bureau of Consumer Finan-
24 cial Protection on the day before the date of the en-
25 actment of this subsection. Such individual shall

1 serve until the President has appointed all 5 mem-
2 bers of the commission in accordance with sub-
3 section (c).

4 “(2) SUBSEQUENT CHAIR.—Of the 5 members
5 appointed in accordance with subsection (c), the
6 President shall appoint 1 member to serve as the
7 subsequent Chair of the commission.

8 “(3) AUTHORITY.—The Chair shall be the prin-
9 cipal executive officer of the commission, and shall
10 exercise all of the executive and administrative func-
11 tions of the commission, including with respect to—

12 “(A) the appointment and supervision of
13 personnel employed under the commission
14 (other than personnel employed regularly and
15 full time in the immediate offices of members of
16 the commission other than the Chair);

17 “(B) the distribution of business among
18 personnel appointed and supervised by the
19 Chair and among administrative units of the
20 commission; and

21 “(C) the use and expenditure of funds.

22 “(4) LIMITATION.—In carrying out any of the
23 Chair’s functions under the provisions of this sub-
24 section, the Chair shall be governed by general poli-
25 cies of the commission and by such regulatory deci-

1 sions, findings, and determinations as the commis-
2 sion may by law be authorized to make.

3 “(5) REQUESTS OR ESTIMATES RELATED TO
4 APPROPRIATIONS.—Requests or estimates for reg-
5 ular, supplemental, or deficiency appropriations on
6 behalf of the commission may not be submitted by
7 the Chair without the prior approval of the commis-
8 sion.

9 “(6) DESIGNATION.—The Chair shall be known
10 as both the ‘Chair of the commission’ of the Bureau
11 and the ‘Chair of the Bureau’.

12 “(f) INITIAL QUORUM ESTABLISHED.—For the 6
13 month period beginning on the date of enactment of this
14 subsection, the first member and Chair of the commission
15 described under subsection (e)(1) shall constitute a
16 quorum for the transaction of business until the President
17 has appointed all 5 members of the commission in accord-
18 ance with subsection (e). Following such appointment of
19 5 members, the quorum requirements of subsection (g)
20 shall apply.

21 “(g) NO IMPAIRMENT BY REASON OF VACANCIES.—
22 No vacancy in the members of the commission after the
23 establishment of an initial quorum under subsection (f)
24 shall impair the right of the remaining members of the
25 commission to exercise all the powers of the commission.

1 Three members of the commission shall constitute a
2 quorum for the transaction of business, except that if
3 there are only 3 members serving on the commission be-
4 cause of vacancies in the commission, 2 members of the
5 commission shall constitute a quorum for the transaction
6 of business. If there are only 2 members serving on the
7 commission because of vacancies in the commission, 2
8 members shall constitute a quorum for the 6-month period
9 beginning on the date of the vacancy which caused the
10 number of commission members to decline to 2.

11 “(h) SEAL.—The Bureau shall have an official seal.

12 “(i) COMPENSATION.—

13 “(1) CHAIR.—The Chair shall receive com-
14 pensation at the rate prescribed for level I of the
15 Executive Schedule under section 5313 of title 5,
16 United States Code.

17 “(2) OTHER MEMBERS OF THE COMMISSION.—

18 The 4 other members of the commission shall each
19 receive compensation at the rate prescribed for level
20 II of the Executive Schedule under section 5314 of
21 title 5, United States Code.”;

22 (2) in section 1012(c)—

23 (A) in the heading, by striking “AUTON-
24 OMY OF THE BUREAU” and inserting “COORDI-
25 NATION WITH THE BOARD OF GOVERNORS”;

G:\CMTE\FS\19\BANK\BUREAU_COMMISSION.XML

8

1 (B) by striking “(1) COORDINATION WITH
2 THE BOARD OF GOVERNORS.—”; and

3 (C) by striking paragraphs (2), (3), (4),
4 and (5); and

5 (3) in section 1014(b), by striking “Not fewer
6 than 6 members shall be appointed upon the rec-
7 ommendation of the regional Federal Reserve Bank
8 Presidents, on a rotating basis.” and inserting “Not
9 fewer than half of all members shall have private
10 sector experience in the provision of consumer finan-
11 cial products and services.”.

12 **SEC. 3. DEEMING OF NAME.**

13 Any reference in a law, regulation, document, paper,
14 or other record of the United States to the Director of
15 the Bureau of Consumer Financial Protection, except in
16 subsection (e)(1) of section 1011 of the Consumer Finan-
17 cial Protection Act of 2010 (12 U.S.C. 5491), as added
18 by this Act, shall be deemed a reference to the commission
19 leading and governing the Bureau of Consumer Financial
20 Protection, as described under section 1011 of the Con-
21 sumer Financial Protection Act of 2010.

22 **SEC. 4. CONFORMING AMENDMENTS.**

23 (a) CONSUMER FINANCIAL PROTECTION ACT OF
24 2010.—

G:\CMTE\FS\19\BANK\BUREAU_COMMISSION.XML

1 (1) IN GENERAL.—Except as provided under
2 paragraph (2), the Consumer Financial Protection
3 of 2010 (12 U.S.C. 5481 et seq.) is amended—

4 (A) by striking “Director of the Bureau”
5 each place such term appears, other than where
6 such term is used to refer to a Director other
7 than the Director of the Bureau of Consumer
8 Financial Protection, and inserting “Bureau”;

9 (B) by striking “Director” each place such
10 term appears and inserting “Bureau”, other
11 than where such term is used to refer to a Di-
12 rector other than the Director of the Bureau of
13 Consumer Financial Protection; and

14 (C) in section 1002, by striking paragraph
15 (10).

16 (2) EXCEPTIONS.—

17 (A) IN GENERAL.—The Consumer Finan-
18 cial Protection Act of 2010 (12 U.S.C. 5481 et
19 seq.) is amended—

20 (i) in section 1013(c)(3)—

21 (I) by striking “Assistant Direc-
22 tor of the Bureau for” and inserting
23 “Head of the Office of”; and

G:\CMTE\FS\19\BANK\BUREAU_COMMISSION.XML

10

1 (II) in subparagraph (B), by
 2 striking “Assistant Director” and in-
 3 serting “Head of the Office”;

4 (ii) in section 1013(g)(2)—

5 (I) by striking “ASSISTANT DI-
 6 RECTOR” and inserting “HEAD OF
 7 THE OFFICE”; and

8 (II) by striking “an assistant di-
 9 rector” and inserting “a Head of the
 10 Office of Financial Protection for
 11 Older Americans”;

12 (iii) in section 1016(a), by striking
 13 “Director of the Bureau” and inserting
 14 “Chair of the Bureau”; and

15 (iv) by striking section 1066.

16 (B) CLERICAL AMENDMENT.—The table of
 17 contents for the Dodd-Frank Wall Street Re-
 18 form and Consumer Protection Act is amended
 19 by striking the item relating to section 1066.

20 (b) DODD-FRANK WALL STREET REFORM AND CON-
 21 SUMER PROTECTION ACT.—The Dodd-Frank Wall Street
 22 Reform and Consumer Protection Act (12 U.S.C. 5301
 23 et seq.) is amended—

24 (1) in section 111(b)(1)(D), by striking “Direc-
 25 tor” and inserting “Chair”; and

G:\CMTE\FS\19\BANK\BUREAU_COMMISSION.XML

11

1 (2) in section 1447, by striking “Director of the
2 Bureau” each place such term appears and inserting
3 “Chair of the Bureau”.

4 (c) ELECTRONIC FUND TRANSFER ACT.—Section
5 921(a)(4)(C) of the Electronic Fund Transfer Act (15
6 U.S.C. 1693o–2(a)(4)(C)), as added by section 1075(a)(2)
7 of the Consumer Financial Protection Act of 2010, is
8 amended by striking “Director of the Bureau of Consumer
9 Financial Protection” and inserting “Chair of the Bureau
10 of Consumer Financial Protection”.

11 (d) EXPEDITED FUNDS AVAILABILITY ACT.—The
12 Expedited Funds Availability Act (12 U.S.C. 4001 et
13 seq.), as amended by section 1086 of the Consumer Finan-
14 cial Protection Act of 2010, is amended by striking “Di-
15 rector of the Bureau” each place such term appears and
16 inserting “Bureau”.

17 (e) FEDERAL DEPOSIT INSURANCE ACT.—Section 2
18 of the Federal Deposit Insurance Act (12 U.S.C. 1812),
19 as amended by section 336(a) of the Dodd-Frank Wall
20 Street Reform and Consumer Protection Act, is amended
21 by striking “Director of the Consumer Financial Protec-
22 tion Bureau” each place such term appears and inserting
23 “Chair of the Bureau of Consumer Financial Protection”.

24 (f) FEDERAL FINANCIAL INSTITUTIONS EXAMINA-
25 TION COUNCIL ACT OF 1978.—Section 1004(a)(4) of the

1 Federal Financial Institutions Examination Council Act of
2 1978 (12 U.S.C. 3303(a)(4)), as amended by section 1091
3 of the Consumer Financial Protection Act of 2010, is
4 amended by striking “Director of the Consumer Financial
5 Protection Bureau” and inserting “Chair of the Bureau
6 of Consumer Financial Protection”.

7 (g) FINANCIAL LITERACY AND EDUCATION IM-
8 PROVEMENT ACT.—Section 513 of the Financial Literacy
9 and Education Improvement Act (20 U.S.C. 9702), as
10 amended by section 1013(d)(5) of the Consumer Financial
11 Protection Act of 2010, is amended by striking “Director”
12 each place such term appears and inserting “Chair”.

13 (h) HOME MORTGAGE DISCLOSURE ACT OF 1975.—
14 Section 307 of the Home Mortgage Disclosure Act of 1975
15 (12 U.S.C. 2806 et seq), as amended by section 1094(6)
16 of the Consumer Financial Protection Act of 2010, is
17 amended by striking “Director of the Bureau of Consumer
18 Financial Protection” each place such term appears and
19 inserting “Bureau of Consumer Financial Protection”.

20 (i) INTERSTATE LAND SALES FULL DISCLOSURE
21 ACT.—The Interstate Land Sales Full Disclosure Act (15
22 U.S.C. 1701 et seq), as amended by section 1098A of the
23 Consumer Financial Protection Act of 2010, is amended—

24 (1) in section 1402—

25 (A) by striking paragraph (1); and

G:\CMTE\FS\19\BANK\BUREAU_COMMISSION.XML

13

- 1 (B) by redesignating paragraphs (2)
2 through (12) as paragraphs (1) through (11),
3 respectively;
4 (2) in section 1403(c)—
5 (A) by striking “him” and inserting “the
6 Bureau”; and
7 (B) by striking “he” and inserting “the
8 Bureau”;
9 (3) in section 1407—
10 (A) in subsection (c), by striking “he” and
11 inserting “the Bureau”; and
12 (B) in subsection (e), by striking “Director
13 or anyone designated by him” and inserting
14 “Bureau”;
15 (4) in section 1411(a)—
16 (A) by striking “his findings” and insert-
17 ing “the findings of the Bureau”; and
18 (B) by striking “his recommendation” and
19 inserting “the recommendation of the Bureau”;
20 (5) in section 1415—
21 (A) in subsection (a), by striking “he may,
22 in his discretion,” and inserting “the Bureau
23 may, in the discretion of the Bureau,”;
24 (B) in subsection (b)—

G:\CMTE\FS\19\BANK\BUREAU_COMMISSION.XML

14

- 1 (i) by striking “in his discretion” each
2 place such term appears and inserting “in
3 the discretion of the Bureau”;
- 4 (ii) by striking “he deems” and insert-
5 ing “the Bureau determines”; and
- 6 (iii) by striking “he may deem” and
7 inserting “the Bureau may determine”;
8 and
- 9 (C) in subsection (e), by striking “the Di-
10 rector, or any officer designated by him,” and
11 inserting “the Bureau”;
- 12 (6) in section 1416(a)—
- 13 (A) by striking “Director of the Bureau of
14 Consumer Financial Protection who may dele-
15 gate any of his” and inserting “Bureau of Con-
16 sumer Financial Protection, which may delegate
17 any”;
- 18 (B) by striking “his administrative” and
19 inserting “administrative”; and
- 20 (C) by striking “himself” and inserting
21 “the commission of the Bureau”;
- 22 (7) in section 1418a(b)(4), by striking “Sec-
23 retary’s determination” and inserting “determina-
24 tion of the Bureau”; and

G:\CMTE\FS\19\BANK\BUREAU_COMMISSION.XML

15

1 (8) by striking “Director” each place such term
2 appears and inserting “Bureau”.

3 (j) REAL ESTATE SETTLEMENT PROCEDURES ACT
4 OF 1974.—Section 5 of the Real Estate Settlement Proce-
5 dures Act of 1974 (12 U.S.C. 2604), as amended by sec-
6 tion 1450 of the Dodd-Frank Wall Street Reform and
7 Consumer Protection Act, is amended—

8 (1) by striking “The Director of the Bureau of
9 Consumer Financial Protection (hereafter in this
10 section referred to as the ‘Director’)” and inserting
11 “The Bureau of Consumer Financial Protection
12 (hereafter in this section referred to as the ‘Bu-
13 reau’)”; and

14 (2) by striking “Director” each place such term
15 appears and inserting “Bureau”.

16 (k) S.A.F.E. MORTGAGE LICENSING ACT OF 2008.—
17 The S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C.
18 5101 et seq.), as amended by section 1100 of the Con-
19 sumer Financial Protection Act of 2010, is amended—

20 (1) by striking “Director” each place such term
21 appears in headings and text and inserting “Bureau
22 of Consumer Financial Protection”; and

23 (2) in section 1503, by striking paragraph (10).

24 (l) TITLE 44, UNITED STATES CODE.—Section
25 3513(c) of title 44, United States Code, as amended by

G:\CMTE\FS\19\BANK\BUREAU_COMMISSION.XML

- 1 section 1100D(b) of the Consumer Financial Protection
- 2 Act of 2010, is amended by striking “Director of the”.

G:\M\19\NORMSC\NORMSC_003.XML

.....
(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. J. RES. _____

Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Bureau of Consumer Financial Protection relating to “Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)”.

IN THE HOUSE OF REPRESENTATIVES

Mr. NORMAN introduced the following joint resolution; which was referred to the Committee on _____

JOINT RESOLUTION

Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Bureau of Consumer Financial Protection relating to “Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)”.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That Congress disapproves the rule submitted by the Bu-
4 reau of Consumer Financial Protection relating to “Prohi-
5 bition on Creditors and Consumer Reporting Agencies

G:\M\19\NORMSC\NORMSC_003.XML

2

- 1 Concerning Medical Information (Regulation V)” (90 Fed.
- 2 Reg. 3276; published January 14, 2025), and such rule
- 3 shall have no force or effect.



I

119TH CONGRESS
1ST SESSION**H. R. 1606**

To impose additional requirements for covered agencies in regulatory flexibility analysis.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2025

Mr. FITZGERALD (for himself and Mr. FALLON) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Small Business, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To impose additional requirements for covered agencies in regulatory flexibility analysis.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Making the CFPB Ac-
5 countable to Small Businesses Act of 2025”.

1 **SEC. 2. RULEMAKING UNDER DODD-FRANK WALL STREET**
2 **REFORM AND CONSUMER PROTECTION ACT.**

3 Section 1022(b)(2)(A) of the Dodd-Frank Wall
4 Street Reform and Consumer Protection Act (12 U.S.C.
5 5512(b)(2)(A)) is amended—

6 (1) in clause (i), by striking “and” at the end;

7 (2) in clause (ii), by striking the semicolon at
8 the end and inserting “; and”; and

9 (3) by adding at the end the following:

10 “(iii) the impact of proposed rules on
11 small entities, in accordance with section
12 609 of title 5, United States Code;”.

13 **SEC. 3. INITIAL REGULATORY FLEXIBILITY ANALYSIS.**

14 Section 603(d)(1) of title 5, United States Code, is
15 amended—

16 (1) in subparagraph (B), by striking “and” at
17 the end;

18 (2) in subparagraph (C), by striking the period
19 and inserting “; and”; and

20 (3) by adding at the end the following:

21 “(D) where the covered agency does not
22 adopt any alternatives described in paragraphs
23 (1) through (4) of subsection (c), a detailed jus-
24 tification of the covered agency’s determination
25 that the relative size and resources of small en-

1 tities should have no bearing on the rule, sup-
2 ported by factual, policy and legal reasons.”.

3 **SEC. 4. FINAL REGULATORY FLEXIBILITY ANALYSIS.**

4 Section 604(a) of title 5, United States Code, is
5 amended in the second paragraph (6) to read as follows:

6 “(7) for a covered agency, as defined in section
7 609(d)(2), a description of the steps the agency has
8 taken to minimize any additional cost of credit for
9 small entities and, where no significant alternatives
10 for small entities was adopted, a detailed justifica-
11 tion of the covered agency’s determination that the
12 relative size and resources of small entities should
13 have no bearing on the rule, supported by factual,
14 policy and legal reasons.”.

○



I

119TH CONGRESS
1ST SESSION

H. R. 1652

To amend the Consumer Financial Protection Act of 2010 to clarify standards for UDAAP enforcement actions brought by the Bureau of Consumer Financial Protection, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2025

Mr. BARR introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Consumer Financial Protection Act of 2010 to clarify standards for UDAAP enforcement actions brought by the Bureau of Consumer Financial Protection, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rectifying Undefined
5 Descriptions of Abusive Acts and Practices Act” or the
6 “Rectifying UDAAP Act”.

1 **SEC. 2. MITIGATING FACTORS IN ASSESSING CIVIL PEN-**
2 **ALTIES.**

3 Section 1055(c) of the Consumer Financial Protec-
4 tion Act of 2010 (12 U.S.C. 5565(c)) is amended by add-
5 ing at the end the following:

6 “(6) RULEMAKING.—The Bureau shall, not
7 later than 180 days after the date of the enactment
8 of this paragraph, issue a rule that establishes poli-
9 cies and procedures relating to the imposition of civil
10 monetary penalties sought under this subsection, in-
11 cluding the application of the mitigating factors de-
12 scribed in paragraph (3).”.

13 **SEC. 3. RULEMAKING RELATING TO UNFAIR, DECEPTIVE**
14 **OR ABUSIVE ACTS OR PRACTICES.**

15 (a) IN GENERAL.—Section 1031 of the Consumer Fi-
16 nancial Protection Act of 2010 (12 U.S.C. 5531) is
17 amended by striking subsection (b) and inserting the fol-
18 lowing:

19 (b) RULEMAKING.—

20 “(1) IN GENERAL.—The Bureau may prescribe
21 rules applicable to a covered person or service pro-
22 vider identifying as unlawful unfair, deceptive, or
23 abusive acts or practices in connection with any
24 transaction with a consumer for a consumer finan-
25 cial product or service, or the offering of a consumer
26 financial product or service. Rules under this section

1 may include requirements for the purpose of pre-
2 venting such acts or practices.

3 “(2) COST BENEFIT ANALYSIS REQUIRED.—
4 Any final rule issued by the Bureau relating to abu-
5 sive, unfair, or deceptive acts or practices shall in-
6 clude a cost-benefit analysis.

7 “(3) DEFINITION OF ABUSIVE ACT OR PRAC-
8 TICE.—The Bureau shall, not later than 180 days
9 after the date of the enactment of this subsection,
10 issue a rule that defines the term ‘abusive act or
11 practice’ for the purposes of this section.”.

12 (b) OPPORTUNITY FOR COMMENT.—The Bureau of
13 Consumer Financial Protection shall, not later than 180
14 days after the date of the enactment of this subsection,
15 allow the public to submit comments with respect to any
16 confusion about how the Bureau of Consumer Financial
17 Protection uses its authority with respect to unfair, decep-
18 tive, or abusive acts or practices.

19 **SEC. 4. AUTHORITY TO DECLARE AN ACT UNLAWFUL**
20 **BASED ON DISCRIMINATION.**

21 The Bureau of Consumer Financial Protection may
22 not interpret the authority of the Bureau of Consumer Fi-
23 nancial Protection relating to unfair, deceptive, or abusive
24 acts and practices, as such term is used in section 1031

1 of the Consumer Financial Protection Act of 2010, to in-
2 clude discriminatory practices.

3 **SEC. 5. CLARIFYING THE ABUSIVE STANDARD FOR THE BU-**
4 **REAU OF CONSUMER FINANCIAL PROTEC-**
5 **TION.**

6 Section 1031 of the Consumer Financial Protection
7 Act of 2010 (12 U.S.C. 5531) is amended by striking sub-
8 section (d) and inserting the following:

9 “(d) ABUSIVE.—

10 “(1) IN GENERAL.—The Bureau shall have no
11 authority to declare an act or practice of a covered
12 person abusive in connection with the provision of a
13 consumer financial product or service, unless the act
14 or practice—

15 “(A) intentionally and materially interferes
16 with the ability of a consumer to understand a
17 term or condition of a consumer financial prod-
18 uct or service; or

19 “(B) takes unreasonable advantage of—

20 “(i) a lack of understanding by the
21 consumer with respect to the possible im-
22 pact, material risks, costs, or conditions of
23 the product or service, or the likelihood of
24 the risks, costs, or conditions of the prod-

1 uct or service negatively affecting the con-
2 sumer; and

3 “(ii) the reasonable reliance the con-
4 sumer places on an affirmative action or
5 representation of such covered person to
6 induce such consumer to rely on such ac-
7 tion or representation.

8 “(2) ABUSIVE ACTIONS.—Conduct of a covered
9 person shall be considered abusive if—

10 “(A) the act or practice causes or is likely
11 to cause substantial injury to consumers which
12 is not reasonably avoidable by consumers, pro-
13 vided, however, that if the act or practice was
14 timely, clearly and conspicuously disclosed to
15 consumers, the injury is presumed to be reason-
16 ably avoidable; or

17 “(B) such substantial injury is not out-
18 weighed by countervailing benefits to consumers
19 or to competition.

20 “(e) GOOD-FAITH EFFORT TO COMPLY.—

21 “(1) IN GENERAL.—The Bureau may not seek
22 monetary relief from a covered person under this
23 section unless the covered person has not established
24 by a preponderance of the evidence that they made
25 a good-faith effort to comply.

1 “(2) AUTHORITY TO SEEK LEGAL OR EQUI-
2 TABLE REMEDIES.—The limitation described in sub-
3 paragraph (A) shall not restrict the authority of the
4 Bureau to seek legal or equitable remedies, such as
5 damages and restitution, to redress an identifiable
6 consumer injury caused by the abusive acts or prac-
7 tices of such covered person.”.

8 **SEC. 6. NOTICE AND OPPORTUNITY TO CURE.**

9 Section 1031 of the Consumer Financial Protection
10 Act of 2010 (12 U.S.C. 5531) is amended by adding at
11 the end the following:

12 “(g) NOTICE AND OPPORTUNITY TO CURE.—

13 “(1) IN GENERAL.—If a covered person self-
14 identifies a potential unfair, deceptive, or abusive act
15 or practice carried out by such covered person, the
16 Bureau shall, not later than 90 days after such self-
17 identification, provide a written notice in the form of
18 a potential action and request for response letter or
19 a notice and opportunity to respond and advise let-
20 ter of the potential unfair, deceptive, or abusive act
21 or practice to such covered person and inform the
22 covered person that such person has 180 days after
23 the date the covered person receives such notice to
24 cure such potential unfair, deceptive, or abusive act
25 before the Bureau may pursue other legal action.

1 “(2) TOLLING OF STATUTE OF LIMITATIONS.—
 2 Any applicable statute of limitations that applies to
 3 conduct under which the Bureau has given notice
 4 and an opportunity to cure shall not toll until—

5 “(A) the covered person cures the potential
 6 abusive, unfair, or deceptive act or practice and
 7 notifies the Bureau that such act or practice
 8 has been cured;

9 “(B) the covered person notifies the Bu-
 10 reau that such covered person will not cure the
 11 act or practice; or

12 “(C) the 180-day period to cure ends.”.

13 **SEC. 7. ABUSIVE, UNFAIR, OR DECEPTIVE ACTS OR PRAC-**
 14 **TICES ENFORCEMENT ACTIONS.**

15 (a) IN GENERAL.—Subtitle E of title X of the Con-
 16 sumer Financial Protection Act of 2010 (12 U.S.C. 5561
 17 et seq.) is amended by adding at the end the following
 18 new section:

19 **“SEC. 1059. UNFAIR, DECEPTIVE, OR ABUSIVE ACTS OR**
 20 **PRACTICES ENFORCEMENT ACTIONS.**

21 “Enforcement actions brought by the Bureau under
 22 section 1031 under this title shall be brought in—

23 “(1) the United States district court located
 24 where the covered person has its headquarters loca-
 25 tion; or

1 “(2) the United States District Court for the
2 District of Columbia.”.

3 (b) ACTIONS UNDER SECTION 1031.—Section 1031
4 of the Consumer Financial Protection Act of 2010 is
5 amended by adding at the end the following:

6 “(g) ENFORCEMENT ACTIONS.—

7 “(1) IN GENERAL.—If the Bureau brings an
8 enforcement action under this section, the Bureau
9 shall state with particularity the circumstances that
10 the Bureau alleges constitute violation of this sec-
11 tion.

12 “(2) ALTERNATIVE CLAIMS.—If the Bureau
13 brings an enforcement action under this section—

14 “(A) claiming that an activity is unfair or
15 deceptive, the Bureau may not claim in the al-
16 ternative that the activity is abusive; and

17 “(B) claiming that an activity is abusive,
18 the Bureau may not claim in the alternative
19 that the activity is unfair or deceptive.”.

20 **SEC. 8. LOOK-BACK PROVISIONS FOR THE CONSUMER FI-**
21 **NANCIAL PROTECTION BUREAU.**

22 Subtitle B of title X of the Consumer Financial Pro-
23 tection Act of 2010 (12 U.S.C. 5511 et seq.) is amended
24 by adding at the end the following new section:

1 **“SEC. 1029B EXAMINATION PERIOD LIMITATIONS.**

2 “(a) IN GENERAL.—When enforcing Federal con-
3 sumer financial laws, the Bureau may not seek a civil
4 money penalty for any violating conduct that occurred
5 prior to the most recent assignment of a consumer compli-
6 ance rating.

7 “(b) RULE OF CONSTRUCTION.—This limitation de-
8 scribed in subsection (a) may not be construed to restrict
9 the ability of the Bureau to seek other forms of legal or
10 equitable relief available under subparagraphs (A) through
11 (G) of section 1055(a)(2) for any violating conduct that
12 occurred prior to the most recent assignment of a con-
13 sumer compliance rating.”.

○



I

119TH CONGRESS
1ST SESSION**H. R. 1653**

To reform the civil investigative demand process of the Bureau of Consumer
Financial Protection.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2025

Mr. BARR (for himself, Mr. VICENTE GONZALEZ of Texas, and Mr.
MOSKOWITZ) introduced the following bill; which was referred to the
Committee on Financial Services

A BILL

To reform the civil investigative demand process of the
Bureau of Consumer Financial Protection.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Civil Investigative De-
5 mand Reform Act of 2025”.

6 **SEC. 2. CIVIL INVESTIGATIVE DEMANDS.**

7 (a) DEMAND PERIOD.—Section 1052(c)(1) of the
8 Consumer Financial Protection Act of 2010 (12 U.S.C.
9 5562(c)(1)) is amended by inserting after “before the in-
10 stitution of any proceedings under the Federal consumer

1 financial law” the following: “, but not later than 6 years
2 after the date of such violation”.

3 (b) DEMAND REQUIREMENTS.—Section 1052(c)(2)
4 of the Consumer Financial Protection Act of 2010 (12
5 U.S.C. 5562(c)(2)) is amended by inserting after “con-
6 duct” the following: “, with specific reference to particular
7 facts,”.

8 (c) ATTORNEY REPRESENTATION.—Section
9 1052(c)(13)(D) of the Consumer Financial Protection Act
10 of 2010 (12 U.S.C. 5562(c)(13)(D)) is amended by adding
11 at the end the following:

12 “(v) QUESTION AND RESPONSE.—

13 “(I) ADVISING ATTORNEY.—An
14 attorney advising a person described
15 in clause (i) may submit to the Bu-
16 reau questions related to the scope or
17 breadth of the demand.

18 “(II) BUREAU RESPONSE.—The
19 Bureau shall submit to the attorney
20 advising a person described in clause
21 (i) a response to any question sub-
22 mitted under subclause (I) during the
23 shorter of—

3

1 “(aa) a period that is 20
 2 days after the date that the ques-
 3 tions are submitted; or

4 “(bb) a period equal to the
 5 period beginning on the date of
 6 service of the civil investigative
 7 demand and ending on the return
 8 date specified in the demand.

9 “(III) EXTENSION OF RETURN
 10 DATE AND PETITION DEADLINE.—In
 11 a case in which questions are sub-
 12 mitted under subclause (I), the Bu-
 13 reau may include with the response
 14 required under subclause (II) an ex-
 15 tension of the return date and the
 16 deadline to file a petition with the Bu-
 17 reau for an order modifying or setting
 18 aside the demand.”.

19 (d) CONFIDENTIAL TREATMENT OF PETITIONS.—
 20 Section 1052(d) of the Consumer Financial Protection
 21 Act of 2010 (12 U.S.C. 5562(d)) is amended—

22 (1) in the subsection heading, by inserting “and
 23 petitions” after “demand material”; and

24 (2) in paragraph (1), strike “and tangible
 25 things” and insert “, tangible things, and the con-

1 tents of any petition submitted to the Bureau in ac-
2 cordance with subsection (f)”.

3 (e) SPECIFIC GROUNDS TO SET ASIDE.—Section
4 1052(f)(3) of the Consumer Financial Protection Act of
5 2010 (12 U.S.C. 5562(f)(3)) is amended by striking
6 “upon any failure” and all that follows through the period
7 at the end and inserting the following: “upon any—

8 “(A) failure of the demand to comply with
9 the provisions of this section;

10 “(B) constitutional or other legal right or
11 privilege of such person; or

12 “(C) demonstration that the demand is—

13 “(i) unduly burdensome, dispropor-
14 tionately expensive, and outside the scope
15 of the inquiry; or

16 “(ii) unreasonably cumulative or du-
17 plicative, or can be obtained from some
18 other source that is more convenient, less
19 burdensome, or less expensive.”.

20 (f) JUDICIAL REVIEW.—Section 1052(f) of the Con-
21 sumer Financial Protection Act of 2010 (12 U.S.C.
22 5562(f)) is amended by adding at the end the following:

23 “(4) JUDICIAL REVIEW OF PETITION TO MODIFY OR
24 SET ASIDE A DEMAND.—In the case that the Bureau de-

1 nies a petition to modify or set aside a demand, such de-
2 nial shall be subject to judicial review.”.

○



119TH CONGRESS
1ST SESSION

H. R. 654

To change the Bureau of Consumer Financial Protection into an independent agency named the Consumer Financial Empowerment Agency, to transition the Agency to the regular appropriations process, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2025

Mr. BARR introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To change the Bureau of Consumer Financial Protection into an independent agency named the Consumer Financial Empowerment Agency, to transition the Agency to the regular appropriations process, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Taking Account of Bu-
5 reaucrats’ Spending Act of 2025” or the “TABS Act of
6 2025”.

1 **SEC. 2. CONSUMER FINANCIAL EMPOWERMENT AGENCY.**

2 (a) MAKING THE BUREAU AN INDEPENDENT CON-
3 SUMER FINANCIAL EMPOWERMENT AGENCY.—The Con-
4 sumer Financial Protection Act of 2010 (12 U.S.C. 5481
5 et seq.) is amended—

6 (1) in section 1011—

7 (A) in the heading of such section, by
8 striking “**BUREAU OF CONSUMER FINAN-**
9 **CIAL PROTECTION**” and inserting “**CON-**
10 **SUMER FINANCIAL EMPOWERMENT AGEN-**
11 **CY**”;

12 (B) in subsection (a)—

13 (i) in the heading of such subsection,
14 by striking “BUREAU” and inserting
15 “AGENCY”;

16 (ii) by striking “in the Federal Re-
17 serve System,”;

18 (iii) by striking “independent bureau”
19 and inserting “independent agency”; and

20 (iv) by striking “‘Bureau of Con-
21 sumer Financial Protection’” and insert-
22 ing “‘Consumer Financial Empowerment
23 Agency’ (hereinafter in this section re-
24 ferred to as the ‘Agency’)”;

25 (C) in subsection (b)(5), by amending sub-
26 paragraph (A) to read as follows:

1 “(A) shall be appointed by the President;
2 and”;

3 (D) in subsection (c), by striking para-
4 graph (3);

5 (E) in subsection (e), by striking “, includ-
6 ing in cities in which the Federal reserve banks,
7 or branches of such banks, are located,”; and

8 (F) by striking “Bureau” each place such
9 term appears and inserting “Agency”; and
10 (2) in section 1012—

11 (A) in subsection (a)(10), by striking “ex-
12 aminations,”; and

13 (B) by striking subsection (c).

14 (b) DEEMING OF NAME.—Any reference in a law,
15 regulation, document, paper, or other record of the United
16 States to the Bureau of Consumer Financial Protection
17 shall be deemed a reference to the Consumer Financial
18 Empowerment Agency.

19 (c) CONFORMING AMENDMENTS.—

20 (1) DODD-FRANK WALL STREET REFORM AND
21 CONSUMER PROTECTION ACT.—The Dodd-Frank
22 Wall Street Reform and Consumer Protection Act
23 (12 U.S.C. 5301 et seq.) is amended—

24 (A) in the table of contents in section
25 1(b)—

1 (i) by striking “Bureau of Consumer
2 Financial Protection” each place such term
3 appears and inserting “Consumer Finan-
4 cial Empowerment Agency”; and

5 (ii) in the table of contents relating to
6 title X, in the items relating to subtitle B,
7 subtitle C, and section 1027, by striking
8 “Bureau” each place such term appears
9 and inserting “Agency”;

10 (B) in section 2, by amending paragraph
11 (4) to read as follows:

12 “(4) AGENCY.—The term ‘Agency’ means the
13 Consumer Financial Empowerment Agency estab-
14 lished under title X.”;

15 (C) in section 342 by striking “Bureau”
16 each place such term appears in headings and
17 text and inserting “Agency”;

18 (D) in section 1400(b)—

19 (i) by striking “Bureau of Consumer
20 Financial Protection” and inserting “Con-
21 sumer Financial Empowerment Agency”;
22 and

23 (ii) in the subsection heading, by
24 striking “BUREAU OF CONSUMER FINAN-
25 CIAL PROTECTION” and inserting “CON-

1 SUMER FINANCIAL EMPOWERMENT AGEN-
2 CY”;

3 (E) in section 1411(a)(1), by striking “Bu-
4 reau” and inserting “Agency”; and

5 (F) in section 1447, by striking “Director
6 of the Bureau” each place such term appears
7 and inserting “Director of the Consumer Fi-
8 nancial Empowerment Agency”.

9 (2) ALTERNATIVE MORTGAGE TRANSACTION
10 PARITY ACT OF 1982.—The Alternative Mortgage
11 Transaction Parity Act of 1982 (12 U.S.C. 3801 et
12 seq.) is amended—

13 (A) by striking “Bureau of Consumer Fi-
14 nancial Protection” each place such term ap-
15 pears and inserting “Consumer Financial Em-
16 powerment Agency”; and

17 (B) in the subsection heading of subsection
18 (d) of section 804 (12 U.S.C. 3803(d)), by
19 striking “BUREAU” and inserting “AGENCY”.

20 (3) ELECTRONIC FUND TRANSFER ACT.—The
21 Electronic Fund Transfer Act (15 U.S.C. 1693 et
22 seq.) is amended—

23 (A) by amending the second paragraph (4)
24 (defining the term “Bureau”) to read as fol-
25 lows:

1 “(4) the term ‘Agency’ means the Consumer Fi-
2 nancial Empowerment Agency;”;

3 (B) in section 916(d)(1), by striking “Bu-
4 reau of Consumer Financial Protection” and in-
5 serting “Consumer Financial Empowerment
6 Agency”; and

7 (C) by striking “Bureau” each place that
8 term appears in heading or text and inserting
9 “Agency”.

10 (4) EQUAL CREDIT OPPORTUNITY ACT.—The
11 Equal Credit Opportunity Act (15 U.S.C. 1691 et
12 seq.) is amended—

13 (A) in section 702 (15 U.S.C. 1691a), by
14 amending subsection (c) to read as follows:

15 “(c) The term ‘Agency’ means the Consumer Finan-
16 cial Empowerment Agency.”; and

17 (B) by striking “Bureau” each place that
18 term appears in heading or text and inserting
19 “Agency”.

20 (5) EXPEDITED FUNDS AVAILABILITY ACT.—
21 The Expedited Funds Availability Act (12 U.S.C.
22 4001 et seq.) is amended—

23 (A) by striking “Bureau of Consumer Fi-
24 nancial Protection” each place such term ap-

1 pears and inserting “Consumer Financial Em-
2 powerment Agency”; and

3 (B) in the heading of section 605(f)(1), by
4 striking “BOARD AND BUREAU” and inserting
5 “BOARD AND AGENCY”.

6 (6) FAIR AND ACCURATE CREDIT TRANS-
7 ACTIONS ACT OF 2003.—The Fair and Accurate
8 Credit Transactions Act of 2003 (Public Law 108–
9 159) is amended by striking “Bureau” each place
10 such term appears in heading and text and inserting
11 “Agency”.

12 (7) FAIR CREDIT REPORTING ACT.—The Fair
13 Credit Reporting Act (15 U.S.C. 1681 et seq.) is
14 amended—

15 (A) by amending section 603(w) to read as
16 follows:

17 “(w) AGENCY.—The term ‘Agency’ means the Con-
18 sumer Financial Empowerment Agency.”; and

19 (B) by striking “Bureau” each place such
20 term appears, other than in sections 626 and
21 603(v), and inserting “Agency”.

22 (8) FAIR DEBT COLLECTION PRACTICES ACT.—
23 The Fair Debt Collection Practices Act (15 U.S.C.
24 1692 et seq.) is amended—

1 (A) by amending section 803(1) to read as
2 follows:

3 “(1) The term ‘Agency’ means the Consumer
4 Financial Empowerment Agency.”; and

5 (B) by striking “Bureau” each place such
6 term appears in heading or text and inserting
7 “Agency”.

8 (9) FEDERAL DEPOSIT INSURANCE ACT.—The
9 Federal Deposit Insurance Act (12 U.S.C. 1811 et
10 seq.) is amended—

11 (A) in the second paragraph (6) (with the
12 heading “Referral to bureau of consumer finan-
13 cial protection”) of section 8(t) (12 U.S.C.
14 1818(t))—

15 (i) in the paragraph heading, by strik-
16 ing “BUREAU OF CONSUMER FINANCIAL
17 PROTECTION”; and inserting “CONSUMER
18 FINANCIAL EMPOWERMENT AGENCY”; and

19 (ii) by striking “Bureau of Consumer
20 Financial Protection” and inserting “Con-
21 sumer Financial Empowerment Agency”;

22 (B) by amending clause (vi) of section
23 11(t)(2)(A) (12 U.S.C. 1821(t)(2)(A)(vi)) to
24 read as follows:

1 “(vi) The Consumer Financial Em-
2 powerment Agency.”;

3 (C) in section 18(x) (12 U.S.C. 1828(x)),
4 by striking “Bureau of Consumer Financial
5 Protection” each place such term appears and
6 inserting “Consumer Financial Empowerment
7 Agency”;

8 (D) by striking “Bureau” each place such
9 term appears and inserting “Agency”; and

10 (E) in section 43(e) (12 U.S.C. 1831t(e)),
11 by amending paragraph (5) to read as follows:

12 “(5) AGENCY.—The term ‘Agency’ means the
13 Consumer Financial Empowerment Agency.”.

14 (10) FEDERAL FINANCIAL INSTITUTIONS EXAM-
15 INATION COUNCIL ACT OF 1978.—The Federal Fi-
16 nancial Institutions Examination Council Act of
17 1978 (12 U.S.C. 3301 et seq.) is amended—

18 (A) in section 1004(a)(4), by striking
19 “Consumer Financial Protection Bureau” and
20 inserting “Consumer Financial Empowerment
21 Agency”; and

22 (B) in section 1011, by striking “Bureau
23 of Consumer Financial Protection” and insert-
24 ing “Consumer Financial Empowerment Agen-
25 cy”.

1 (11) FINANCIAL INSTITUTIONS REFORM, RE-
2 COVERY, AND ENFORCEMENT ACT OF 1989.—The Fi-
3 nancial Institutions Reform, Recovery, and Enforce-
4 ment Act of 1989 (Public Law 101–73; 103 Stat.
5 183) is amended—

6 (A) in section 1112(b) (12 U.S.C. 3341),
7 by striking “Bureau of Consumer Financial
8 Protection” and inserting “Consumer Financial
9 Empowerment Agency”;

10 (B) in section 1124 (12 U.S.C. 3353), by
11 striking “Bureau of Consumer Financial Pro-
12 tection” each place such term appears and in-
13 serting “Consumer Financial Empowerment
14 Agency”;

15 (C) in section 1125 (12 U.S.C. 3354), by
16 striking “Bureau of Consumer Financial Pro-
17 tection” each place such term appears and in-
18 serting “Consumer Financial Empowerment
19 Agency”; and

20 (D) in section 1206(a) (12 U.S.C.
21 1833b(a)), by striking “Federal Housing Fi-
22 nance Board” and all that follows through
23 “Farm Credit Administration” and inserting
24 “Federal Housing Finance Agency, the Con-

1 sumer Financial Empowerment Agency, and the
2 Farm Credit Administration”.

3 (12) FINANCIAL LITERACY AND EDUCATION IM-
4 PROVEMENT ACT.—Section 513 of the Financial Lit-
5 eracy and Education Improvement Act (20 U.S.C.
6 9702) is amended by striking “Bureau of Consumer
7 Financial Protection” each place such term appears
8 and inserting “Consumer Financial Empowerment
9 Agency”.

10 (13) GRAMM-LEACH-BLILEY ACT.—Title V of
11 the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et
12 seq.) is amended—

13 (A) by striking “Bureau of Consumer Fi-
14 nancial Protection” each place such term ap-
15 pears and inserting “Consumer Financial Em-
16 powerment Agency”; and

17 (B) in section 505(a)(8) (15 U.S.C.
18 6805(a)(8)), by striking “Bureau” and insert-
19 ing “Agency”.

20 (14) HOME MORTGAGE DISCLOSURE ACT OF
21 1975.—The Home Mortgage Disclosure Act of 1975
22 (12 U.S.C. 2801 et seq.) is amended—

23 (A) by striking “Bureau of Consumer Fi-
24 nancial Protection” each place such term ap-

1 pears and inserting “Consumer Financial Em-
2 powerment Agency”;

3 (B) by striking “Bureau” each place such
4 term appears and inserting “Agency”; and

5 (C) in section 303, by amending paragraph
6 (1) to read as follows:

7 “(1) the term ‘Agency’ means the Consumer Fi-
8 nancial Empowerment Agency;”.

9 (15) HOMEOWNERS PROTECTION ACT OF
10 1998.—Section 10(a)(4) of the Homeowners Protec-
11 tion Act of 1998 (12 U.S.C. 4909(a)(4)) is amended
12 by striking “Bureau of Consumer Financial Protec-
13 tion” and inserting “Consumer Financial Empower-
14 ment Agency”.

15 (16) HOME OWNERSHIP AND EQUITY PROTEC-
16 TION ACT OF 1994.—Section 158(a) of the Home
17 Ownership and Equity Protection Act of 1994 (15
18 U.S.C. 1601 note) is amended by striking “Bureau”
19 and inserting “Consumer Financial Empowerment
20 Agency”.

21 (17) INTERSTATE LAND SALES FULL DISCLO-
22 SURE ACT.—The Interstate Land Sales Full Disclo-
23 sure Act (12 U.S.C. 1701 et seq.) is amended—

1 (A) by striking “Bureau of Consumer Fi-
2 nancial Protection” each place such term ap-
3 pears and inserting “Agency”;

4 (B) in section 1402, by amending para-
5 graph (12) to read as follows:

6 “(12) ‘Agency’ means the Consumer Financial
7 Empowerment Agency.”; and

8 (C) in section 1416, by striking “Bureau”
9 each place such term appears and inserting
10 “Agency”.

11 (18) REAL ESTATE SETTLEMENT PROCEDURES
12 ACT OF 1974.—The Real Estate Settlement Proce-
13 dures Act of 1974 (12 U.S.C. 2601 et seq.) is
14 amended—

15 (A) by striking “Bureau of Consumer Fi-
16 nancial Protection” each place such term ap-
17 pears and inserting “Consumer Financial Em-
18 powerment Agency”;

19 (B) by striking “Bureau” each place such
20 term appears and inserting “Agency”; and

21 (C) in section 3, by amending paragraph
22 (9) to read as follows:

23 “(9) the term ‘Agency’ means the Consumer Fi-
24 nancial Empowerment Agency.”.

1 (19) REVISED STATUTES OF THE UNITED
2 STATES.—Section 5136C(b)(3)(B) of the Revised
3 Statutes of the United States (12 U.S.C.
4 25b(b)(3)(B)) is amended by striking “Bureau of
5 Consumer Financial Protection” and inserting “Con-
6 sumer Financial Empowerment Agency”.

7 (20) RIGHT TO FINANCIAL PRIVACY ACT OF
8 1978.—The Right to Financial Privacy Act of 1978
9 (12 U.S.C. 3401 et seq.) is amended—

10 (A) by amending subparagraph (B) of sec-
11 tion 1101(7) (12 U.S.C. 3401(7)(B)) to read as
12 follows:

13 “(B) the Consumer Financial Empower-
14 ment Agency;” and

15 (B) by striking “Bureau of Consumer Fi-
16 nancial Protection” each place such term ap-
17 pears in heading or text and inserting “Con-
18 sumer Financial Empowerment Agency”.

19 (21) S.A.F.E. MORTGAGE LICENSING ACT OF
20 2008.—The S.A.F.E. Mortgage Licensing Act of
21 2008 (12 U.S.C. 5101 et seq.) is amended—

22 (A) in section 1507, by striking “Bureau,
23 and the Bureau of Consumer Financial Protec-
24 tion” each place such term appears and insert-

1 ing “Consumer Financial Empowerment Agen-
2 cy”;

3 (B) by striking “Bureau of Consumer Fi-
4 nancial Protection” each place such term ap-
5 pears and inserting “Consumer Financial Em-
6 powerment Agency”;

7 (C) by striking “Bureau” each place such
8 appears, other than in sections 1505(a)(1),
9 1507(a)(2)(A), and 1511(b), and inserting
10 “Agency”;

11 (D) in section 1503, by amending para-
12 graph (1) to read as follows:

13 “(1) AGENCY.—The term ‘Agency’ means the
14 Consumer Financial Empowerment Agency.”;

15 (E) in the heading of section 1508, by
16 striking “**BUREAU OF CONSUMER FINAN-**
17 **CIAL PROTECTION**” and inserting “**CON-**
18 **SUMER FINANCIAL EMPOWERMENT AGEN-**
19 **CY**”; and

20 (F) in the heading of section 1514, by
21 striking “**BUREAU**” and inserting “**AGENCY**”.

22 (22) TELEMARKETING AND CONSUMER FRAUD
23 AND ABUSE PREVENTION ACT.—The Telemarketing
24 and Consumer Fraud and Abuse Prevention Act (15
25 U.S.C. 6101 et seq.) is amended by striking “Bu-

reau of Consumer Financial Protection” each place
such term appears in heading or text and inserting
“Consumer Financial Empowerment Agency”.

(23) TITLE 5, UNITED STATES CODE.—Title 5,
United States Code, is amended—

(A) in section 552a(w)—

(i) in the subsection heading, by striking
“BUREAU OF CONSUMER FINANCIAL
PROTECTION” and inserting “CONSUMER
FINANCIAL EMPOWERMENT AGENCY”; and

(ii) by striking “Bureau of Consumer
Financial Protection” and inserting “Con-
sumer Financial Empowerment Agency”;

(B) in section 609(d)(2), by striking “Con-
sumer Financial Protection Bureau of the Fed-
eral Reserve System” and inserting “Consumer
Financial Empowerment Agency”; and

(C) in section 3132(a)(1)(D), by striking
“Bureau of Consumer Financial Protection”
and inserting “Consumer Financial Empower-
ment Agency”.

(24) TITLE 10, UNITED STATES CODE.—

(A) SECTION 987.—Section 987(h)(3)(E)
of title 10, United States Code, is amended by
striking “Bureau of Consumer Financial Pro-

1 tection” and inserting “Consumer Financial
2 Empowerment Agency”.

3 (B) NDAA FY 2015.—Section 557(a) of
4 the Carl Levin and Howard P. “Buck” McKeon
5 National Defense Authorization Act for Fiscal
6 Year 2015 (Public Law 113–29; 128 Stat.
7 3381; 10 U.S.C. 1144 note), is amended by
8 striking “Consumer Financial Protection Bu-
9 reau” each place such term appears and insert-
10 ing “Consumer Financial Empowerment Agen-
11 cy”.

12 (25) TITLE 44, UNITED STATES CODE.—Title
13 44, United States Code, is amended—

14 (A) in section 3502(5), by striking “the
15 Bureau of Consumer Financial Protection,”;
16 and

17 (B) in section 3513(c), by striking “Bu-
18 reau of Consumer Financial Protection” and in-
19 serting “Consumer Financial Empowerment
20 Agency”.

21 (26) TRUTH IN LENDING ACT.—The Truth in
22 Lending Act (15 U.S.C. 1601 et seq.) is amended—

23 (A) by amending section 103(b) (15 U.S.C.
24 1602(b)) to read as follows:

1 “(b) AGENCY.—The term ‘Agency’ means the Con-
2 sumer Financial Empowerment Agency.”;

3 (B) by amending section 103(c) (15 U.S.C.
4 1602(c)) to read as follows:

5 “(c) BOARD.—The term ‘Board’ means the Board of
6 Governors of the Federal Reserve System.”;

7 (C) in section 128(f) (15 U.S.C. 1638(f)),
8 by striking “Board” each place such term ap-
9 pears and inserting “Agency”;

10 (D) in sections 129B (15 U.S.C. 1639b)
11 and 129C (15 U.S.C. 1639c), by striking
12 “Board” each place such term appears and in-
13 serting “Agency”;

14 (E) in section 140A (15 U.S.C. 1651), by
15 striking “in consultation with the Bureau” and
16 inserting “in consultation with the Federal
17 Trade Commission”;

18 (F) by striking “Bureau” each place such
19 term appears in heading or text and inserting
20 “Agency”; and

21 (G) by striking “BUREAU” and inserting
22 “AGENCY” in the paragraph headings for—

23 (i) section 122(d)(2) (15 U.S.C.
24 1632(d)(2));

1 (ii) section 127(e)(5) (15 U.S.C.
2 1637(e)(5));

3 (iii) section 127(r)(3) (15 U.S.C.
4 1637(r)(3)); and

5 (iv) section 127A(a)(14) (15 U.S.C.
6 1637a(a)(14)).

7 (27) TRUTH IN SAVINGS ACT.—The Truth in
8 Savings Act (12 U.S.C. 4301 et seq.) is amended—

9 (A) by amending paragraph (4) of section
10 274 (12 U.S.C. 4313(4)) to read as follows:

11 “(4) AGENCY.—The term ‘Agency’ means the
12 Consumer Financial Empowerment Agency.”;

13 (B) by striking “National Credit Union
14 Administration Bureau” each place such term
15 appears and inserting “National Credit Union
16 Administration Board”; and

17 (C) by striking “Bureau” each place such
18 term appears and inserting “Agency”, except in
19 section 233(b)(4)(B).

20 **SEC. 3. BRINGING THE AGENCY INTO THE REGULAR AP-**
21 **PROPRIATIONS PROCESS.**

22 Section 1017 of the Consumer Financial Protection
23 Act of 2010 (12 U.S.C. 5497) is amended—

24 (1) in subsection (a)—

1 (A) by amending the heading of such sub-
2 section to read as follows: “BUDGET, FINAN-
3 CIAL MANAGEMENT, AND AUDIT.—”;

4 (B) by striking paragraphs (1), (2), and
5 (3);

6 (C) by redesignating paragraphs (4) and
7 (5) as paragraphs (1) and (2), respectively; and

8 (D) by striking subparagraphs (E) and (F)
9 of paragraph (1), as so redesignated;

10 (2) by striking subsections (b) and (c);

11 (3) by redesignating subsections (d) and (e) as
12 subsections (b) and (c), respectively; and

13 (4) in subsection (c), as so redesignated—

14 (A) by striking paragraphs (1), (2), and
15 (3) and inserting the following:

16 “(1) AUTHORIZATION OF APPROPRIATIONS.—

17 There are authorized to be appropriated such sums
18 as may be necessary to carry out this title for each
19 of fiscal years 2026 and 2027.”; and

20 (B) by redesignating paragraph (4) as
21 paragraph (2).

○

[DISCUSSION DRAFT]119TH CONGRESS
1ST SESSION**H. R.** _____

To enhance rulemaking requirements for the Bureau of Consumer Financial
Protection, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. LOUDERMILK introduced the following bill; which was referred to the
Committee on _____

A BILL

To enhance rulemaking requirements for the Bureau of
Consumer Financial Protection, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Transparency in
5 CFPB Cost-Benefit Analysis Act”.

6 **SEC. 2. TRANSPARENCY IN COST-BENEFIT ANALYSIS.**

7 Section 1022(b) of the Consumer Financial Protec-
8 tion Act of 2010 (12 U.S.C. 5512(b)) is amended by add-
9 ing at the end the following:

G:\CMTE\FS\19\BANK\BUREAU_RULEMAKING.XML

2

1 “(5) ADDITIONAL RULEMAKING REQUIRE-
2 MENTS.—

3 “(A) IN GENERAL.—Each notice of pro-
4 posed rulemaking issued by the Bureau shall be
5 published in its entirety in the Federal Register
6 and shall include—

7 “(i) a statement of the need for the
8 proposed regulation;

9 “(ii) an examination of why the Bu-
10 reau must undertake the proposed regula-
11 tion and why the private market, State,
12 local, or tribal authorities cannot ade-
13 quately address the problem;

14 “(iii) an examination of whether the
15 proposed regulation is duplicative, incon-
16 sistent, or incompatible with other Federal
17 regulations and orders;

18 “(iv) if the proposed regulation is
19 found to be duplicative, inconsistent, or in-
20 compatible with other Federal regulations
21 and orders, a discussion of—

22 “(I) why the proposed regulation
23 is justified;

G:\CMTE\FS\19\BANK\BUREAU_RULEMAKING.XML

3

1 “(II) how the proposed regulation
2 can coexist with the existing regula-
3 tions; and

4 “(III) how the Bureau plans to
5 reduce the regulatory burden associ-
6 ated with the duplicative, inconsistent,
7 or incompatible proposed regulation;

8 “(v) a quantitative and qualitative as-
9 sessment of all anticipated direct and indi-
10 rect costs and benefits of the proposed reg-
11 ulation, including—

12 “(I) compliance costs for all reg-
13 ulated entities, including small busi-
14 nesses;

15 “(II) effects on economic activity,
16 efficiency, competition and capital for-
17 mation;

18 “(III) regulatory and administra-
19 tive costs of implementation; and

20 “(IV) costs imposed on State,
21 local and tribal entities;

22 “(vi) an identification of reasonable
23 alternatives to the regulation, including
24 modification of an existing regulation;

G:\CMTE\FS\19\BANK\BUREAU_RULEMAKING.XML

4

1 “(vii) an analysis of the costs and
2 benefits, both quantitative and qualitative,
3 of any alternative identified pursuant to
4 clause (v);

5 “(viii) if the Bureau determines the
6 proposed regulation would increase costs
7 for small businesses, then the Bureau shall
8 consult the Office of Advocacy within the
9 Small Business Administration to deter-
10 mine ways to minimize the effect of direct
11 and indirect costs imposed on small busi-
12 nesses by the proposed regulation;

13 “(ix) if quantified net benefits of the
14 proposed action do not outweigh the quan-
15 tified net benefits of the alternatives, a jus-
16 tification of the regulation;

17 “(x) if quantified benefits identified
18 pursuant to clause (iv) do not outweigh the
19 quantified costs of the regulation, a jus-
20 tification of the regulation;

21 “(xi) an assessment of how the bur-
22 den imposed by the regulation will be dis-
23 tributed; including whether consumers, or
24 small businesses will be disproportionately
25 burdened; and

G:\CMTE\FS\19\BANK\BUREAU_RULEMAKING.XML

5

1 “(xii) when feasible, and using appro-
2 priate statistical techniques, a probability
3 distribution of the relevant outcomes of the
4 proposed regulation.

5 “(B) ASSUMPTIONS AND STUDIES USED.—
6 With respect to the information required to be
7 included under subparagraph (A), the Bureau
8 will include—

9 “(i) a discussion of underlying as-
10 sumptions used as a basis for such infor-
11 mation; and

12 “(ii) a description of any studies or
13 data used in preparing such information,
14 and whether such studies were peer-re-
15 viewed.”.

