

**M E M O R A N D U M**

To: Members of the Committee on Financial Services

From: FSC Majority Staff

Date: September 9, 2013

Re: September 12, 2013 Full Committee Hearing on “The Semi-Annual Report of the Consumer Financial Protection Bureau”

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The Committee on Financial Services will hold a hearing at 9:00 a.m. on Thursday, September 12, 2013, in Room 2128 of the Rayburn House Office Building to receive the Semi-Annual Report of the Consumer Financial Protection Bureau (“CFPB” or the “Bureau”) and the Director of the Bureau’s testimony on the report. CFPB Director Richard Cordray will be the only witness.

**Background**

Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203) (the “Dodd-Frank Act”) created the CFPB as an independent agency within the Federal Reserve System and charged it with regulating “the offering and provision of consumer financial products or services under the Federal consumer financial laws.”<sup>1</sup> The CFPB’s mission is to “implement and . . . enforce Federal financial consumer law consistently for the purposes of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent and competitive.”<sup>2</sup> Title X grants the CFPB’s Director the “general authority” to “prescribe rules and issue orders and guidance” to administer, enforce, and implement federal consumer financial laws.<sup>3</sup> Title X also requires the CFPB to prepare semi-annual reports describing its activities during the previous six months, and it requires the CFPB’s Director to testify before the Financial Services Committee to report on the CFPB’s activities.<sup>4</sup>

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<sup>1</sup> Dodd-Frank Act § 1011(a).

<sup>2</sup> Dodd-Frank Act § 1021(a).

<sup>3</sup> Dodd-Frank Act § 1022(b)(2).

<sup>4</sup> Dodd-Frank Act § 1016.

On July 21, 2011, responsibility for promulgating federal consumer financial protection regulations was transferred from other federal agencies to the CFPB.<sup>5</sup> The CFPB also assumed supervisory and examination authority over large depository institutions, defined as those with more than \$10 billion in assets. Although prudential banking regulators retain supervisory and examination authority for financial institutions with less than \$10 billion in assets, the CFPB's examiners are authorized to participate on a "sampling" basis when prudential regulators examine institutions with less than \$10 billion in total assets.<sup>6</sup>

In addition to the authorities transferred to the CFPB from other Federal agencies, the Dodd-Frank Act also conferred new regulatory powers upon the CFPB. Among these new authorities are: the authority to prohibit unfair, deceptive, or abusive acts or practices; the authority to supervise non-depository entities, such as payday lenders, mortgage servicers, and private education lenders; and the authority to supervise entities determined to be "larger participants" in the market for consumer financial products or services.<sup>7</sup> Before it can exercise these new powers, the CFPB must have a Senate-confirmed Director.<sup>8</sup> Even though the Senate did not confirm Mr. Cordray as CFPB Director until July 16, 2013, the CFPB began exercising these new authorities following his putative recess appointment to that position by President Obama on January 4, 2012. On August 27, 2013, Mr. Cordray ratified all of the actions he took under color of office as Director between January 4, 2012, and July 17, 2013 (the date of his formal appointment by the President).<sup>9</sup>

## **The CFPB's Semi-Annual Report**

On March 29, 2013, the CFPB issued its third Semi-Annual Report to the President and Congress. The Report covers the CFPB's activities from July 1 through December 31, 2012.<sup>10</sup> The Report opens with an overview of the CFPB's congressionally mandated goals and its recent data collection results then transitions into a discussion of its regulatory activities. A section-by-section overview of the Report appears below.

### **Section-by-Section Overview**

1. Executive Summary (p. 7)
2. Consumer Challenges in Obtaining Financial Products and Services (p. 12)

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<sup>5</sup> The CFPB assumed most of authority for enforcing consumer financial protection laws from several federal agencies, including the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Department of Housing and Urban Development, and the Federal Trade Commission.

<sup>6</sup> Dodd-Frank Act § 1026(c).

<sup>7</sup> Dodd-Frank Act §§ 1021(b) and 1024(a).

<sup>8</sup> Dodd-Frank Act §§ 1011(b)(2) and 1066(a).

<sup>9</sup> See [http://www.regulations.gov/#!documentDetail;D=CFPB\\_FRDOC\\_0001-0236](http://www.regulations.gov/#!documentDetail;D=CFPB_FRDOC_0001-0236).

<sup>10</sup> Semi-Annual Report of the Consumer Financial Protection Bureau: July 1, 2012 – December 31, 2012, available at [http://files.consumerfinance.gov/f/201303\\_CFPB\\_SemiAnnualReport\\_March2013.pdf](http://files.consumerfinance.gov/f/201303_CFPB_SemiAnnualReport_March2013.pdf).

- a. Highlights continued consumer complaint processes development.
- b. Findings of data collection show majority of consumer concerns pertain to mortgages and credit reporting agencies. The report also identifies consumer issues when shopping for financial products, particularly in the areas of small dollar lending and product complexity.
3. Delivering for American Consumers and Leveling the Playing Field (p. 40)
  - a. Reviews CFPB's resources for consumers including consumer education and engagement, programs for servicemembers and students, and financial empowerment.
  - b. Bureau's external partnerships include a Consumer Advisory Board, Community Bank Advisory Council, Credit Union Advisory Council, and Academic Research Council.
4. Regulations and Guidance (p. 54)
  - a. Summarizes recently finalized mortgage rules ordered by the Dodd-Frank Act including changes to TILA and the Qualified Mortgage Rule.
  - b. Bureau continues effort to coordinate with regulators and industry to streamline regulations and facilitate compliance.
5. Supervision (p.60)
  - a. October 31, 2012 publications including the Fall Supervisory Highlights; Supervision and Examination Manual, Version 2; and, Examination Appeals Policy.
  - b. Reviews Bureau's internal supervisory guidance, examiner training, examination procedures, and supervisory technological infrastructure.
6. Enforcement (p. 66)
  - a. Outlines enforcement actions in which the CFPB was a party in 2012.
7. Fair Lending (p. 70)
  - a. Highlights developments in fair lending supervision program, describes fair lending enforcement action against American Express, and underlines CFPB's commitment to fair lending supervision and enforcement coordination between agencies.
8. Building a Great Institution: Update (p. 74)
  - a. Underlines CFPB's commitment to transparency and public access to information.
9. Budget (p. 76)
  - a. Provides receipt totals from transfers from the Federal Reserve and fees from enforcement actions. Outlines Fiscal Year 2013 and 2012 budgets, respectively.
10. Diversity and Excellence (p. 82)
  - a. Outlines Bureau's efforts to pursue a "strategic imperative to recruit and hire highly qualified individuals."