

**THE 2016 SEMI-ANNUAL REPORTS  
OF THE BUREAU OF CONSUMER  
FINANCIAL PROTECTION**

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**HEARING**  
BEFORE THE  
**COMMITTEE ON FINANCIAL SERVICES**  
**U.S. HOUSE OF REPRESENTATIVES**  
**ONE HUNDRED FIFTEENTH CONGRESS**  
**FIRST SESSION**

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APRIL 5, 2017  
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## **THE 2016 SEMI-ANNUAL REPORTS OF THE BUREAU OF CONSUMER FINANCIAL PROTECTION**

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**Wednesday, April 5, 2017**

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

The committee met, pursuant to notice, at 10:04 a.m., in room 2128, Rayburn House Office Building, Hon. Jeb Hensarling [chairman of the committee] presiding.

Members present: Representatives Hensarling, McHenry, Royce, Lucas, Pearce, Posey, Luetkemeyer, Huizenga, Duffy, Stivers, Hultgren, Ross, Pittenger, Wagner, Barr, Rothfus, Messer, Tipton, Williams, Poliquin, Love, Hill, Emmer, Zeldin, Trott, Loudermilk, Mooney, MacArthur, Davidson, Budd, Kustoff, Tenney, Hollingsworth; Waters, Maloney, Velazquez, Sherman, Meeks, Capuano, Clay, Lynch, Scott, Green, Cleaver, Ellison, Perlmutter, Himes, Foster, Kildee, Delaney, Heck, Vargas, Gottheimer, Crist, and Kihuen.

Chairman HENSARLING. The Financial Services Committee will come to order.

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

Today's hearing is entitled, "The 2016 Semi-Annual Reports of the Bureau of Consumer Financial Protection."

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

Today, we receive the testimony of Richard Cordray as he presents, again, the semi-annual report of the CFPB.

Mr. Cordray, I know that you are here at our committee's invitation for a statutory appearance, but I am otherwise surprised to see you here in that, as you well know, there have been many press reports saying that you would otherwise have returned to Ohio to pursue a gubernatorial bid. Perhaps the rumors of your political aspirations are greatly exaggerated.

On the other hand, I am also surprised that you are here because, as you are well aware, the President, under the PHH case, can dismiss you at will. Under Dodd-Frank you can be removed for cause.

Either way, I believe the President is clearly justified in dismissing you and I call upon the President, yet again, to do just that and to do it immediately.

There is no greater form of consumer protection than fostering competitive, innovative, and transparent markets, and then vigorously policing them for fraud, theft, and deception. In policing our markets, under Mr. Cordray's leadership, the CFPB's success record is anything but clear.

What is clear, though, is that under Mr. Cordray's leadership the CFPB has shown an utter disregard for protecting our markets and has made credit more expensive and less available in many instances. This is particularly true for low- and moderate-income Americans.

What is also clear is that under Mr. Cordray's leadership the CFPB has acted unlawfully, routinely denied market participants due process, and abused its powers. The CFPB has now finalized a rule that would reduce access to prepaid card products, harming nearly 70 million consumers who do not or cannot use traditional banking services.

Thanks in part to CFPB's oversight, credit card rates have risen significantly, with many would-be borrowers being priced out of the market entirely. Many credit-worthy borrowers could pay almost \$600 more for their auto loans due to CFPB's indirect auto lending guidance. According to researchers at the University of Maryland, as a result of Dodd-Frank and the CFPB, middle-income borrowers, "not only didn't obtain cheaper mortgages, but were cut out of the mortgage market altogether."

For all the harm inflicted upon consumers, Richard Cordray should be dismissed by the President.

In the CFPB's short 6-year history, the record is replete with instances where it has abused or exceeded its statutory authority. In the PHH case, where the CFPB structure was ruled unconstitutional, the facts show that Mr. Cordray unilaterally reversed accepted law with regards to Section 8(c) of RESPA, and did so not with formal rulemaking—that is, with notice, comment, and due process—but with an ad hoc enforcement action instead.

Then, to make matters worse, Mr. Cordray attempted to apply this new rogue standard retroactively. The D.C. Circuit Court ruled against him in both instances.

On March 31, 2013, CFPB issued bulletin 2013-2, attempting to impose control over dealer indirect auto lending compensation. In doing so, CFPB sought to illegally regulate companies over which it has no statutory authority and which, in fact, are expressly exempt under the Dodd-Frank Act. CFPB then failed to afford due process to regulated companies under the Administrative Procedures Act.

For conducting unlawful activities, abusing this authority, and denying market participants due process, Richard Cordray should be dismissed by our President.

Not only must Mr. Cordray go, but this current CFPB must go, as well. American consumers need competitive markets and a cop on the beat to protect them from fraud and deception; they don't need Washington elites trampling on their freedom of choice and picking their financial products for them.

Today, Mr. Cordray and his CFPB don't just act as a cop on the beat; they act as legislature, prosecutor, judge, and jury all rolled

into one. CFPB represents the summit of unelected, unaccountable, and unconstitutional agency government.

It represents a dagger aimed at the heart of our foundational principles—namely coequal branches of government, checks and balances, due process, and justice for all. Clearly, you can be a Democrat—uppercase “D”—and believe in the CFPB, but you cannot be a democrat—lowercase “d”—and believe in this institution.

Thus, this debate has import way beyond the fate of fines, credit cards, and mortgage access. It represents nothing less than one of the key battles to defend and protect our Constitution.

As James Madison wrote in Federalist 47, the combination of all power—legislative, executive, and judiciary—may justly be pronounced the very definition of tyranny. This tyranny must end and the people’s constitutional rights returned to them.

I now recognize the ranking member for 5 minutes for an opening statement.

Ms. WATERS. Thank you very much, Mr. Chairman.

And I thank you, Director Cordray, for joining us again to discuss the numerous ways in which the Consumer Financial Protection Bureau continues to fight for hardworking Americans who have been harmed by illegal predatory financial schemes.

I am delighted that you are here. I am so pleased that you are here. I am so honored that you have done the work that you have done for all the consumers in America.

I would also like to thank you for your sustained, long, strong leadership despite unyielding Republican efforts to impede your work and their unfounded desire to remove you from your position prior to the expiration of your term.

The Consumer Financial Protection Bureau has successfully recovered nearly \$12 billion for 29 million consumers who have been victim to predatory financial practices. In addition, the Consumer Bureau has handled over a million consumer complaints and has worked diligently to promote clear disclosures and root out bad practices committed by financial institutions.

The Consumer Financial Protection Bureau and Director Cordray are doing exactly the job they are supposed to do, and they are doing it well.

Following the foreclosure crisis, Congress recognized that Americans needed a new watchdog that would swiftly and effectively crack down on unscrupulous practices and products. In the Dodd-Frank Wall Street Reform and Consumer Protection Act we deliberated extensively and created a consumer agency with a single director who operates independently in order to effectively serve consumers and regulate financial markets.

We could not have had a better person than Director Cordray. Despite what you will hear from Republicans, the leadership structure of the Consumer Bureau is not unique. In fact, there are other Federal regulatory agencies with similar structures.

But these facts haven’t stopped Republicans and some in the industry from making legal challenges to its structure. That is why last week I led 40 other current and former Members of Congress to file an amicus curiae brief with the D.C. Circuit Court of Appeals in support of the Consumer Financial Protection Bureau’s independent structure and its clear constitutionality.

Republicans have been clamoring to weaken, impede, and ultimately destroy the Consumer Financial Protection Bureau since its creation. First, they did everything they could to block a director from being appointed in the first place. And since then, they have pushed measures to defund and dismantle the Consumer Financial Protection Bureau.

The chairman has called for the Consumer Financial Protection Bureau to be functionally terminated, and it is unclear why. There are constituents in every State who have been ripped off by financial institutions. Why aren't Republicans fighting for them and for their financial security?

I reject these misguided attacks on the Consumer Financial Protection Bureau, and I will continue to stand up for the hardworking American consumers that the agency defends every day. The Consumer Financial Protection Bureau is an invaluable ally to consumers, and its work must continue.

Director Cordray, I look forward to hearing your testimony. I can't thank you enough for what you have done and the way that you have conducted yourself, the way that you have allowed everybody to come in and talk with you and share their concerns with you, the way that you have traveled all over this country meeting with consumer groups.

I will be with you forever. And I know that legally your term doesn't end until July, but I would hope that this President—even though I doubt it—would have the wisdom to ask you to stay on.

I yield back the balance—well, I yield to Mr. Kildee. Is there any time left?

Somebody else yield him some time along the way. Thank you.

I yield to Mr. Kildee.

Mr. KILDEE. Thank you.

And, Mr. Chairman, I thank you and Ranking Member Waters for holding this hearing.

Mr. Cordray, it is good to see again. I have known you for a long time, since you and I were both county treasurers. Your public service in that role and every role since has been stellar, especially in this role.

The mission of the Consumer Financial Protection Bureau is to protect the American consumer. When Wells Fargo opened thousands of fraudulent accounts, it was the Consumer Protection Bureau that sounded the alarm. When Moneytree, a payday lender—

[laughter]

Mr. KILDEE. Mr. Chairman?

Chairman HENSARLING. The committee will come to order. The committee will come to order.

The gentleman from Michigan is recognized.

Mr. KILDEE. I wonder if the chairman might reset the clock so I would have some time?

Chairman HENSARLING. We will give the gentleman an additional 20 seconds.

Mr. KILDEE. Thank you, Mr. Chairman.

I do find it somewhat ironic that when clearly some of the success of the Consumer Protection Bureau from the work that you have done is noted, whether it is Wells Fargo, whether it is Moneytree, or whether it is Bridgepoint Education, where the Con-



sumer Bureau that you lead has restored, returned millions and millions of dollars to consumers, that that notation is met with some ridicule.

I suppose it may be that when it comes to which side we stand on, institutions that have incredible influence over this community, this town, or the people back home, people have to choose which side they are on. And I am glad that in the role that you have taken you have always been on the side of the consumer, and I thank you for the work that you are doing.

Chairman HENSARLING. The time of the gentlelady and the gentleman has expired.

Today, we welcome the testimony of the Honorable Richard Cordray. Director Cordray has previously testified before this committee, so I believe he needs no further introduction.

Mr. Cordray, without objection, your written statement will be made a part of the record, and you are now recognized for 5 minutes to give an oral presentation of your testimony. Thank you.

**STATEMENT OF THE HONORABLE RICHARD CORDRAY,  
DIRECTOR, CONSUMER FINANCIAL PROTECTION BUREAU**

Mr. CORDRAY. Thank you, Chairman Hensarling, Ranking Member Waters, and members of the committee.

I am reporting today on our work over the past year. The Consumer Financial Protection Bureau was created to stand up for consumers and make financial markets work more fairly. Over the past 5 years we have returned almost \$12 billion to 29 million consumers all over the country in every State, in every district, and imposed about \$600 million in civil penalties.

We have put in place strong safeguards against reckless mortgage practices that led to the financial crisis that hurt so many people in so many communities. We are arming consumers with unbiased information and resources so they can make better-informed decisions for themselves and their families.

Our complaint system gives consumers a voice that matters so they can address their own concerns and report on broader patterns of problems or abuse. To date, we have fielded over 1.1 million complaints, so more and more people are finding this option to be worthwhile.

These are just some of the ways we are standing up for consumers.

Markets that work for consumers, as the chairman said, are also good for responsible businesses and the economy as a whole. Consumer lending has been ramping up in mortgages, credit cards, and auto loans, and delinquencies remain at historic lows.

Last year auto sales reached record levels and consumer spending has been leading the recovery for the past 4 years, growing faster than GDP. Banks are showing solid profits, and community banks and credit unions are growing their share of the mortgage market.

Still, we know that we have much more work to do to clean up the consumer financial marketplace. These markets are huge and they touch all of us in one way or another.

Years of uneven Federal oversight on behalf of consumers allowed a lot of bad behavior to go unchecked. As the independent

consumer watchdog, we are solely focused on the job Congress gave us of assuring that these markets are fair, transparent, and competitive, and that consumers have access to sound financial products and services.

Today I want to highlight some areas where people remain vulnerable without the Consumer Bureau to stand up for them.

The first area is markets that create frustrating and harmful dead ends for consumers. When people are forced to deal with companies they did not choose and cannot change, they lose much of their power because they lack the freedom to simply take their business elsewhere.

A prime example is credit reporting. If your credit report contains inaccurate information you can suffer severe and lasting harm. Yet, many people do not know what is in their credit report, and if they do find something wrong it is way too hard to get anybody to pay attention and make it right.

The Consumer Bureau is the first Federal agency to supervise this industry and the companies that supply the credit information, and we are making steady progress to clean up these problems.

We also recently took enforcement actions against all three major credit bureaus for deceiving consumers in marketing credit scores. But we are still flooded with credit reporting complaints, so clearly more work remains to be done.

Another dead-end market for consumers is debt collection. Consumers often find their debt is sold off or its collection is outsourced to some new company. They often do not know what to do when these collectors treat them badly.

We hear horror stories about constant harassing phone calls, relatives or employers tracked down and wrongly contacted, or even false threats of arrest if the debt is not paid. These tactics are indefensible and they are against the law.

People deserve to be treated with dignity, whether or not they owe a debt. We have taken action on several fronts to address widespread abuses in debt collection, but, like credit reporting, it is a big problem that will take time to fix properly.

Another area of focus is financial performance incentives which encourage results that hurt consumers. This systemic issue spans all markets and products.

A prominent example is Wells Fargo's practices that led to millions of consumers having accounts opened in their name without their knowledge.

In 2013 the Consumer Bureau got a whistleblower tip about pressure to meet aggressive cross-selling goals and the problems it was causing. The investigation was conducted with our Federal and local partners that documented the widespread practice of secretly opening up unauthorized accounts.

By completing a public enforcement action with a record fine we blew open a scandal whose far-reaching effects are being felt across financial markets to this day. We are keeping a close eye on these practices and insisting that all banks and financial companies must carefully monitor their incentive programs to avoid such problems.

Issues like this demonstrate why the Consumer Bureau is so important to protect consumers. And incentive programs that cause improper conduct are not limited to Wells Fargo; they show up in

areas like overdraft and credit card add-on products, where we are rooting out bad practices and getting money back to consumers.

We will remain vigilant and crack down on these abuses wherever we find them.

Those who talk about weakening or destroying the Consumer Bureau are missing the importance of the work we are doing to stand up for individuals and families all over the country. Nobody should want to return to a system that failed us and produced a financial crisis that damaged so many lives.

I look forward to answering your questions about what we have accomplished over the past year. Thank you.

[The prepared statement of Director Cordray can be found on page 114 of the appendix.]

Chairman HENSARLING. Thank you, Mr. Cordray.

I now yield myself 5 minutes for questions.

First, Mr. Cordray, I want to deal with the important subject of Congressional oversight. As I trust you are well aware, yesterday I reissued a subpoena for this Congress for matters that were pending from subpoenas in the last Congress that were never complied with. Some of these matters have been pending for 382 days.

I just wish to remind you and all personnel at the CFPB that under Title 18, Section 1505, it is unlawful to influence, obstruct, or impede the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House or any committee of either House. And I suspect that you will find that the Justice Department will no longer turn a blind eye to obstruction.

As you are also probably aware, there is a December 21st article that appeared in the National Review dealing with the CFPB and Congressional oversight. The article stated, "The unwritten policy of it supervising attorneys, and in particular of one former Democratic Senate staffer was, 'Never give them what they ask for.'"

It goes on to say, "Soon a career professional in the unit who had resisted pressure to engage in witness coaching and other unethical practices was reprimanded for insubordination and reassigned. The Inspector General investigated and issued a report to Cordray that concluded the reprimand was unwarranted and the supervisors had engaged in obstruction."

Mr. Cordray, is anything in this article true?

Mr. CORDRAY. I have seen that article. It is filled with hearsay and opinion—

Chairman HENSARLING. Okay. Is any of it true?

Mr. CORDRAY. —and it is not fact.

Chairman HENSARLING. Is any of it true, or do you deny all of the assertions in the article?

Mr. CORDRAY. I don't know what all of the assertions in the article are.

Chairman HENSARLING. The ones I just quoted, Mr. Cordray.

Mr. CORDRAY. It is not the kind of article that anybody pays close attention to, but I would be happy to have my staff—

Chairman HENSARLING. Well, then let me be specific.

Mr. CORDRAY. —on any particular issues—

Chairman HENSARLING. Mr. Cordray, has the Federal Reserve Inspector General ever communicated with you regarding a supervisor who worked on oversight requests?

Mr. CORDRAY. Say that again?

Chairman HENSARLING. Has the Federal Reserve Inspector General ever communicated with you regarding a supervisor who worked on oversight requests?

Mr. CORDRAY. I do not, I am not sure what you are referring to, so I am not sure what to—

Chairman HENSARLING. You don't know the answer. Okay.

Are you aware of any Inspector General inquiry into any aspect of the CFPB's handling of Congressional inquiries?

Mr. CORDRAY. I don't recall that offhand, but I would be happy to talk to—

Chairman HENSARLING. You are unaware of any Inspector General inquiry into your handling of Congressional inquiries? You are unaware of this, is that correct?

Mr. CORDRAY. What I would tell you is I don't always know all the inquiries the Inspector General is conducting. I am not supposed to know all the inquiries the Inspector General is conducting. So I am not sure what to tell you, but I would be happy to have staff—

Chairman HENSARLING. But if I could, Mr. Cordray, the article states that the Inspector General issued you a report of the findings of its investigation. Have you ever received a report from the Inspector General detailing any aspect of CFPB's handling of Congressional inquiries? Surely you would know if you had received a report.

Mr. CORDRAY. I have gotten dozens of reports from the Inspector General. I try to pay close attention all of them. I am not sure what you are referring to, but I would be happy to talk to you—

Chairman HENSARLING. So you don't know if you have ever received a report from the Inspector General dealing with how Congressional inquiries are handled. This is a terribly important matter, going to the whole foundation of our Constitution and oversight, and you are unaware of any Inspector General report.

Mr. CORDRAY. I can tell you, you started from an article that is based on opinion and hearsay, and there were claims made that we don't provide documents responsive to—

Chairman HENSARLING. Okay, but you are unaware of this Inspector General report. In that case, Mr. Cordray, again, if necessary, we will subpoena such report. I can't believe that you would be unaware of this. In the time I have remaining—

Mr. CORDRAY. What I am saying to you is if you want to have—if you want to show me the report and refresh my memory, I am happy to have a discussion with—

Chairman HENSARLING. I am kind of hoping you will show me the report because I don't have a copy of it.

Mr. CORDRAY. Is it a published report?

Chairman HENSARLING. I am asking you the question. You say you are unaware of the report.

Mr. CORDRAY. I am unaware of a published report. I am not sure what you are referring to. I honestly am not sure what you are referring to—

Chairman HENSARLING. We will request the document.

In the time I have remaining, Mr. Director, as I think you know, Section 1071 of Dodd-Frank requires financial institutions to collect and report women-owned, minority-owned, and small business credit application information. I personally don't believe the information is necessarily of great value, but that is not the point.

Six years ago the Bureau's General Counsel stated the Bureau would not enforce the statute against financial companies until the Bureau issued its rules. You have been at the helm for almost 5 years.

Mr. CORDRAY. Yes.

Chairman HENSARLING. You have failed in your duty to prescribe a rule under Section 1071. The same is true of Section 1033.

Two years ago Democrat committee members, led by the ranking member, said, "Your unwillingness to prioritize implementing Section 1071 is unacceptable."

So, Mr. Director, can you cite any section of Dodd-Frank that permits you to ignore mandatory rulemakings for 5-plus years, knowing that you have engaged in discretionary rulemaking such as the payday rule, the arbitration rule, and the prepaid card rule, and why these are not grounds for removal for cause?

Mr. CORDRAY. Okay. I am happy to address that if you want to give me a few moments to do so.

Chairman HENSARLING. Please.

Mr. CORDRAY. Section 1071 is a required rulemaking. There have been a number of required rulemakings; there have been more than a dozen or so that we have been required to enact. We have adopted those rules at a reasonable pace over time.

One of those rules was updates to the Home Mortgage Disclosure Act reporting and collection and publication of information process. That also involves bringing over from the Federal Reserve the operational job of actually conducting the data collection and publication, which is a big job; there are lots of people involved with that.

And we had made the judgment, I think reasonable, that the small business lending data collection and reporting, which has never existed before—the HMDA has been in operation for 40 years—is something that should be in order just behind the HMDA rule.

The HMDA rule has now been finalized and we are at work on the small business lending rule, and that is what I can tell you at this point. I would be happy to—

Chairman HENSARLING. I appreciate that, Mr. Cordray but again, you have engaged in discretionary rulemaking for almost 5½ years; mandatory rulemakings have gone undone. And again, I think it, frankly, proves removal for a cause grounds.

I now yield to the ranking member.

Mr. CORDRAY. I will be happy to take your advice and move forward speedily on that rule as fast as we reasonably can move, if that is what—

Chairman HENSARLING. I now yield to the ranking member.

Mr. CORDRAY. —direction to be.

Ms. WATERS. Thank you very much, Mr. Chairman.

Mr. Cordray, I would like you to absolutely ignore the National Review. The article was done by someone who used to work for Mr. Hensarling, and I just don't think that is credible.

And let me just say that you organized this Consumer Financial Protection Bureau wonderfully well in a short period of time. You put together what Dodd-Frank asked you to do in an extraordinary period of time, and I know that you have dealt with every aspect of organizing the Consumer Financial Protection Bureau.

I trust you, and I believe in you, and I believe that you have moved as quickly as you possibly could to implement 1071. I have no problems with it, and if I don't have any problems with it as a minority woman, I don't think anybody else should have any problems with it because I have not seen some of those who complain step up to the plate to deal with the problems of minorities and small businesses and women, et cetera.

Having said that, let's get to some real issues.

On Wells Fargo, they would like to take the credit away from you about what you have done to deal with the fact that Wells Fargo created these accounts in clients' names without them knowing about it. Would you please tell us what you did and how you did it? And don't let them deny what you have done and what you have accomplished with the Wells Fargo problem.

Mr. CORDRAY. Sure. No, I know that there are people who just don't like to see any positive work from the Consumer Bureau and want to try to explain it away wherever they can.

The Wells Fargo matter was a very significant matter. We first began to hear about potential problems in the institution in 2013. We received a couple of whistleblower tips.

At that time it appeared to be an employee-employer problem. It evolved over time.

Obviously, millions of accounts weren't opened in a day. This was a problem that did evolve over time.

Our work on the problem also evolved over time. We began by reviewing the issues in supervision, and over time it became clear that they were growing and they were significant and it needed to move over to our enforcement area, which involved our own investigation together with our partners; we brought the OCC in and we worked with the L.A. City Attorney's Office.

But we conducted depositions of bank officials which was the first time that that was able to be done. We compelled the production of thousands of pages of documents, which was the first time those documents were able to be turned over. And we were able to document and specify that there were, in fact, millions of deposit and credit card accounts that have been opened illegally, that this was a widespread practice involving thousands of employees. I have never seen a situation like this where more than 5,000 employees were fired because of the extent of the irregularities within the institution.

We completed successfully an enforcement action with our partners, which is always difficult to do and time-consuming but was important to do quickly because that is what exposed this matter to the public and has brought lots of follow-on actions by other public officials, other regulators, the Congress of the United States, the

press, and individuals who have brought their own claims. And it is an ongoing matter.

We have installed a monitor at Wells Fargo that has continued to make sure that all consumers are being remediated properly, including ancillary issues, that the problems are being cleaned up going forward and will not occur again. There is a horizontal review that we are engaged in across other institutions to see if similar problems are occurring and to make sure they are being cleaned up.

And we have issued a bulletin to put the entire industry—bank and non-bank companies—on notice that any problems of this kind around incentive compensation programs, whether it is in bank accounts, or credit cards, or mortgages, or debt collection, or wherever, will not be tolerated and needs to be monitored carefully. So that is significant work and it is ongoing.

Ms. WATERS. The city attorney that I am referring to and you are referring to is Mike Feuer, in my city of Los Angeles. He has nothing but praise for you. He has nothing but praise for you because he has never, he said, been able to work with anyone in the way that he worked with you and how you moved so quickly not only to follow up and to further investigate and explore, to do what you are able to do to make sure that you sanctioned them with the fines in the way that you did.

So I want you to know that I am very appreciative. My City is appreciative. The city attorney is appreciative.

And don't let anybody take credit away from the work that you have done to protect the consumers from the fraud that was being perpetrated by Wells Fargo.

Mr. CORDRAY. Our feeling is mutual for Mike and his team and we look forward to working on other matters in the future as they may arise.

Ms. WATERS. Thank you so very much.

And I yield back.

Chairman HENSARLING. The gentlelady yields back.

The Chair now recognizes the gentleman from Missouri, Mr. Luetkemeyer, chairman of our Financial Institutions Subcommittee.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

Welcome, Mr. Cordray.

Director Cordray, I want to start by asking you about the Bureau's proposed amendments relating to disclosure of records information issued in August of last year. As I understand it, this amendment would impose what amounts to be an unprecedented gag order on any individual entity under investigation by CFPB.

In your proposal, as I understand it, you allow for absolutely no judicial review.

Mr. Director, even recipients of national security letters of law enforcement are permitted due process. No other Federal regulatory agency has an outright prohibition on the disclosure information—not the SEC, not the FTC.

Can you provide me with a compelling reason why the Bureau needs this unprecedented gag order authority?

Mr. CORDRAY. I will say two things.

Number one, I don't think that the rule has the far-reaching effects you are describing. But let me say that we have received those comments from you and your colleagues. We think they raise legitimate concerns. We are going back to the drawing board in terms of what we are doing on that issue, and we will produce a rule that I believe that you will respect and appreciate that we have responded to those questions.

Mr. LUETKEMEYER. Well, Director, I have here with me this morning a letter from the ACLU, of all people. And the letter is dated October 20, 2016; it is from the legal director. In there it delineates basically what I just said with regards to other agencies—they don't have this prohibition.

In fact, in your rule it indicates that if you look at it the recipient of the subpoena would not even be able to put that information on their own website, which you can do on your website. And even they recite here the concern with regards to—even in national security interests there is a very strict protocol that has to be observed in that situation even, to be able to protect that information. And yet, you are going beyond that.

So again, this elimination of due process is basically unconstitutional. In fact, in their letter they cite that provision. So I am very concerned about that, and to me, we need to withdraw the rule. It makes no sense. It doesn't have any bearing. I don't know why you even are going down this road.

Mr. CORDRAY. Yes. So I am hearing what you are saying. It is reinforcing the concerns that you had raised and others have raised. I think they are legitimate concerns and we are going back to the drawing board on that, and I think you will be happy to see that when that is completed.

Mr. LUETKEMEYER. Okay. With regards to another issue, with regards to small-dollar lending and access to credit, you and I have talked about this at length over the years, and I am still very concerned about some of the actions that your agency has taken.

The small-dollar lending rule is, in my view, so punitive that it will close businesses and leave consumers in my district out of options. And I will give you an example.

Let me read a quick part of a letter that I got from a gentleman named Nick in Sinclair, Missouri. Nick writes, "The CFPB has made a rule that will really hurt people who turn to a payday loan to help solve the personal finances. This is not just a bad idea, this is a horrible one. Please do not let this rule stand, Congressman Luetkemeyer."

"My car broke down recently and I was worried that I wouldn't be able to afford all the repairs. I went to my local cash advance store and was quickly approved to get a loan. I am glad I used these loans to help me get my car fixed and back on the road."

Director Cordray, I know you think that everybody can turn to other sources of credit whenever they are in—like in Nick's situation here, he needs some immediate cash to fix an immediate need. But if the government decides that he can't have this kind of loan, where does he go to get this? What is your solution to this?

Mr. CORDRAY. Yes. So I want to be careful with what I say because this proposal was out for comment. We received over a million comments on it, some of them along the lines of what you just



said, some of them quite the reverse. And we are trying to work through that; it is a complicated subject.

I will say there are 14 States in the union that have no payday lending. South Dakota is the most recent one to join their ranks because the voters in that State, by 76 percent, approved a ballot measure last fall to essentially bar payday lending in the State, and that is tens of millions of Americans in those States who seem to get by just fine.

So, that is an interesting experiment that you have, part of the country that has no payday loans and part of it does.

Mr. LUETKEMEYER. With all due respect, Director, they are still there. They are going offshore, and you know this as well as I do. And those aren't regulated, so therefore I don't know how you get around them, just saying, well, there is no access, period.

There are other ways to do this. They increase their credit card debt, their prepaid cards. These are all things that are other options, but that shows that they are—in those situations they have higher credit card past dues and things like that.

This is a need for immediate cash and this rule is so restrictive it is driving people into certain areas they don't want to go to.

Mr. CORDRAY. Yes, that is not what I intended to say. It is just that payday lending is one way to meet that need; there are many other ways to meet that need. And in the States that do not have payday lending people find many other ways to meet that need.

But it is a legitimate discussion. It is something we are thinking hard about and we have gotten, as I said, many, many comments on both sides of that issue.

Mr. LUETKEMEYER. I yield back. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from New York, Mrs. Maloney, ranking member of our Capital Markets Subcommittee.

Mrs. MALONEY. Thank you. Thank you, Mr. Chairman, and Ranking Member Waters.

Director Cordray, I would like to ask you about the Consumer Bureau's prepaid card rule, which I believe went into effect in November. The prepaid rule requires minimum disclosures, limits the amount of overdraft on prepaid cards, and establishes a process for resolving errors and customer disputes. The prepaid card market is growing very, very quickly and it has a great deal of potential.

But there are virtually no Federal consumer protections for prepaid cards, and that is why the rule coming from your agency is so important.

The rule was supposed to take effect in October 2017, but the Bureau recently proposed delaying the effective date by 6 months, to April 2018. In its proposed delay the Bureau said the additional time would allow the Bureau to, "evaluate concerns raised by industry participants regarding certain substantive aspects of the rule."

So my question is, is the Bureau open to making substantial, substantive changes to the prepaid rule before it goes into effect? And if the Bureau is open to that, what aspects of the rule is the Bureau open to changing? I am particularly interested in the disclosure requirements and the issues that affect digital wallets.

Mr. CORDRAY. Okay. Thank you. And I will say two things in response to that question.

The first is—and it is important to keep this in mind as some people are talking about trying to overturn that rule—the rule was finalized last fall but it has an implementation period for companies to be able to work on their packaging and other things and get ready, had an implementation of 12 months. We have now determined from what we have heard that that time period may be too short, and we have put out a proposal to reopen the issue of extending that period of time for 6 more months.

Let's understand where that rule comes from.

Probably most Americans, almost all of those in this room, have bank accounts. On those bank accounts we have certain legal rights. We have rights to get errors corrected; we have rights to get disputes resolved; we have rights to certain disclosures on those accounts. Nobody wants to roll back those rights for those of us who have bank accounts.

There are millions of Americans now who do not have bank accounts and for whom prepaid cards and prepaid accounts are an increasingly satisfactory solution, but they have none of those protections. This is meant to level the playing field and make sure they have the same protections that more privileged members of our society who have bank accounts have, that we take for granted and are basic.

Now, having said that, we recently proposed to extend the effective date of the rule by 6 months and we have been hearing from industry during this time about a few issues that have come up as we have been working with them to implement the rule.

And we have heard enough that we believe it makes sense to seek comment on at least two of the issues in the following rule-making in the coming weeks, and perhaps there will be others. The first relates to the linking of credit cards into digital wallets that are capable of storing funds, and the second issue relates to error resolution for prepaid cards that have not been registered.

Both of these could have disclosure implications. Both of them we are going to take a serious look at and we intend to try to figure out how to address them.

Mrs. MALONEY. So you are open to substantial changes?

Mr. CORDRAY. We are always open to hearing more from stakeholders—that is all sides, consumer groups and industry—about what else could be done to improve the functioning of our rules.

Mrs. MALONEY. I am interested in overdraft fees, and my question is, do you plan to propose a rule on overdraft fees before your term expires in 2018? And if so, when can we expect to see this proposed rule?

Mr. CORDRAY. As you know, and we have discussed this a number times, overdraft is an issue that the Consumer Bureau has been looking at from the outset. There have been some problems in that area.

I think private lawsuits have demonstrated certain problems that have resulted in significant resolutions. The Federal Reserve had just tried to address this issue before we became an agency with its opt-in rule.

The different Federal agencies have different approaches to overdraft, which is probably not the right landing place. And it is something that we have been looking at for quite some time.

As to when we would or would not initiate a proposed preliminary framework for rulemaking, which is what we need to do with small business review panels, I can't speak to the timing on that, but it is something we would be happy to keep you and your staff posted on as we go, and it is an issue that is on our minds very much.

Mrs. MALONEY. Okay. My time has expired, but I wanted to hear also your safeguards to mortgage products. But my time—

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentleman from New Mexico, Mr. Pearce, chairman of our Terrorism and Illicit Finance Subcommittee.

Mr. PEARCE. Thank you, Mr. Chairman.

And thanks, Mr. Cordray, for being here.

I appreciate your strong interest in consumer complaint filings. You draw out that you have had more than a million filed. Have you got any rough breakdown on how many of those complaints have been against community banks?

Mr. CORDRAY. We don't actually take or put in our database any complaints against community banks.

Mr. PEARCE. Okay. How about from rural counties? Do you break it down by rural counties?

Mr. CORDRAY. We can break down complaints, certainly, by State. There may be smaller divisions we could put them into. If you are interested in that I would be happy to have my staff talk to your staff about—

Mr. PEARCE. How many complaints against the CFPB?

Mr. CORDRAY. Beg your pardon?

Mr. PEARCE. How many complaints against the CFPB? In other words, I hear quite frequently when I go to the district that the CFPB is intrusive: "They do this; they are limiting our access." So how many complaints against CFPB?

Mr. CORDRAY. I see. So our database is about consumer complaints about the financial institution with whom they have a relationship—

Mr. PEARCE. Okay, so you don't track when people—you don't have any kind of one-star, two-star, three-star rating for yourself?

Mr. CORDRAY. No, although we do hear—

Mr. PEARCE. How many of the complaints—I appreciate that you don't track those.

And so now, keep in mind that when you first started our discussion here was about rural and you are defining Luna County in the same category as New York City. Luna County has 8 people per square mile and New York City has 28,000 people per square mile.

You have a lot more options there in New York City than you do in Luna County. And so everything you might do which would choke off access we were creating tremendous friction with you, if you recall that.

Mr. CORDRAY. Yes.

Mr. PEARCE. And so I am interested in page four, where you say: “We are tailoring our approaches to financial decision-making,” and then you give all these subgroups, but you didn’t put rural in there.

Rural is a big part of America. Why didn’t you include that in your list? You tell everything else that you are doing.

Mr. CORDRAY. I should have included that on the list because we have actually made good progress there.

Mr. PEARCE. Okay, fine. You should have put it there.

Mr. CORDRAY. No, but we have also changed our definition of “rural” twice in response to comments that you have made to me and others have made.

Mr. PEARCE. Yes. And so I guess my point is that it took about 3 to 4, maybe 5 years to get that change from a Member of Congress.

Mr. CORDRAY. That is right.

Mr. PEARCE. So when I see that you have done a million complaints I kind of wonder about those people who are not Congressman, the ones from rural areas, saying, “You are making life very difficult for us.”

One of the things that you and I discussed—and you sent the lady up to my office for an hour, hour-and-a-half—was the idea of seller finance. You get people in New Mexico and they are making \$25,000, \$30,000 a year is kind of the average.

Over their lifetime they end up owning five trailer houses and then that is their retirement. They sell a trailer and they will take the payments and it helps Social Security.

We have worked with you, our office, for over 2 to 3 years on one sentence. Just go back to what it was before, where you can sell five of those and then you need to be a mortgage loan originator. No, you have changed it to where if you sell one, you have to be a mortgage loan originator, and you have taken away the possibility of people having—just comparing it to the transportation system: In the city if your car breaks down, you go out and you get on the subway, or you get an Uber, you get anything, you rent a bicycle.

The person that we are interviewing for my office in Las Cruces right now lives 65 miles away. There aren’t any rental bikes out there; there is no Uber out there; there are no cabs out there. And if she has to go get a payday loan to fix the transmission, you say that you are going to shut off 75 percent of it.

And so I have asked you before, the guy in the oil field who is just trying to get through every day says, “What business is it of Mr. Cordray’s if I want to borrow \$100 on Monday and on Saturday, when I get my check, I am going to pay back \$120?”

I will guarantee you there is no one in New York City that is going to come out and lend that hundred bucks, and yet you are going to say that you can’t have seller financing of trailer houses, you can’t have any access to payday loans, you can’t have this. And so I don’t think it was an oversight on page four when you didn’t include rural.

I don’t think it is in your mindset because I know the number of community banks that have closed down. I know the total assault on them. They are not the ones who caused the problem in 2008. They did not.

And yet, you treated them the same in the initial definition. It takes 3 years to kind of unbundle that, and still they are the ones complaining to me.

Go ahead, sir. I'm sorry I—

Mr. CORDRAY. Could I have a moment to respond?

Mr. PEARCE. Yes, sure.

Mr. CORDRAY. Okay.

On the rural, what you are pointing to is a success story. It took longer than it might have, and we worked with Congress ultimately and the rural definition has been fixed. So it is an example, maybe not perfect, but of us listening and responding and not just digging our heels in.

In terms of New Mexico, we have two call centers to take complaints around the country. One of them is in New Mexico in the area you described. We are very familiar with that area.

We are happy to talk to you further about the seller financing issue if you want us to follow up on that—

Chairman HENSARLING. The time of the gentleman—

Mr. PEARCE. The rural problem is not fixed, with all due respect, and I appreciate your observation.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from New York, Ms. Velazquez, for 5 minutes.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

And, Dr. Cordray, thank you for the work you do on behalf of working families and consumers in the country, particularly on behalf of my—New York City's—the people that I represent.

Dr. Cordray, I would like to share with you and the committee some stats regarding small business lending practices, in terms of the most vulnerable population of the small business sector, women and minorities, to show why I strongly disagree with the chairman of the committee about Section 1071.

One study found that among women who sought financing, 32 percent received approvals, compared to 35 percent of men. They were also more likely to receive short-term funding with APRs varying from 14 to 50 percent or higher than men.

On average, women paid a 13 percent higher interest rate for the same product, even on SBA loans. These are loans guaranteed by the Federal Government.

Women received less funding on average than men, the average being nearly \$60,000 for women and over \$156,000 for men. The same ran true for minority business owners. They are approved for lower loan amounts and pay higher interest rates than non-minorities.

So it is important to be able to collect data so that it shows us whether or not we need to come up with legislative solutions to level the playing field in terms of making lending credit accessible to every sector of the small business community.

Mr. CORDRAY. I find that very persuasive. I also heard the chairman loud and clear when he said that he wants us to move ahead quickly with that small business lending rulemaking, and we will respond to that oversight.

Ms. VELAZQUEZ. Thank you.

Director Cordray, increasingly, homeowners are purchasing rooftop solar panels as a way to reduce their monthly utility bills. Unfortunately, along with the growth of the solar panel market there have also been reported increases in consumer complaints regarding abusive or deceptive acts by solar companies in their sales, financing, and marketing practices.

What is the CFPB doing to address consumer complaints in this industry?

Mr. CORDRAY. We have been hearing two different things, and increasing amounts about both. One is that the sale of solar panels directly may involve abuses of consumers. There are limitations around our jurisdiction if it is a loan in connection with the sale of a retail product, so that is difficult for us. But we are talking to attorneys general and others to try to understand who can do what on that problem.

There is a separate issue that may or may not be what you are referring to, which has to do so-called PACE loans, where one of the ways in which the solar panels are financed is that States have set up a superior priority tax lien on the property to be able to finance the energy efficiency changes, and that creates some real complexities in the real estate market that we are hearing a lot about from mortgage lenders and others and that we are trying to think about carefully and talk to FHFA and others about those. So we are hearing the same things you are hearing, I believe.

Ms. VELAZQUEZ. Thank you.

Credit unions in New York recently approached me and they expressed that it is becoming increasingly difficult to provide overseas remittances due to the escalating costs of complying with the associated rules and regulations. What is the CFPB doing when reviewing the remittances rules to make sure the cost has not gone up for consumers? And if you find it has, how will you address that?

Mr. CORDRAY. I was going to a portion of my book, because I know we have some new data that folks provided me with on the issue of remittances. Ninety-six percent of that market is money transfer operators rather than banks and credit unions, so it is a market that is dominated by non-bank players. We're talking about people like Western Union, MoneyGram, and now, increasingly, online products that are going to be disruptive in that market and perhaps beneficial to consumers, like Xoom and some others that we have seen.

In terms of the credit unions, we did exempt, by creating a threshold, more than 80 percent of credit unions from coverage under our rule. But we have been talking to all the players and there may be more we can do on that front. That is something we are going to look at.

We are doing a retrospective review of the remittance rule, as Congress requires us to do on all significant rules 5 years after it takes effect. That is going to be our first example of a—

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentleman from Michigan, Mr. Huizenga, chairman of our Capital Markets Subcommittee.

Mr. HUIZENGA. Thank you, Mr. Chairman.

And thank you, Director Cordray.

It is my understanding that parties entering into a consent order with the Bureau are not actually admitting guilt, correct?

Mr. CORDRAY. I'm sorry. There was a little noise. Are not what?

Mr. HUIZENG. Yes, it is a little noisy with the doors opening. It is my understanding that parties entering into a consent decree with the Bureau are not actually admitting guilt, correct?

Mr. CORDRAY. Typically that is not the case, but I will tell you my perspective on it.

Mr. HUIZENG. I'm sorry, they are admitting guilt?

Mr. CORDRAY. Typically it is not the case, and I will give you my perspective on it if you would like.

Mr. HUIZENG. Well, hold on. First of all, I just want to establish that because these consent orders normally contain a paragraph labeled "stipulation," which states, "Respondent agrees to the issuance of the consent order without admitting or denying any of the findings of facts or conclusions of law, except that the Respondent admits the facts necessary to establish the Bureau's jurisdiction over a Respondent in the subject matter of this action."

That is included in those consent decrees, correct?

Mr. CORDRAY. I would be glad to offer you my perspective on that, if you would like.

Mr. HUIZENG. It is yes or no. Are those included?

Mr. CORDRAY. That is true of many orders, yes—

Mr. HUIZENG. Yes, okay. All right, well, so—

Mr. CORDRAY. —not necessarily all, but—

Mr. HUIZENG. —myself and many others in this committee have previously raised this with you, what I believe has been a significant problem with the way that the Bureau has issued their press releases around these consent orders. Specifically, in virtually every one of your settlements you don't prove any facts alleged—

Mr. CORDRAY. I don't agree with that.

Mr. HUIZENG. —the company doesn't admit to any violation of the law, yet in your press releases that you send out there is regularly alleged, again without factual basis, that the company actually violated the law.

Mr. CORDRAY. So again, could I give you my perspective on that?

Mr. HUIZENG. Quickly, please.

Mr. CORDRAY. Okay. When we complete an action it is because we completed a thorough investigation of the facts. We know what the facts are; the company knows what the facts are. That is why they end up—

Mr. HUIZENG. So you don't believe that any of these companies that would sign a consent decree would feel intimidation or maybe the fact that this could draw out for years, that maybe they are too small to fight City Hall or the CFPB at this point?

Mr. CORDRAY. I think the main reason why companies enter into a consent decree is we have done a thorough investigation. We know the facts; they know the facts. They don't have a leg to stand on, all right?

Mr. HUIZENG. Okay, like PPH.

Mr. CORDRAY. So we document those orders in detail—

Mr. HUIZENG. Well—

Mr. CORDRAY. —so everyone knows what was done, and it doesn't matter to me whether the company says they don't admit

or deny. Does anybody doubt that Wells Fargo had the problem that we described when they fired 5,000 employees?

Mr. HUIZENGA. Whoa, whoa, whoa. Hold on. Wait a minute. You are an attorney and you just said that it doesn't matter what they signed—

Mr. CORDRAY. It doesn't matter to the truth—

Mr. HUIZENGA. —as a legal document with the CFPB?

Mr. CORDRAY. It doesn't matter to the truth of the facts of our investigations. What it does matter to—

Mr. HUIZENGA. Okay, so you intentionally know that the CFPB signs consent orders that lie?

Mr. CORDRAY. No. What it does matter to is whether—

Mr. HUIZENGA. Well, you just said they are not factual.

Mr. CORDRAY. Do you want me to answer you?

Mr. HUIZENGA. I would like you to answer my question, yes.

Mr. CORDRAY. I am happy to answer you.

Where this matters is whether facts are already established for follow-on lawsuits by private plaintiffs' attorneys. I don't feel it is my job to make that happen for them.

Mr. HUIZENGA. Okay.

Mr. CORDRAY. My job is to conclude the investigation, to lay out the facts as they are. The company can dispute it or not as they please, but the facts are the facts. They are made public—

Mr. HUIZENGA. So the facts are the facts, okay, perfect.

Mr. CORDRAY. They are clear. Everybody can learn from that.

Mr. HUIZENGA. We are going to disagree. I have a minute-and-a-half here, but I would call this trial by press release, but maybe we can put it in slightly—

Mr. CORDRAY. No.

Mr. HUIZENGA. —different terms here.

Several employees have filed claims of racial and sexual discrimination and retaliation with the Bureau's Office of Equal Opportunity and the Equal Employment Opportunity Commission (EEOC). You have settled some of these cases, including one with a whistleblower who has testified before our committee.

I would like to enter into the record one of those settlements, which is dated October of 2014, if we could do that?

Chairman HENSARLING. Without objection, it is so ordered.

Mr. HUIZENGA. And so using your standard, the fact that you settled these cases means that you and your managers, frankly, are guilty of racial and sexual discrimination, correct?

Mr. CORDRAY. No, I don't agree with that. We have—

Mr. HUIZENGA. Well, wait a minute. You just said it doesn't matter what it says, that the facts supersede what the paper says.

Mr. CORDRAY. There is a consent order that is entered which has specifics facts in it—

Mr. HUIZENGA. No.

Mr. CORDRAY. —and that is a different issue—

Mr. HUIZENGA. Director Cordray—

Mr. CORDRAY. —in a private settlement.

Mr. HUIZENGA. —using your own standard, you settled claims and thereby admit to your crimes, but you won't fire the managers responsible for that.



Mr. CORDRAY. No. No, that is not correct. When we get complaints and grievances we look to resolve those through whatever process we can. We use mediation quite a bit and—

Mr. HUIZENGA. Wait a minute. So you are saying that sometimes signing an agreement doesn't mean you are guilty.

Mr. CORDRAY. No, no. You are not making a distinction—

Mr. HUIZENGA. Wait a minute. You are either guilty of the things—

Mr. CORDRAY. You are not making a distinction—

Mr. HUIZENGA. —that you just settled, or the other people whom you have forced into settlement agreements might not be guilty of what you charged them.

Mr. CORDRAY. No. A public consent order is an order entered by either the Bureau or the court, okay? It is an independent—

Mr. HUIZENGA. It is for remediation, correct?

Mr. CORDRAY. —independently authorized order. That is distinct from a settlement agreement, which may be a contractual matter.

Mr. HUIZENGA. Here is the simple fact, Director Cordray: What is good for the goose is good for the gander, and you are not willing to accept the same standard that you apply to others on the outside for your own Bureau that you are—

Mr. CORDRAY. It is apples to oranges.

Chairman HENSARLING. The time of the gentleman has expired.

Mr. CORDRAY. I would be happy to follow up with you further if you would like.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from New York, Mr. Meeks.

Mr. MEEKS. Thank you, Mr. Chairman.

And Director Cordray, let me first thank you because we voted 62 times previously on the Affordable Care Act only to find out that many of my colleagues, when it came time that they were in power, they realized that many of their constituents benefited from the Affordable Care Act.

And you, sir, have now, I think, testified before Congress over 62 times. And I think that your responsiveness to Congress and who you are responsive to is consumers. They ask about accountability.

Sir, isn't, in fact, your accountability to the consumers of America?

Mr. CORDRAY. I believe it is to the public, yes, and every member of the public is a consumer, so—

Mr. MEEKS. And prior to the establishment of the CFPB, do you know of any such agency that would be reflective of the—and responsible directly to the public or the consumers? The corporations or the banks, they have—they there responsible, as they tell me, to their board, to their stockholders, which is a limited crew, and to their corporate board.

Who is responsible to the American public, the American people?

Mr. CORDRAY. I think this Congress did a good thing in 2010, and it is very important to have an independent watchdog looking out for consumers, standing on their side, making sure they are treated fairly in the financial marketplace, where it is typically not a fair fight when they are in a struggle with a large financial company.

Mr. MEEKS. In fact, when we had the greatest financial crisis since the Great Depression, the fact of the matter was because nobody was out there watching out for the consumer, many of the no-doc loans and bad products are what brought this country down. Is that not correct?

Mr. CORDRAY. And do you know what that meant? That meant lots of people lost their jobs who had nothing to do with any of this; lots of people lost their homes—millions of people; and we all lost significant retirement savings. We all suffered because of that failure on the part of the regulatory system.

Mr. MEEKS. And the fact of the matter is, those people who lost their homes and jobs, et cetera, they were not just minorities; they were not just people from urban America; they were not people just from rural America; they were not people just from the east, the west, the north or the south; they were all Americans.

They were not just Democrats. They were Democrats and Republicans. Is that not correct? They all fit within that group.

Mr. CORDRAY. That is correct, and I will give you a great example.

Maybe some people got into irresponsible mortgage loans. Maybe they should have known better; maybe they were defrauded.

In that subdivision, if there were 10 foreclosures, everybody else in the subdivision, even though they had fine mortgages and they were okay initially, was going to get hurt because their home values were going to plummet and they were going to be innocent bystanders of this. And it happened to many, many millions of Americans, as you say, from all walks of life, of all backgrounds, of all origins.

Mr. MEEKS. So this is not a battle—you are not there just to represent minorities or just to represent urban America. You are there making sure that there are solutions for consumers wherever they be, no matter who they are, but you are the one agency that we have now to make sure that the American public has someone who has their back.

That is whose back you have, right? The American public. The average, everyday Mary and Joe.

Mr. CORDRAY. That is our job. It is a big job. We try to do it as best we can. When we don't get it right, we look to fix it.

Mr. MEEKS. In fact, you have something that is called the Consumer Complaint Portal. Is that correct?

Mr. CORDRAY. We do.

Mr. MEEKS. Can you tell me something about how many people have responded to your Consumer Complaint Portal? Because if you are not doing your job then I guess you are only getting a few complaints, right? Because everybody else must be accountable—if you get rid of this Bureau and get rid of you there must be accountability somewhere, so there must be only a few people who are complaining to you. Is that correct?

Mr. CORDRAY. That is not the way it seems to be working. We have had over 1,150,000 complaints so far. They are coming in at the rate of 25,000 to 30,000 a month.

And people have—you know what this is like. Think about your mothers and fathers, sisters and brothers, sons and daughters. They have issues. They aren't sure how to fix them. It is a big, dis-

tant financial company that may or may not be responsive immediately to their concerns.

To have a place to turn to, to come to this Consumer Bureau, to say the complaint in their own voice, and to make sure we will work with the company to try to get it fixed and they can get relief in many instances, that is really important for people. It is a good thing. It is something that we should want to preserve and it is very important.

Mr. MEEKS. And I would say it is fair to say, because I have looked at some of the people, where they come—some come from Nebraska, some come from Texas, some come from New York. So they have to be Democrats and Republicans and Independents and people who don't vote at all.

There is no litmus test that is utilized. Is that correct?

Mr. CORDRAY. And in fact, we get complaints referred to us from Congressional offices in all districts all across the country, Democrat, Republican, it doesn't matter, we are just trying to work on behalf of consumers. And we welcome those, and we encourage the offices to send them to us.

Mr. MEEKS. So I would say that every Member of Congress, Democrat or Republican, should say thank you. Thank you for helping our constituents on a regular basis, because without you they wouldn't have anybody.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Wisconsin, Mr. Duffy, chairman of our Housing and Insurance Subcommittee.

Mr. DUFFY. Thank you, Mr. Chairman.

Welcome, Director Cordray.

How long have you been the Director of the CFPB?

Mr. CORDRAY. I first went into that position in January of 2012.

Mr. DUFFY. So that would be 5 years and 3 months, right?

Mr. CORDRAY. I guess that is right.

Mr. DUFFY. And—

Mr. CORDRAY. Time flies when you are having fun.

Mr. DUFFY. When we are having fun it does.

And the original intent of the Congress, a bill written by exclusively Democrats in Dodd-Frank, had the intent that the Director would serve for how long?

Mr. CORDRAY. I wasn't here then. I understand there were some Republicans who supported that bill in the House—

Mr. DUFFY. Let's not take my time. This is an easy answer. The answer was they intended that the Director serve for 5 years. Not 5 years and 3 months, not 6 years and 6 months, but 5 years.

Mr. CORDRAY. No, I don't think so. That is not what the statute says.

Mr. DUFFY. And so when we look at your tenure, you were—obviously you were brought in and it was found under the Supreme Court that the NLRB recess appointment issue would apply to you, as well, so you were brought in unconstitutionally by the President and then were reappointed, which will then give you a timeframe to the middle of next year. Is that fair to say?

Mr. CORDRAY. That is one perspective on the matter, I suppose.

Mr. DUFFY. So you weren't appointed unconstitutionally. Is that your position?

Mr. CORDRAY. I don't know that I have ever been ruled on that, but I would accept that the Noel Cannon case is the holding of this U.S. Supreme Court, and we accept it and respect it, certainly, as people do—

Mr. DUFFY. I'm sorry. You are over the 5-year time period, which would give you great cause right now to say, "Listen, I have done my 5 years. I am going to comply with the spirit of my party and the intent of the law. I am going to step down." You have chosen not to do that thus far.

Mr. CORDRAY. Could I—

Mr. DUFFY. One second. I will give you a chance to respond.

Mr. CORDRAY. Okay.

Mr. DUFFY. As I look at the PHH case discussing whether the President has the authority to remove you, or that you serve at his pleasure, or if you can be removed for cause, the CFPB has appealed that case, which means you prefer the standard that you be removed for cause.

And my question for you is would you prefer that the President—and again, we are going to note your political aspirations in Ohio—that we will walk through the racism, the sexism, we will walk through the intimidation and the retaliation—all the things that we did on our oversight committee and more—do that very publicly to have you removed for cause, or do think it is probably easier for you to say, "I have done my 5 years. I will step down and go?"

What is the better way to do this? For you even, politically, what is the best way?

Mr. CORDRAY. So to go back to your previous point—

Mr. DUFFY. No, make this one. Answer the question first.

Mr. CORDRAY. —I was nominated by the President and confirmed by the Senate on a significant bipartisan vote in July of 2013 to serve a 5-year term. That is what the statute provides for and that is where we are at the moment.

The PHH case, as you noted, is pending. It is an interesting constitutional set of arguments that is being presented there, and the court will sort it out.

Mr. DUFFY. Director Cordray, I would prefer we do this publicly. You have a rotting agency. We brought in women and minorities who have talked about the Bureau and how they treat women and African-American women.

I'm sorry. I would be happy to have that public conversation because, guess what, I think Democrats even in Ohio would be aghast at what has happened at the CFPB.

I want to move on. Do you know how—

Mr. CORDRAY. You—

Mr. DUFFY. Do you believe that 25 million people—

Mr. CORDRAY. Do I get a chance here?

Mr. DUFFY. Do you believe that 25 million people—

Mr. CORDRAY. I don't get a chance. Okay.

Mr. DUFFY. —is a lot of people? 25 million people.

Mr. CORDRAY. I'm sorry? I'm sorry, I was trying to respond to you and I missed your question.

Mr. DUFFY. Is 25 million people a pretty good chunk of folks?

Mr. CORDRAY. 25 million people is a pretty good chunk of folks. I would agree with that.

Mr. DUFFY. So on this side of the aisle in this committee, collectively we represent 25 million people right here. And as the chairman pointed out, we have sent you subpoenas for years, and you fail to comply with those subpoenas.

Mr. CORDRAY. I don't agree with that.

Mr. DUFFY. And on occasion when you do comply, you don't certify that you have complied with our requests. Other agencies certify that they have complied with the subpoena that has come from Congress, but not the CFPB. We won't certify compliance.

Mr. CORDRAY. I don't know what you are referring to or—

Mr. DUFFY. How about Ally? Have you complied with our subpoena in regard to the Ally case that goes back to 2015?

Mr. CORDRAY. I believe that we have complied with all of your subpoenas—

Mr. DUFFY. No, no. Let's talk Ally.

Mr. CORDRAY. —and if you send us more, we will work to comply with those—

Mr. DUFFY. Have you complied with our Ally subpoena?

Mr. CORDRAY. I beg your pardon?

Mr. DUFFY. Have you complied with our Ally subpoena?

Mr. CORDRAY. I believe we have, and—

Mr. DUFFY. Have you certified—

Mr. CORDRAY. —and let me say—

Mr. DUFFY. No, no, no. Have you certified that you have complied?

Mr. CORDRAY. Let me say that that—

Mr. DUFFY. Have you certified that you have complied?

Mr. CORDRAY. I am not sure what you are referring to, and I don't know that there is—

Mr. DUFFY. It is pretty clear. You are an attorney.

We have a certification requirement in our subpoena that you certify your compliance. Have you certified to the 25 million people that we represent that you have complied with our subpoena? Yes or no?

Mr. CORDRAY. If that is an issue for you I would be glad to discuss it with—

Mr. DUFFY. No, my question is for you, Director. Have you certified your compliance with our subpoena? Because you have come in and said, "I have complied." Have you certified that compliance? Yes or no?

Mr. CORDRAY. What I will say is as of the end of last year we understood that—

Mr. DUFFY. What I will say is that you are dodging. You haven't certified compliance with any of our subpoenas.

Chairman HENSARLING. The time of the gentleman has expired.

Mr. CORDRAY. Could I respond for 30 seconds?

Chairman HENSARLING. A brief response from the Director.

Mr. CORDRAY. Okay. My understanding is that in response to that subpoena we have supplied yet more documents and we were engaged in discussions with staff, and at the end of last year staff said that they would engage in further discussions with us and they thought that would—we heard nothing until this week.

Mr. DUFFY. Never compliance.

Mr. CORDRAY. And so—

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the gentleman from California, Mr. Sherman.

Mr. SHERMAN. Mr. Cordray, thank you for your service.

I want to associate myself with the ranking member's praise of you, except for the part perhaps where she posited the possibility that Donald Trump would appoint you for another term, that nothing other than that could diminish the high esteem that I have for you.

We have up behind you on the board the trade deficit statistics. I know that we didn't have quite as big a trade deficit last month as was expected, but that was a quirk because of the Chinese New Year and some interruption in shipments.

Mr. Cordray, we have the know-before-you-owe mortgage disclosures in TRID. It has resulted in transparency for consumers, and better accountability for financial institutions. But ongoing compliance issues remain, costing time and money for consumers and for the industry.

When will the latest proposed rule be finalized, and do you plan to issue any additional guidance clarifying this rule that could be relied upon the industry as implementation continues?

Mr. CORDRAY. It is apparently not appropriate for us to comment on the timing of a rulemaking since they are pending. These are issues somewhat like judicial opinions. They are done when they are done. So I am not sure what to tell you there.

Mr. SHERMAN. But you understand the social utility of being done as expeditiously as you can be?

Mr. CORDRAY. I always do, and I am sometimes disappointed at how slowly the Federal Government works even though I am trying to be there and make it work faster, yes.

Mr. SHERMAN. And we have these PACE loans, which are home improvement loans for alternative energy, but they are structured as part of the property tax bill. Are you sure your agency can't—they are basically home improvement loans—exert jurisdiction in this area?

Mr. CORDRAY. It is a pretty complicated subject is what I have learned, because in the States where those exist typically the State legislature has passed State laws that provide for priority liens, which involves the government in both the making and collection of those loans, and that is a very significant complicating factor for us. It is something that we have a team of people looking at and trying to work through because we are hearing enough about it to be concerned, as I think you are here, as well.

Mr. SHERMAN. I would hope that your legal staff would work with us. I hope that this is an area—home improvement loans is an area that you ought to be involved in. And if you need legislation—

Mr. CORDRAY. Home improvement loans, we are involved in—

Mr. SHERMAN. Well, this is—

Mr. CORDRAY. —but where there are government tax liens passed by State law—

Mr. SHERMAN. —this is a—

Mr. CORDRAY. —that is more difficult.

Mr. SHERMAN. —this is a special, super-duper—

Mr. CORDRAY. Yes, yes.

Mr. SHERMAN. —home improvement loan—

Mr. CORDRAY. Yes, it is.

Mr. SHERMAN. —and if you need legislation I hope that we would work with you on this.

Studies have shown that in some geographic areas it is possible to determine the identity of nearly 100 percent of the borrowers using the data that lenders are required to collect and report by the Home Mortgage Disclosure Act (HMDA). This is despite the fact that that Act supposedly provides for anonymous data in its final form.

The revised and greatly expanded HMDA rule is slated to become effective on January 1st of next year and includes many highly sensitive data points, including the borrower's credit score. The Bureau has stated in its final rule that it would propose a balancing test to determine which of many data points would be re-disclosed to the public.

What is your timeline? I realize this is another timeline question but—

Mr. CORDRAY. That is all right. No, it is—

Mr. SHERMAN. —some regulation for that process, and what does the CFPB plan to protect highly sensitive consumer data, like the borrower's salary or their credit score, from being publicly disclosed?

Mr. CORDRAY. I am very well aware of that issue. It is something we are wrestling with.

We do not want to be increasing the re-disclosure possibility for consumers, and it is something we are working on. We are mindful of the fact that although people would be reporting starting in January—and that, of course, was a mandatory rule that Congress required—we need to give guidance about the privacy aspects of this, and we are very sensitive to it.

So I don't have a timeframe for you, but we are well aware of how these things fit together and the need for people to—

Mr. SHERMAN. And let me just quickly urge you to use your authority to have a simpler version of many of your rules applying to smaller financial institutions.

Mr. CORDRAY. Yes.

Mr. SHERMAN. Otherwise they are driven out of the market and everybody has to go to Wells Fargo, and then you end up with 20 accounts.

Mr. CORDRAY. We are trying to do that where we can, and I believe that is a sentiment shared on both sides of the aisle and it is something we hear quite a lot.

Chairman HENSARLING. The time of the gentleman has expired.

Now, pursuant to clause d(4) of committee rule three, the gentlelady from Missouri, Mrs. Wagner, chairwoman of our Oversight and Investigations Subcommittee, will be recognized for an additional 5 minutes upon the conclusion of the time allocated to her under the 5-minute rule. The gentlelady is now recognized.

Mrs. WAGNER. Thank you, Mr. Chairman.

And, Director Cordray, thank you for appearing here today before us. I want to ask you today about the widespread failure in consumer protection that occurred at Wells Fargo over a number

of years regarding fraudulent sales practices in which Wells Fargo fired 5,300 employees for opening, gosh, up to 1.5 million deposit and credit card accounts without the customers' knowledge or consent.

Sir, despite receiving more than 140,000 pages of responsive records from Wells Fargo, the OCC, and the CFPB, this committee to date has seen no evidence that the CFPB had an ongoing independent investigation relating to Wells Fargo sales practices prior to May 8, 2015. This is 4 days after Wells Fargo informed the CFPB that the L.A. city attorney filed a civil complaint against the bank that same day, and over 500 days, sir, after the original article by the L.A. Times first broke the story about fraudulent accounts at Wells.

Director Cordray, there is a binder just to your right, sir. It has a Congressional seal on it. Will you grab it please?

The binder to your right, sir. You don't care to take the binder?

All right. It is in front of you. There are documents, sir, I am going to be referencing. Perhaps you would like to reference them also.

And I would like the record to reflect that the gentleman has ignored the binder that Congress has put in front of him.

I will be referencing—and I would appreciate it if you would keep your answers very, very short, sir. Simply yes or no on most of them.

Mr. CORDRAY. I am quite familiar with the background—

Mrs. WAGNER. Sir, do you recall when you first read the December 2013 L.A. Times article I am referring to?

Mr. CORDRAY. I beg your pardon? Have I read that article?

Mrs. WAGNER. When did you first read the article?

Mr. CORDRAY. I do not know when I first read that article.

Mrs. WAGNER. At the Senate Banking Committee's hearing in September 2016 on Wells Fargo—well let me ask you, did you read it?

Mr. CORDRAY. I have read that article.

Mrs. WAGNER. All right.

Mr. CORDRAY. I don't recall when I first read it.

Mrs. WAGNER. All right. At the Senate Banking Committee's hearing in September 2016 on Wells Fargo, L.A. City Attorney Michael Feuer noted in his testimony that upon reading the L.A. Times article, he "immediately instructed his staff to investigate the allegations."

Do you believe that was an appropriate response? Yes or no?

Mr. CORDRAY. I believe that Mike Feuer and his team conducted themselves—

Mrs. WAGNER. Was that an appropriate response? Yes or no?

Mr. CORDRAY. —in an exemplary fashion throughout this case.

Mrs. WAGNER. Did you also instruct your staff to immediately investigate the allegations made in the L.A. Times article after you read it? Yes or no?

Mr. CORDRAY. Actually, we had had previous indication that there might be problems at Wells Fargo—

Mrs. WAGNER. Did you instruct them? Yes or no?

Mr. CORDRAY. We had two whistleblower tips earlier—



Mrs. WAGNER. Did you instruct them? Yes or no? I will get to that in a moment, sir. I am asking you a yes-or-no question.

Mr. CORDRAY. So it wasn't the L.A. Times article that tipped us off to the fact—

Mrs. WAGNER. All right. I will—

Mr. CORDRAY. —that there might be a problem.

Mrs. WAGNER. Let me reclaim my time. Did the CFPB first initiate a supervisory review of Wells Fargo branch sales practices on May 8, 2015?

Mr. CORDRAY. No, that is not correct. That is not a correct—

Mrs. WAGNER. Exhibit one in the binder that you prefer not to look at in front of you is a letter dated March 3, 2016—it is up here for review, also—from Edwin Chow, an employee of yours, a CFPB regional direct for the west region, where he indicated to Wells Fargo that the CFPB, “initiated a supervisory review of Wells Fargo’s branch sales practices on May 8, 2015.”

Mr. Chairman, I would like to enter this letter in the record.

Chairman HENSARLING. Without objection, it is so ordered.

Mrs. WAGNER. Are you denying that the CFPB initiated its supervisory review of Wells Fargo’s branch sales practices on May 8, 2015? Yes or no?

Mr. CORDRAY. We actually had engaged in supervisory activity prior to that time.

Mrs. WAGNER. Did the CFPB notify Wells Fargo on March 3, 2016, that the CFPB had decided to—

Mr. LYNCH. Mr. Chairman?

Mrs. WAGNER. —refer this matter to enforcement, sir?

Mr. CORDRAY. That is the key point that I want to make sure you are clear on, okay?

Mr. LYNCH. Mr. Chairman?

Mr. CORDRAY. We were engaged in—what is happening?

Mr. LYNCH. Just a point of parliamentary—

Chairman HENSARLING. The clerk will suspend.

For what purpose does the gentleman from Massachusetts seek recognition?

Mr. LYNCH. Mr. Chairman, I am just wondering, according to the rules, am I entitled to any of the documents that we are questioning the witness on? Because I would really like to get copies of the documents, if I could.

Chairman HENSARLING. They will be provided to all Members.

Mr. LYNCH. But we are doing the investigation now, and I was just wondering if I could get copies of—if copies of the documents have been provided to all the Members as is required under the rules?

Chairman HENSARLING. Members may request copies of the documents and they will be provided to Members after the request.

Mr. LYNCH. May I make a formal request to get the documents, please?

Chairman HENSARLING. I’m sorry, would the gentleman repeat the question?

Mr. LYNCH. May I get the documents then? I guess I have to ask for them.

Chairman HENSARLING. Apparently, they are being provided to you as we speak.

Mr. LYNCH. Thank you, Mr. Chairman. I appreciate that.

Chairman HENSARLING. The clerk will start the clock again.

The gentlelady is once again recognized.

Mrs. WAGNER. Are you denying, sir, that the CFPB initiated a supervisory review of Wells Fargo branch sales practices on May 8, 2015? Yes or no?

Mr. CORDRAY. Well, no. A moment ago you said, "enforcement investigation," and as I said—

Mr. CLAY. Mr. Chairman—

Mr. CORDRAY. —in my introductory—

Mr. CLAY. Excuse me.

Mr. Chairman, is it possible for—

Chairman HENSARLING. The gentlelady will suspend.

For what purpose does the gentleman from Missouri seek recognition?

Mr. CLAY. I would love to see these documents, too. The gentlewoman has raised some interesting points and I think that the documents should be shared with the committee.

Mr. HUIZENGA. Mr. Chairman?

Mr. CORDRAY. Mr. Chairman?

Ms. WATERS. Will the gentleman yield?

Mr. CORDRAY. Mr. Chairman—

Mr. CLAY. I will yield.

Ms. WATERS. Mr. Chairman, why don't we just give the documents to all the Members over here?

Chairman HENSARLING. They will be provided in a timely fashion. They are not violative of any committee rules, and I think so far what the gentlelady has alluded to is also put onto the committee screens.

The gentlelady from Missouri is recognized yet again.

Mrs. WAGNER. Can I have my time restored, Mr. Chairman, please?

Chairman HENSARLING. The time was stopped.

Mrs. WAGNER. Did the CFPB, sir, notify Wells Fargo on March 3, 2016, that the CFPB had decided to refer this matter to enforcement? Yes or no?

Mr. CORDRAY. Yes. When that happened there had been previous work done on the matter.

Mrs. WAGNER. Okay. But you do not deny that the CFPB represented in writing that it referred this matter to enforcement on March 3, 2016, correct?

Mr. CORDRAY. So let me clarify this for you. The letter—and I am—

Mrs. WAGNER. Sir, my time is limited and I have a lot of question.

Mr. CORDRAY. I understand. The letter dated March 3rd is a point at which we decided that the matter had risen to a level where it was no longer a supervisory matter and, in fact, had become an enforcement matter.

Mrs. WAGNER. Reclaiming my time, did the CFPB refer this matter to enforcement around the same time that the L.A. city attorney began settlement negotiations with Wells Fargo?

Mr. CORDRAY. Yes, but that is not when we initiated work on the matter.

Mrs. WAGNER. Wow. What an amazing coincidence because, in fact, the CFPB referred this Wells Fargo matter to enforcement on March 3rd, 2016. The L.A. city attorney referred it on March 2nd, 2016. What an amazing coincidence.

Did the CFPB, sir—

Mr. CORDRAY. These aren't coincidences. We are in contact with local officials—

Mrs. WAGNER. Sir, reclaiming my time—

Mr. CORDRAY. We are in contact with officials around the country—

Mrs. WAGNER. —did the CFPB first request—

Mr. CORDRAY. —and we work cooperatively with them.

Mrs. WAGNER. Director Cordray, did the CFPB first request that Wells Fargo delay the destruction of records relating to its branch sales practices on May 8th, 2015?

Mr. CORDRAY. I'm sorry, say that again?

Mrs. WAGNER. Did the CFPB first request that Wells Fargo delay the destruction of records relating to its branch sales practices on May 8th, 2015?

Mr. CORDRAY. Consistent with the fact that it had become—it had migrated and graduated into an enforcement action, yes.

Mrs. WAGNER. I would like to enter into the record Edwin Chow's letter from the CFPB, Mr. Chairman, as exhibit three.

Chairman HENSARLING. Without objection, it is so ordered.

Mrs. WAGNER. Sir, so you agree. So you do not deny that the CFPB first requested on May 8, 2015, that Wells Fargo delay the destruction of records pertaining to its branch sales practices. Yes or no?

Mr. CORDRAY. So that is just a reminder of obligations—

Mrs. WAGNER. Is that a yes or no, sir?

Mr. CORDRAY. —that already exist under the law, so.

Mrs. WAGNER. Is that when you sent the request? Yes or no?

Mr. CORDRAY. That is a reminder of the obligations that already exist under the law, yes.

Mrs. WAGNER. I will take the reminder as a yes.

If this was the first time that the CFPB made this request to Wells Fargo, then why didn't the CFPB produce those records to this committee, given the fact that such records would be responsive to the committee's record request of September 16, 2016, which is exhibit five, Mr. Chairman—that is in your binder—that I would also like to have entered into the record.

Chairman HENSARLING. Without objection, it is so ordered.

Mr. CORDRAY. So, I'm sorry, we have given you documents, and if there are more documents that you want we are happy to work with your staff.

Mrs. WAGNER. We have been asking for documents, as everyone on this side of the aisle has referenced, for hundreds and hundreds and hundreds of days, sir, and you are in woeful compliance.

Let me move on.

Mr. CORDRAY. If there are documents you don't have, I would be happy to try to provide them.

Mrs. WAGNER. Director Cordray, I want to stay on this measure. Did the CFPB first request on May 8, 2015, that Wells Fargo produce items such as sales practice policies and actions taken by

the bank regarding fraudulent sales practices at the bank? Yes or no?

Mr. CORDRAY. Those are the compelled production of documents—

Mrs. WAGNER. Yes or no, sir?

Mr. CORDRAY. —that became very significant to this investigation.

Mrs. WAGNER. Yes or no, sir?

Mr. CORDRAY. Yes.

Mrs. WAGNER. All right. Good. So you do not deny that the CFPB first requested that Wells Fargo produce this information on May 8, 2015?

Mr. CORDRAY. No. I don't, and that is not correct. And you are conflating things, and I don't want you to build on that in an erroneous fashion.

Mrs. WAGNER. Well, let me move on then. If you are saying that this—

Mr. CORDRAY. They are already—

Mrs. WAGNER. —isn't the first time—

Mr. CORDRAY. No.

Mrs. WAGNER. If you are saying this isn't the first time the CFPB requested this information from Wells Fargo, then why didn't the CFPB produce those records to this committee—

Mr. CORDRAY. Look, first—

Mrs. WAGNER. —given that such records would be responsive to the committee's request of September 16, 2016, which is exhibit five that has been put in. I have a few more.

Mr. CORDRAY. First of all—

Mrs. WAGNER. Director, did the CFPB ever contact Wells Fargo about its fraudulent branch sales practices before Wells Fargo informed the CFPB on May 4, 2015? Yes or no?

Mr. CORDRAY. We had had supervisory activity prior to that time and subsequent to that time, which ultimately resulted—

Mrs. WAGNER. I will take that as a yes. Were you aware that the earliest correspondence between the CFPB and the Wells Fargo that you have produced is the Edwin Chow letter of May 8, 2015?

Mr. CORDRAY. There was supervisory activity prior to that time—

Mrs. WAGNER. All right. Let's get to that.

Mr. CORDRAY. —and subsequent to that time.

Mrs. WAGNER. Is this the earliest correspondence between the CFPB and Wells Fargo pertaining to the bank's sales practices?

Mr. CORDRAY. I don't know exactly, but—

Mrs. WAGNER. All right. Well, I will leave it at that.

Did the CFPB depose or interview only three Wells Fargo employees in connection with the fraudulent accounts scandal?

Mr. CORDRAY. The CFPB took the only depositions that occurred in this case.

Mrs. WAGNER. Were there three? Yes or no, three?

Mr. CORDRAY. The only ones that occurred in this case—

Mrs. WAGNER. Were there three, sir?

Mr. CORDRAY. —we took them.

Mrs. WAGNER. Is that correct? That is correct then. Yes.

Wow. You tout CFPB's investigation as both independent and comprehensive. Director Cordray, only interviewing 3 employees for

such widespread cases of fraudulent practices where 5,300 employees were fired does not seem very comprehensive to me, sir.

In your letter to this committee on September 23, 2016, you indicate that Bureau staff first became aware of some related issues around Wells Fargo. This was well over a year before either initiating a supervisory review or containing the bank about fraudulent practices, sir. It is most concerning.

I don't have much time left.

Mr. CORDRAY. So, let me—

Mrs. WAGNER. No, I am going to close here, sir. And then—

Mr. CORDRAY. Okay. You don't want to give me a chance to respond? That is okay.

Mrs. WAGNER. —can yield or not.

Director Cordray, from the minimal records you have given to this committee thus far, and based on your testimony, the only conclusion there is to draw regarding the Wells Fargo scandal is that the CFPB was asleep at the wheel, Director Cordray, under your leadership—

Mr. CORDRAY. That is not correct.

Mrs. WAGNER. —and that your investigation—

Mr. CORDRAY. That is not correct.

Mrs. WAGNER. —in this matter was far from independent and comprehensive, sir.

You have claimed that the CFPB was created to root out this kind of widespread consumer harm, but the L.A. Times, the OCC, and the L.A. city attorney all got there before you did, sir. I would encourage you—

Chairman HENSARLING. The time—

Mrs. WAGNER. —after your testimony to—

Chairman HENSARLING. The time of the gentlelady—

Mrs. WAGNER. —revise your remarks, sir.

Chairman HENSARLING. The time of the gentlelady has expired.

Mrs. WAGNER. I yield back my time.

Chairman HENSARLING. The Chair now recognizes the gentleman from Massachusetts, Mr. Capuano.

Mr. CAPUANO. Thank you, Mr. Chairman.

Mr. Cordray, boy, they really hate you, don't they?

Mr. CORDRAY. They don't want to give us—

Mr. CAPUANO. I don't know if it is you or the agency.

Mr. CORDRAY. —any credit for anything good that we do. I understand that. That is part of the game.

Mr. CAPUANO. I think I have entered the bizarro world now. We have already had somebody call for you to get fired, call the agency a rotting agency.

First, they complained that you enforced too much. Now we just heard a 10-minute rant that you didn't enforce enough.

And, bizarro of all bizzaros, the people on the other side of the aisle have now become the sole and perfect defenders of workers' rights, women's rights, and minority rights. Unbelievable.

We had better stay here a little longer because eventually they are going to be in favor of the health care law and all the other good things of America.

Mr. Cordray, we have had many interactions, and sometimes I disagree with you, and sometimes I disagree with the agency. And I would love to sit here and talk about those things.

But let's be honest: You and your agency are called here 62 times not to have the typical oversight that is our responsibility, but to beat the hell out of you and to try to make sure we get rid of this agency. That is why we are here.

That being the case, a thoughtful presentation here is really not called for. And with that, since nobody on that side of the aisle seems to want to give you the opportunity to actually address a misleading question based on wrong facts, I will lend you 3½ minutes to address—

Mr. CORDRAY. All right.

Mr. CAPUANO. —you can pick a bunch. Which one of the most ridiculous assertions that were just made would you like to address?

Mr. CORDRAY. That is fine. And I'm sorry that the previous questioner has left the room, but—

Mr. CAPUANO. Well, it doesn't matter.

Mr. CORDRAY. —let me recap.

Mr. CAPUANO. They weren't going to listen to you anyway.

Mr. CORDRAY. Maybe.

Let me recap the events. So we had the first whistleblower tips in the middle of 2013 before the L.A. Times story, although I will say that was a splendid piece of investigative reporting, and investigative reporting often aids government law enforcement investigations and did so here, as well as follow-up stories by the L.A. Times.

At the time there were issues around whether employees were being abused by the employer, whether they were being held to unrealistic sales goals, and the like. Over time this problem migrated into something bigger and our look at it migrated into something bigger as the problem itself evolved.

We were engaged in supervisory activity through 2014 and in 2015, and at that point, as the Congresswoman noted, the matter had become serious enough and clear enough that it migrated and was graduated into an enforcement action. That is a very serious matter and it involved taking depositions.

We didn't need to take hundreds of depositions here. We took three key depositions that had not been able to be taken in the case because of evidentiary restrictions on what the L.A. city attorney's office could do. They shared with us information from other interviews they had had. We didn't need to duplicate that work.

We also compelled the production of documents from Wells Fargo that were very significant to detailing and documenting, and nobody denies this. We established it through this joint investigation, and it is clear and no one denies that millions of accounts were opened illegally, improperly, in the name of consumers who didn't know a thing about it and were often hurt by it, in terms of costing them fees or affecting their credit reports or the like.

We worked with the L.A. city attorney's office and brought the OCC into a joint work with the L.A. city attorney's office, and we resolved the matter—not just on the basis of the boundaries of California, which is what the L.A. city attorney could have done, but nationwide and with broad injunctive relief that this will not

happen again at Wells Fargo. And because it is a public enforcement action and all the facts are detailed—when the Congresswoman talks about 5,300 employees fired and millions of accounts opened, we know that because of the public enforcement action.

That is what broke this matter open. Nobody was talking about it before then.

That is leading to the entire industry taking a look and being more careful about whether they are engaging in any of the same kind of fraudulent practices toward their own customers. So this will have cleaned this up throughout the entire industry and put everyone on notice that this is a very serious matter; it is not to be taken lightly. You can't just put out these sales goals and say you should meet them and we will turn a blind eye to how you meet them even if it violates the law.

And if we establish that principle there will be a lot of problems avoided in the future and a lot less work for the Consumer Bureau, and I will be glad of it.

Mr. CAPUANO. Thank you, Mr. Director.

And with that, I am going to yield the committee back 8 seconds.

Chairman HENSARLING. The gentleman yields back.

The Chair now recognizes the gentleman from Kentucky, Mr. Barr, chairman of our Monetary Policy and Trade Subcommittee.

Mr. BARR. Thank you, Mr. Chairman.

And, Director Cordray, in your response to my friend, Mr. Capuano from Massachusetts, I think you said this is just, "part of the game." Well, let me tell you what is not a game.

What is not a game is your agency denying vital financial services to servicemembers serving abroad from my commonwealth in communicating with their families back home.

Mr. CORDRAY. Well, we are not—

Mr. BARR. As you may know—let me ask you the question.

Mr. CORDRAY. Okay.

Mr. BARR. As you may know, the Bureau has issued regulations on international remittances. And in Kentucky we have a number of military bases; Fort Knox, Fort Campbell, the National Guard headquarters is located in my district. Credit unions are no longer able to offer their members this product, and here is why—I'll give you a real-life story from a constituent.

Fort Knox Federal Credit Union has members all across the world and they have discontinued offering this much-needed service due to fear of not being compliant after 100 remittances a year. Now, you can imagine that for this credit union it doesn't take long to reach 100 when you have over 85,000 members, many of whom are deployed overseas.

Mr. CORDRAY. Yes, I see that.

Mr. BARR. When the Kentucky Credit Union contacted you about the rule and its unintended consequences it is reported to me that your comment was, "No, this is the intended consequence," and that you were not concerned about these customers—

Mr. CORDRAY. I don't know about that statement—

Mr. BARR. —hardworking military men and women who are now having to pay much higher fees to remit funds home to their families because their credit union can't comply with this onerous regulation.

Why won't you provide relief to servicemembers and their families?

Mr. CORDRAY. We are doing a lot of great work for servicemembers and their families, and I would be happy to detail it if I am given a chance. In terms of remittances in particular, are you aware of who required there to be that rule?

Mr. BARR. What I am telling you—

Mr. CORDRAY. Congress required that rule. That is in the law. We are merely following the law and carrying it out.

Mr. BARR. Director Cordray, I will reclaim my time. The Bureau has the discretion to provide the relief to these credit unions who are no longer able to deal with a workable rule that would allow these remittances and have priced these members out of their credit union and, as a result, these credit unions are no longer able to provide.

And I want you to revisit that. That is a request of you to revisit that rule to provide relief to these servicemembers.

Mr. CORDRAY. We would have the discretion to do that if Congress provided it in the law. It is not in the law, so—

Mr. BARR. No. Well, once again—

Mr. CORDRAY. —that is my problem.

Mr. BARR. Once again, I think the Bureau is taking an overly restrictive view of your administrative—certainly you exercise a whole lot of discretion to take away financial services and products from the American people. I think you could probably revisit this, and I would love to continue that conversation, but let me move on to another problem.

Mr. CORDRAY. We will be glad to continue that—

Mr. BARR. Another problem: In March of 2015, Director Cordray, you testified before this committee and you said you needed data showing that the CFPB rules related to “high-cost loans” were, in fact, constraining the manufactured housing market.

Well, according to Home Mortgage Disclosure Act data, manufactured housing loans from \$50,000 to \$75,000 have decreased by about 14 percent as a result of your regulation. There is clear data—

Mr. CORDRAY. According to data from whom?

Mr. BARR. The Home Mortgage Disclosure Act data.

Mr. CORDRAY. I'm sorry, the data from—

Mr. BARR. The government's data. The government's data is telling you that the manufactured housing credit is down because of your regulations.

Why in the world, when we have an affordable housing crisis, when many rural Americans struggling in Kentucky and elsewhere need access to affordable housing, why don't you provide relief to working Americans who need access to manufactured housing credit when the government's own data is telling you that your regulations are hurting low-income Americans?

Mr. CORDRAY. So, first of all, I don't think the government data says that. The government data doesn't—

Mr. BARR. 14 percent.

Mr. CORDRAY. The government data doesn't ascribe causation, so there are a lot of reasons why this could be, but I would be happy to follow up with your office.



I know this is a point of particular importance to you and to other members of the committee, and we have talked about it before and I would be glad to talk about it further.

Mr. BARR. I think we should because I think you have the discretion to stop these rules that are contributing to the affordable housing crisis and making it harder for Americans, particularly in rural areas, to afford manufactured homes.

Finally, on October 7, 2016, the Office of Advocacy of the U.S. Small Business Administration—another government agency—submitted a comment letter to the Bureau related to your proposed rule regarding small-dollar consumer loans. The comments pointed out that the economic impact of the proposed rule on small entities and consumers would be greater than what is indicated in the Bureau's analysis pursuant to the Regulatory Flexibility Act.

This is corroborated by my own constituent small businesses who say that the SBREFA process was a joke. They went and told you that they were going to go out of business and you ignored them.

So you have our constituents saying they are going out of business because of your rule and another government agency saying that that is true, and you are ignoring it.

Mr. CORDRAY. No, no, no. Not at all, Congressman. We are not ignoring that. And the reason we have that process and hear from everyone is to hear what they say and to process it and digest it and analyze it.

Just because we don't necessarily agree with every single thing people say to us—often they are saying conflicting things so we can't agree with it all.

Chairman HENSARLING. The time of the gentleman has expired.

Mr. CORDRAY. I would be glad to follow up with your office on these points if you would like, on the remittances and the manufactured housing—

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Missouri, Mr. Clay, ranking member of our Financial Institutions Subcommittee.

Mr. CLAY. Thank you, Mr. Chairman.

And thank you, Director, for being here.

I really don't know where to start today. My neighbor from Missouri, Mrs. Wagner, sounded as though she was sounding the alarm, that you had done something wrong and that she was in defense of Wells Fargo. Then my friend from Wisconsin, Mr. Duffy, brings up the issue of race.

So let's focus on race first.

I noted in your semiannual report that mortgage companies and auto loan companies continue to charge higher interest rates to African-American and Hispanic borrowers than to non-Hispanic, White borrowers. In the case of PNC, \$35 million has already been recovered to the injured and given back to the injured, as well as Ally auto loans with about \$80 million in damages already recovered.

And I would hope my friends on the other side of the aisle would understand that this has a severe financial impact on African-American and Hispanic families that prevents them from building wealth for their family. It keeps them in a hole.

And so I want to commend CFPB for finding these atrocities and making these companies pay. And that is part of why you were created, and I appreciate the job you do.

Can you speak to that and what you are finding in these industries?

Mr. CORDRAY. Sure.

Let me start just by correcting the record on one point on PNC. The discrimination there was by National City Bank. PNC later took them over, but they weren't really responsible for any of that; they actually helped us clean it up.

But the point you are making is, we think, really important. A lot of people would like to think discrimination is a thing of the past and it is a vestige of the past, and we have found ongoing instances of discrimination, some of them significant, some of them involving redlining, which a lot of people want to think is a practice that went out of fashion decades ago, but we have found that it hasn't. And we have taken action where that was appropriate and where the evidence demonstrates that action is needed.

And what is this about? It is about making sure that people are treated fairly and equally in the financial marketplace where they live so much of their lives, that they are seeking a mortgage that they are going to be able to get credit and be charged the same interest rate that they would if they had a different ethnic background or a different racial or skin color.

That is a very American principle but it requires enforcing the law to make it happen and make it stick. And it makes people uncomfortable.

Now, some of the law in this area is complicated. I will grant that. We try to work through it as best we can.

The U.S. Supreme Court reinforced the validity of that law 2 years ago in the Inclusive Communities decision, and we do our best to faithfully follow all of those decisions. But it is important work.

Our Office of Fair Lending and Equal Opportunity does that work on a daily basis. They have encountered obstacles at times in doing that work, but they have been splendid in persevering and getting justice for Americans in so many circumstances, and I am very proud of their work.

Mr. CLAY. And I am proud of the work that you do, also.

Just out of curiosity, I noticed that you describe some of your public meetings and community roundtables with stakeholders like community banks and credit unions. Do you get many complaints from the public about the creation and existence of the CFPB? Have you gotten many of those?

Mr. CORDRAY. No, I don't think so. We do hear—everybody comes before us in a variety of forums, and we encourage that. And they all have different things to say, and some of them are complimentary and some of them are critical, and we try to listen to them all.

Frankly, it is the critical things they say that are often the most helpful because they tell us where we should think about doing something differently. The complimentary things, of course, we love to hear them when people are willing to say them, but that just

means keep doing what you are doing, which is a good message, but we don't learn quite as much from that.

So we do try to be very accessible, and I think nobody can complain about the fact that they can't get their voice heard at the Consumer Financial Protection Bureau, and that is the way it should be—

Mr. CLAY. And it seems to be pretty effective. Looking at the chart on the screen, it looks like people from all around the country participate and bring their complaints to you.

So I see my time is up, but thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from California, Mr. Royce, chairman of the House Foreign Affairs Committee.

Mr. ROYCE. Thank you.

Director Cordray, Mr. Luetkemeyer raised some concerns along the same line that I have here, and one of the things in particular that I am concerned about is the largely unchecked power that the CFPB has to issue the civil investigative demands, or CIDs, to inquire about a company's activity.

And what is unusual here, I think, is that the CFPB is not required to possess evidence of wrongdoing before initiating a probe. And I wanted to talk to you about that.

I think he was making this argument basically: Companies deserve due process. They deserve the ability to appeal to a body other than the CFPB itself, and I think companies deserve the assurance that the agency will objectively review any petition or set aside or limit a CID.

In terms of my questions, I am interested in your selection process for CIDs.

Do you look at this number of complaints that come up in the database? Is that how you do it? And specifically, if a company has zero complaints or has been proactively taking steps to address concerns, would you launch an investigation under that situation?

Mr. CORDRAY. Let me just say that you just talked for a minute and 40 seconds and I agreed with everything you said, including that companies have a right to due process. They do under our Constitution.

We do not open investigations where there is no evidence of wrongdoing. That would be a waste of our time. We have limited resources.

Mr. ROYCE. Okay. Let me explain the only reason I am going to interject here.

Mr. CORDRAY. Yes.

Mr. ROYCE. I want to ask an additional question, but there are examples—

Mr. CORDRAY. Yes.

Mr. ROYCE. —where you have had an investigation without complaints that I am—

Mr. CORDRAY. No, no, but we would have some sort of evidence of wrongdoing or some reasonable basis for—and—

Mr. ROYCE. Right, but I am just explaining, without any complaints—

Mr. CORDRAY. —that can be appealed to the courts, and some have been appealed to the courts and sometimes the courts disagree. That is a check. That is fine, yes.

Mr. ROYCE. Right, but I am pointing out that you have opened up the investigations without any complaints.

When you make the decision to initiate a probe, you refer to the company as a “target.” Do you think that type of language creates an adversarial posture at the outset or presumes wrongdoing on the part of the—

Mr. CORDRAY. Actually, we changed that very early on.

Mr. ROYCE. I appreciate that you changed—

Mr. CORDRAY. We talk about companies as “subjects” because we don’t want to prejudge.

Mr. ROYCE. I appreciate—

Mr. CORDRAY. And by the way, let me also say, it is important to note, we have opened a number of investigations that we later closed because we did not find enough basis to proceed. And so we do that. We are willing to do that.

I tell our lawyers when that happens, “Don’t be disappointed. You looked at it and there wasn’t anything and that is the right outcome. Don’t feel like you have wasted your time. You did the right thing there.”

But there has to be a reasonable basis for thinking that something is amiss before we would open an investigation at all, and courts can and do check us on that if they think we didn’t get that right.

Mr. ROYCE. Right, in your opinion, but that is, again, with zero complaints in some of these cases.

Now, let me just go to—

Mr. CORDRAY. Yes.

Mr. ROYCE. —a company that visited my office recently—

Mr. CORDRAY. Okay.

Mr. ROYCE. —which explained that as part of the initial inquiry in the CID process the second question they were asked was about their annual revenue. Why is such a question relevant to the initial inquiry, I would ask?

Mr. CORDRAY. So it could go to scope, trying to figure out how big the problem is. If it is a small problem at a small institution it is probably not the right expenditure of resources by the Bureau. If it is a smaller problem at a larger institution then it can look a lot more like a larger problem at a smaller institution. These are just things you try to make your best judgments about.

Mr. ROYCE. I just want to explain how it seems to some smaller institutions.

Mr. CORDRAY. Yes, and I understand. That is not how it was intended.

Mr. ROYCE. With all due respect, Director, let me explain how it seems. It seems to them a little like the car mechanic in “National Lampoon’s Vacation.” I will just give you this example as he relayed it to me.

Mr. CORDRAY. I have lived through those examples myself.

Mr. ROYCE. Yes, he says, you know, when Clark Griswold asks, “How much is the bill for repair?” he responds, “How much you got?”

That, at least for many of these smaller companies, is the way they view it. And we need to restore, I think, some balance or sanity in the process, right?

Mr. CORDRAY. Actually, sir—

Mr. ROYCE. Let me just close with this: An investigation or an examination is not supposed to be a “gotcha” moment or a hold-up, and I am just explaining, in terms of many companies in cases where there were zero complaints, their feeling about the attitude when somebody comes in and says, “You are a target.”

Mr. CORDRAY. Ten seconds? Zero complaints is one bit of evidence; there may be other bits of evidence that point in a different direction.

The other thing is sometimes when we are asking about resources it is because we would limit any kind of penalty based on their ability to repay because we don’t want to send that company out of business.

Chairman HENSARLING. The time—

Mr. CORDRAY. We just want—

Chairman HENSARLING. The time of the gentleman has expired.

Pursuant to clause d(4) of committee rule three, the gentleman from Massachusetts, Mr. Lynch, will be recognized for an additional 5 minutes upon the conclusion of the time allotted to him under the 5-minute rule. The gentleman is now recognized.

Mr. LYNCH. Thank you, Mr. Chairman.

Mr. Cordray, thank you very much for your hard work and for your attention. Do you need a couple more seconds to finish your thought on that? I know we were speaking when you ran out of time.

Mr. CORDRAY. No, I don’t think so. I think Congressman Royce and I—

Mr. LYNCH. All right.

I do want to revisit the whole Wells Fargo scenario just for a second. According to my records, you testified before the Senate Banking Committee and your testimony was that you had received whistleblower complaints regarding fraudulent accounts being opened up. And that was in, I believe, July of 2013.

Mr. CORDRAY. Correct.

Mr. LYNCH. And the expose written by the L.A. Times wasn’t until December, 6 months later.

Mr. CORDRAY. And it detailed certain aspects of the situation, but again, it’s important to understand the situation itself unfolded over time. There weren’t millions of accounts opened in a single day.

Mr. LYNCH. Right.

Mr. CORDRAY. This was a practice that started in a very limited way and then maybe spread to other employees and then spread through the grapevine that this is the way you can make your bonuses. It became exponential over time.

And so as the problem evolved and our look at it evolved, that is why anybody can look back and say, “You should have known everything on day one.”

Mr. LYNCH. Right.

Mr. CORDRAY. Well, everything wasn’t even happening on day one, so that is kind of a misplaced criticism, I think.

Mr. LYNCH. And there was an active effort by Wells Fargo to conceal this. They had originally, if I am correct, back in 2011 fired hundreds of employees allegedly for opening fraudulent accounts.

Mr. CORDRAY. Yes. The timing on the firings is not entirely clear.

Mr. LYNCH. Okay.

Mr. CORDRAY. There was a suggestion that there was a same pace of firings all along. I think the firings accelerated later in the process because the problem became greater and the awareness of the problem became higher.

But we do not think that the company came forward in a responsible way to let the regulators know about anything that they were seeing. And as I say, some of it occurred and magnified later on.

Mr. LYNCH. And I do appreciate that it was CFPB that made that a global settlement and—

Mr. CORDRAY. I would say that working together with our partners. The L.A. city attorney's office brought things to the table that were critical; the OCC brought things to the table that were helpful; and I think the CFPB brought things to the table that were essential in making it, as you say, a national resolution with injunctive relief to make sure they stopped it going forward and didn't just throw some money at it and then go on about their business.

Mr. LYNCH. Okay.

I want to shift attention now to our veterans and to our servicemembers. Ironically, President Trump, when he came into office, put a hiring freeze on in the Federal Government, and a lot of people don't realize that the Federal Government is the largest single employer of veterans in this country.

We have 632,000 veterans who work for the Federal Government. And of those 632,000 veterans who work for the Federal Government, 145,000 of those veterans have a disability rating of 30 percent or greater. So I am very proud of the Federal Government's willingness and eagerness to hire our veterans.

Now, the problem is that with the President's hiring freeze we block these kids coming back from Iraq and Afghanistan from going to work at the V.A. and DOD; DOD is the single largest department, in terms of hiring our veterans.

So with the situation we have right now, with these young veterans coming home after multiple tours of duty—I was in Camp Leatherneck in Afghanistan a while back and I had a chance to chat with a rifle company there, and one of the young fellows told me that this was his seventh tour of duty.

So we have these veterans coming home after multiple tours of duty; we have an elevated suicide rate—highly elevated suicide rate among our returning veterans. Very tough situation. Substance abuse, and other issues.

And so what we do? What do we do to welcome our veterans home? We put a hiring freeze at the largest employer of returning veterans so they can't come back and go to work.

And coming back and transitioning to civilian life, that job is critical. That is the difference-maker.

And so when I hear Members here say that you are not doing enough as a Federal agency to take care of our servicemembers, and I know that I had a young veteran in my office last week try-

ing to go to work at the Federal Government and he can't get a job because of the hiring freeze, it just—not only is it unfair, but it is so hypocritical of what we are doing today.

I have a bill, H.R. 1001, that would waive the ban on hiring in the Federal Government as respects returning veterans. Basically what the bill would do was, as the largest employer of veterans it would exempt any qualified veteran—and one of the veterans I had a couple of weeks ago was a radiologist, so they have been trained well within the military—it would allow any qualified veteran to go to work in spite of the fact of having the President's freeze on hiring within the Federal Government.

I think it is the right thing to do, but I am still waiting for some Republican cosponsors. I am still waiting for some Republican cosponsors. I have a lot of Democrats on the bill with me, but I would love to get some Republican support because I know my brothers and sisters across the aisle agree with me on this issue. I know they do. I know they do. I am certain of it.

Mr. CORDRAY. Could I—

Mr. LYNCH. What I wanted you to do—and you have more than 3 minutes here—I wanted you to talk about what we are doing at the Office of Servicemember Affairs for our military veterans and our active military and their families. I want you to take your time. I know you have a 25-year veteran over there, I forget his name, who is running that Veteran Services program.

Mr. CORDRAY. Paul Kantwill.

Mr. LYNCH. That is right, Paul Kantwill. And I get high remarks on it from my veterans. I have three big V.A. hospitals in my district; I have a ton of veterans in my area, and he gets high marks from them.

So I would like you to talk for as long as you would like about what you are doing on behalf of our servicemembers, our veterans, and their families.

Mr. CORDRAY. All right. Thank you.

And by the way, first of all, that is a very powerful point you just made about the Federal Government as an employer of veterans, and that blocking hiring, blocks employment of veterans. I had not heard that before. I think it is worth pressing.

The hiring freeze, which we are honoring—we have been told is a temporary freeze. They are reconsidering what to do either later this month or next month.

I think that is a powerful point to make in terms of returning veterans having access to jobs, and it is true across the entire Federal Government.

So in terms of servicemembers, we do have an Office of Servicemember Affairs. That was a good idea by Congress. It is in the statute, so we were required to do that.

We have embraced it with enthusiasm. As you know, Ms. Holly Petraeus ran that office and set it up for the first 5 years or so. She did an extraordinary job, and has left a legacy of helping veterans—not just servicemembers, but veterans and their families have a better understanding of financial matters and assistance and support.

And she helped us deal with specific problems, such as people who had change-of-duty-station orders who were not able to sell

their home during the financial crisis were given different treatment than they otherwise would have been because we intervened and made it clear that they were in a tough situation and they should be treated as hardship cases. That is just an example.

And the ending of the military allotment system, which had been set up back in the 1950s or 1960s as a means of convenience to pay your bills. Now all the banks have bill pay and so you don't necessarily need it for that purpose, but it was being used, especially by predatory lenders, to be able to have leverage over military borrowers, and it was very problematic what was happening there.

I would also say that the new head of the office, Paul Kantwill, the person you referenced, came to us from the Pentagon, where he had worked on some of these issues there. And he is first-rate, and he is having us think about the entire military lifecycle and how it fits.

And we have work that we are doing on—it is called delayed entry, where we help servicemembers as they go into service to understand financial issues. Think about this: It is a lot of 18-, 19-year-old kids, young men and women, leaving home for the first time, going into the military, positioned away from home, have a guaranteed paycheck. They are magnets for predatory lenders and they often can get into trouble, and giving them a sort of foundation before they go into the service is very important.

We are also helping transitioning veterans coming out of the service back to civilian life, which poses enormous challenges as well.

So we are doing a lot of good work. There was testimony from each of the branches of the military in the Senate recently where they talked extensively about how important the CFPB's work was and how helpful it was to them because they are not experts in the area themselves.

I'm sorry, Mr. Chairman.

Chairman HENSARLING. The time of the gentleman—

Mr. CORDRAY. I have a hard time cutting myself off on this.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Florida, Mr. Posey.

Mr. POSEY. Thank you very much, Mr. Chairman.

Director Cordray, the last time you were here, we discussed legislation that I introduced in the past few Congresses to create an advisory opinion process at the Bureau.

Mr. CORDRAY. Yes.

Mr. POSEY. A process which exists at many other executive agencies today, it would allow companies to seek out the CFPB's particular detailed view of a regulation and receive a response to the inquiry to interpret the regulation.

The companies would cover the cost incurred by the Bureau by issuing the opinions, and ultimately they would have a better understanding of how to comply with the law and serve consumers. This bipartisan, commonsense idea that would bring certainty, clarity, predictability, whatever you want to call it, to the supervision and enforcement process at the CFPB.



Unfortunately, instead of working with me towards this goal, the Bureau has actively sought to undermine the legislation. For example—

Mr. CORDRAY. I don't—

Mr. POSEY. —when asked by the Congressional Budget Office about my proposal you claimed the Bureau would be tasked with issuing nearly 50,000 advisory opinions over a year, and that seems not to pass a straight—

Mr. CORDRAY. That doesn't sound right to me, but yes.

Mr. POSEY. And that wildly inflated number is just as absurd as the no-action letter policy you created, which is so restrictive that the CFPB estimated issuing only one to three letters per year.

Now, that is not an effective policy, I don't believe, and it is a pretense to avoid taking meaningful steps to address uncertainty surrounding the agency.

When I questioned you about the limited policy last year you said it was a fair line of questioning and you intended to do more than the expected one to three letters, if you recall. You also said that you created the no-action letter policy to, “capture the spirit of the bill you are talking about in terms of people being able to get their questions answered and have some clear space forward.”

It has been over a year since the no-action letter policy was finalized, and so the question is, how many of these letters has the Bureau issued at this time?

Mr. CORDRAY. So I thank you again for digging in on this issue, and I remember we talked about it last year and here we are this year. And I would say we continue to struggle with it.

But let me set the framework. We actually respond to people's request for advice in three different ways, okay?

One is we get guidance calls all the time from people in the industry wanting to know how they can comply with this, what can they do about that, if they have two ways in mind can they do one rather than the other, et cetera. We field those calls, often hundreds of calls per week, certainly a steady stream of calls, thousands per year, and we do our best to answer those.

That is one way in which we deal with this. And you wouldn't want to write all those into advisory opinions because you would—that would eat up all the time we have.

On the other end, when they raise issues to us and it becomes clear it is a systematic issue—it is not something specific to that institution but it is the kind question others might be wanting to ask and might be wanting to know the answer to—we work through rulemaking processes to amend and clarify our rules. And we have done that numerous times. It has been not dozens but hundreds of different issues we have addressed in that manner.

But it is clunky. It takes time; it takes resources. We do that and we are willing to do that, but it is not always the best answer, although it sometimes is a good answer. And we have some rulemakings like that pending right now.

The in-between is what you are describing, the advisory opinion or the no-action letter, and we have now instituted that policy. It has been a lot harder than I would have thought to get that done within the Bureau, and it has not yet generated a lot of demand.

And so maybe it is not working right. I don't know what to make of that as it stands.

I am not hostile to advisory opinions. When I was attorney general in Ohio we issued them under the State law, 80—

Mr. POSEY. Have any—

Mr. CORDRAY. —to 100 a year.

Mr. POSEY. Have any requests been denied by the agency?

Mr. CORDRAY. No, I don't believe so, although I think there are discussions where sometimes people decide it is not the best approach, or maybe they get their questions answered informally and they are satisfied with that, or maybe it leads to us undertaking a rulemaking to amend our rules, so—

Mr. POSEY. I have been to the website and I have tried to search for this—

Mr. CORDRAY. Yes.

Mr. POSEY. —and I can find nothing at all. So I would think even—

Mr. CORDRAY. Yes. I would say it is—

Mr. POSEY. —if you have issues that you wanted to clarify—

Mr. CORDRAY. We haven't—

Mr. POSEY. —you would post them on the site to save you from the redundancy—

Mr. CORDRAY. Yes.

Mr. POSEY. —of having to do it again, and also providing easily accessible certainty.

Mr. CORDRAY. Yes. Look, I would say to you we have not yet satisfactorily found that in-between. We do thousands of questions that we answer and we do a lot of issues through rulemaking; the in-between we have not yet—we haven't mastered that yet.

We could perhaps use some help and working back and forth with the Congress to try to figure that one out.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Georgia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

I just want to say, Mr. Cordray, that the first thing I want to say is thank you. Yours is a difficult job. It is probably the most challenging job in Washington, quite honestly.

Mr. CORDRAY. Probably not right, but—

Mr. SCOTT. And I am particularly anxious to say a few words about this job you are doing because people need to know. This is a free enterprise system; it is a free financial system. And when you live in a free system you are free to do good and you are free to do bad, and that is why we need organizations and agencies like yours in the middle there to separate the wheat from the chaff.

Now, Mr. Cordray, I want to thank also your staff who has worked with me in my office. As you know, you and I have had some differences, but these differences have been done in a way to make sure that those elements, particularly of the low-income and poor people, because they are taken advantage of by some of those unsavory characters.

And you know, Mr. Cordray, I just love the book of Psalms. And in that 44th Psalm it says: "Blessed is that man, all right, that helps the poor, and the Lord will be with him in his time of trou-

ble. The Lord will deliver him. The Lord will preserve him and keep him alive and he will be blessed in all the Earth."

And since I have been working with you, you and I share that common bond of caring about the poor, and I think it is important because we got to working together and you and the CFPB came up with an excellent program, the safe harbor. That needs to be known—the safe harbor for those qualified mortgages, the Q.M.s.

We also came up with the exemption that the CFPB gave for remittance to those small creditors. And so I want to commend you for that work, and it has been a joy to work with you on it.

And as I said, my deep concern is—and I have found out is yours—that we have to make sure in this immensely complicated and competitive financial system that the poor, that those at the lower income, are not taken advantage of, that we give them a seat at the table. And I appreciate you for having an open mind as I have pursued that.

So with that in mind, let me ask you, what steps are you taking in your rulemaking now to make sure that we are not putting an unfair burden on those that have to serve the poor, those—because there are so many of them. We have 70 million who are unbanked and underbanked. So what are you doing to make sure that the credit unions, the small banks, the—and the predatory lenders, they serve them, pawn shop operators—what are you doing to make sure that there that your rulemaking is not putting any unfair burdens on them?

Mr. CORDRAY. I thank you for those comments and for the question.

It is pretty much a daily concern at the Bureau for how our rules apply to community banks and credit unions, and in many cases under our mortgage origination rules, our mortgage servicing rules, our remittance rules, we have created thresholds that have exempted thousands of community banks and credit unions in each instance because we recognize—and I agree with them when they tell me—they can't bear the same burden of rules as larger institutions can, and they may not be as necessary in their cases because they know their customers, they are rooted in the community, they are subject to community norms. Those things are powerful. You and I have talked about that. We know that.

So that is something that we are trying to do all the time, and we are always open to hearing input from any of you, and these oversight hearings are valuable in that respect, about how we can go back and do a better job on that. Because I know what we hear you hear, as well; and when you tell us about it that matters to us.

The prepaid card rule is also very important in this respect because, as I said, many Americans have bank accounts, most Americans have bank accounts, but there are many Americans who do not and are shut out of that system, and the prepaid cards can make all the difference in the world to them.

They can transact safely on them; they don't have to carry cash around. And having the basic protections there that bank account holders have feels to me like equal justice and a very important principle.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from North Carolina, Mr. McHenry, vice chairman of the committee.

Mr. McHENRY. Director Cordray, are you aware of any confidential leaks from the CFPB that led to insider trading?

Mr. CORDRAY. Say that again. Am I aware of any what?

Mr. McHENRY. Are you aware of any confidential leaks from the CFPB that have led to insider trading?

Mr. CORDRAY. I don't believe I am aware of any, but something that I have learned is critical to be careful about all the way back to when I served as a law clerk on the D.C. Circuit and got our very first—

Mr. McHENRY. Sure, I know you are versed in this, so—

Mr. CORDRAY. Yes.

Mr. McHENRY. —unfortunately, the committee staff has learned of suspicious trading activity for the Navient Corporation the morning before the announcement of CFPB's enforcement action. Are you aware of this unusual trading activity?

Mr. CORDRAY. I am not, and if there is something, I would be very concerned about it, so I would be glad to hear more.

Mr. McHENRY. I know you take it seriously. And so specifically on this, you are not aware of any suspicious trading activity or market activity connected with any CFPB enforcement actions?

Mr. CORDRAY. As far as I know, this is the first I have heard that there might be any such concerns. But if there are concerns and if there is some basis for it, I would like to know it and like to know what we can do to make sure that none of that is happening.

Mr. McHENRY. Sure, sure.

Mr. CORDRAY. We just saw the Federal Reserve Chair in Richmond had to step down, I think yesterday, because of this kind of thing. And it is not the first time these things have happened in the Federal Government, and—

Mr. McHENRY. So has anybody at the CFPB been investigated for insider trading?

Mr. CORDRAY. Not that I am aware of. I am—

Mr. McHENRY. Okay. And you would be willing to cooperate with an investigation, obviously, if there were one?

Mr. CORDRAY. I would. I actually thought you might be getting at a different point, whether maybe some sort of information leaked out somewhere and somebody else did trading, or are you actually suggesting any CFPB employees were engaged in trading because—

Mr. McHENRY. It is unclear at this point.

Mr. CORDRAY. —they would be barred from doing anything to affect a company that was under their work or their purview. And we have good ethics lawyers who are very zealous in this regard, I can tell you that.

Mr. McHENRY. And so you would pledge the Bureau's full cooperation with the Securities and Exchange Commission, the Department of Justice, and this committee if there were an investigation of these trades?

Mr. CORDRAY. I would.

Mr. McHENRY. Okay. And thank you for that.

It is really a twofold question: one, insider trading and Bureau employees doing that themselves; the other is the sharing of confidential information.

Mr. CORDRAY. I think just any kind of trading in stocks in any company that you were involved in doing work on or had information about would be—that would be illegal regardless of whether you have leaked information—

Mr. MCHENRY. And I would like to yield the balance of my time to the chairman.

Chairman HENSARLING. I thank the gentleman for yielding.

Director Cordray, I want to go—

Mr. CORDRAY. I would be glad to follow up with you offline, sir, if there is something we should know.

Mr. MCHENRY. Sure.

Chairman HENSARLING. I would like to go back and follow up on a line of questioning by the gentleman from Michigan, Mr. Huizenga.

My review of the records shows that there have been 181 enforcement actions in the history of the Bureau. Does that sound about right to you?

Mr. CORDRAY. I think it is closer to 200 now, but maybe depending—

Chairman HENSARLING. Approximately 200.

Mr. CORDRAY. Yes.

Chairman HENSARLING. Our review of this shows that of those enforcement actions, four have been adjudicated, and the others have ended in settlement agreements or consent orders. Does that sound about right to you?

Mr. CORDRAY. Well, no. That is a partial picture because we have a lot of matters pending in the courts and they don't all get to final resolution very quickly. So there are a lot of matters—

Chairman HENSARLING. Settlement agreements or consent orders, I have yet to find one where the company admitted to wrongdoing. Do you have records on consent orders or settlement agreements where the company that has paid the fine has admitted to wrongdoing?

Mr. CORDRAY. So again, I gave my perspective on this issue earlier but I will state it again. We conduct an investigation. When a matter is resolved—

Chairman HENSARLING. I understand that, but I am just asking a simple question because I have not been able to find in any of the settlement agreements or consent orders where there has been an admission of guilt. And if I am reviewing the records incorrectly, do you have records showing where the parties have admitted guilt?

Mr. CORDRAY. Again, it is not that simple an issue. I would just like to give you little bit of background on it, which is—

Chairman HENSARLING. Can we start with either a yes or no and then give the perspective, Mr. Director? Do you have in your possession settlement agreements or consent orders where the party that has paid the fine has admitted to wrongdoing?

Mr. CORDRAY. I would be happy to have my staff follow up with your staff on that, but I will say—

Chairman HENSARLING. So you are unaware—

Mr. CORDRAY. —when we do orders we have completed an investigation—

Chairman HENSARLING. No, I understand that, Mr. Cordray. It is a simple question.

Mr. CORDRAY. —and we specify all the facts.

Chairman HENSARLING. You are avoiding a simple question. Either you don't know the answer or the answer is yes or no. Do you have them in your possession? Because I am unaware of any.

Mr. CORDRAY. I am here at the committee. I don't have any in my possession, but I would be glad to follow up with your staff on that and get you answers on that.

But I will say again, when we issue orders that is one of the paragraphs of an order.

Chairman HENSARLING. I understand—

Mr. CORDRAY. The order details exactly—

Chairman HENSARLING. The time—

Mr. CORDRAY. —what we found in our investigation—could I just for moment—and that stands as the law of what happened.

They can say, "Oh, I didn't do it," but it speaks for itself.

Chairman HENSARLING. Okay. I understand that, Mr. Director, but that is exactly the same thing you did at accusations of gender discrimination and racial discrimination.

Mr. CORDRAY. No, that is—

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Missouri, Mr. Cleaver, ranking member of our Housing and Insurance Subcommittee.

Mr. CLEAVER. Thank you, Mr. Chairman.

Thank you for being here, Mr. Cordray. I also want to express here that the rural definitions were, in fact, changed and Marshall, Missouri, the three Houston banks that were—that came to me complaining, are, of course, very appreciative. I actually have a letter from the president of the bank expressing appreciation for that rule change.

But let me talk about FinTech, the financial technologies. We are not going to be able to hold back progress that is going to happen, and there is nothing that we can do and perhaps there is nothing we should try to do.

The problem, of course, is that with each new technology we have new challenges. And studies are showing that algorithms are not necessarily unbiased, that they can be biased.

And so, as small businesses are trying to get these online loans through FinTech, is there something that the Consumer Protection Bureau can do to assure that these algorithms are not used exclusively to the detriment of minorities?

Mr. CORDRAY. So it is an excellent question, and I know we just had an exchange of correspondence on this.

Let me first go to your first point, though, because you made the point that the rural definition issues did get cleared up.

Mr. CLEAVER. Yes.

Mr. CORDRAY. And maybe it took longer than it should and maybe we were too narrow to begin with, but we listened and we worked with the Congress on it and we got it fixed. And if people are still having any concern about that rural definition, I would be

glad to hear it or to deal with any particular institutions, because I think it is now in pretty solid fashion, and I would thank the Congress because your intervention mattered on that.

As to the FinTech issues that you are raising, we have just put out a request for information because we are very interested in these issues around the data that is used to underwrite loans, and there are some new opportunities to look at different data. We are not imprisoned within the narrow lines of the old credit reporting system, which often was kind of clunky and only—like it only counted, your housing if you had a mortgage because then that was a loan and it was “credit.” But if you paid rent faithfully for 20 years they gave you no credit at all for that on your credit report, so it was like you didn’t exist. That doesn’t feel like the right answer.

The algorithms that are being used and other methods that are being used now pose risks. They also create opportunity, and we have put out a request for information to hear from all sides. I think that is open until—I can’t remember. There are two that are open and this one may be open until May.

We want to hear what the risks are, the same kind of issues you raised with us, how they can be mitigated, and we also want to think about whether this might open up the credit box for more Americans. We did a report—a very notable report that got a lot of interest—on the fact that there are 45 million Americans who are essentially credit-invisible. They either don’t have enough in their credit file to offer them any credit or it has maybe been inactive too long—45 million Americans are shut out of the credit system and they can’t get loans, and they can’t have opportunity from loans. That is a bad thing.

We are in favor of access to credit, access to sound credit, and the issue here is whether there are other ways to look at other data and underwrite these loans so that more people could—and many of them are in minority communities or disadvantaged communities—that they could be really understood more fully to be good credit risks. At the same time, that could pose risk and we want to be careful about that.

So I think we are embarked on an inquiry of exactly the kind that I think you are interested in and we will be glad to keep you posted on that as we go. We either have just heard or are going to hear a lot from people by mid-May, and then that is going to spawn further conversations and possible actions, I would guess, depending on what we hear.

Mr. CLEAVER. You probably won’t have time to respond to this, but I am becoming increasingly concerned looking at these young people out here behind you in the green shirts. They look college-age and we are having a problem that I think is going to eventually explode.

Right now there is \$1.3 billion in defaults.

Mr. CORDRAY. Yes, yes.

Mr. CLEAVER. I don’t have time to go any further, but it is a big problem. We have over 3,000 student loans defaulting every day. That is one every 28 seconds. Thank you.

Mr. ROSS [presiding]. The gentleman’s time has expired. Would you like to respond?

Mr. CORDRAY. Just 10 seconds.

Mr. ROSS. Absolutely.

Mr. CORDRAY. We hope to work with the new Administration's Department of Education, just as we had worked with the prior Administration's Department of Education on those issues, and we are open to having further productive dialogue and action around that problem. It is a significant problem.

And it is not just young people. We did a report. Many older Americans actually owe student loans, either for their children or grandchildren, and it is a broadening concern throughout our society.

Mr. ROSS. Thank you, Director.

The Chair now recognizes the gentleman from Illinois, Mr. Hultgren, for 5 minutes.

Mr. HULTGREN. Thank you, Mr. Chairman.

And thank you, Director, for being here.

I want to follow up on my friend's comment on bipartisan work, just to get your thoughts on student loans and specifically student loan disclosure. To your knowledge, is there any other form of consumer loan other than Federal student loans, a consumer loan that is not required to disclose the annual percentage rate before issuance?

Mr. CORDRAY. So you are asking if there are any other loans—

Mr. HULTGREN. Consumer loans, yes, that don't disclose annual percentage rate before issuance?

Mr. CORDRAY. I think that is typically required by statute under the Truth in Lending Act for most loans. There may be some exceptions or exemptions here and there so I don't want to be categorical, but that is—

Mr. HULTGREN. Yes. Again, something that we are doing in a bipartisan way is—and I would ask, would you agree that all borrowers of student loans, including those issued by the Federal Government, would benefit from the disclosure of the annual percentage rate when making the decision to assume student loan debt?

Mr. CORDRAY. People have different views on that. I will just say it is typically required by statute. But when we did testing with consumers on the APR on our Know Before You Owe forms, consumers were quite confused by that.

Mr. HULTGREN. Let me move on to my next thing. And we agree in a bipartisan way, many of us, that it is helpful. Transparency is important and there is a problem there.

Mr. CORDRAY. Yes, I am just—

Mr. HULTGREN. Let me move onto something else—

Mr. CORDRAY. —not everybody agrees—

Mr. HULTGREN. Mr. Director, in past hearings in the committee, staff reports we have alleged that the true purpose of your indirect auto activities was to regulate auto dealer compensation, over which you have no jurisdiction under the Dodd-Frank Act. The Campbell-Brownback Amendment could not have been more clear on that.

You have always testified to the effect of saying that you are only addressing lenders and that you are careful not to step over that line, but we now know that—

Mr. CORDRAY. Yes. That is right.



Mr. HULTGREN. —answer is hogwash.

Mr. CORDRAY. No, no—

Mr. HULTGREN. You may ask, how do we know this? And, well, because we have your documents, Mr. Director.

I want to enter into the record a document dated July 9, 2012, entitled, “Notes from the Auto Finance Discrimination Working Group (‘AFDWG’) Attended on Behalf of NonBank Supervision by Kali Bracey.” Mr. Director, this document—

Mr. ROSS. Without objection, it is so ordered.

Mr. HULTGREN. —has not been previously released by this committee. It contains a detailed summary of the second ever meeting of a special working group put together to discuss Direct Auto. According to this document, the working group was chaired by Patrice Ficklin and Rick Hackett.

The document describes the Bureau’s preliminary research efforts, and then comes the smoking gun. The document says, “To figure out what to do to prevent disparate impact the thought is that we should eliminate dealer markup.”

So, Mr. Director, there you have it. Notwithstanding your prior testimony, the operating theory behind all of your agency’s indirect auto efforts from the beginning has been to “eliminate dealer markup.” Mr. Director, aren’t you alarmed that your agency planned to regulate dealer compensation in clear violation of the law?

Mr. CORDRAY. No, no. I think there are several things that aren’t correct about that account, okay? First of all, when you are referring to a document from 5 years ago, I am not familiar with it offhand, but I will say this—

Mr. HULTGREN. We will make sure you get—

Mr. CORDRAY. —we have never—

Mr. HULTGREN. It is from your office.

Mr. CORDRAY. We have never taken any enforcement or supervisory activity against any dealership unless they were buy-here-pay-here, which is within our jurisdiction. We have been very careful to observe that line.

But we do have responsibility over auto lenders, and we had the dilemma of how to deal with that responsibility when, in fact, they and dealers often work together in making the loans.

Mr. HULTGREN. Well, that is not what this document says. Again, it says, the intent here—

Mr. CORDRAY. No, it says—

Mr. HULTGREN. Let me keep moving on. I only have a minute-and-a-half left.

Mr. CORDRAY. If I could—

Mr. HULTGREN. Other people have 10 minutes; I have 5 minutes.

According to the other Bureau documents, on May 20, 2013, you held a meeting with your senior staff in preparation for which a briefing memorandum was circulated stating the meeting’s purpose was to, “continue discussion around a market-tipping settlement that would resolve the discriminatory practices caused by dealer markup by eliminating markup at many major automotive dealers.”

Do you recall this memorandum?

Mr. CORDRAY. I don’t offhand, but that would refer to dealer markup as part of lenders lending—

Mr. HULTGREN. Again, we will provide that to your staff. And we actually did provide it to your staff ahead of the hearing to help you refresh your recollection. We also released it publicly as part of our staff report in 2015.

Mr. CORDRAY. Yes.

Mr. HULTGREN. At the time, your Bureau was pursuing a consent order with Ally. Isn't that right?

Mr. CORDRAY. We did pursue and conclude a consent order with Ally. I am not sure exactly what timeframe you are referring to.

Mr. HULTGREN. Your own Bureau documents say that you were, on October 7, 2013, a draft decision memorandum states that your Bureau sent Ally a proposed action response request letter informing the company that an enforcement—

Mr. CORDRAY. I don't dispute that.

Mr. HULTGREN. —action was likely on January 15, 2013.

Director Cordray, your Bureau reached its indirect auto lending settlement with Ally at a time when it had an unprecedented leverage over Ally. At the time, Ally had an application pending before the Federal Reserve for status as a financial holding company.

The CFPB sent notice of its intent to bring an enforcement action against Ally on January 15, 2013. Ally would have to divest its insurance and used-car remarketing operations if the Federal Reserve did not approve its application for holding company status by December 24, 2013.

At the same time, the FDIC was conducting a Community Reinvestment Act review of Ally. Your staff drafted the decision memorandum dated October 7, 2013, showing that your Bureau was fully aware of the implications of this.

I think there are real problems here. Again, using authority at a time to force auto dealers and to push an agenda.

My time is about to expire. I yield back.

Mr. CORDRAY. If I could? Can I?

Mr. ROSS. Please.

Mr. CORDRAY. Okay.

Mr. ROSS. Briefly.

Mr. CORDRAY. When we bring an action we always hope to resolve it on appropriate terms. Sometimes the institution is not willing to resolve it and sometimes they are.

That is up to them. That is a choice they make. That was a decision that they made.

It is not a decision that affected—that involved dealerships. We have never brought an action against dealerships that are not buy-here-pay-here; that is not within our jurisdiction. It is the case—it is an unfortunate thing in this market—that lender programs and dealer programs kind of intersect and you can't—

Mr. HULTGREN. What bothers me is that—it is stated—and using power to force—

Mr. ROSS. The gentleman's time has expired.

Mr. CORDRAY. I don't think that is what we did. Not what we did.

Mr. ROSS. The gentleman's time has expired.

The Chair recognizes the gentleman from Illinois, Mr. Foster, for 5 minutes.

Mr. FOSTER. Thank you.

And thank you for appearing today, Director Cordray. It has been too long since you have been before this committee.

Mr. CORDRAY. I missed you, too.

Mr. FOSTER. Thank you. I was on the Financial Services Committee both during the financial collapse at the end of the Bush Administration and the regulatory response, the Dodd-Frank bill, to ensure that families in America never had to undergo this sort of catastrophe again.

The catastrophe was caused by the simultaneous collapse of all three legs of our financial system: the collapse of Republican monetary policy; Republican fiscal policy; and Republican regulatory policy.

And if you look more closely at the regulatory failures that led to this, there were really two parts. The Wall Street collapse was driven by largely inadequate bank capital requirements and huge off-balance sheets, unregulated driven exposures. But more important to the middle class was the part that was driven by inadequate consumer protection that drove a housing bubble that decapitalized the middle class and injected trillions of dollars of questionable mortgages into our financial system and ultimately destabilized it.

As a result of that, the average American family lost over \$100,000 and millions of Americans lost their jobs.

During the debate over the Dodd-Frank Act we considered whether the agency should be headed by a single director or be a commission, and obviously that debate continues both in the courts and perhaps in legislation.

But no matter how this debate turns out, there should be no debate that the CFPB has been just a tremendous victory for the American consumer and a victory for the long-term financial stability of this country.

And a previous questioner brought up your work on FinTech, which was—I had intended to make the main line of my questioning. And I just want to comment that that is government regulation at its best when you are looking around the corner at future threats that will destabilize the financial system in the U.S. and future threats to consumer safety.

And so the fact that you are looking ahead of the curve on that, I think, is just an indication of the high quality of the operation that you have set up. So I thank you for that.

There has been a lot of discussion in the previous questioning about rural and community banks, and small community banks are under stress. And I think that it is important that we not mistake the financial stress that small-town America has been under for decades and, frankly, is likely to continue. It is due to fundamental, long-term economic trends and it breaks my heart, and I don't know an easy solution.

But we should not confuse the stress of small-town American and—with—and the stress of small financial institutions with the need to adequately regulate them, that just as much damage is done to someone in a rural area where—when they are subject to financial abuse.

And I didn't see a big difference when they displayed the number of complaints you have had from rural States to urban States. I

think that you get a comparable number of complaints per person from either area, and I think that you have to keep your eyes open in both, so thank you for that.

There is a trend that has been important in trying to ensure the survival of small community banks, for which there is a lot of support on both sides of the isle, and that is because of the economies of scale for things like cyber defense and everything else, small community banks are more and more using third-party data—back-office data systems.

And this provides an opportunity to really lessen the burden of regulation on them when the data can be extracted in a standardized way from the third-party data vendors directly. And there are two things. I have heard, actually, from some of the State-regulated banks that there are difficulties in the data-sharing between Federal and State regulators that cause some duplicity—not duplicity, but duplication of inspections.

And so this is something where I think some positive improvement can be made to take advantage of those economies of scale. And I was wondering, have you started to experiment using direct data extraction so that the compliance can be verified using the third-party vendors? And is that a promising avenue for lessening the regulatory burden on us?

Mr. CORDRAY. I think it is. And we have started to put even more emphasis on technology in our examination processes.

We also collaborate closely with the Conference of State Bank Supervisors and we have a very productive relationship with them. They are very helpful to us and we try to be very helpful to them, and we try to share a lot of information.

So to the extent that was true in the past, I think it is less true now that we have any difficulties in sharing information.

I think Federal-State has been a problem area in the past. I know it from the State Government side before.

But what I would say is we are also now starting to look directly at some of these large technology service providers to the banks and credit unions, understanding that going to look at the bank or credit union may be less useful than looking at back-office operations that supply the same function for hundreds or even thousands of institutions, and if we can make sure that they get it right then it is that much easier for the bank or credit union to know that they are getting it right, and that becomes a technology issue.

Mr. ROSS. The gentleman's time has expired.

I now recognize myself for 5 minutes.

Mr. Director, one of the things that I think is impressive about financial regulations in our country has been the State-based system of insurance regulation. With regard to capital requirements, with regard to rate-making, and with regard to consumer protections, our State-based system of regulation over insurance has been somewhat successful, and I would say probably a model throughout the world.

Would you agree that under Dodd-Frank the CFPB has no jurisdiction over the business of insurance?

Mr. CORDRAY. Correct. As a basic matter, mortgage insurance within the mortgage market can be relevant but—

Mr. ROSS. And specifically with regard to the proposed arbitration rule, which seeks to broaden the scope to take in life insurance policies to require arbitration with regard to the extension of credit on whole life policies, is that not a little bit over-reaching?

Mr. CORDRAY. I think if we were trying to dictate something for the life insurance industry, that would be over-reaching and—

Mr. ROSS. Because actually the contract of insurance is in and of itself the policy. Without the contract there would be no insurance; without the collateral, the cash value, there would be no loan, and any loan taken against it would be really just offset from the proceeds of the insurance.

Mr. CORDRAY. I may not be capturing all of the nuances, but I do generally agree with you. Insurance is typically regulated at the State level and it is outside the preview of the CFPB by a specific exception.

Mr. ROSS. And so you would agree, then, that the proposed arbitration rule would not apply to the scope of life insurance policies?

Mr. CORDRAY. As a general matter, I think that is right. Whether there is some sort of corner issues here I am not entirely sure, but I think that is right.

Mr. ROSS. And are you aware of anything else going on within the CFPB to regulate insurance products whatsoever?

Mr. CORDRAY. Again, mortgage insurance, when it is caught up as part of the mortgage transaction, there are some issues there around disclosures and the like. I believe, in fact, the PHH case has to do with the captive reinsurance program that we believe violated the RESPA statute. And, of course, the company disagrees, and that is in front of the courts and the courts will decide it.

Mr. ROSS. Let me change—

Mr. CORDRAY. But basic insurance is not part of our—

Mr. ROSS. Right.

Mr. CORDRAY. It is in some countries; it is not in the United States.

Mr. ROSS. Not. And therefore, the CFPB should really not participate in that—

Mr. CORDRAY. And if you have—if there are issues you are hearing about that we should know about, feel—

Mr. ROSS. You got it.

Mr. CORDRAY. Feel free to have—

Mr. ROSS. You will be the first.

Mr. CORDRAY. Yes.

Mr. ROSS. Let me ask you with something with regard to payday lending. This has been an industry that has been, again, regulated predominately by some States. Some States regulate it; some States outlaw it.

Mr. CORDRAY. Yes.

Mr. ROSS. Some States just don't have any regulation on it at all. And yet, you have a proposed rule, and I think to date you have received over 1,334,000 comments—

Mr. CORDRAY. Sounds about right.

Mr. ROSS. —and I think 600,000 have come from Florida.

When do you anticipate the rule to be released and implemented?

Mr. CORDRAY. I don't know. I can't tell you.

As you just described it, digesting and analyzing those comments is a big job and they are supposed to influence what we would think about the rulemaking, and they will.

Mr. ROSS. My concern is that if this essentially annihilates this particular supply of credit that is being used by millions of Americans every day, what is the recourse?

And specifically, here is a comment made, sent to Monica Jackson, Office of Executive Secretary, from a lady in Florida, a Ms. Pritchard from Leesburg, Florida. And she says, "I am a single parent and lately there have been issues with my child support payments posting to my card on time. Unfortunately, my kids still have to eat and whatever necessities they are in need of.

"The cash advance is a big help to me. I can only borrow what I can pay back and I have a steady job. If these new laws take place this would place me in a financial hardship, and my credit is poor so I can't get a loan through a bank or other lender. Please don't punish us with these changes."

How would you respond to Ms. Pritchard if the payday lending industry was eliminated by way of rule?

Mr. CORDRAY. Yes. And, by the way, I have had a number of these discussions with your banking supervisor from Florida, Drew Breakspear, who is a very capable—

Mr. ROSS. Very good man, yes. I agree.

Mr. CORDRAY. —a strong regulator. And essentially—

Mr. ROSS. She has to have a—

Mr. CORDRAY. Yes, I know.

Mr. ROSS. This is a demand-driven industry that requires a supply.

Mr. CORDRAY. Understood.

The proposal here was an effort—and we may not have gotten it right, and this is something we are thinking about in light of comments—to make sure that people could get access to a loan when they need it, but that they wouldn't get trapped into this cycle of 8, 10, or 12 loans—

Mr. ROSS. I agree, and I think Florida has been a good example of that. But then again, if the rule effectively eliminates this particular industry, where else do they go?

If they can't go to a bank, do they go online? Do they go overseas? Do they go to a loan shark?

We are not eliminating the demand, and I think that is what we have to be very compassionate about.

Mr. CORDRAY. You are absolutely right on that. It is an absolutely fair and very good question.

And again, a notable point here is there are 14 States in which these particular kinds of loans are outlawed. That is not something the Bureau is proposing to do, but it is true of 14 States, tens of millions of Americans, and there are other credit products that they access, including pawn loans or including credit card loans, advances, or other things. And there does not seem to be any particular harm to those consumers in those areas and they avoid that prolonged debt trap.

These are the kind of hard issues that have brought us to this—

Mr. ROSS. I agree. And again, I ask you just to take a look—

Mr. CORDRAY. Yes.

Mr. ROSS. —at the State of Florida. I think it has done a very good job as a State regulator in that industry.

My time has expired.

The Chair now recognizes the gentleman from Maryland, Mr. Delaney, for 5 minutes.

Mr. DELANEY. Thank you, Mr. Chairman.

And thank you, Director Cordray, for your exceptional public service. The job you have done across the last several years has been a very difficult job, considering some of the opposition you have received, obviously, and considering the scale of the undertaking you had to assume.

But it has been a very important job, and I think you have done it to a remarkably high standard, and I applaud you. I hope you do stay on, but if that doesn't happen I am sure you will be incredibly successful in whatever field of endeavor you choose in the future. So I just wanted to start by thanking you for your service.

Mr. CORDRAY. That is very kind.

Let me just say, the so-called opposition doesn't bother me. I always hope that I can be persuasive and we can see eye to eye and find common ground—

Mr. DELANEY. And you seem run at criticism, which I think is a good—

Mr. CORDRAY. That is all right. That is okay. Criticism is fine because criticism we can learn from, and I try to do that.

Mr. DELANEY. And they—

Mr. CORDRAY. It is a hard job because there are all these markets and all this—all these difficult issues and—

Mr. DELANEY. And you have had to stand up this agency.

Mr. CORDRAY. —many of the—many of your colleagues have raised today, so—

Mr. DELANEY. And you have had to stand up to this agency, which I applaud you, too, because I think the work of the agency has been terrific.

I wanted to kind of ask you about kind of a more of a kind of a pure public policy question, which is one area that I have worked on is trying to create nonprofit financial institutions, nonprofit banks, which are not technically allowed under banking regulations right now because banks—and you can understand why regulators feel this way; they would like to see banks make a profit because that contributes to capital and makes them safer and more sustainable.

But it seems to me in some of these markets that have been underserved by traditional financial services, where unfortunately consumers or citizens in those markets really do have to turn to some of these financial products that we know really entrap them—very high rates and things that they can't get off of—that if we could create a mechanism for philanthropists, many of which want to invest in these communities, and they do substantially—they do it through investing in low-income housing; they do it through financial literacy programs; they do it through a whole variety of ways where they are trying to actually help some of these people who have largely been left behind.

But at the center of anyone's kind of normal financial life is a bank. And so many of these people are unbanked.

And it seems to me if we could create banking institutions that had a nonprofit charter that had a revenue model—in other words, they charge interest and fees, normal kind of levels—but that their operations were further supported by philanthropic dollars probably coming from that community so that they could add that layer of financial literacy, so that they could go into markets where the cross-sell opportunities aren't available to make the business model work, that that would actually create an alternative for these citizens in some of these markets.

But they can't do it right now. They have to work around it.

There have been some efforts to do it. It has been very, very hard.

So I am just interested in your thoughts on, as a matter of public policy, do you think this is an interesting direction for us to be thinking about? Because I want to not only think about appropriate regulations to rein in, but also stimulating more appropriate, prudent, fair financial services in some of these communities that desperately need them.

Mr. CORDRAY. Yes, it is an interesting question. And I know from your background you have an unusually sophisticated perspective on these kinds of issues, and we do not deal with the setting up or the licensing or the structure of banks—

Mr. DELANEY. Right. That is why it is more of a question of policy.

Mr. CORDRAY. But we do deal with the credit unions, which are nonprofit financial institutions, and they do tremendous good work across this country on behalf of their members and often in rural communities. And then we have the CDFIs, which have a particular focus more along the lines of what you describe, and they do tremendously good work if they get support and have the support that they need. And I would say that those things are very helpful.

We also have been trying to think about in these markets—and it goes to the questions Congressman Scott was asking earlier about what about those who are shut out of the banking system or shut out of the credit system? How can we provide access for them? Is it possible to do that on a responsible basis?

And the prepaid cards and accounts are one way if they have the right protections. That is important.

And also, I would say that safe accounts at banks and credit unions that don't necessarily involve overdraft or that kind of risk. Many banks and credit unions are offering those accounts and they are getting a lot of take-up, especially among millennials who are worried about these kinds of fees and things that surprise them.

So anyway, it is an ongoing problem in America: How do you open more opportunity in more places where people don't necessarily share in the same opportunities as others? We don't like to think our lives are bounded by our zip code that we come from, whether in education or anything else.

And if there are ways that we can help on that, we want to do so. We are glad to work with both sides of the aisle on those kinds of issues.

And your idea might be a good one. I just don't know enough to say one way or the other.



Chairman HENSARLING. The time—

Mr. DELANEY. Thank you again, Director.

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the gentleman from North Carolina,

Mr. Pittenger.

Mr. PITTENGER. Thank you, Mr. Chairman.

Director Cordray, good afternoon.

Director Cordray, I come as one who is here to—

Mr. CORDRAY. Congratulations on the national championship, by the way.

Mr. PITTENGER. Yes, sir. Thank you. I had my Carolina towel on yesterday. It was a great day.

But I come as one who has his responsibilities in oversight through Article One. I have my responsibilities to the taxpayers of my district and this country. And knowing that, I realize that your appointment as Director, given through the Dodd Frank Act, gives you really unlimited power and basically unchecked. You are not responsible to us except to come twice a year for a few hours to—

Mr. CORDRAY. I take that very seriously.

Mr. PITTENGER. Thank you. And I—

Mr. CORDRAY. And hope you see that.

Mr. PITTENGER. —I am glad that you do. But essentially, you get your budget from the Fed—your funding. There is really no budget.

And there is essentially no accountability. The President can't fire you except for some egregious fraud or abuse.

So in that context, I would like to ask you a few questions.

Mr. CORDRAY. Okay.

Mr. PITTENGER. The GAO conducted a study recently of the advertising and public relations funds that were spent by the various agencies in the government. Maybe it is known by you, but the CFPB won. You were the big winner in terms of percentage overall spent from your budget.

Mr. CORDRAY. I'm sorry, spending on what?

Mr. PITTENGER. On advertising and public relations.

Mr. CORDRAY. Okay. All right.

Mr. PITTENGER. Yes, sir.

And this is an amount that equaled about 2.5 percent, a very significant amount of money. And there was no other agency that came close to you. In fact, you were greater than the Department of Defense.

I guess I would like to ask you, do you feel like the mission of your agency is more important than the Department of Defense, whose objective, of course, is to recruit—

Mr. CORDRAY. No, I certainly don't. I certainly don't think so.

Mr. PITTENGER. So you would—

Mr. CORDRAY. And by the way, we read that report differently. It pointed out that there are 10 agencies of the Federal Government that do 95 percent of the advertising of the Federal Government, and we are not one of those.

We do devote a small percentage of our budget—

Mr. PITTENGER. The ones studied, sir—

Mr. CORDRAY. —to marketing.

Mr. PITTENGER. —I must say—let me claim my time. The ones that were studied showed that you spent more than any other agency. Now, point of fact there.

Mr. CORDRAY. Depending on how you—

Mr. PITTENGER. Your budget had \$20 million for advertising that went to one firm, GMMB. This is a well-known, progressive advertising firm with close ties to the Obama Administration, and then Clinton came—

Mr. CORDRAY. I don't know anything about that.

Mr. PITTENGER. —Jim Margolis. He was a senior partner for the GMMB and served as senior advisor for President Obama and senior immediate advisor for the Clinton campaign in 2016.

Mr. CORDRAY. So—

Mr. PITTENGER. In that context, do you—

Mr. CORDRAY. I don't—

Mr. PITTENGER. —do you feel like—

Mr. CORDRAY. I don't have anything to do with making those awards. That is done through competitive bidding and through the proper processes—

Mr. PITTENGER. It just happened that the—

Mr. CORDRAY. —and we get scrubbed regularly by the I.G. and GAO on those processes.

Mr. PITTENGER. That is about 3 percent of your budget. Your advertising budget was \$20 million. It is a huge amount that just happened to be—

Mr. CORDRAY. No, it was less than that.

Mr. PITTENGER. —that you were aligned with a very progressive, known group. Does this reflect that you are biased, or does it really mean that your message is fundamentally progressive and Democrat activists are really the best ones to carry the message?

Mr. CORDRAY. I didn't know anything about that until I read articles making that point. Again, these are awarded competitively. I don't even know who these people are.

I am not trying to make an award to some crony or something, if that is the implication. I just think, if you look around, almost all the contracts of the Federal Government may have—they helped someone or other. I don't know who they are.

We do competitive bidding. I—

Mr. PITTENGER. Sir, there are a lot of things—

Mr. CORDRAY. —pretty much stay out of those things.

Mr. PITTENGER. —today that you have not been familiar with that we have brought to your attention many times, so I guess we have to take that in balance.

So your budget, you spend double of what any other agency spends on advertising. This is a record that we have. And a substantial portion of this, of course, goes, as I said, to one firm.

Do you feel like that there is any impropriety in this?

Mr. CORDRAY. I think that marketing is consistent with our statutory mandate to make tools and resources available to Americans, which can only happen if they are aware of them. We do precious little of it compared to what the private sector does—

Mr. PITTENGER. Do you understand the perception that is out there—

Mr. CORDRAY. —in terms of advertising products.

Mr. PITTENGER. —in the marketplace and the concerns that we have in terms of the alignments with progressive groups that are very outspoken progressive groups that would be—

Mr. CORDRAY. Look—

Mr. PITTENGER. —your support for—

Mr. CORDRAY. What I would say—we actually are—

Mr. PITTENGER. It is consistent with—

Mr. CORDRAY. —we are a smaller contracting agency than most, but you could look across all of our contracts and you could look and see who they are, and you might get—I don't know what the picture would be. I honestly don't know what the picture would be.

We are just trying to do our job as best we can. We are not trying to reward people—

Mr. PITTENGER. I hear that more times—

Mr. CORDRAY. —or do favors for people.

Chairman HENSARLING. The time of the—

Mr. CORDRAY. It is just not what we are about.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Texas, Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman.

Thank you for appearing, Mr. Cordray. And I would remind persons that you are the first and only agency with a single mission of protecting consumers.

You are it. There is nothing like you in the United States. When I say “you,” I mean the agency itself.

Mr. CORDRAY. I think both sides of the aisle could agree that there is nothing like us in the United States perhaps, yes.

Mr. GREEN. And some of us would be grateful that you exist. There may be others who would differ.

But you are the only agency with this purpose, and you have succeeded. The empirical evidence indicates that you have succeeded: billions of dollars returned to consumers—by one estimate, \$12 billion or more; millions of complaints having been filed, but you have had over a million complaints that you have processed one way or another.

And as I listen to my colleagues, one might think that you are the culprit, that you are the entity that ought to be persecuted and possibly prosecuted.

Let's talk about Wells Fargo, for example. It was Wells Fargo that opened up approximately 2 million—depending on who is counting and how you count—accounts without authorization, not the Consumer Protection Bureau.

Mr. CORDRAY. You are right. I didn't do that.

Mr. GREEN. You didn't do that; it was Wells Fargo. It was Wells Fargo that has been fined and penalized about \$185 million, not the CFPB.

But listening to my colleagues, one would think that it was the Consumer Protection Bureau, the agency that is there to protect consumers, that is the culprit.

It is Wells Fargo, quite frankly, that ought to have somebody prosecuted. To date, has anybody been prosecuted for what happened over at Wells, Mr. Cordray?

Mr. CORDRAY. I am not aware of any charges, although I believe that a number of different agencies and prosecutors at different

levels of the government have said that they have opened investigations, so I don't know where those stand.

Mr. GREEN. I think that investigations ought to be opened and I think somebody ought to be prosecuted. We can't have a circumstance where you open up millions of accounts without authorization and the guy at the top gets a golden parachute and he is out.

People at the bottom, the entry-level employees, may end up holding the bag. They may be prosecuted.

My hope is that some of these people in upper management will be prosecuted. The evidence is there at least for a prosecution.

There may not be a conviction but there is probable cause, and I am going to write the Justice Department. I am going to ask the Justice Department to investigate for the purposes of prosecuting persons who committed crimes at Wells.

Wells Fargo is a good company, otherwise. I am not a guy who thinks that Wells Fargo ought to go out of business because they have made some mistakes, just as I think my colleagues ought not want to put the CFPB out of business because of a few mistakes that may have been made there.

The judiciary makes mistakes. If you would listen to some of my constituents and their complaints about the judiciary, you would think that the whole judiciary is a fiasco of some sort. But nobody wants to put the judiciary out of business.

We want to see a judiciary continue to function. We want it to function efficaciously, but we want to see it continue to function.

So I can't understand, to be quite honest with you, why people would want to eliminate the first and only agency with the mission of protecting consumers. That is your sole mission: protecting consumers.

And, Mr. Cordray, I want to compliment you for standing your ground against the odds. What kind of odds? \$2.3 million per day being spent against the CFPB. \$2.3 million per day, and you still stand. Sixty-plus hearings where you have had to come and testify, and you still stand. People are trying to sue you to get you out of office, and you still stand.

I compliment you for standing for consumers, Mr. Cordray. And I want to give you just a few seconds, if you would, to say a few things about why you are standing.

Mr. CORDRAY. Stubbornness, I guess.

But, look, we saw what things were like in the lead-up to the financial crisis. And by the way, when we are talking about community banks and credit units, nothing kills them off faster than a financial crisis that blows up the economy and a bunch of them go out of business. And that happened in 2008, 2009, and 2010, and it happens every time we have a crisis going all the way back to the Depression, so—

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes—

Mr. GREEN. Thank you, Mr. Cordray.

Chairman HENSARLING. —the gentleman from Pennsylvania, Mr. Rothfus.

Mr. ROTHFUS. Good afternoon, Director Cordray. I would like to ask a few questions about the CFPB's Civil Penalty Fund. This

committee has been trying to understand how the CFPB goes about identifying uncompensated victims eligible for payment and assessing the extent of damages for which the victims should be compensated.

As far as I can tell, this is an incredibly opaque process and the CFPB has been less than forthcoming in response to committee inquiries. The Global Client Solutions case is a good example of this.

The CFPB settled with GCS, a debt settlement payment processor, over its alleged involvement in facilitating the collection of illegal upfront service fees. It is important to note that GCS is a service provider for debt settlement companies and not a debt settlement company itself that would have a direct relationship with consumers.

Nonetheless, CFPB reached an agreement with GCS in August 2014 requiring the firm to pay \$6 million in relief to consumers and a \$1 million civil penalty. In the consent order GCS did not admit nor deny allegations in the complaint.

The CFPB then allocated \$107.9 million from the Civil Penalty Fund to compensate eligible victims of the debt settlement firms that contracted with GCS for eligible uncompensated harm.

Again, the CFPB took in \$1 million from GCS, the backend service provider for debt settlement companies, and disbursed over \$100 million to alleged victims of the actual debt settlement companies that would have had the relationship with the consumers.

Mr. Cordray, who is responsible for allegedly charging the illegal upfront fees to consumers?

Mr. CORDRAY. There were a number of companies that used Global Client Solutions as essentially their mechanism for succeeding in ripping off thousands and thousands of consumers across the country. We believed and—

Mr. ROTHFUS. Is GCS—

Mr. CORDRAY. —we found—

Mr. ROTHFUS. —responsible for those upfront fees?

Mr. CORDRAY. It depends on how much awareness and conscious disregard GCS would have had. Let's say it this way—

Mr. ROTHFUS. Okay. I have a document that the Bureau provided to this community that lists 208 of those debt relief companies that used GCS and allegedly charged unlawful advance fees to more than 66,000 consumers. Of these 208 companies, how many of them did the CFPB hold accountable?

Mr. CORDRAY. Look, what I am saying is—

Mr. ROTHFUS. How many of the 208 companies that were charging the upfront fees did the CFPB hold accountable?

Mr. CORDRAY. In some instances we go after both the facilitator and the—

Mr. ROTHFUS. Were any of the 208 companies held accountable?

Mr. CORDRAY. Most of them are fly-by-night and they go in and out of business.

Mr. ROTHFUS. How many of the 208 companies were held accountable?

Mr. CORDRAY. But here is the problem that we had. You have these companies that are fraudulent companies, they go in and out of business, but they are all using in this case Global Client Solutions—

Mr. ROTHFUS. Are all of these 208 companies out of business?

Mr. CORDRAY. —to be able to effectuate their ill-gotten deeds.

Mr. ROTHFUS. Are all of the 208 companies out of business?

Mr. CORDRAY. I don't know.

Mr. ROTHFUS. Okay. On what basis did the CFPB determine that there was \$107.9 million in uncompensated damages for customers of these 208 firms?

Mr. CORDRAY. So that would be through records from Global Client Solutions because they were the middle man, if you will, in these transactions, and they are the ones who had certain records that could be looked at.

One of the problems with many fraudulent schemes is the record-keeping is poor because they are not trying to keep records; they are just trying to rip people off. And it is often difficult later to identify who the victims are and know how much they lost.

But in this case, you had a payment processing company that essentially was making all of this happen for these sketchy, fraudulent entities.

Mr. ROTHFUS. How do you get from a fairly small settlement amount with GCS of \$1 million dollars to more than a \$100 million allocation to alleged victims?

Mr. CORDRAY. That is the beauty of the scheme, isn't it? So I am—

Mr. ROTHFUS. That is the beauty of whose scheme? You took \$1 million from GCS but you gave a whole \$100 million to consumers.

Mr. CORDRAY. Could I lay it out? You have a lot of rip-off artists, and they probably all talk to each other and they all realize they can use Global Client Solutions to sort of be their back office for them essentially.

Global Client Solutions doesn't have a lot of a lot of money—

Mr. ROTHFUS. But you got \$1 million dollars from GCS.

Mr. CORDRAY. —necessarily.

Mr. ROTHFUS. You got \$1 million dollars from GCS.

Mr. CORDRAY. Yes, I understand.

Mr. ROTHFUS. Is the CFPB a piggy bank?

Mr. CORDRAY. This is a good news story, if you give me a chance to tell it.

Mr. ROTHFUS. Is the CFPB a piggy bank?

Mr. CORDRAY. No. Global—

Mr. ROTHFUS. Would you be offended by a characterization of the CFPB as a piggy bank?

Mr. CORDRAY. No. What I would say is—

Mr. ROTHFUS. You would not be offended by the characterization of CFPB as a piggy bank?

Mr. CORDRAY. That is not a relevant question.

Mr. ROTHFUS. Well, it is. For the record, they are—the opponents are depicting the CFPB as a piggy bank.

Mr. CORDRAY. What I would say is this: All these people who were ripped off by these fraudulent artists never get their money back, expect that we can use the Civil Penalty Fund to get their money back—

Mr. ROTHFUS. Okay.

Mr. CORDRAY. —and we are getting it back for them.

Mr. ROTHFUS. We have requested records—

Mr. CORDRAY. That is a really good thing. Don't you want us to do that?

Mr. ROTHFUS. No, here. We have requested records relating to GCS from you months ago. Why has the CFPB been so reluctant to provide records to Congress about a major allocation, \$100 million dollars in funds?

Mr. CORDRAY. I don't know that we are reluctant to give records. I don't think we are. I would be happy to work with you to give you all the records you want.

Mr. ROTHFUS. We will continue to follow up with that because we haven't gotten the records we have requested.

Mr. CORDRAY. But this is a good news story. All these people who were ripped off—

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the gentleman from Minnesota, Mr. Ellison.

Mr. ELLISON. Please continue, Mr. Cordray.

Mr. CORDRAY. Okay. So you have people who were ripped off to the tune of \$109 million. Global Client Solutions was the mechanism for making that happen.

They never had \$109 million on hand. The only way to compensate these victims is to go to our Civil Penalty fund, and that is what we are doing.

That is good. That means people in your district may get money back that they got cheated out of. Isn't that a good thing? I think it is.

Thank you.

Mr. ELLISON. Mr. Cordray, there is a chart that has been flipping around up behind you and on the sides that says for every dollar that your agency gets there is \$4 returned to consumers. I think that Americans would say this is awesome, and a lot of Members of Congress would even say it is a great thing.

But I can see how some people wouldn't see that as good news because they might be looking at that money as money that could have been returned to some big financial interest and they are really upset because they are not getting that money that they could be getting.

So far I think you might have—your agencies returned what, \$11 billion-plus to consumers. Is that right?

Mr. CORDRAY. That is my understanding, yes.

Mr. ELLISON. So that is what I am talking about. For every \$1 spent funding the Consumer Bureau, more than \$4 is put back into consumers' pockets. And I think what we are really fighting about today is some people think, "Well, why should that money go back to regular Americans when it could be going into huge financial firms and be divided up in stock options or dividends or bonuses or whatever else?"

And I really believe that is what we are fighting about because I can't get 2008 out of my mind. I remember we had bedlam and pandemonium around here. There was a week when it looked as though the whole financial system might collapse.

I think that we had unemployment spiking in some areas as high as 15, 16 percent; maybe—I have heard as much as \$17 trillion in household wealth lost; banks going out of business; businesses

going out of business. All types of trouble going on all over the place, neighborhoods being hollowed out.

And yet, the level of outrage expressed against you is way higher than any derision that some of these companies that have ripped off people have ever had to experience.

I wish we would have had at least half of this umbrage and outrage directed at CitiMortgage, Wells Fargo, Experian, Navient, Equifax, TransUnion, MasterCard, and the list goes on.

But, I just think that for people watching this we need to know that much of what is happening is theater. It is not really about any of this stuff. It is about the CFPB helping regular people and diverting money into the pockets of ordinary working Americans rather than huge financial interests.

And I am just honored to be on your side, because I am with the people, because as Members of Congress we are supposed to be working in the public interest, not the private gain. That is not what Congress is supposed to do.

It is really shocking to read someone from this committee saying, "The CFPB has acted unlawfully, routinely denied market participants due process, and abused powers." Well, I am going to tell you there are a whole lot of companies that have acted unlawfully and routinely denied market access to regular working Americans. I don't see any hate being thrown on them.

And yet, here we go, an agency designed to really sort of correct injustice done to Americans being heaped with scorn left, right, and center.

Let me ask you this, sir: Do you believe that the CFPB is helping regular Americans? Is it rebalancing some of the imbalance that we have seen accruing in this economy?

Mr. CORDRAY. I know we are because that is what they tell us, and people who get helped on our compliant line and get problems resolved often come back and tell us about it and thank us for it. And I know that Congressional offices are sending us—referring us complaints, and we are helping work through those, and that is all a good thing.

The other thing I would say, when you say that the return on the investment is that we have gotten \$4 back to consumers, people out in the public, for every dollar spent on us, it is far more than that because that is what we got back to them for things that happened to them in the past. But in each of those instances we don't just look at what happened in the past; we stop them from doing it in the future.

So that means over the next period of time they are going to save that \$4 they otherwise would have lost and it is going to be on into perpetuity. That is a great return on investment. And I would hope that people who think in those terms would recognize the value of the Consumer Bureau and would look to support it, and I would hope to change minds. I always hope to change minds.

Mr. ELLISON. Mr. Cordray, I want to thank you for the work you are doing. I want to urge you not to be discouraged by the misbehavior you have seen, and I want to let you know you are doing a great service for the American people.

Chairman HENSARLING. The time of the gentleman has expired.



The Chair now recognizes the gentleman from Texas, Mr. Williams.

Mr. WILLIAMS. Thank you, Chairman Hensarling, and Director Cordray.

I am going to forego any opening remarks that I might have this afternoon and get right down to business.

Mr. CORDRAY. Okay.

Mr. WILLIAMS. I think you know by now that I am still a car dealer in Texas.

Mr. CORDRAY. I didn't know you still were, but I knew you had that extensive background, yes.

Mr. WILLIAMS. There you go.

Mr. CORDRAY. A very successful one is what I hear.

Mr. WILLIAMS. Thank you. We have talked about this numerous times.

After listening to some of the testimony today I am kind of starting to think you don't have much respect for my profession. I will get back to that.

Mr. CORDRAY. I would be glad to—

Mr. WILLIAMS. Let me make two quick comments on statements you previously made today really quickly.

You said there are no protection on prepaid cards. Well, that is false. All funds are stored at bank partner institutions and all major prepaid providers have Reg E protections.

And then you said the rule is about leveling the playing field. Then why create a different regulatory regime on overdraft for prepaid cards than checking accounts?

So I don't need a comment. That was a statement from me.

Mr. CORDRAY. I would like to make one if I could, just briefly.

Mr. WILLIAMS. Well, let me move on, if we have time.

Mr. CORDRAY. Okay.

Mr. WILLIAMS. Let me start by sharing with you some complaints on prepaid cards. Kimberly in Austin, Texas, says, "I chose my prepaid card and I believe I should have the right to decide to use services like overdraft protection for a purchase cushion. Please make sure the final CFPB rules allow me to choose features that are best for me."

Kathy in Burnet, Texas: "My prepaid card is just that. It is mine. The government needs to stop trying to control everything and everybody. Our country sure is turning its back on its people."

And then there is Christine in Joshua, Texas: "Overdraft is needed to help me get through paycheck to paycheck."

And then Sharon in Lampasas, Texas, says, "Why is the Federal Government getting involved in my personal banking decisions?"

And finally, Randall in Cleburne, Texas, who simply says, "Leave my card alone."

So actually, these are not complaints about what the card does; it is about what you are doing.

And so I believe—

Mr. CORDRAY. Could I—

Mr. WILLIAMS. No, let me say this, and we have a lot of comments from those kind of people. In fact, let me just show you right here. I have all these are comments just like the ones you just heard from, from hardworking Americans who have actually bene-

fited from prepaid cards, and they should sound familiar to you. These comments were filed during the rulemaking process.

But apparently you didn't listen to them when you created your one-size-fits-all rule on prepaid accounts, or the 67 million Americans who have turned to prepaid cards or accounts to manage their day-to-day financial needs. This rule doesn't solve a problem; it just creates a big problem.

But let's for a second go back to those—

Mr. CORDRAY. Could I have a word or not?

Mr. WILLIAMS. Let me finish and then you can.

Mr. CORDRAY. Okay.

Mr. WILLIAMS. I have some questions for you.

But let's for a second go back to those complaints. From 2011 to 2016 in October, before this massive 1,700-page rule was issued, approximately 1 million complaints—we talked about that—were received by the CFPB.

Of those 1 million complaints 6,000 had to do with prepaid cards. So that is just 0.6 percent. Of those 6,000 complaints just 1 percent of those received were related to overdraft, which represents 0.006 percent. Additionally, only 3 percent of prepaid complaints were related to advertising, marketing, or disclosures, which represent just 0.018 percent of all complaints.

So you can see from this chart we have up here—or maybe you can't see it, we have up on the screen—disclosure complaints and overdraft complaints are almost invisible.

I have a few questions, and these are yes-or-no questions.

Mr. CORDRAY. I would like to have a chance just to have a word on a few of the things that—

Mr. WILLIAMS. Okay. Let me start here by asking yes or no.

Did the CFPB base the prepaid rule off complaints received?

Mr. CORDRAY. The CFPB based it off—

Mr. WILLIAMS. Was that yes or no?

Mr. CORDRAY. You said before that prepaid issues are already covered by Reg E. They are not. Banks are covered by Reg E, but prepaid issues are not—

Mr. WILLIAMS. So is that a yes or a no?

Mr. CORDRAY. —and a big part of this rulemaking was putting them on a level playing field.

Mr. WILLIAMS. Yes or no?

Mr. CORDRAY. So that is what it was responding to.

Mr. WILLIAMS. Okay.

Did you consider the thousands of positive comments you received from prepaid customers around the country?

Mr. CORDRAY. Absolutely we did, yes.

Mr. WILLIAMS. Yes or no, did the CFPB conduct a field study? Did you study consumer attitudes on overdraft, specifically those who actually use that feature?

Mr. CORDRAY. I don't recall offhand all the things that were covered in any field study, but we would be glad to get back to you on that.

Mr. WILLIAMS. All right.

And I am sure that you noticed, Director Cordray, I have introduced a CRA that would pull back on this disastrous rule. And I notice as Congressman Tipton will say, the Bureau has attempted

to distract Congress from doing their work by delaying the rule by 6 months. You talked about that.

Mr. CORDRAY. No. That is not—

Mr. WILLIAMS. I am here today to tell you that I am not going to be distracted. This is wrong. I will continue to fight for those who live on a thin economic margin. I will fight for the mother who needs an extra \$25 a day to buy food for the week and the family who needs \$100 for a simple car repair.

In the end, one way or another, those consumers will be heard.

So going back to auto lending quickly, I have a form right here that the CFPB and the DOJ sent out to customers they felt were discriminated against when purchasing a car, so I want to ask you a quick question here about that.

Yes or no, can the Bureau decide if someone has been discriminated against based on an account number?

Mr. CORDRAY. Based on an account number?

Mr. WILLIAMS. Yes.

Mr. CORDRAY. No.

Mr. WILLIAMS. Okay. Can the Bureau decide—okay.

Mr. Chairman, my time is out. I yield back.

Mr. CORDRAY. Could I just have a word, please. Kind of a point of privilege, if I could, just because the suggestion was that I don't have respect for car dealers. That is wrong, and if you talk to my friends and the Ohio auto dealers—

Chairman HENSARLING. Sorry. There is no point of privilege for the witness, but there is—

Mr. CORDRAY. Okay. That is fine.

Chairman HENSARLING. Mr. Director, there is another Member on this side of the aisle whom I suspect may be willing to give you some time.

The Chair now recognizes the gentleman from Florida, Mr. Crist.

Mr. CRIST. Thank you, Mr. Chairman.

Did you need some time?

Mr. CORDRAY. Thirty seconds?

Mr. CRIST. Go right ahead.

Mr. CORDRAY. Congressman Williams, I have a lot of respect for auto dealers. I worked with them closely in Ohio when I was Ohio attorney general.

We went through the financial crisis and a lot of them were teetering; we went through the GM bankruptcy; we went through the Chrysler bankruptcy. There were a lot of dealers who were going to lose their dealerships and I fought for extra arbitration to get a lot of them saved.

The auto dealers know the work I did on their behalf. I worked closer to them in handling complaints, gave them a chance to handle them before we took any actions against them.

So you can talk to my friends in Ohio and they would tell you that I do have respect for you and your profession and all of them. That doesn't mean we don't have a job to do here, and I try to do it faithfully.

And the final point on the prepaid rule is that it is often misdescribed as a 1,700-page rule. That is not correct.

Look in the Federal Register. It is 26 pages of rule. Six of those pages are forms that are model forms to follow. So it is just—I don't want that to be misdescribed.

Thank you.

Mr. CRIST. Thank you.

First I want to thank you, Mr. Chairman. I appreciate your kindness.

I also want to thank Ranking Member Waters for bringing us together for this important hearing today.

And I want to thank you, Director. I have only been a Member of Congress for about 3 months now, and my observation is that you might be one of the most disliked people in Washington, D.C., by the Majority, the new Administration, lobbyists, money-changers, foreclosure artists, and anyone who is in the business of taking a buck from the poor and working families, the people who can least afford it.

I hope that you wear that with pride, sir, because I am proud of you and your hard work and your moral compass. People of this country are continuing to go through a difficult time and what you and your department do is very important to them.

As a former attorney general myself, I understand being a consumer advocate and fighting for them. But for somebody like you in the position you have, that doesn't happen.

When I was Governor of Florida, Tallahassee didn't like me a whole lot either. But that is okay because the Constitution says that we are a government of the people, by the people, and for the people.

And so when I would meet people at a Publix department store in my State, or at the local CVS, or at a McDonalds, which I really don't go to, but more so a Subway—turkey on whole wheat—they talk to you because you are in their comfort zone. And it is important, I think, to do that to stay in touch with them and understand what is of importance to them and their families.

All of us would do well to remember that Jesus threw the money-changers out of the temple, not the other way around.

On that note, I want to talk about small businesses, particularly minority- and women-owned small businesses in my district, which is my hometown of St. Petersburg, Florida, but also includes Clearwater and Pinellas Park and Redington Shores and about 26 municipalities, believe it or not.

Traveling around where I grew up in south St. Petersburg in particular, it is a predominately minority area. Last fall I heard a similar refrain every day: Mom-and-pop businesses could not get access to traditional capital.

If small business lending is restricted in the primarily Black neighborhood in my district, that is a problem and it needs to be fixed. Its impact in a community that is very important to me, it is a disparate impact.

And by the grace of God I got on this committee, and this committee has the opportunity in one way or another to give those people, whom I love and I work for—they pay me to represent them. And that is one thing I love about this job, that your title is also what you do. You represent.

And this is not just an economic issue. It is an economically developing area and it is an issue of fairness, frankly. And I know you know that.

A Black barber shop shouldn't have to go to a payday lender to finance payroll and operations. But over and over again during the course of last fall I heard stories from people like a Black barber shop owner. He wanted to expand, and every institution he went to told him, "no."

And the same thing happened to a small restaurant owner in the African-American part of St. Petersburg, Florida. They wanted to expand and grow and provide more jobs and be entrepreneurial, and every time they went to a bank, the bank said, "no."

So I guess my question is—

Chairman HENSARLING. The time of the gentleman from Florida has expired.

For what purpose does the gentleman from Georgia seek recognition?

Mr. SCOTT. Mr. Chairman, I have a unanimous consent request that these two letters I have here be made a part of the hearing record: one from the Main Street Alliance on the ways that Dodd-Frank and the CFPB—

Chairman HENSARLING. Without objection, it is so ordered.

Mr. SCOTT. Thank you.

Chairman HENSARLING. The Chair now recognizes the gentleman from Maine, Mr. Poliquin.

Mr. POLIQUIN. Thank you very much, Mr. Chairman.

And thank you, Mr. Cordray, for being here.

Mr. Cordray, your Acting Deputy Director, David Silberman, has had direct coordination with special interest groups outside your Bureau to develop the payday lending rule. I am very concerned about any kind of cozy relationship that your people have with outside special interest groups to make rules that you folks are supposed to make. I am sure you probably share that same concern.

Mr. CORDRAY. Yes. That is not right. That is not a fair description.

Mr. POLIQUIN. No, that is not what the e-mails show us, sir. There is a direct coordination between your staff—in particular Mr. Silberman—and outside groups.

Mr. CORDRAY. We are broadly accessible to all sides.

Mr. POLIQUIN. I want to move on, sir.

That is what the record shows. That is what the e-mails show from the FOIA request that we have here at the committee.

Mr. CORDRAY. All right.

Mr. POLIQUIN. Now, you have a law degree, sir. You are an attorney, correct?

Mr. CORDRAY. Say that again?

Mr. POLIQUIN. You are an attorney, correct? You have a law degree?

Mr. CORDRAY. I am. I haven't practiced law in some time.

Mr. POLIQUIN. Okay. So I am sure you are aware of the Federal Records Act that bars any Federal Government employee from using a private electronic device, a communication device like a cell phone or e-mail or a text, to conduct official business unless within

20 days the reporting of that communication is then housed in an official platform.

You are aware of that law, sir?

Mr. CORDRAY. I am aware of that law.

Mr. POLIQUIN. Okay, good. All right.

Now let's talk a little bit about this. Through freedom of information requests we know that you and about a dozen of your senior managers at the CFPB have, in fact, conducted communication on private devices to conduct official business, which circumvents the law unless, again, sir, unless you have reported this and it is on—filed on an official government platform.

Can you guarantee to us right now that, in fact, you have complied with the law and you have done everything you said you can—

Mr. CORDRAY. Yes, this is a trumped-up issue brought about by some special interest groups that made a request. You can look at the records of the Bureau and find that our government business is conducted on the Bureau's—

Mr. POLIQUIN. Can you guarantee—

Mr. CORDRAY. Just let me, if I would—this is a personal issue you are raising—

Mr. POLIQUIN. I want a yes-or-no answer, Mr. Cordray.

Mr. CORDRAY. —and I would like to have a chance to respond.

Mr. POLIQUIN. Yes or no, can you guarantee that neither you nor anybody at the CFPB has used personal communication devices—text, e-mail, cell phones—and have fully complied with the Federal Records Act? Yes or no?

Mr. CORDRAY. So again, this is a trumped-up issue—

Mr. POLIQUIN. Yes or no? Yes or—

Mr. CORDRAY. —and if you look at the records you will find that if there were ever incidental—if there were incidental—

Mr. POLIQUIN. Reclaiming my time, sir—

Mr. CORDRAY. I would like to have a—you are making accusations and I think I should have a chance to respond to them.

Mr. Chairman?

Chairman HENSARLING. The time belongs—

Mr. CORDRAY. Do I have a chance to respond to these personal accusations?

Chairman HENSARLING. The time belongs to the gentleman from Maine.

Mr. POLIQUIN. Thank you, Mr. Chairman.

If this accusation is false, can you guarantee us that you have complied with the law and the folks who work for you complied with the law with respect to the issue I just mentioned? Yes or no?

Mr. CORDRAY. Again, this is a totally trumped-up issue.

Mr. POLIQUIN. Can you—

Mr. CORDRAY. If there were ever incidental instances—

Mr. POLIQUIN. I am going to assume—

Mr. CORDRAY. —where a device was used because maybe the government Blackberry was—the battery was dead or something of that kind—

Mr. POLIQUIN. Reclaiming my time, Mr. Chairman.

Mr. CORDRAY. —and not to conduct government business in any substantive way. That is a—

Chairman HENSARLING. The time belongs to the gentleman from Maine.

Mr. POLIQUIN. Mr. Chairman, if you could reset the clock, please, for another minute or so, because the—

Chairman HENSARLING. The gentleman from Maine may proceed.

Mr. POLIQUIN. Mr. Cordray, do you still use a private cell phone or e-mail to conduct outside business?

Mr. CORDRAY. I think it is unfair and inaccurate to say that—

Mr. POLIQUIN. Sir—

Mr. CORDRAY. —using a private device to conduct government business.

Mr. POLIQUIN. Do you still use—

Mr. CORDRAY. There have been incidental instances where perhaps the government Blackberry was—the battery was dead or it was unavailable for some reason—

Mr. POLIQUIN. So you confirm that, in fact—

Mr. CORDRAY. And it is not to conduct—

Mr. POLIQUIN. —you were using private e-mail communication devices—

Mr. CORDRAY. What government business was conducted? Tell me what government business was conducted.

Mr. POLIQUIN. Thank you for—

Mr. CORDRAY. Tell me what government business was conducted.

Mr. POLIQUIN. Now, my next question is you are probably aware that this committee and also folks on the Oversight and Investigations Subcommittee here, and Jim Jordan and Jason Chaffetz, who work in another part of government, have sent you a letter asking you for all of the e-mails and phone messages that you have used—and you just confirmed, thank you—that you have used on a—

Mr. CORDRAY. No, I didn't confirm that.

Mr. POLIQUIN. —on a private—

Mr. CORDRAY. This is a—

Mr. POLIQUIN. —on a private communication device. Are you fully in compliance with this letter? Are you going to comply to this letter?

Mr. CORDRAY. We—

Mr. POLIQUIN. The request in this letter?

Mr. CORDRAY. We respond to all requests, and we will.

Mr. POLIQUIN. Well, when will you—

Mr. CORDRAY. But this is a trumped-up issue. I have been in this job for more than 5 years, and I conduct all kinds of government business all the time. It is all on the system.

There may be incidental instances where—

Mr. POLIQUIN. Okay, so you are—

Mr. CORDRAY. —where a Blackberry was dead so a communication was made, but it wasn't to conduct government business. And I would like to know from you what government business was conducted. You seem to think that you have something.

Mr. POLIQUIN. —all the private communication you have had—

Mr. CORDRAY. What was it?

Mr. POLIQUIN. —for government business based on the answer you have given us today sir so you are on the record that you have made sure that all this communication is fully housed on a government, official platform. I am considering that as a yes.

Mr. CORDRAY. We understand the Government Records Act and we make every effort to fully comply with it.

Mr. POLIQUIN. Do you know what the problem is? We have—

Mr. CORDRAY. —and that anything else is just a character assassination, and that is what it is.

Mr. POLIQUIN. Mr. Chairman, here is the problem. Here is the problem. There is no character assassination here.

Mr. CORDRAY. Yes, it is.

Mr. POLIQUIN. Here is the problem though, Mr. Cordray: You have a 5-year—

Chairman HENSARLING. The time—

Mr. POLIQUIN. —appointment from the President.

Chairman HENSARLING. The time of the gentleman—

Mr. POLIQUIN. You don't report to anybody. We don't appropriate any money to you.

We come here and ask questions and you tell us to go pound sand.

Mr. CORDRAY. No, I don't tell you to pound sand.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from New Jersey, Mr. Gottheimer.

Mr. GOTTHEIMER. Thank you, Mr. Chairman.

Director, in February the Consumer Bureau filed a lawsuit against RD Legal Funding for allegedly scamming 9/11 heroes out of money intending to cover medical costs, lost income, and other critical needs. Can you please elaborate on the consumer fraud the Bureau found in this instance?

Thank you.

Mr. CORDRAY. It is kind of disgusting just as you told the story that briefly, isn't it?

So you have a company that engages in structured settlements that targeted responders—first responders to the 9/11 attack, who ended up getting money from the Federal Government. And the structured settlement company went after them and offered them loans that we feel were misleading and deceptive and unfair and violated the law.

They did the same with NFL players who were concussion victims and got some sort of a settlement or some sort of pot of money available to them, so that attracts—it is like honey; it attracts the flies.

And we have brought an action to pursue relief for those consumers to make sure that they are restored the money that was, we think, wrongfully taken from them and that these practices are cleaned up and stopped for good.

And in that case—some cases we work on our own; some cases we work with partners. We have heard about the Wells Fargo case where we worked with partners. Here we are working with the New York Attorney General's Office and having a very productive investigation of those issues.

Mr. GOTTHEIMER. Thank you very much.

Mr. Chairman, I yield back.

Chairman HENSARLING. The gentleman yields back.

The Chair now recognizes the gentleman from Colorado, Mr. Tip-ton.



Mr. TIPTON. Thank you, Mr. Chairman.

Director Cordray, I agree with the decision to be able to delay by 6 months the prepaid card rule. And in fact, we have introduced legislation to be able to delay that actually for a year moving forward—

Mr. CORDRAY. Yes.

Mr. TIPTON. —because of the potential problems with the rule.

But in dealing with this, as part of the announcement the Bureau said that it will be evaluating concerns with substantive aspects to it. You had mentioned in earlier questioning in regards to digital wallets as substantive aspects of it. Were there any others?

Mr. CORDRAY. So these are illustrative. What happens when we finalize a rule is, the market doesn't stay still and things—

Mr. TIPTON. Right. I am just seeking, what are the other aspects that you—

Mr. CORDRAY. I am just saying things can change, and we stay in close touch with the industry because we are helping them implement the rule. So we hear a lot even after a rule is finalized.

Here, the linking of credit cards into digital wallets is one of the things we have heard enough about to recognize that we should consider proposing an invention.

The other one that I mentioned had to do with error resolution for prepaid cards that have not been registered, which is causing some concern, and I think some of the companies that didn't fully realize it beforehand are realizing now that—

Mr. TIPTON. I'm sorry, I have limited time.

Mr. CORDRAY. I'm sorry.

Mr. TIPTON. What other one—aspects—

Mr. CORDRAY. And there could be others, depending on what we are hearing and seeing as we go.

Mr. TIPTON. Okay.

Earlier when you were talking to Congressman Sherman in regards to the rulemaking process you had mentioned, and we wrote it down, "I want to be able to move as fast as possible."

Director Cordray, the American Action Forum said that the average CFPB rule takes 197 days to be able to complete. The median rulemaking pace, that is 3½ times faster than other executive agencies.

Do you believe that the Bureau can complete a thorough analysis of public comments and concerns in that timeframe, given that you are accelerating it?

Mr. CORDRAY. It depends on the rule. Some rules are fairly straightforward and can be done very quickly; many of them are not straightforward at all.

And I heard the chairman loud and clear earlier saying he wants us to move faster on the 1071 small business lending rule, which he thinks that we haven't gone fast enough on.

So, sometimes we are too fast, sometimes we are too slow. Some rules are harder, some rules are easier. Those are the kind of considerations that affect this. Averages tell you something, but they don't really capture all the—

Mr. TIPTON. But you are comfortable that you are doing it in a sensible way?

Mr. CORDRAY. I know we are trying to do all of our rulemaking in a sensible way. I will say that we have finalized—

Mr. TIPTON. All right.

Mr. CORDRAY. —a number of rules and sometimes had to go back and rework them, and the rural was an example and we had to rework it twice, so—

Mr. TIPTON. I find it interesting, because you hold—and there are certainly an appropriate areas to be able to do that accountability, transparency—

Mr. CORDRAY. Yes.

Mr. TIPTON. —in terms of the process. However, the American Action Forum also noted that you have issued 13 corrections on 49 rules that they have sampled. This is a 25 percent error rate effectively, and going.

In the private sector, would you be happy with a 25 percent error rate when you were moving forward with rules and trying to be able to enforce them?

Mr. CORDRAY. Again, I think “error rate” is too strong a term because, as I said, there are things that can change even after rule-making is finalized. Should we refuse to recognize that we need to make a change just to be stubborn and just to have pride of authorship?

I think it is a good thing that when we learn more that we are willing to go back in and change things to try to get it right. If we had stubbornly stood on the first definition of “rural,” people would still be complaining about it and we would be hurting people and it wouldn’t have come out right.

To fix that once and then twice is a good thing, but that would sound like an error rate.

Mr. TIPTON. We now actually have court cases where you have been overruled. We just had a North Dakota case. I think you are well aware that the courts have ruled against your standing on a variety of cases that have been moving—

Mr. CORDRAY. I know we have two cases where—two or three cases now where courts have ruled against us on various things, and a couple of those are on appeal. But we don’t get everything right. We are not going to get everything right—but we do—we try to be very careful. Sometimes, you have the hard issues and courts disagree with you. That happens.

Mr. TIPTON. I am kind of curious. You have had, as you had noted, I think it was over 1.3 million public comments on the proposed rule on small-dollar loans.

Mr. CORDRAY. That is pretty much a record, I think, yes.

Mr. TIPTON. It is. And you said on both sides of it. How are you weighting those?

Mr. CORDRAY. How are we weighting those?

Mr. TIPTON. Or are they weighted?

Mr. CORDRAY. Well, no, I think we always—it is not just numbers of comments; it is what they have to say.

We are supposed to take them on the merits and think about what they say on the merits, although I do think numbers of comments can show intensity around an issue, which is a little different from just what is said about the issue. So I think all of that comes into play.

And if you have other thoughts about how we should handle it, I would be glad to hear them because it is a hard issue. You get constituent calls, right? And you get them on both sides of issues and then you try to weigh them and figure out what is the right thing—

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from Utah, Mrs. Love.

Mrs. LOVE. Thank you, Mr. Chairman.

And thank you, Director Cordray, for being here today.

I would like to talk a little bit about checks and balances. I believe, especially in today's environment, we need to do everything we possibly can to make sure we have checks and balances so that the American people aren't subject to the political environment.

So what I would like to explore is the extent to which the Bureau is subject to them or not subject to them. So it is often noted that one of the few checks and balances on the Bureau is in the hands of the Financial Stability Oversight Council (FSOC). And FSOC can, in fact, veto final regulations promulgated by the Bureau, is that correct?

Mr. CORDRAY. That is my understanding of the statute. There are grounds on which they are supposed to do that—

Mrs. LOVE. I have a couple of things. I will go through that. Okay.

Mr. CORDRAY. That is fine, yes.

Mrs. LOVE. Can FSOC veto enforcement actions? Yes or no?

Mr. CORDRAY. I don't believe the statute provides for that—

Mrs. LOVE. Okay. Can FSOC veto supervisory actions even if they find them invasive, harassing, or unnecessary?

Mr. CORDRAY. Again, maybe we can short circuit this. I believe FSOC, under their statute—

Mrs. LOVE. No.

Mr. CORDRAY. —has the ability to veto—

Mrs. LOVE. No. Yes or no?

Mr. CORDRAY. —regulations on specific—

Mrs. LOVE. Yes or no, can they super—can they veto supervise—we are just going to go through this. Can FSOC veto investigations even if they find those investigations to be arbitrary, harassing, or unnecessary? Can they veto your investigations? Yes or no?

Mr. CORDRAY. They can't do a lot of things. They can do—

Mrs. LOVE. Okay. Can FSOC veto the Bureau's guidance? If they find those guidance to be repetitive, unnecessary, can they veto those?

Mr. CORDRAY. We can keep going through this if you want.

Mrs. LOVE. No, okay. That is okay.

Mr. CORDRAY. I am not sure where this—

Mrs. LOVE. Is there anything that FSOC could veto, other than your final regulations?

Mr. CORDRAY. So the FSOC has the ability under the statute, as I said—it is repetitive here, but—

Mrs. LOVE. I am about to get there—

Mr. CORDRAY. —to veto rules on specific statutory grounds—

Mrs. LOVE. Can they veto—

Sir, you might find that you agree with me later. We will get there. And if you—okay?

So the only thing FSOC can veto are final regulations, and FSOC can't veto—issue a veto unless the regulations would put the safety and the soundness of the United States banking system or the stability of the financial system of the United States at risk?

Mr. CORDRAY. That is what Congress did in the law.

Mrs. LOVE. I understand.

Mr. CORDRAY. I didn't do it. Congress did it.

Mrs. LOVE. Yes. I got it.

So that sets the bar extraordinarily high for FSOC to take action. Has FSOC ever vetoed any action the Bureau has taken?

Mr. CORDRAY. I would like to think that we would never put the FSOC in the—

Mrs. LOVE. Have they done it?

Mr. CORDRAY. —position of having to do that.

Mrs. LOVE. Have they done it?

Mr. CORDRAY. So they have not—

Mrs. LOVE. Okay. That is it.

Mr. CORDRAY. —they have not had to do that because we haven't gone afoul of it.

Mrs. LOVE. So let me get me this straight.

So, for instance, if any of these young men and women behind you decide that they are going to be part of an institution, a banking institution in their community, or better yet, they decide that they are going to—they have their own business that they have put all of their money into, that they have exhausted all of their savings and they want to be able to go to a banking institution to expand or get credit, whether it is to get a car or whether it is to expand their business or whether it is to get a mortgage. And their institution is being investigated, supervised, fined by the CFPB, they have nowhere to turn unless the final rules find that they are taking down the entire financial system of the United States Government.

Mr. CORDRAY. I am not really—

Mrs. LOVE. What is their recourse?

Mr. CORDRAY. I am not really following you. First of all, we don't have—

Mrs. LOVE. What is their recourse?

Mr. CORDRAY. —the ability to fine or enforce against any community banks or credit unions.

Mrs. LOVE. Okay, so you have no ability to fine or investigate any financial institutions in—

Mr. CORDRAY. Community banks or credit unions, that is correct. Community banks or credit unions of under \$10 million.

Mrs. LOVE. So what you do does not affect the American people and their ability to get credit?

Mr. CORDRAY. No, that doesn't follow from that question.

Mrs. LOVE. Okay.

Mr. CORDRAY. But what I was saying is we don't have the ability to fine or enforce against thousands of community banks and credit unions.

Mrs. LOVE. What I am trying to say is that the ability—you have to understand that what the Bureau does actually affects the ability of the American people to get access to credit to be able to go out and achieve their dreams.

Here is what I am trying to say. The American people should be concerned—

Mr. CORDRAY. And to be able to access responsible credit so that they aren't being victimized by predatory lenders.

Mrs. LOVE. —should be concerned, Director Cordray—

Mr. CORDRAY. Yes.

Mrs. LOVE. Just to take you out of the picture, for instance, and let's think about this current President actually putting somebody else in your position. Think about that.

And I think everybody else should think about that also, whether they are happy or not, right?

Mr. CORDRAY. I have thought about that.

Mrs. LOVE. Listen, should the American people not be concerned that your agency can spend hundreds of millions of dollars each year, employ 1,500 Federal bureaucrats who have the power to directly impact the personal finances of every single American, and yet, unlike any other Federal agency, is not accountable to anyone?

Mr. CORDRAY. I don't think we are unlike other Federal agencies.

Mrs. LOVE. Well—

Mr. CORDRAY. Everything people have said about us—

Mrs. LOVE. No, you even mentioned that you are able—you enjoy more unilateral authority—

Mr. CORDRAY. Not true.

Mrs. LOVE. —than other offices and you—

Mr. CORDRAY. Not true.

Mrs. LOVE. —take that responsibility very seriously.

Mr. CORDRAY. It is not true.

Mrs. LOVE. Who is to protect the consumer from the Director of the Consumer Financial Protection Bureau?

Mr. CORDRAY. That is just not true. I am no different from the Federal Reserve or the FDIC—

Chairman HENSARLING. The time of the gentlelady—

Mr. CORDRAY. Tell me how I am different.

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair wishes to inform Members that there is currently a vote pending on the Floor. We will call upon one more Member, Mr. Hill of Arkansas, and recess, after which we will immediately reconvene, and next in the queue will be Mr. Zeldin and Mr. Trott.

The Chair now yields to the gentleman from Arkansas, Mr. Hill.

Mr. HILL. I thank the chairman.

And I thank the Director for being with us today.

Mr. Cordray, I have heard from a number of community banks across my State of Arkansas that no single mortgage regulation has been more vexing than complying with TRID, also known as the “know before you owe” disclosures regulation.

The regulation included 1,888 pages. In your testimony this morning you assert that the Bureau writes clear rules of the road, and in your report you also noted that—

Mr. CORDRAY. I would say we try to write clear rules of the road. We may not always succeed, yes.

Mr. HILL. Your report that you released today also says that you, under the revised “know before you owe” rule, attempt to ensure smooth and on-time closings. But in addition to hearing from the

community bankers, I have also heard from consumers that it has been delays, frustration, and increased costs.

And one issue I noted is this issue of the disclosures themselves. So a basic disclosure regulation of this sort might have a question that the Bureau attempts to ask, "Does the rule require both the consumer and the seller to receive a closing disclosure?"

And to receive an answer to this question a community bank must go to the Bureau's website, which I have on the screen, click the question index link, which leads you to a webpage that says, "Thank you for visiting the ConsumerFinance.gov. You are now leaving the CFPB Web server."

The user then downloads an 11-page document called the TILA-RESPA Integrated Disclosure Rule Webinar Index. I will note that this document does not appear to be on the CFPB letterhead and uses an entirely different font and scheme.

Having done this, the user must find the heading on page six that says, "Closing disclosure general questions." Click another link, apparently, and then find question 12, which is 38 minutes and 37 seconds into a recording of a webinar that was conducted on April 12, 2016.

But before the user can get the answer to this most basic question and view the recording on the webinar, they must enter their name, company, city, State, telephone number, and e-mail. If the user is a bank, savings, loan, or credit union, they must answer three questions about their institution in order to get the answer to this basic question, "Does the rule require both the consumer and the seller to receive a closing statement?"

So you see where I am going here. Would you say this sounds like clear rules of the road?

Mr. CORDRAY. I would say that if what you just said is all correct, I would say that that doesn't sound as user-friendly as either you or I would like it to be, does it?

Mr. HILL. I agree, Mr. Director.

And, I really think, why can't the CFPB just issue written guidance and rule interpretations like the Internal Revenue Service or the SEC or the IRS does? The GAO has an excellent report on how to seek written answers and get written guidance from the agency, and to me that is a more clear way to this.

Webinars are not legally binding. They are not really that helpful to compliance departments or general counsels.

But let me move on. I think I have—

Mr. CORDRAY. Although, I would just say—

Mr. HILL. Yes.

Mr. CORDRAY. —if we write things down more people criticize how many pages of stuff there is and—

Mr. HILL. No, but it is a—I got that, but you know through the commission and over at the IRS—

Mr. CORDRAY. But everybody wants something to be written down, and once you total it all up it is a lot of stuff for people to read. It is just a comment—

Mr. HILL. Yes. I understand.

When did the TRID rule become effective, Mr. Director?

Mr. CORDRAY. I believe it became effective in—I am confusing this a bit, maybe October of 2015?

Mr. HILL. And do you know—do you remember what the original effective date was to be?

Mr. CORDRAY. I think it was going to be June, maybe, of 2015, and we backed it up a little?

Mr. HILL. It was August 1, 2015.

Mr. CORDRAY. Okay.

Mr. HILL. But do you know the reason why it was delayed those 2 months to October 3, 2015?

Mr. CORDRAY. Yes, I know why it was delayed. It would have had to be delayed about 10 days because the Bureau didn't file one—a piece of paperwork it should have filed with the Congress, and we then decided if we were going to back it up anyway we might as well back it up a ways into the school year because that would help the industry on their compliance, and I understand that it did.

Mr. HILL. You are correct that it was delayed 2 months because you failed to file the Congressional Review Act.

Mr. CORDRAY. It didn't have to be 2 months. It would have had to have been like 2 weeks, but we made it 2 months to give people a little more time, which they—

Mr. HILL. What would be the consequences of a banker or a title agency that didn't follow the disclosure process?

Mr. CORDRAY. We said for the first prolonged period that we were only going to be interested in efforts—substantial efforts in good faith to comply with the rule. And so in an individual instance or even a few instances of noncompliance, we talked to the other agencies and thought that the right answer would be just to help them correct that and not to make a big deal out of it.

Mr. HILL. My time has expired, Mr. Chairman. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

Once again, votes are pending on the Floor. The committee will now recess. Pending completion of votes on the Floor, the committee stands in recess.

[recess]

Mr. LUETKEMEYER [presiding]. Okay, we will call the hearing back to order. We will be respectful of the Director's time here, and we do have a number of Members who have returned.

So again, we appreciate the indulgence of the Director as well as other members here.

At this point we are going to recognize the gentleman from Washington, Mr. Heck, for 5 minutes.

Mr. HECK. I thank you, Mr. Chairman, very much.

Mr. Cordray, thanks so much for being here.

Mr. CORDRAY. Sure.

Mr. HECK. The testimony earlier in the day reminded me of a conclusion I had come to quite some time ago about what the best thing that could conceivably happen to Congress would be, and it would be this: fewer adjectives, more nouns; fewer decibels, more listening. So I am going to endeavor to listen.

I want to first provide you an opportunity maybe to follow up on Mr. Lynch's line of questioning. Members of this committee represent in the aggregate an incredible number of servicemembers at the following bases: White Sands, Fort Hood, Patrick Air Force Base, Nellis Air Force Base, and of course my very favorite, Joint Base Lewis-McChord, which I have the privilege to represent.

So I did, because you seemed pretty rushed at the end of that discussion about what it is that the Servicemembers Affairs Office is doing, provide you with an opportunity to expand, if you have anything at all to add to it. And I just have one other question.

Mr. CORDRAY. Yes. Thank you. And I am appreciative of the chance to talk about this.

I think there were high-ranking officials from each of the services who testified recently in the Senate about how helpful it has been for them, since they are really focused on how to do the job the military, to have the CFBP work with them to make sure that in terms of readiness the servicemembers feel supported and protected on that front so that they are not consumed with that kind of anxiety, and so that is quite important.

And we are looking at the entire life cycle for the military, from going into the service to begin with, to coming back out, transitioning into society, and issues involving families, as well. So these are all part of our focus.

Some of the curriculum that we have worked on with the Department of Defense is now being incorporated as a standard matter into some of the training and readiness work that they are doing, and it is just a great thing.

And I am quite confident that Paul Kantwill, who has now taken over this position, is a great person to show the leadership in succeeding Ms. Petraeus, who was a truly great leader, and that we won't miss a beat on that front, so—

Mr. HECK. Thank you.

And my acknowledgment to Holly, who did, I thought, a spectacular job.

So one of the aspects of the standing of the Consumer Financial Protection Bureau that I always found appealing was its effort in effect to level the playing field between financial institutions and nonbank institutions so that theoretically they could compete on a more even footing in the marketplace on the basis of their innovation and their efficiency and the like. We don't ever seem to talk about that in here, and I am just interested in your reflections several years later about the degree in which you think we are making progress in that regard.

Mr. CORDRAY. Yes. Actually it is a great point and it gets lost a little bit, but one of the things that was done with the CFPB was we are supposed to try to put the banks on a level with the nonbank financial companies that often compete against them in same markets, such as mortgage lending, mortgage servicing, auto lending, a number of others. And we have been working to do that from the beginning.

And that is unique to this agency. Nobody was in a position to do this before because the banking agencies deal with the banks, and the NCUA with credit unions, and then other agencies, including the Department of Justice, have dealt with everybody else.

And you want them to be supervised in the same way, subject to the same standards and the same expectations. If not, some of that falls back to the State level where there is some very good work done but it can be uneven depending on different State laws or different State authorities or State resources.



And so we work closely with the States, but for us to try to make that playing field level is an important thing. And the way I say it is if you only regulate part of a marketplace and leave part of it unregulated it is going to be a recipe for failure because a lot of things are going to gravitate to that end that is not under the same microscope.

Plus, it is unfair to these financial companies. They should be competing on the level, and we are trying to make that happen more and more.

Mr. HECK. Thank you, sir.

Mr. Chairman, with that, I yield back the balance of my time.

Mr. LUETKEMEYER. The gentleman yields back.

Next we go to the gentleman from New York, Mr. Zeldin, who is recognized for 5 minutes.

Mr. ZELDIN. Thank you, Mr. Chairman.

Director Corday, we have asked you before about the Bureau's \$200 million expenditure on wasteful renovations to a headquarters building it does not own. But one fundamental question remains: Who is responsible? In other words, who authorized the renovations?

Getting an answer to this simple question has been surprisingly difficult. At one of your prior appearances before this committee, Representative Wagner—now Oversight and Investigations Subcommittee Chair Wagner—asked you to identify the individual responsible for giving the official go-ahead to renovate the headquarters building. You responded, "And why does it matter to you?"

I cannot recall a more dismissive answer by an agency witness, especially one who goes to great lengths to stress his agency's accountability and transparency.

And yet, we did deduce several facts from your testimony. You claimed that the decision was made before your tenure as Director, which began January 4, 2012. You also said that it was someone at Treasury, that, "There are people in Treasury who contributed to that decision."

Well, we asked Treasury, and they only pointed us to the bill of contract, which was signed on your watch but which tells us nothing of who committed the CFPB to renovation in the first place.

But here is another fact: In 2011, Elizabeth Warren, while serving at Treasury and while responsible for standing up the CFFB, announced that she had selected 1700 G Street as the location of the Bureau's headquarters.

We also know from documents provided to us by the Office of the Comptroller of the Currency that at the time this location was selected it was known that renovations would be needed.

So now logic would dictate that the one person who, A, selected the location, B, knew of the need for renovations and, C, had the power at Treasury to authorize the renovations is, in fact, the person who authorized the renovations.

Yet strangely, the Office of the Inspector General of the Federal Reserve, in its investigation found no documents to substantiate the decision, and you have not provided any such documents to this committee either.

So let me ask plainly: Did Elizabeth Warren authorize the renovations to the CFPB headquarters building at 1700 G Street even

though she was never given this authority through the advice and the consent of the Senate or appointed to run the CFPB?

Mr. CORDRAY. So that was about 2 minutes of narrative. I had several points about it.

Mr. ZELDIN. Well, first answer my question.

Mr. CORDRAY. Okay. So I don't know who made that decision initially, as I have answered before.

I feel that I was misquoted or taken out of context by some—not by you, but by others who have made it sound like I thought that inquiring into the expenditures for the building was, “Why does that matter to you?” I know why that matters to you. It is a lot of money and it does matter to you.

It was the issue of who originally authorized that decision that after the question was asked three or four times I think I got a little impatient in answering it. But I don't know who made that decision.

But I have also said since that I have reaffirmed the decision. So I treat it as it is basically my decision, so if people have a problem with it, I am quite happy to be here and answer the questions about it.

Mr. ZELDIN. Reclaiming my time, I have a limited amount of time. Just to be clear, did Elizabeth Warren authorize the renovations?

Mr. CORDRAY. As I said, I don't know. I don't have any way of knowing that. I wasn't in the leadership of the Bureau at the time. I wasn't privy to those decisions.

But I will say it is—

Mr. ZELDIN. Reclaiming my time—

Mr. CORDRAY. —it is also an increasingly good news story about the building. It is coming in on time and under budget—or on budget, and—

Mr. ZELDIN. I'm sorry, it is—

Mr. CORDRAY. —and will be—

Mr. ZELDIN. That is a different line of questioning.

Reclaiming my time, Mr. Director, a cynic would say that you are carrying water for Senator Warren to prevent her political embarrassment and you don't want the American people to know the truth about who was behind the throne both before or after you took over the CFPB.

Are you answering this question, as far as who authorized the renovations, under any duress, coercion, or compulsion at all, any type of threat?

Mr. CORDRAY. From whom? I don't even know what you are talking about here.

Mr. ZELDIN. Have you ever discussed the CFPB renovations with Senator Warren?

Mr. CORDRAY. Have I ever discussed the renovations with Senator Warren? I don't know if I have or haven't. I have discussed it with many of you. Maybe I have.

But in terms of who made that decision, I don't know. I have never seen any records on that, whether someone else at Treasury was the one who had to authorize that. I honestly don't know.

Mr. ZELDIN. So you are unable to tell this committee—

Mr. CORDRAY. But I ratified the decision, and I believe it has been a good decision and the project has gone well and GSA has done an exemplary job.

Mr. ZELDIN. Reclaiming my time, you do not recall whether or not you had any conversations with Senator Warren with regards to CFPB renovations?

Mr. CORDRAY. I may have. That is different from the issue of who made the decision about the building.

Mr. ZELDIN. I have 20 seconds left. I have one quick question.

Director Cordray, 2 weeks ago Chairman Hensarling sent you a letter asking a very simple question: Absent action by the Administration, will you fulfill your term as CFPB Director?

You replied saying, "I have no insights to provide."

Mr. Director, there has been a lot of speculation about your future so you owe it to the public and this committee to state your intentions. I will ask you, absent action by the Administration, will you fulfill your term as CFPB Director?

Mr. CORDRAY. I have no insights to provide on that.

Mr. ZELDIN. You are unable to give your assurance right now that you will fulfill your term as Director?

Mr. CORDRAY. The whole issue isn't even within my control. We have this court case pending; we are all watching to see what happens with that. So, your speculation about that is as good as mine.

Mr. ZELDIN. No, no, no. I asked you—

Mr. LUETKEMEYER. Time has expired.

The gentleman from Michigan, Mr. Kildee, is recognized for 5 minutes.

Mr. KILDEE. Thank you, Mr. Chairman.

And thank you, Mr. Cordray. I will have a couple of questions for you and I will apologize in advance if this is redundant because I have not been able to participate in the entire hearing, although I have been able to catch a good deal of it—

Mr. CORDRAY. I may be the only who has—

Mr. KILDEE. —on the closed circuit. It is—

Mr. CORDRAY. —been able to participate in the entire hearing.

Mr. KILDEE. It is must-see TV, I will tell you.

But I want to express to you something that I mentioned earlier, and that is your public service. As I said earlier, I have known you for a long time in a variety of roles, and one of the things that you bring both to this position and especially to this hearing is a seriousness and a calm that would serve this town really well if people adopted your approach.

Some of the tone that I witnessed, both when I was here and on television, is not becoming of this committee. And that is not on you to respond to, but I will say that I am very pleased that you continue to take the position and the work that you do very seriously and answer questions fully to the extent that you can and in a manner that is quite becoming of public service. So thank you for that.

Mr. CORDRAY. Could I just say—

Mr. KILDEE. Sure.

Mr. CORDRAY. I am not bothered by any of the tone. I know that people on both sides of the aisle have strong feelings on some of these subjects and they care a lot about it, and so there is going

to be a certain amount of tone. And I do hope that I can remain calm amidst all of that, but I am listening hard and what they have to say substantively is why I am here, and that is important oversight.

And I just want to stress again to everybody that I take that very seriously. Our Bureau takes it seriously. There are many things that we have changed or done differently as result of discussions we have had in these committee hearings and in your offices, and I am sure that will continue in the future.

Mr. KILDEE. Thank you. I appreciate that.

The one editorial comment that I will make is that what frustrates me in watching some of the questions is the attempt to confuse what is policy difference, which is legitimate and actually something that we ought to accept as a—as part of a normal process of democratic governance, but to confuse policy differences with questions that are raised about integrity, while on the other hand this body, and particularly the Majority, seems to ignore legitimate questions of integrity in the Executive Branch as if they were only differences of policy. And I appreciate the tone that you take.

I wonder if you—and when I opened I raised a reference to what the Bureau did in the case of Bridgeport Education, which is a for-profit college chain that deceived students into taking out high-cost private loans. And you may have already answered this question in previous—

Mr. CORDRAY. No, I haven't.

Mr. KILDEE. I wonder if you could just describe to us that case or what you can recall from that case and what the outcomes have been as a result of the CFPB's intervention?

Mr. CORDRAY. Yes. There have actually been three such cases, and so I may sometimes have some of the facts confused among them, but they are of the same genre.

One involved ITT, one—a chain of schools; one involved Corinthian, which was also a chain of schools; and Bridgepoint, which I believe is a chain of a number of schools, as well. And the concerns we have are that loans are being made to prospective students and their families where everything that is supposed to be disclosed is not disclosed and some facts are hidden on the back end, and so there is misleading marketing of the loans.

Also, the loan may be marketed against a backdrop of graduation rates and job placement rates which are being misrepresented to the students and their families so that they end up paying a lot and not getting very much out of the education, but the loan is premised on those predicates.

That is a real problem, and we have pursued several of these cases and we have done well in the courts on them, and they have led to significant relief for students and their families and to significant disruption of what were very bad business practices at some of those places.

Bridgepoint is not the same as ITT and Corinthian, and I don't have all the nuanced distinctions in mind here, but that is the general concern that we have had, and we continue to look for those kinds of problems and we will continue to address them as they arise.

Mr. KILDEE. In the last few seconds—

Mr. CORDRAY. And if the rest of the for-profit college marketplace is cleaning up as a result, that is a very good thing.

Mr. KILDEE. I suppose—you can just answer yes or no if you would like—had it not been for CFPB's intervention, the practices that caused your intervention would still be ongoing, people would still be basically being ripped off by those sorts of loans, and it would just continue and be encouraged by inaction by any other agencies.

Mr. CORDRAY. It is hard to know for sure, the road not taken. But I think what we can know for sure is what happened because of our actions here, and I think that it was in the public interest.

Mr. KILDEE. Thank you very much.

Mr. LUETKEMEYER. The gentleman's time has expired.

We will recognize next Mr. Trott, from Michigan, for 5 minutes.

Mr. TROTT. I thank the chairman.

And thank you, Director, for your time today.

And I want to go back to a line of questioning that was pursued by Mr. Huizenga and the chairman of the committee. And in defending some of your press releases regarding the resolution of enforcement actions you said a couple of times, "I know the facts."

It kind of reminded me of Jack Nicholson's line from, "A Few Good Men." He said, "You can't handle the truth." And suffice it to say, your statement suggests to me that you are quite comfortable being judge and jury.

So let's look at one of the press releases. It was issued August 26, 2016. It regarded the resolution of First National Bank of Omaha.

Mr. CORDRAY. That isn't how I intended the statement, but I will go with your question.

Mr. TROTT. You can somewhat see my point, perhaps.

But anyway, in your press release you said, "First National Bank of Omaha violated the trust of its customers by illegally signing them up for credit card add-on products." Let's look at the actual agreement, section two: "Respondent agrees to the issuance of the consent order without admitting or denying any of the findings of fact or conclusions of law except that the respondent admits the facts necessary to establish subject matter jurisdiction over this matter."

So do you think that is an accurate press release? They didn't make an admission of guilt, but your press release sure sounded like they did some bad things. Wouldn't you agree?

Mr. CORDRAY. Absolutely, it did. And they did do some bad things.

Again, distinctions between what I know—and I don't know it because I am just dreaming it up. What I know is that we conducted an investigation. We uncovered the facts, documentary evidence; talked to employees; talked to people. And this is what it showed.

Mr. TROTT. Got you. Reclaiming my time—

Mr. CORDRAY. And they don't really dispute that—

Mr. TROTT. I have heard that answer before. I am going to reclaim my time.

Let me suggest a different scenario for you.

So you have settled a number of actions with employees who have been treated unfairly by the CFPB. How would you feel if I

issued a press release that said, “Director Cordray today apologized and admitted responsibility for sex and racial discrimination against the employees and the rampant retaliation against his employees. He will not change the behavior because none of the folks that were guilty of this conduct are going to be fired, but this is my press statement.”

Is that an accurate press statement? What would you think—if you read that, would you say, Trott did a good job on that?

Mr. CORDRAY. Well, if it were an inaccurate press statement I would not like it because it is inaccurate. And if it were an accurate press statement, I wouldn’t like it because—

Mr. TROTT. In your admission, though—in your settlement you never admitted guilt to these employees, so it is analogous to the First National Bank of Omaha.

Let’s talk about—

Mr. CORDRAY. No, I don’t think it is.

Mr. TROTT. Let me continue. So let’s continue to talk about another incidence of hypocrisy.

Mr. CORDRAY. I would be happy to explain.

Mr. TROTT. So I want to continue. Last summer the Supreme Court decided the *Sheriff v. Gillie* case. Maybe you are familiar with it. The CFPB joined in an amicus brief.

Mr. CORDRAY. Yes. It came out of Ohio, I believe.

Mr. TROTT. It sure did. And it involves an Ohio attorney general who was able to appoint a special contractor for the purposes of collecting debt owed to the State of Ohio. And you filed an amicus brief on behalf of the CFPB supporting the government’s position that the use of attorney general letterhead by the special contractor violated Section 1692(e) of the Fair Debt Collection Practices Act. Isn’t that correct?

Mr. CORDRAY. Actually, the Justice Department filed that brief. We worked with them on it, but the Justice Department controlled—

Mr. TROTT. The CFPB joined in the amicus brief. Isn’t that correct?

And isn’t it also true that as attorney general of Ohio you used special contractors to collect debts owed the State in the same exact fashion?

Mr. CORDRAY. I did. And I know that you have a lot of background in this area and know it well. So, yes.

Mr. TROTT. Okay. So your amicus brief wouldn’t have been something you would have been supportive of when you were attorney general of Ohio. Is that fair to say?

Mr. CORDRAY. Some of the details of that particular case may or may not have come to my attention during my time as attorney general. I am not entirely sure about that. Yes.

Mr. TROTT. So let’s continue on. You said earlier in response to one of the Democratic questions, “No one can complain that they can’t get their voices heard at the CFPB.” I go home every weekend and I hear from REALTORS®, mortgage brokers, community bankers, title agents, small business owners, attorneys—they are terrified by the CFPB.

One person a couple of weeks ago—you are not going to be at all pleased with this comment—he made an analogy and said the

CFPB is like the mafia. They show up at your business and say, "This is a nice place; hope nothing happens to it."

So how do those people get their voices heard? Do you think you have given proper guidance to those small business owners who are honest people trying to do right by the consumer?

Certainly Mr. Hill's question referencing the website that is this convoluted web to get an answer to a simple question, that is indicative of how people feel about getting answers out of the CFPB. Is that a fair statement on my part?

Mr. CORDRAY. I don't think so, but I am sure that it depends very much on who we are talking about and different reactions in different places around the country by different people—320 million Americans, after all, not all the same experiences, I am sure.

Mr. TROTT. I appreciate your time, sir.

And I yield back to the Chair.

Mr. LUETKEMEYER. The gentleman yields back.

Next, I will recognize the gentleman from Georgia, Mr. Loudermilk, for 5 minutes.

Mr. LOUDERMILK. Thank you, Mr. Chairman.

And thank you, Mr. Cordray. It has been a long day. It looks like a little more intimate setting here now, so maybe we can get through a few things.

I have another line of questioning but I wanted to continue on with something Mr. Trott said. I work a lot with what is left of the community banks in the State of Georgia. We lost more banks than any other State. And as we are working on repealing some of the onerous regulations brought in by Dodd-Frank and other—what in my opinion and most people is bad law that has closed off the economy from the average American, provided protection for those who are on the inside, I have learned one thing: The people out there are more afraid of you and the CFPB than any other element of our Federal Government.

I am getting that from the banks, the bankers, every financial institution. And it just reminds me of something that Thomas Jefferson—I believe it was Thomas Jefferson—was quoted as saying, "When the government fears the people there is liberty, but when people fear the government there is tyranny."

And it almost feels like in this financial services sector that is where we are. But I just wanted to throw that out there. You don't have to respond to that.

I actually want to talk about the reports that we have received. I actually have some honest-to-goodness questions.

I have been reading over the report that was left on our desk and the latest numbers that we received from your office this week, and in the most recent report that we received your numbers show that in 2016 the CFPB handled 291,000 consumer complaints, I believe. Does that sound about right, the 291,000 in 2016?

Mr. CORDRAY. Yes, running about 25,000, 30,000 a month. Yes, something like that.

Mr. LOUDERMILK. Okay. Thank you.

And of that, according to your report, 17,000 of those were resolved with monetary relief for the consumer, which is about 16 percent—or 6—I'm sorry, 6 percent of all the complaints have mon-

etary relief for the consumer and 94 percent resulted in no monetary relief. And that is what I believe was in the report.

Mr. CORDRAY. So what I would say is they can—there can be monetary relief; there can be non-monetary relief, which is often quite significant.

Mr. LOUDERMILK. I understand.

Mr. CORDRAY. If something comes off your credit report, suddenly you can get a mortgage you couldn't have gotten. That is—

Mr. LOUDERMILK. I understand that.

Mr. CORDRAY. Or a debt collector who is harassing you, you get them to stop. Those things matter a lot to people.

Mr. LOUDERMILK. One thing I didn't see in the report that I was looking for is what percentage of those had civil penalties? I didn't see that in the report anywhere.

Mr. CORDRAY. We can't impose civil penalties—

Mr. LOUDERMILK. In your report here you outline several civil penalties on actual cases.

Mr. CORDRAY. In enforcement actions, yes.

Mr. LOUDERMILK. But in your report you never show what percentage was civil penalties or a penalty that was imposed upon the business. Do you have those percentages of those 291,000 cases?

Mr. CORDRAY. I am getting a little lost here. We don't impose civil penalties on consumer complaints at all. We don't have the authority to do that. We would not do that. If we did that, we would be struck down by a court or something.

We can only do it in cases where we file an enforcement action and it is potentially reviewable by a court or—and that is when—

Mr. LOUDERMILK. So in a judicial or administrative action.

Mr. CORDRAY. Could be either, but it is all subject—it is either in a court or it can be reviewed by a court.

Mr. LOUDERMILK. What happens to those penalties—the monetary value? I am wondering. I am asking. I know that you are allowed to keep some of that.

Mr. CORDRAY. Yes. No, they go in—it is all whatever—

Mr. LOUDERMILK. I am not trying to get at anything. I am trying to ask an honest question.

Mr. CORDRAY. I am just fumbling a little on the answer.

It is all specified by law, and Congress provided for it. Those penalties go into a penalty fund, and they can either be used to compensate victims in other cases who were unable to receive compensation because, say, a fraudulent company went out of business so they never got their money back, or they can be used for—the statute says two things—the other is financial education programs.

In our instance more than 90 percent of the money has gone to victims from other cases, and a small amount has gone to one financial education program which is helping veterans transitioning back into—servicemembers transitioning back—

Mr. LOUDERMILK. Let me reclaim my time, because I am quickly running out of time and I want to follow up on the previous question I had.

Mr. CORDRAY. That is fine. Okay.

Mr. LOUDERMILK. Are you indicating that only in 6 percent of the cases you can actually have consumer relief? Or is it just you are unable to do it—



Mr. CORDRAY. No, we have two different things here that are getting—

Mr. LOUDERMILK. That seems like an awfully low number to—  
Mr. CORDRAY. No, no. These are two different things.

We have complaints that people file with us that we try to get those resolved and get relief where we can. Then there are matters where we bring a case, which is an entirely different thing, on behalf typically of thousands or even millions of consumers, and in those cases that are subject to review by a court we can impose penalties and we can get money back for people.

So in those matters almost always we are getting money back for people, and if we—if they don't get paid we can go to the Civil Penalty Fund and get their money back that way if it is available.

Mr. LOUDERMILK. I yield back, Mr. Chairman.

Mr. CORDRAY. Sorry. Sorry about that.

Mr. LUETKEMEYER. The gentleman's time has expired.

Next, we go to Mr. MacArthur, the gentleman from New Jersey, who is recognized for 5 minutes.

Mr. MACARTHUR. Well, thank you.

Good afternoon, Director Cordray.

Mr. CORDRAY. Good afternoon.

Mr. MACARTHUR. I think everyone in this hearing wants to protect consumers. I don't know anyone who wants to see bad actors run roughshod over the people that we represent.

Mr. CORDRAY. All right. That is a good start.

Mr. MACARTHUR. Getting it right, obviously, I think is critical. I just want to explore a little bit about who pays the penalties that are imposed on the companies that you go after—the enforcement penalty. Who pays those penalties?

Mr. CORDRAY. The companies do, or the individuals if it is individuals at fault.

Mr. MACARTHUR. Is it fair to say that most of those companies are publicly held companies?

Mr. CORDRAY. There is a mix, but a lot of them are, yes.

Mr. MACARTHUR. And those companies typically, like all public companies, are owned by shareholders, pension funds, 401(k) funds—just ordinary Americans who invest in the stock market and try to put money away for a rainy day.

Is it fair to say that these penalties erode, decrease, have some impact—whether it is fair or not, that is not the point, but they have some negative effect on the value on those companies?

Mr. CORDRAY. Look, it depends on a lot of things, I imagine, but I think logically, they have to be paid by the company. And that is the accountability.

Mr. MACARTHUR. In the public markets historically earnings times about 15 is the value of the company. It is running a little higher now. But if you reduce your earnings by \$1 million, you have probably affected the value of that company by about \$18 million dollars. Typically, that is the case. I'm not looking for a response, but—

Mr. CORDRAY. Could I—

Mr. MACARTHUR. —the reason this matters—we will come back to it and you will have a chance to respond, but the reason this matters is we can't have conflicting guidance from different parts

of the Federal Government. And I want to talk about captive mortgage insurance in particular.

In 1996 and 1997 the Office of the Comptroller of the Currency and HUD both issued guidance to the mortgage industry about providing mortgage insurance. And both of them—OCC's interpretive letter number 743 and then HUD gave later guidance—they laid out where companies could get involved in providing captive mortgage insurance. And dozens of companies got involved.

You took a different approach. In 2013 you decided that you didn't think that was appropriate and you went after a number of companies. I won't list them all because I want to focus on one, but I have a list in front of me of a half a dozen companies that you imposed fines of \$50.6 million. Times 18, that is about \$300 million of market value that evaporated because of those—

Mr. CORDRAY. For captive mortgage insurance?

Mr. MACARTHUR. For captive mortgage insurance.

Mr. CORDRAY. Reinsurance? I am only familiar with one case, which is the PHH case.

Mr. MACARTHUR. Well, there are others: Republic Mortgage, Genworth Mortgage, Mortgage Guaranty Insurance, Radian Guaranty, United Guaranty—

Mr. CORDRAY. Oh, that is right. They were an aspect of the PHH case. Fair enough. Okay, got it.

Mr. MACARTHUR. Okay. But all of these fines have a negative value on these companies.

I want to focus on PHH for a moment. They are domiciled in my district, southern New Jersey; 3,500 employees, and you set up a process where basically they were tried inside CFPB, a court of your making. You didn't go to the Federal court to do it. And that resulted—

Mr. CORDRAY. Congress provided for that.

Mr. MACARTHUR. —in a penalty of \$6.4 million.

Mr. CORDRAY. Yes.

Mr. MACARTHUR. You then overruled that penalty and you imposed a penalty of \$109 million on a company that entered the market with guidance from the Office of the Comptroller of the Currency and the National Bank Act, I am forgetting who that came—oh HUD. HUD was the other agency.

I understand you disagreed with that guidance, but you then went back 10 years—

Mr. CORDRAY. No.

Mr. MACARTHUR. Let me finish—went back 10 years, applied no statute of limitations, took a judgement of \$6.4 million and turned it into \$109 million. Do you know what the market value of that company was on the day you opened that investigation?

Mr. CORDRAY. I do not.

Mr. MACARTHUR. It was \$7 billion. Do you know what it is today?

Mr. CORDRAY. I do not.

Mr. MACARTHUR. It is \$1 billion. Now, I am not suggesting that all of that is due to this action. Frankly, I don't know.

Mr. CORDRAY. That would be quite erroneous, yes.

Mr. MACARTHUR. I don't know. But I do know this, that how you go after companies in the name of the consumer is vitally impor-

tant. You are not just exacting a price from some ethereal entity out there; you are exacting a price—

Mr. CORDRAY. I understand that.

Mr. MACARTHUR. —that affects 401(k) plans, pension funds, ordinary Americans. You say you are collecting in their name—

Mr. CORDRAY. Am I going to have a chance to come back on this?

Mr. MACARTHUR. —and they are the ones—if I am out of time. If the chairman allows you to respond that will be fine.

Mr. CORDRAY. So if that company violates the law, how do you hold them accountable?

Mr. MACARTHUR. My time has expired.

Mr. CORDRAY. Should we never hold them accountable?

Mr. MACARTHUR. What I am asking you, sir—

Mr. CORDRAY. Can they violate the law with impunity?

Mr. MACARTHUR. —is in your remaining time as Director I am asking you to be extraordinarily careful about punishing companies who relied on other Federal agencies for guidance, and you had a different opinion and you cost real people real money.

Mr. CORDRAY. Could I speak to that?

Mr. LUETKEMEYER. Let him answer the question. No more questions. Let him answer the question.

Mr. CORDRAY. I didn't just sort of make something up because I don't like the company or I thought it should be more money. There was a specific legal point in the case that had to be decided one way or the other, and the issue was whether, since they violated the law, which is what the administrative law judgment had held on the factual record and what I agreed with—and others may disagree, and it is in the courts and the courts will ultimately decide it; we will all abide by their decision.

Either the right amount that they had to pay was what they got on contracts after a specific date—contracts that were entered into after a specific date, or everything they were paid on contracts after a specific date even though the contracts might have been entered into earlier.

It was a tough—it is a tough legal issue. It is not obvious one way or the other. I made the judgment that it was the other issue. It could either be \$6 million or \$109 million, one or the other.

Mr. LUETKEMEYER. The gentleman's time has expired.

Mr. CORDRAY. There can't be anything in between. And if a court thinks differently then we will abide by that.

Mr. LUETKEMEYER. The gentleman's time has expired.

Mr. MACARTHUR. The court overruled you.

Mr. CORDRAY. It wasn't done cavalierly, though, yes.

Mr. LUETKEMEYER. Okay. Time has expired.

Next we will go to the gentleman from North Carolina, Mr. Budd, who is recognized for 5 minutes.

I'm sorry?

Mr. BUDD. Thank you, Mr. Chairman.

Mr. LUETKEMEYER. My mistake. Mr. Davidson from Ohio is next for 5 minutes.

Mr. DAVIDSON. Thank you, Mr. Chairman.

Director Cordray, you were attorney general in the State of Ohio. Is that correct?

Mr. CORDRAY. I was, yes.

Mr. DAVIDSON. Did you ever have a case that the—as attorney general that the State prosecuted where the defendant was found not guilty?

Mr. CORDRAY. I don't recall specific cases, but I am sure we did.

Mr. DAVIDSON. You didn't win all of them.

Mr. CORDRAY. Correct.

Mr. DAVIDSON. So in your role as Director Cordray, in this new role, when you do these settlements you are doing press releases that say effectively you have won every case. You have a perfect record in your case. Then the courts come over and in the case of PHH, as my colleague just referred, you are overturned because due process is finally given the opportunity to prevail.

Mr. CORDRAY. Actually—

Mr. DAVIDSON. Director Cordray, does the CFPB have the authority to conduct informal or formal investigations without a court order?

Mr. CORDRAY. We can commence an investigation without a court order, yes, but ultimately to bring an enforcement action—

Mr. DAVIDSON. Does CFPB give notice to the target when an investigation is initiated?

Mr. CORDRAY. Could I answer the question?

Mr. DAVIDSON. No, I just—you answered it. You said yes.

And I said, so now the question is, does the CFPB give notice to the target when an investigation is initiated?

Mr. CORDRAY. Typically we commence an investigation by issuing CIDs to the subject, not the target—we don't use that language.

Mr. DAVIDSON. So the target of the investigation is not advised that you are initiating an investigation once you commence, and then—

Mr. CORDRAY. No, no, they typically are—

Mr. DAVIDSON. —to determine which investigation to pursue?

Mr. CORDRAY. They typically are because they get a civil investigative demand, which is—and that is when we start to engage back and forth.

Mr. DAVIDSON. So when you send a civil investigative demand, or a CID, one of the criticisms has been that you have this unlimited power of discovery and the person is never—or the entity is never advised as to whether they are the target of the investigation or merely answering a question where they could have data related to it.

Mr. CORDRAY. So, again, a couple of times now, we don't have unlimited power of discovery. If they don't agree with what we are doing they can take us to court. That has happened a number of times.

Mr. DAVIDSON. In the case of PHH, when they followed the procedure, in the next case they disagreed with the proceedings and then they appealed to the administrative judge. Do you appoint the administrative judges?

Mr. CORDRAY. I do, but they can also—

Mr. DAVIDSON. And then when they disagree with that and then they—

Mr. CORDRAY. They can also—

Mr. DAVIDSON. —then they bring it to the Director. And in the case of PHH, they—that proved to be very high risk. Did that—

Mr. CORDRAY. They can also appeal to the court, and they have done so and this matter is in the courts. And by the way—

Mr. DAVIDSON. So let me understand this is the path. I just want to understand the path here because you are saying, “Well, but let me explain.”

So I have it down. I say the Director, you, sign off to investigate the target; the Director assesses the case and issues a penalty; the target will either sign a consent order or appeal to an administrative judge that you appointed, and if the target loses the appeal the case is brought back to you where you will no doubt reject and, as we have seen, perhaps even increase the penalty.

The target can then appeal to the Federal court, but not before its reputation has been tarnished and legal fees in the millions of dollars or, in the case—sometimes over \$100 million. And you present it as if you have already won, not that there has been a verdict issued, not that full due process this case, but simply that it is alleged—you present it as if you have achieved a victory.

Is that an accurate description of what goes on here?

Mr. CORDRAY. No, I think it’s not accurate in a number of ways, but if you want me to I will spell them out. But among other things, Congress has provided for different ways to take an enforcement action.

A company at any time can take us to court. They can take us to court over the civil investigative demand, as a number have done. They can take us to court and refuse to settle a case, if they think that they have grounds to do so.

Mr. DAVIDSON. Okay, so reclaiming my time, they do have a path to the courts, but long after their reputation has been severely damaged.

Mr. CORDRAY. Not—

Mr. DAVIDSON. —and you have served as judge, jury, and executioner. You have already said that when we have determined the facts, we are right.

Clearly, you don’t have a perfect track record, so you are not always right. But you present it in the media as if it is, and then when the same exact set of facts has been stated over and over again by my colleagues, you refuse to concede the point that you are guilty as charged when you are on the exact opposite side of the same settlement.

Mr. CORDRAY. That is not correct. We don’t present it in the press until a matter is final and it is concluded and we have concluded investigation, we know what the facts are, all right?

Mr. DAVIDSON. You present it as if they have—

Mr. CORDRAY. If anybody wants to challenge us—

Mr. DAVIDSON. —been found guilty when, in fact, the consent orders clearly say that they have not admitted guilt. And—

Mr. CORDRAY. We know—

Mr. DAVIDSON. —I do look forward to you producing one that says something other than that.

Mr. CORDRAY. There is no guilt. There is no guilt in a consent order. It is not a criminal matter; it is a civil matter. And we know what the facts are and we set the facts, all right?

But they can always—

Mr. DAVIDSON. But always your facts are right.

Mr. CORDRAY. Like every other part of the—

Mr. DAVIDSON. That is your assertion, that your facts are always right.

Mr. CORDRAY. Like every other part of the Federal Government, and it is no different for us, what we do can be challenged in the courts and—

Mr. DAVIDSON. Reclaiming my time, I need to mention that all agencies really need a better appeals process, and I think what we—what I have seen concluding as a new Member, is that we really need to address due process, particularly in your agency.

I yield back.

Mr. CORDRAY. Okay.

Mr. LUETKEMEYER. The gentleman's time has expired.

The gentleman from North Carolina, Mr. Budd, is recognized for 5 minutes.

Mr. BUDD. Thank you, Mr. Chairman.

And thank you, Mr. Director. I want to talk a little bit about what appears to be, for lack of a better term, a revolving door.

In 2013 Politico reported that dozens of CFPB policymakers, rulemakers, attorneys, have left in recent months, lured by opportunities in the private sector. Many have landed at law firms, compliance shops, and banks, where their insider knowledge of how the agency works is coveted.

The Washington Examiner and Breitbart reported similar issues, with staff transitioning in your agency to take lucrative jobs in the private sector. Other articles just last year noted that more senior staff had departed for major banks like Capital One.

A representative of Public Citizen called this pattern of departures alarming and said that the revolving door is one of the most pernicious influence-peddling tools that can undermine the integrity of government agencies.

President Trump recently signed an Executive Order imposing an unprecedented 5-year lobbying ban on certain officials who leave the Executive Branch. This is it. Do you support this Executive Order?

Mr. CORDRAY. The Presidents always set the—set ethics requirements that go beyond the requirements of the law, and they are free to do so. I don't have any criticism of that order, if that is what you are saying.

Mr. BUDD. Do you support it?

Mr. CORDRAY. I don't have any criticism of that order. It is not my jurisdiction to do the President's job.

Mr. BUDD. Do you think it might be good in your agency, in the CFPB, to use something similar to prevent the revolving door?

Mr. CORDRAY. So what we do is we abide by all of the government ethics rules, and we take them very seriously and we follow them very carefully.

It is a free country. I do not control what employees do when they no longer work for me, beyond the fact that they have to abide by ethics rules, and I assume they are doing so, and if not they are subject to prosecution if they fail to do that.

So I don't know what else to tell you.

Mr. BUDD. Sure.

Do you think to give the appearance of a highly ethical organization that you would want to commit to require all CFPB employees to sign an agreement that prohibits them from lobbying and representing clients in matters before the CFPB once they have left?

Mr. CORDRAY. They do have to do so for a period of time, and it is specified in the government ethics rules, and we abide by those very carefully and follow them closely.

Mr. BUDD. Do you know what that—Director, do you what that period of time is?

Mr. CORDRAY. I am not entirely sure. I have never left the agency myself. But it is either a year or 18 months or 2 years, depending—maybe depending upon the circumstances. But I would be happy to have my staff fill your staff in on what those requirements are.

Mr. BUDD. Sure. It still gives the appearance of a highly complicated, highly regulated organization that has highly marketable skills once they leave CFPB.

Mr. CORDRAY. So, what do you want these people to do? Just retire? They have to follow the ethics rules. They do follow the ethics rules. If the ethics rules should be changed I would be happy to have them be changed, and we will abide by them. But they are Federal Government ethics rules for the Federal Government.

Mr. BUDD. I am going to reclaim my time. It really strikes me that the lack of a lobbying vantage agency has real cost in—

Mr. CORDRAY. There is a restriction. They cannot do certain things for some period of time. I don't know all the details of it, but I would be glad to fill you in.

It is not as though there is no restriction. They have the same restrictions as everybody else in the Federal Government.

People have set those rules thinking that they are the right rules. If they are not the right rules I am sure they can review them and change them. We abide by them.

Mr. BUDD. Director, this is a pattern that we have seen prior to the existence of CFPB. This is something that we have seen with creation of complex regulations, and then people that created those going into the private sector to interpret those.

And I really hope you are right. I hope it is not a problem, but it certainly appears to be a problem.

I yield back my time.

Mr. LUETKEMEYER. The gentleman yields back.

Next, we recognize the gentleman from Tennessee, Mr. Kustoff, for 5 minutes.

Mr. KUSTOFF. Thank you, Mr. Chairman.

And thank you, Director Cordray, for being here this morning and this afternoon.

I am, as the chairman would say, a recovering lawyer and a former United States Attorney, and I would like to talk to you if I can, some of these questions, lawyer-to-lawyer, if you will.

Mr. CORDRAY. Okay.

Mr. KUSTOFF. I want to talk to you about district court if I can for a moment.

In the United States district court you would agree that in order for the court to consider a claim or a lawsuit that a party must submit a pleading that contains a short and plain statement which

shows that the complainant is entitled to relief. You would agree, wouldn't you?

Mr. CORDRAY. That is a requirement and it is policed by the courts, yes.

Mr. KUSTOFF. Thank you.

And in order to meet the pleading standard that is required under the Federal Rules of Civil Procedure, this relief must be plausible. It must be credible. You would agree with that as well, that that is an accurate statement?

Mr. CORDRAY. I believe that is—I have no reason to contest your statement, although I am a little rusty on some of the procedural issues. But again, courts will decide whether we did that or didn't do that, and we abide by it.

Mr. KUSTOFF. Sounds right, though, doesn't it?

Mr. CORDRAY. It sounds like a sensible rule. I hope it is the rule, yes.

Mr. KUSTOFF. And you would also agree that the Supreme Court, our Supreme Court, has made a point to distinguish what is called "likely harm" from "conceivable harm," the latter of which would not allowed—be allowed to proceed. Is that correct? Likely harm from conceivable harm.

Mr. CORDRAY. I'm starting to wish I would have had you as a law school professor, but that sounds sensible to me, yes.

Mr. KUSTOFF. Fair enough. In other words, the threshold to get into Federal court is a fairly low standard. You would agree with that as well.

Mr. CORDRAY. To bring a case, yes.

Mr. KUSTOFF. Okay.

Mr. CORDRAY. Of course, it has to survive motion to dismiss or motion—summary judgment everything else. But that is my understanding of how the rules have been drilled, yes.

Mr. KUSTOFF. And I would agree with what you just said.

I do want to talk to you about the matter that the CFPB brought in the Eastern District in North Dakota, which I think Mr. Tipton touched on briefly. The—

Mr. CORDRAY. Yes.

Mr. KUSTOFF. —UDAAP order against Intercept Corporation—

Mr. CORDRAY. Yes, and I am generally familiar with the case, yes.

Mr. KUSTOFF. As I understand it, Intercept Corporation is a third-party payment processor company.

Mr. CORDRAY. Yes.

Mr. KUSTOFF. And the allegation was against the—against violations by its consumers, is that correct?

Mr. CORDRAY. Well, it was against the payment processor as I think aiding and abetting, facilitating violations against consumers with enough knowledge to be held responsible. And to kind of maybe get to where you are going, the court found that we did not plead enough facts to make out a case and granted a motion to dismiss in that case.

So it goes to show, we do not—as we have said, we do not win every case, and we are right now still digesting that opinion and trying to figure out what it means for the investigation we were conducting there.



Mr. KUSTOFF. In my remaining time I want to ask you about that because—

Mr. CORDRAY. Yes.

Mr. KUSTOFF. —Judge Ralph Erickson made some fairly sharp remarks. He said although the complaint—and I am quoting—does not contain detailed factual allegations, it must contain—need not contain detailed factual allegations, it must contain more than an unadorned, “the defendant unlawfully harmed me” accusation. You would agree that was what he said in the opinion, correct?

Mr. CORDRAY. Yes. I think our complaint said much more than that, but if that is what—that is the way the judge viewed then the judge certainly decides accordingly and we have to then absorb that, understand it, and figure out how to deal with it.

Mr. KUSTOFF. In fact, he said that the facts in the complaint must be plausible, not merely conceivable.

Mr. CORDRAY. Yes, and he found that they were not plausible and merely conceivable, I guess.

Mr. KUSTOFF. And he further cited or stated in his opinion that the complaint, “never pleads facts sufficient to support the legal conclusion that consumers were injured or likely to be injured,” and that, “it does not contain sufficient factual allegations to back up conclusory statements regarding Intercept’s allegedly unlawful acts or admissions.”

Mr. CORDRAY. So to this point in that case we got it wrong to that degree. We have had many, many other cases that we have filed where motions to dismiss were filed against us and we have prevailed on the motion.

So when you were U.S. attorney in Tennessee, I assume you didn’t win every case, even though you tried.

Mr. KUSTOFF. The difference is I wouldn’t have brought a case unless I thought that I—number one, that somebody broke the law; and two, that I could absolutely prove—

Mr. CORDRAY. I understand, but we didn’t bring a case where we thought nobody broke the law. We thought they did. The judge disagreed with us and okay then. Fair enough.

Mr. KUSTOFF. In fact, this court found that there was no nexus to the consumer, no—

Mr. CORDRAY. Agreed. That is what the court found. And I am sure you brought cases where you thought you were going to get a guilty verdict and you didn’t, or maybe there were even nolle prosequi or whatever.

I am sure that—it happens. It is not a big mark of honor for us that we had a case dismissed on a motion to dismiss, but usually the vast majority of our cases that survive that threshold, and this time this judge felt we misjudged it. Fair enough.

Mr. LUETKEMEYER. The gentleman’s time has expired.

Mr. CORDRAY. We have to learn from that and figure out how to—

Mr. LUETKEMEYER. The gentleman’s time has expired.

The gentlelady from New York, Ms. Tenney, is recognized for 5 minutes.

Ms. TENNEY. Thank you, Mr. Chairman.

And thank you, Director Cordray, for being here today throughout the morning and afternoon.

Mr. CORDRAY. Maybe the evening, who knows.

Ms. TENNEY. You are getting to the end of the line here.

I would like to just refocus a little bit. I am a small business owner. I come from a community that has been devastated by a poor economy. In fact, in many areas of my district we are ranked dead last in the national economy.

And my concern is over, obviously, regulations and a lot of the regulations dealing with the auto industry.

I noticed in your comments from last winter that the Bureau dropped its Equal Credit Opportunity Act lending enforcement for fair lending priorities list this year. These enforcements, in my opinion, were flawed auto financing guidance process issued by the CFPB that also barred consumers from participating in this process and commenting on it, and created a lot of uncertainty in the \$905 billion auto lending market.

My question is going to be, why did the Bureau pull out of this type of financing guidance, and why—at some point, why was that a decision made by the CFPB in your—

Mr. CORDRAY. We didn't pull out of the guidance. That guidance merely, as we understood it, restated existing law and didn't add anything to it.

What we did say is, we have a fair lending program; we have limited resources. We set up priorities every year and at this point in time we were determining priorities for 2017 and we specified that they would be redlining mortgage and student loan servicing and small business lending, and that we—

Ms. TENNEY. Let me reclaim my time and get back into the auto industry because that is really—

Mr. CORDRAY. Sure.

Ms. TENNEY. —where I would like to refocus.

Mr. CORDRAY. Yes.

Ms. TENNEY. In effect, what you are doing is, in my view, it looks like you are taking the financing industry and trying to circumvent the Constitution and go at the auto dealers without having really—

Mr. CORDRAY. We're not trying to do that.

Ms. TENNEY. —the authority to do that is coming in on the financing side of the—I don't see how you can justify that. And so I—

Mr. CORDRAY. Well, look—

Ms. TENNEY. I am just surmising that you pulled out because you realized there was an overreach constitutionally on this issue.

Mr. CORDRAY. No, no. First of all, that is not what we are trying to do and that is not what we did here.

The statute—Congress drew it, not me—says that we have no jurisdiction over auto dealers. But it says we do have jurisdiction and therefore a responsibility to deal with auto lenders.

So how do you do that? It doesn't work very well, I will agree, and they kind of get in each other's way.

Ms. TENNEY. Let me reclaim my time and ask you, aren't there other agencies in government that are regulating the auto industry, including on the State level, such as New York State, which has a very—

Mr. CORDRAY. So the—

Ms. TENNEY. —aggressive regulatory scheme to help consumers with the auto dealers?

So to me it looks like—wouldn't you agree that it is an overreach for the Federal Government to use the lending process to go in and go after an already regulated field?

Mr. CORDRAY. We haven't gone after any auto dealers, other than buy-here-pay-here. The FTC has that authority and they will exercise it or not as they see fit.

I don't have that authority. But I do have the authority, and therefore the responsibility and the duty, to deal with auto lenders, and the two get in each other's way. That is an unfortunate way the statute was drawn.

But in terms of—

Ms. TENNEY. Hold on a second.

Mr. CORDRAY. In terms of our decision now—

Ms. TENNEY. Let me reclaim my time and say it is an unfortunate way the statute was drawn, so are you outside the statute in trying to pursue your lending against auto dealers?

Mr. CORDRAY. No. If we pursue auto lenders—

Ms. TENNEY. It wasn't drawn the way that you wanted it drawn, so you created your own—

Mr. CORDRAY. No, not at all.

Ms. TENNEY. All right.

Mr. CORDRAY. We have a responsibility to pursue auto lenders. That is going to affect auto dealers. I can't help that. That is the way the market is.

Either we should have had both or we should have had neither would have been a better way to do it, but—

Ms. TENNEY. Right. So you are conceding, then, that the statute wasn't really the way it should have been, so instead you used the lending mechanism to get into the dealers.

Mr. CORDRAY. Not at all. It means that as we do our job people are going to be able to criticize us because it has consequences and ramifications down the line.

But in terms of specifying our priorities for this year, as you noted, auto is not among them, and we indicated that we have proceeded with different supervisory enforcement actions against 20 of the largest auto lenders. We will continue to supervise around this, but that we needed to look at other priorities, as well.

So that, I think, was a sound judgment that we had to make, and that is where we are.

Ms. TENNEY. So couldn't you—let me reclaim my time and say wouldn't you concede that—you withdrew from having this as a priority program, so now you are using the regulatory process with lenders to try to reach into the auto industry.

Mr. CORDRAY. I am not trying to reach into anything. I am just trying to do the job Congress gave us, and if Congress—

Ms. TENNEY. Right. But you just said the job Congress gave you, but you just said a moment ago that Congress didn't have that in the statute the way you needed it, so now you are kind of—

Mr. CORDRAY. No, no, not the way I needed it. Just Congress did it. I don't think it is very logical, frankly, to give somebody responsibility for auto lenders but not auto dealers or vice versa.

Ms. TENNEY. Right. So you are conceding that the statute really doesn't cover the dealers. So—

Mr. CORDRAY. We have never taken an action against dealers. We have never done that.

But it doesn't mean that things we do might not affect dealers, just like if the Federal Reserve raises interest rates that is going to affect dealers but they are not regulating dealers.

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentleman from Indiana, Mr. Hollingsworth.

Mr. HOLLINGSWORTH. Thank you, Mr. Chairman.

And thank you, Director Cordray, for being here this afternoon. I know it has been wearisome so far, but I can assure you that you are reaching the end quickly.

Mr. CORDRAY. Actually, quite invigorating.

Mr. HOLLINGSWORTH. Fair enough.

Actually something you said earlier really sparks me and I really liked it. You said you are responsible and accountable to the public. I really like that turn of phrase.

Tell me how—

Mr. CORDRAY. I try to be, yes.

Mr. HOLLINGSWORTH. —how do you divine what the public wants?

Mr. CORDRAY. I suppose no differently from you. I get a lot of input from the public. That is why we set up the consumer complaint line. Actually, we are required to do that by Congress, but we have set it up to be broadly inclusive.

I try to get a lot of input from stakeholders on all sides of these issues, and often there are kind of two sides to the issue, but maybe there are more.

Mr. HOLLINGSWORTH. Like you said, like—just like me. I do go to the public every 2 years, right, and an election. And I think generally we believe elections represent the will of the public, right, in ascertaining their will and their desire and activities. So would you—

Mr. CORDRAY. A big part of our government, yes.

Mr. HOLLINGSWORTH. Yes.

Mr. CORDRAY. And as you know, I have a background of that sort myself, so—

Mr. HOLLINGSWORTH. Exactly. No doubt.

And if you serve and are accountable to the public, and the public duly elected officials, and those duly elected officials decided that it was in their best interests—in the public's best interest—for you to no longer direct the CFPB, is that something that you would submit to, given that that is how the public expressed their will last November?

Mr. CORDRAY. I think that if people follow the lawful channels and apply the law, then that is the way things should be.

Mr. HOLLINGSWORTH. So if you serve the public and the public decided to elect an official who asked for your resignation, is that something that you would comply with, given that is what the public wanted?

Mr. CORDRAY. I think that the law has to be followed. Congress set up this agency, not me. And Congress set this up to be an inde-

pendent consumer watchdog, as they have set up many Federal agencies—the Federal Reserve, the FDIC, and others.

Mr. HOLLINGSWORTH. I don't doubt the way it was set up. Reading the statute, you can clearly see. I guess I would push back against the statement that you are accountable and responsible to the public if you are unwilling to follow when a publicly elected official decided—

Mr. CORDRAY. Let me say this. I am accountable to the public. I am also accountable to follow the law. I shouldn't be violating the law just because they have something in mind of what I should do for the public.

Mr. HOLLINGSWORTH. It is not a violation of the law for him to ask for your resignation, is it?

Mr. CORDRAY. Not at all.

Mr. HOLLINGSWORTH. Okay. So the only question that remains is whether you would tender it willingly?

Mr. CORDRAY. I think that is correct, yes.

Mr. HOLLINGSWORTH. Okay. And I guess in honoring the public's will or wishes, it would seem that if an elected official who was duly elected here decided to ask for your resignation, it would seem in the public's interest, given their election, for you to willfully tender that, right?

Mr. CORDRAY. I think the public elects the Congress every 2 years. You are now part of it. And it had prior Congresses, and those Congresses passed laws under our Constitution that are the law of the land and have to be followed, okay?

And so the authority to remove me would have to follow the law of the land, and that could then be reviewed in the courts. So that is what I am understanding is the right framework.

Mr. HOLLINGSWORTH. Okay.

So I guess turning our attention to having to divine other things, this regulation by enforcement troubles me. And it really troubles me because I think as I continue to hear from others around here that you rarely take a course—a court—excuse me—a case to court—it is getting late, isn't it—a case to court. And so rarely—

Mr. CORDRAY. It's not true that we rarely do. We have many cases pending in the courts right now.

Mr. HOLLINGSWORTH. What percentage of those taken to court versus those settled outside of court?

Mr. CORDRAY. I don't know exactly, but we could get you those numbers.

Mr. HOLLINGSWORTH. I understand the far greater proportion were settled outside of court, so how is it that—

Mr. CORDRAY. No. That is up to the opposing party. They can contest it. Any case they can contest and go through the courts. If they prefer not to, they don't have to. I don't dictate that to them.

Mr. HOLLINGSWORTH. Are there any constraints on your budget?

Mr. CORDRAY. Yes.

Mr. HOLLINGSWORTH. Okay. What are those constraints?

Mr. CORDRAY. The constraints that Congress set by law. They have a fixed budget cap for us, which is not true of any other independent agency.

Mr. HOLLINGSWORTH. What is the size of that?

Mr. CORDRAY. It is approximately \$600 million before the sequester.

Mr. HOLLINGSWORTH. \$600 million—one of the things my grandfather once told me is the Golden Rule, right? He who has the gold makes the rules.

And I worry that in your instance, there is a great inclination for them to settle because of the immense amount of resources you can bring to bear not only in the ability to fight cases but in their reputational harm that they would suffer from pushing back against it, even on principle.

And so I guess what I want to better understand on this enforcement—or this regulation by enforcement—is how other parties are supposed to determine whether the facts that you allege are true and whether those facts indeed apply to them or not, and whether it is left to them to try to divine the tea leaves and figure out what is in their best interests.

Mr. CORDRAY. I don't know that it is divining the tea leaves. They should read the orders and they should think carefully about what they are doing and judge accordingly.

That is the same way they read every law and try to decide whether it applies to them.

Mr. HOLLINGSWORTH. Even if the facts aren't alleged—even if the facts aren't proven to be true.

Mr. CORDRAY. The facts are true in our order as a result of our investigation.

Mr. HOLLINGSWORTH. That they have agreed to them doesn't make them true.

Mr. CORDRAY. Whether they have agreed to them or not, they are true because they are facts, investigative facts.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Minnesota, Mr. Emmer.

Mr. EMMER. Thank you, Mr. Chairman.

Mr. Cordray, for the past 5 years you have been the Director of the Consumer Financial Protection Bureau. And this right here that you delivered to us today is your ninth semiannual report to Congress on behalf of that agency, correct?

Mr. CORDRAY. We are actually doing two of them today, covering two of them for the past year.

Mr. EMMER. This is your ninth semiannual report to Congress. That is what it says.

Mr. CORDRAY. Okay, fair enough.

Mr. EMMER. I am not making it up—it says, “our ninth semiannual report to Congress and the President.”

Mr. CORDRAY. I am not disputing this. I am not trying to give you any trouble on that.

Mr. EMMER. All right. I didn't think so. I am just trying to give you what your words are.

In this report, it says that—I think it is—you have provided on page—it is 188 pages, this book, all right? And in the book it says you are providing your agency's, “statutory responsibility and commitment to accountability and transparency.” So this whole process is about accountability and transparency on behalf of the CFPB, correct?

Mr. CORDRAY. Well, the more transparent we are the more full the report becomes, yes.

Mr. EMMER. Okay. So that was a yes. Thank you.

Now, the Consumer Financial Protection Bureau gets its funds from the Federal Reserve, correct?

Mr. CORDRAY. Correct.

Mr. EMMER. Several hundred—

Mr. CORDRAY. Actually, we get them from—Congress initially sets up the framework, but they specify that they would come from the Federal Reserve, yes.

Mr. EMMER. Yes. You get it from the Federal Reserve. You fill out a request that the Congress has put in the Dodd-Frank Act that created this, a limit that you can collect based on what the earnings are, and the Federal Reserve can send I think this year something north of \$600 million.

But you generally take about \$350 million to \$400 million for your operating expenses in the CFPB, correct?

Mr. CORDRAY. No. It has changed over time because in 2011 when we were created there was nothing, and the Bureau has built up over time, so—

Mr. EMMER. The last couple of years, sir. I am going to try to get through this as quickly as possible.

Your general operating budget is about—for the last couple of years is somewhere between \$350 million and \$400 million. That is what is documented in—

Mr. CORDRAY. It is actually higher than that, but yes.

Mr. EMMER. All right. Maybe it is higher than that.

In addition, through these consent decrees that we have been talking about at length here the last hour and settlements that the CFPB does with—I think Representative Davidson identified them as targets—you collect hundreds of millions more. And of the dollars that you collect, you put monies into an account called the Civil Penalty Fund, correct?

Mr. CORDRAY. Correct. Yes.

Mr. EMMER. And you also allocate monies into a separate account called the Consumer Education and Financial Literacy Programs account.

Mr. CORDRAY. No. No. It goes into the Civil Penalty Fund, and Congress specified it could be used for either or two purposes.

Mr. EMMER. I'm sorry. So it is one account and you allocate it—

Mr. CORDRAY. Either to compensate uncompensated victims, which is where the vast majority of it has gone, or for—

Mr. EMMER. Yes, it is one account, so you allocate between victims and education, correct?

Mr. CORDRAY. Fair enough. Yes.

Mr. EMMER. Now, in this you have laid it out again in this book. Chapter nine, starting on page 131, you give a general summary of the monies that you have collected and where you have put them. If you look at it, it is right in front of you, I think, the book.

Mr. CORDRAY. Yes.

Mr. EMMER. It is interesting that you put in there that you have allocated money, but there is no audit in this book. There is no audit that shows us detail of these monies.

Mr. CORDRAY. We are audited every year by the GAO.

Mr. EMMER. Do you have an audit? Do you have an audit that you can provide to my office?

Mr. CORDRAY. Absolutely. We have—

Mr. EMMER. Fantastic.

Mr. CORDRAY. We have an audit—we have two audits every year and—

Mr. EMMER. Have you looked at that recently?

Mr. CORDRAY. —the Inspector General reviews the fund.

Mr. EMMER. Have you looked at the audit recently?

Mr. CORDRAY. I look at it every year.

Mr. EMMER. Can you tell me how many checks have been written to actual victims out of this Civil Penalty Fund?

Mr. CORDRAY. I think there have been millions of checks to victims.

Mr. EMMER. No, no, no. What you do when I read your report is you lump all the money together—

Mr. CORDRAY. No, no, no.

Mr. EMMER. —and you say you have helped millions of people.

But what I would like to know is specific checks, rather than seeing, like I do in this report after page 131, that you gave a huge chunk of money to some law firm for uncompensated victims. I would like to know exactly who you are writing checks to.

Mr. CORDRAY. We didn't give any chunk of money to a law firm.

Mr. EMMER. Then who is the firm that is identified on page 132 or 133?

Mr. CORDRAY. So it is victims of the—of those practices—

Mr. EMMER. So there were four—

Mr. CORDRAY. —that are individual consumers. Nobody gets some big chunk of money from us.

Mr. EMMER. Page—

Mr. CORDRAY. It goes to individual consumers who were victims.

Mr. EMMER. Where is it here? Page 139, The Hoffman Law Group, formally known as The Residential Litigation Group.

Mr. CORDRAY. Yes?

Mr. EMMER. That is what I am talking about.

Mr. CORDRAY. Yes, they are a—

Mr. EMMER. So if there is an audit and if this is about transparency, I would like to get the audit.

Mr. CORDRAY. They are a firm that we found—I believe that we found that they violated the law and this money is going to the victims that they harmed.

Mr. EMMER. Again, I will renew it. If there is an audit and you can show us exactly who the money has been given to, I would like to see it.

Mr. CORDRAY. I am always stunned at people disbelieving that this Consumer Bureau gets money back to real people—

Chairman HENSARLING. The time of the gentleman has expired.

Mr. CORDRAY. —and that is what we have done. And if you want to see the evidence of that because you don't believe us, we will show you the evidence.

Mr. EMMER. I would also like to see who educated where, how, with what money—

Chairman HENSARLING. The time of the gentleman has expired.



The Chair now recognizes the gentleman from West Virginia, Mr. Mooney.

Mr. MOONEY. Thank you, Mr. Chairman.

I have different questions for you, Director Cordray. You had a former deputy named Steven Antonakes who left the CFPB abruptly under unknown circumstances and apparently did so just months shy of his pension vesting.

Now, for all I know, his service was entirely honorable, and we appreciate the toll public service takes on family sometimes, so I may—I understand his desire to return home. But I must ask this question: Was Mr. Antonakes ever the subject of an inquiry or investigation by the Federal Reserve Inspector General?

Mr. CORDRAY. This is kind of outrageous. Steve left the Bureau because he remarried, and in remarrying he had three small children. And although he had been commuting from Boston to Washington for a number of years he no longer could do so.

Those are the circumstances of his departure, and if you want to make something of that you can, but I think that is a little beyond the pale.

Mr. MOONEY. Okay. So then are you saying affirmatively that no investigation occurred, or that you are just unaware of details of an investigation?

Mr. CORDRAY. I am not aware of what you think you are alleging.

Mr. MOONEY. Okay, so you can't—can you answer affirmatively no investigation occurred?

Mr. CORDRAY. Of what? Investigation of what? I am not sure what you are talking about.

Mr. MOONEY. Of Mr. Antonakes when he left. Was there an investigation?

Mr. CORDRAY. He got remarried. He had three small children. He could no longer commute from Boston to Washington.

He was very apologetic about it because he thought it was important to continue the work of the Bureau, but his personal situation meant that he needed to make a change. And I think you should—

Mr. MOONEY. And as I said—

Mr. CORDRAY. —leave that alone.

Mr. MOONEY. —in my question, we understand the toll public service takes on family. But that is not my question.

My question is, was he ever the subject of an inquiry or investigation by the Federal Reserve Inspector General?

Mr. CORDRAY. I am not aware of what you are talking about, so—

Mr. MOONEY. So you are not aware of any investigation that may have occurred?

Mr. CORDRAY. I don't know what you are talking about. I really don't.

Mr. MOONEY. I am asking you a question.

Mr. CORDRAY. Yes, I am saying I don't know what you are talking about.

Mr. MOONEY. So you are unaware of any investigation of your own deputy that may or may not have occurred?

Mr. CORDRAY. Again, I am not aware of what you are talking about. If you ask it again I still won't be aware of what you are talking about.

Mr. MOONEY. Okay.

Mr. Chairman, I would like to yield time to the gentleman from Tennessee, Mr. Kustoff.

Mr. KUSTOFF. Thank you, Mr. Chairman.

Director Cordray, if I could, I would like to go back, if I could, briefly to that Intercept Corp—

Mr. CORDRAY. Sure.

Mr. KUSTOFF. —action that we talked about out of the Eastern District of North Dakota. I am correct that the claim was dismissed, your action was dismissed, the CFPB's action was dismissed because the court found that there was no nexus to consumer harm, correct?

Mr. CORDRAY. That was the court's judgment. That is—

Mr. KUSTOFF. I am not asking whether you agree with it. That is what the—that is the court's judgment.

Mr. CORDRAY. I believe that is what the court said, yes.

Mr. KUSTOFF. All right.

Mr. CORDRAY. I don't have it in front of me, but if you are saying so, I don't doubt you.

Mr. KUSTOFF. And what the court was also saying, if I am correct also, was that the CFPB needs to more clearly define the parameters of UDAAP and how you enforce it, correct?

Mr. CORDRAY. I don't recall whether the court said that but the court apparently found that our pleadings were not specific enough or convincing enough to survive the motion to dismiss and granted the motion to dismiss. So that is a setback and it is something we will take to heart and figure out what to do in response.

Mr. KUSTOFF. Thank you very much.

Director Cordray, I have heard from a number of my constituents who live in west Tennessee who told me about their struggles to get a small-dollar, short-term loan, whether it is for medical expenses, whether it is to make a car payment, for whatever reason. The rule that the CFPB—and you have testified a little bit about this during the hearing today—from last year that effectively reduces consumers' ability to get those small-dollar loans, we talked about the number of comments that have been posted—a million or a million three—

Mr. CORDRAY. A lot.

Mr. KUSTOFF. It is a large number.

Mr. CORDRAY. Yes.

Mr. KUSTOFF. One comment specifically was a letter signed by 18 State attorneys general, your former colleagues—and importantly for me, my attorney general from Tennessee, the Honorable Herbert Slatery. Their letter to you states that the proposed rule is, “unnecessary and unlawful and will do more harm than good and ought to be withdrawn.”

My question to you is that, as far as I can tell, you have not yet responded to that letter. Am I correct?

Mr. CORDRAY. These are comment letters and we don't do a response to all of the comments. We are supposed to take them and figure out what to do in thinking about our rule.

And by the way, there were other attorneys general from other parts of the country who filed a comment letter on the other side. We have not responded to that one either. It is not meant to be re-

sponded to; it is meant to be telling us their thoughts for the rule-making purposes.

Mr. KUSTOFF. Great. So you have no intention of responding to those 18 attorneys general?

Mr. CORDRAY. If attorneys general communicate with me I respond to the attorneys general. But in the notice-and-comment process, the 1,300,000 people who submitted comments, we are not going to respond to all of them. That is not required by law and it is not reasonable.

So I don't know what to tell you. They are allowed to comment into this process like anyone else, but they—

Chairman HENSARLING. The time—

Mr. CORDRAY. —don't have a different status.

Chairman HENSARLING. The time of the gentleman has expired. There are no other Members in the queue.

The Chair wishes—

Mr. CORDRAY. Could I just correct the record?

Chairman HENSARLING. —to alert Members—

Mr. CORDRAY. Mr. Chairman?

Chairman HENSARLING. The Chair wishes to alert Members that there is a vote pending on the Floor.

I do wish to thank the witness for his testimony today. It has been a very long day.

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

And I would ask Director Cordray to respond as promptly as you are able.

This hearing stands adjourned.

Mr. CORDRAY. Could I just have 1 minute—30 seconds? Because I wanted to correct the record on—a couple of times you asked about the neither admit nor deny. I am now informed that we have admissions in several cases.

I am aware of the Payday Loan Debt Solutions case, the American Debt Settlement Solutions case, the International Land Consultants case, the First Alliance Lending case. There may be others, but that is what—

Chairman HENSARLING. I thank the Director for his answer. This hearing stands adjourned.

[Whereupon, at 3:24 p.m., the hearing was adjourned.]



# **A P P E N D I X**

April 5, 2017

**Testimony of Richard Cordray**  
**Director, Consumer Financial Protection Bureau**  
**Before the House Committee on Financial Services**  
**April 5, 2017**

Chairman Hensarling, Ranking Member Waters, and Members of the Committee, thank you for the opportunity to testify today about the Consumer Financial Protection Bureau's (Consumer Bureau) Spring and Fall 2016 Semi-Annual Reports to Congress. I appreciate our continued dialogue as we work together to strengthen the financial system and ensure consumers are treated fairly in the financial marketplace.

The Consumer Bureau presents these Semi-Annual Reports to Congress and the American people in fulfillment of its statutory responsibility and commitment to accountability and transparency. These reports provide updates on the Consumer Bureau's mission, activities, accomplishments, and publications from October 1, 2015 to September 30, 2016, and provide additional information required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).<sup>1</sup>

The Dodd-Frank Act created the Consumer Bureau as the nation's first Federal agency with a mission of focusing solely on consumer financial protection and making consumer financial markets work for American consumers, responsible businesses, and the economy as a whole. In the wake of the financial crisis, the President and Congress recognized the need to address widespread failures in consumer protection and the rapid growth in irresponsible lending practices that preceded the crisis. To remedy these failures, the Dodd-Frank Act consolidated most Federal consumer financial protection authority in the Consumer Bureau.<sup>2</sup> The Dodd-Frank Act charged the Consumer Bureau with, among other things:

- Ensuring that consumers have timely and understandable information to make responsible decisions about financial transactions;
- Protecting consumers from unfair, deceptive, or abusive acts and practices, and from discrimination;

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<sup>1</sup> Appendix B provides a guide to the Consumer Bureau's response to the reporting requirements of Section 1016(c) of the Dodd-Frank Act. The Consumer Bureau's last Semi-Annual Report, published in November 2015, covered April-September 2015. The report may be viewed at: [http://files.consumerfinance.gov/f/201511\\_cfpb\\_semi-annual-report-fall-2015.pdf](http://files.consumerfinance.gov/f/201511_cfpb_semi-annual-report-fall-2015.pdf).

<sup>2</sup> Previously, seven different federal agencies were responsible for rulemaking, supervision, and enforcement relating to consumer financial protection. The agencies which previously administered statutes for which authority transferred to the Consumer Bureau are the Federal Reserve Board (and the Federal Reserve Banks) (Board or FRB), Department of Housing and Urban Development (HUD), Federal Deposit Insurance Corporation (FDIC), Federal Trade Commission (FTC), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), and Office of Thrift Supervision (OTS).

- Monitoring compliance with Federal consumer financial law and taking appropriate enforcement action to address violations;
- Identifying and addressing outdated, unnecessary, or unduly burdensome regulations;
- Enforcing Federal consumer financial law consistently in order to promote fair competition;
- Ensuring that markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation; and
- Conducting financial education programs.<sup>3</sup>

The Consumer Bureau has continued its efforts to serve and protect consumers in the financial marketplace. The Consumer Bureau seeks to serve as a resource on the macro level, by writing clear rules of the road and enforcing consumer financial laws in ways that improve the consumer financial marketplace, and on the micro level, by helping individual consumers address their specific issues with financial products and services. While the various divisions of the Consumer Bureau play different roles in carrying out the Consumer Bureau's mission, they all work together to protect and educate consumers, help level the playing field for participants, and fulfill the Consumer Bureau's statutory obligations and mission under the Dodd-Frank Act. In all of its work, the Consumer Bureau strives to act in ways that are fair, reasonable, and transparent.

Listening and responding to consumers is central to the Consumer Bureau's mission. The Consumer Bureau continues to provide consumers with numerous ways to make their voices heard. Consumers nationwide have engaged with the Consumer Bureau through public field hearings, listening events, roundtables and town halls, and through our website, [consumerfinance.gov](http://consumerfinance.gov). Consumer engagement strengthens the Consumer Bureau's understanding of current issues in the ever-changing consumer financial marketplace and informs every aspect of the Consumer Bureau's work, including research, rule writing, supervision, and enforcement.

The Consumer Bureau has continued to improve the capabilities of its Office of Consumer Response to handle consumer complaints, handling its one millionth complaint in September 2016. Through consumer complaints, the Consumer Bureau hears directly from consumers about the challenges they face in the marketplace, brings their complaints to the attention of companies, and assists in addressing those complaints. The Consumer Bureau knows that efficient and responsible handling of consumer complaints helps companies develop and maintain successful customer relationships, which is why we have invested in cutting-edge technology to quickly and securely route complaints to companies after screening complaints for completeness and determining they fall within our jurisdiction. The Consumer Bureau also

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<sup>3</sup> See Dodd-Frank Act, Pub. L. No. 111-203, Sec. 1021 (b) and (c).

publishes complaints in its public Consumer Complaint Database once the company has an opportunity to respond, confirming a current or prior commercial relationship with the consumer. Our secure company portal also enables companies to quickly and easily alert the Consumer Bureau when a complaint is a duplicate, submitted by an unauthorized third party, or when they are otherwise unable to confirm a current or prior commercial relationship with the consumer. Such complaints are not published in the Consumer Complaint Database. The Consumer Bureau also gives companies the opportunity to respond publicly to the substance of the consumer complaints appearing in the database, and we continue to engage with industry to find ways to make the complaint process more efficient and the data more useful. The database updates daily.

In addition to the Consumer Complaint Database, in July 2015, the Consumer Bureau launched a series of monthly complaint reports to highlight key trends from consumer complaints submitted to the Consumer Bureau. The monthly report includes complaint data on complaint volume, most-complained-about companies, state and local information, and product trends. Each month, the report highlights a particular product and geographic location and provides insight for the public into the hundreds of thousands of consumer complaints on financial products and services expected to be handled by the Consumer Bureau. The report uses a three-month rolling average, comparing the current average to the same period in the prior year where appropriate, to account for monthly and seasonal fluctuations. In some cases, month-to-month comparisons are used to highlight more immediate trends. During the reporting period, these monthly reports have covered financial products such as money transfers, debt collection, mortgage servicing, consumer reporting, and credit cards, as well as information on state and local areas, including Connecticut, Georgia, New York, Texas, Florida, California, New Mexico, and Arkansas.

The Consumer Bureau is working to provide tools and information directly to consumers to enable them to develop practical skills and support sound financial decision-making. These skills include being able to ask informed questions of financial service providers and to plan ahead for financial decisions down the road. One way we are doing this is with our online tool, *Ask CFPB*.<sup>4</sup> This tool provides answers to over 1,000 questions about financial products and services, including on topics such as mortgages, credit cards, and how to dispute errors in a credit report statement. We are also focusing on helping consumers build the skills to plan ahead. For example, our *Paying for College*<sup>5</sup> set of tools helps students and their families evaluating their higher education financing options – comparing college costs and financial aid, learning about college money and loan options, and assessing repayment options. Our *Owning a Home*<sup>6</sup> set of tools helps consumers shop for a mortgage loan by helping them understand what mortgages are available to them, explore interest rates and compare loan offers, and by providing a closing checklist. The *Money Smart for Older Adults*<sup>7</sup> curriculum, developed with the Federal Deposit Insurance Corporation, includes training resources to help people protect themselves and loved ones from elder financial exploitation and prepare financially for unexpected life events. CFPB *en Español* ([consumerfinance.gov/es/](http://consumerfinance.gov/es/)) provides Spanish-speaking consumers a central point of access to the Consumer Bureau's most-used consumer resources available in Spanish.

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<sup>4</sup> Available at: [consumerfinance.gov/askcfpb/](http://consumerfinance.gov/askcfpb/)

<sup>5</sup> See <http://www.consumerfinance.gov/paying-for-college/>

<sup>6</sup> See <http://www.consumerfinance.gov/owning-a-home/>

<sup>7</sup> See <https://www.fdic.gov/consumers/consumer/moneysmart/OlderAdult.html/>



The Consumer Bureau is also working with other government agencies, social service providers, and community service providers to develop channels to provide decision-making support in moments when consumers are most receptive to receiving information and developing financial decision-making skills. This support includes integrating financial capability into other programs and services where consumers may be seeking assistance. We are tailoring our approaches to financial decision-making circumstances, challenges, and opportunities for specific populations, including servicemembers and veterans, students and young adults, older Americans, and lower-income and other economically vulnerable Americans.

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When Federal consumer financial law is violated, the Consumer Bureau's Supervision, Enforcement, and Fair Lending Division is committed to holding the responsible parties accountable. In the 12 months covered by these reports, our supervisory actions resulted in financial institutions providing approximately \$58 million in redress to over 516,000 consumers. During that timeframe, we also have announced enforcement actions that resulted in orders for more than \$240 million in total relief for consumers who fell victim to various violations of consumer financial laws, along with over \$183 million in civil money penalties. In fact, since we opened our doors, the Consumer Bureau has secured over \$11.8 billion in relief to 29 million consumers from our supervisory and enforcement work. This figure includes approximately \$130 million in relief to servicemembers, veterans, and their families.

During the period covered by the Spring 2016 report, we brought numerous enforcement actions for various violations of the Dodd-Frank Act. These activities included actions against two companies for engaging in illegal debt collection tactics;<sup>8</sup> a default judgment against a for-profit college for engaging in a predatory lending scheme;<sup>9</sup> a proceeding against an online lender for misrepresenting the cost of loans;<sup>10</sup> an action against a company for running an illegal debt collection lawsuit mill;<sup>11</sup> an action against two institutions for reselling sensitive personal information to lenders and debt collectors that it hadn't properly vetted;<sup>12</sup> actions against a "buy here, pay here" auto lender for providing damaging, inaccurate customer information to credit reporting companies and another auto finance company for engaging in abusive conduct in financing, hiding auto finance charges, and misleading customers;<sup>13</sup> an action against an

<sup>8</sup>See <http://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-servicemember-auto-loan-company-to-pay-3-28-million-for-illegal-debt-collection-tactics/>

<http://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-ezcorp-to-pay-10-million-for-illegal-debt-collection-tactics/>

<sup>9</sup>See <http://www.consumerfinance.gov/about-us/newsroom/cfpb-wins-default-judgment-against-corinthian-colleges-for-engaging-in-a-predatory-lending-scheme/>

<sup>10</sup>See <http://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-online-lender-for-deceiving-borrowers/>

<sup>11</sup>See <http://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-to-stop-illegal-debt-collection-lawsuit-mill/>

<sup>12</sup>See <http://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-lead-aggregators-for-online-trafficking-of-personal-information/>

<sup>13</sup>See <http://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-carhop-to-pay-6-4-million-penalty-for-jeopardizing-consumers-credit/>  
<http://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-herbies-auto-sales-for-unlawful-lending-practices/>

institution for illegally obtaining consumer credit reports and failing to appropriately investigate consumer disputes;<sup>14</sup> and an action against an institution for illegal debt-sales and debt-collection practices.<sup>15</sup> Additionally, the Consumer Bureau and the U.S. Department of Justice reached a resolution with an institution in which minority borrowers who paid higher rates than non-Hispanic White borrowers for their auto loans, without regard to their creditworthiness or other objective risk criteria, will receive up to \$21.9 million in restitution.<sup>16</sup>

During the period covered by the Fall 2016 report, our public enforcement actions included actions against a company for illegal debt collection practices;<sup>17</sup> an action against a check cashing company for illegal practices relating to its payday lending;<sup>18</sup> an action against a company enabling unauthorized withdrawals;<sup>19</sup> an action against a depository institution for illegal redlining and discriminatory mortgage underwriting and pricing practices;<sup>20</sup> an action against a depository institution for illegal overdraft practices;<sup>21</sup> actions against a depository institution for illegal student loan servicing practices and the illegal opening of unauthorized accounts;<sup>22</sup> an action against a former depository institution employee for an illegal mortgage fee-shifting scheme;<sup>23</sup> an action against a depository institution for illegal credit card add-on practices;<sup>24</sup> an action against a for-profit education provider for deceiving students about the cost of student loans;<sup>25</sup> actions against five Arizona title lenders for failing to disclose loan APR rates to consumers;<sup>26</sup> an action against a finance company for luring consumers into more costly loans;<sup>27</sup> and an action against an online lender for failing to deliver promised benefits.<sup>28</sup>

<sup>14</sup> See <http://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-subprime-credit-reporting-company-and-owner-to-pay-8-million-penalty-for-illegal-practices/>

<sup>15</sup> See <http://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-citibank-to-provide-relief-to-consumers-for-illegal-debt-sales-and-collection-practices/>

<sup>16</sup> See <http://www.consumerfinance.gov/about-us/newsroom/cfpb-and-doj-reach-resolution-with-toyota-motor-credit-to-address-loan-pricing-policies-with-discriminatory-effects/>

<sup>17</sup> See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-halt-illegal-debt-collection-practices-lawsuit-mill-and-debt-buyer/>

<sup>18</sup> See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-check-cashing-and-payday-lending-company-tricking-and-trapping-consumers/>

<sup>19</sup> See <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-sues-payment-processor-enabling-unauthorized-withdrawals-and-other-illegal-acts-clients/>

<sup>20</sup> See <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-and-department-justice-action-requires-bancorpsouth-pay-106-million-address-discriminatory-mortgage-lending-practices/>

<sup>21</sup> See <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-orders-santander-bank-pay-10-million-fine-illegal-overdraft-practices/>

<sup>22</sup> See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-wells-fargo-illegal-student-loan-servicing-practices/>

<sup>23</sup> See <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-fines-wells-fargo-100-million-widespread-illegal-practice-secretly-opening-unauthorized-accounts/>

<sup>24</sup> See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-former-wells-fargo-employee-illegal-mortgage-fee-shifting/>

<sup>25</sup> See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-first-national-bank-omaha-pay-3225-million-illegal-credit-card-practices/>

<sup>26</sup> See <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-takes-action-against-bridgepoint-education-inc-illegal-student-lending-practices/>

<sup>27</sup> See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-five-arizona-title-lenders-failing-disclose-loan-annual-percentage-rate-consumers/>

<sup>28</sup> See <https://www.consumerfinance.gov/about-us/newsroom/cfpb-fines-titledmax-parent-company-9-million-luring-consumers-more-costly-loans/>

Notably, in September, 2016, the Consumer Bureau, together with partners at the Los Angeles City Attorney's office and the Office of the Comptroller of the Currency, took an enforcement action against Wells Fargo Bank.<sup>29</sup> The Consumer Bureau's independent and comprehensive investigation found that, in order to meet sales goals and collect financial bonuses, employees of the bank created unauthorized deposit and credit card accounts, enrolled consumers in online banking services, and ordered debit cards for consumers, all without their consent or even their knowledge. Some of these practices involved false email accounts and PIN numbers. The investigation also found that the fraud occurred on a national scale. As detailed in our Consent Order,<sup>30</sup> Wells Fargo opened 1,534,280 deposit accounts that may not have been authorized, including transferring funds from some consumers' accounts without their knowledge or consent. Wells Fargo also initiated applications for 565,443 credit card accounts that may not have been authorized, by using consumers' information without their knowledge or consent. These activities caused some consumers to incur fees. The actions are also a breach of trust and conduct that should never occur at any financial institution. Wells Fargo will pay full restitution to all victims and a \$100 million fine to the Consumer Bureau's Civil Penalty Fund. The bank will also pay an additional \$35 million penalty to the Office of the Comptroller of the Currency, and another \$50 million to the City and County of Los Angeles.

The Consumer Bureau also released four editions of *Supervisory Highlights* during this reporting period. This publication is intended to inform both industry and the public about the development of the Consumer Bureau's supervisory program and to discuss, in a manner consistent with the confidential nature of the supervisory process, important examination findings in key market or product areas. The Fall 2015 edition<sup>31</sup> reported examination findings in the areas of consumer reporting, debt collection, mortgage origination, mortgage servicing, student loan servicing, and fair lending. In June 2016, the Consumer Bureau issued a Mortgage Servicing special<sup>32</sup> edition, which reminded institutions of Module 4 of the Equal Credit Opportunity Act (ECOA) baseline review modules used by Consumer Bureau examiners to evaluate compliance management systems under ECOA. Among other things, Module 4 contains questions regarding fair lending training of servicing staff, fair lending monitoring of servicing, and servicing of consumers with Limited English Proficiency. The Summer 2016<sup>33</sup> edition highlighted findings from fair lending examinations where, pursuant to their compliance obligations under HMDA and Regulation C, institutions improperly coded actions taken on conditionally-approved applications with unmet underwriting conditions. In addition, the report discussed supervisory observations of special purpose credit programs, which are established and administered to extend credit to a class of persons who otherwise probably would not receive such credit or would receive it on less favorable terms. The Winter 2016 edition<sup>34</sup> shared recent examination findings related to consumer reporting, debt collection, mortgage origination,

<sup>28</sup> See <https://www.consumerfinance.gov/about-us/newsroom/lendup-enforcement-action/>

<sup>29</sup> See <http://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-fines-wells-fargo-100-million-widespread-illegal-practice-secretly-opening-unauthorized-accounts/>

<sup>30</sup> [http://files.consumerfinance.gov/f/documents/092016\\_cfpb\\_WFBconsentorder.pdf](http://files.consumerfinance.gov/f/documents/092016_cfpb_WFBconsentorder.pdf)

<sup>31</sup> See [http://files.consumerfinance.gov/f/201510\\_cfpb\\_supervisory-highlights.pdf](http://files.consumerfinance.gov/f/201510_cfpb_supervisory-highlights.pdf)

<sup>32</sup> See

[http://files.consumerfinance.gov/f/documents/Mortgage\\_Servicing\\_Supervisory\\_Highlights\\_11\\_Final\\_web\\_.pdf](http://files.consumerfinance.gov/f/documents/Mortgage_Servicing_Supervisory_Highlights_11_Final_web_.pdf)

<sup>33</sup> See [http://files.consumerfinance.gov/f/documents/Supervisory\\_Highlights\\_Issue\\_12.pdf](http://files.consumerfinance.gov/f/documents/Supervisory_Highlights_Issue_12.pdf)

<sup>34</sup> See [http://files.consumerfinance.gov/f/201603\\_cfpb\\_supervisory-highlights.pdf](http://files.consumerfinance.gov/f/201603_cfpb_supervisory-highlights.pdf)

remittances, and student loan servicing. The Winter 2016 edition also includes important updates to past fair lending settlements reached by the Consumer Bureau.

The Consumer Bureau also published new guidance documents, in partnership with other regulators where appropriate, to help institutions know what to expect and how to become, or remain, compliant with the law. This effort includes bulletins on Real Estate Settlement Procedures Act (RESPA) compliance and marketing services agreements;<sup>35</sup> the revised supervisory matters appeal process;<sup>36</sup> requirements for consumer authorizations for preauthorized electronic fund transfers;<sup>37</sup> the obligation of furnishers to have reasonable written policies and procedures under the Fair Credit Reporting Act;<sup>38</sup> interagency guidance regarding deposit reconciliation practices;<sup>39</sup> guidance on the new Uniform Residential Loan Application and Regulation B compliance;<sup>40</sup> and collection of expanded Home Mortgage Disclosure Act (HMDA) information about ethnicity and race in 2017.<sup>41</sup>

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In addition to our supervisory and enforcement tools, the Consumer Bureau seeks to provide consumers with protection through our efforts to establish a meaningful regulatory framework. Reasonable regulations are essential for protecting consumers from harmful practices and ensuring that consumer financial markets function in a fair, transparent, and competitive manner. Where our research and analysis suggests the need for regulatory intervention, we seek to develop regulations which will protect consumers without unintended consequences or unnecessary costs. As part of the rulemaking process, we carefully assess the benefits and costs of the regulations we are considering on consumers and financial institutions. The Research, Markets, and Regulations Division has focused its efforts on promoting markets in which consumers can shop effectively for financial products and services and are not subject to unfair, deceptive, or abusive acts or practices.

During the period covered by the Spring 2016 report, the Research and Markets teams released reports on the consumer credit card market, mobile financial services, and college credit card agreements. The Regulations office issued regulations modifying and clarifying a number of rules implementing changes made by the Dodd-Frank Act, including a final rule to implement amendments to HMDA, adding new reporting requirements and clarifying several existing

<sup>35</sup> See <http://www.consumerfinance.gov/about-us/newsroom/cfbp-provides-guidance-about-marketing-services-agreements/>

<sup>36</sup> See [http://files.consumerfinance.gov/f/201510\\_cfbp\\_appeals-of-supervisory-matters.pdf](http://files.consumerfinance.gov/f/201510_cfbp_appeals-of-supervisory-matters.pdf)

<sup>37</sup> See [http://files.consumerfinance.gov/f/201511\\_cfbp\\_compliance-bulletin-2015-06-requirements-for-consumer-authorizations-for-preauthorized-electronic-fund-transfers.pdf](http://files.consumerfinance.gov/f/201511_cfbp_compliance-bulletin-2015-06-requirements-for-consumer-authorizations-for-preauthorized-electronic-fund-transfers.pdf)

<sup>38</sup> See [http://files.consumerfinance.gov/f/201602\\_cfbp\\_supervisory-bulletin-furnisher-accuracy-obligations.pdf](http://files.consumerfinance.gov/f/201602_cfbp_supervisory-bulletin-furnisher-accuracy-obligations.pdf)

<sup>39</sup> See [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201605\\_cfbp\\_interagency-guidance-regarding-deposit-reconciliation-practices.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201605_cfbp_interagency-guidance-regarding-deposit-reconciliation-practices.pdf)

<sup>40</sup> See <https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/status-new-uniform-residential-loan-application-and-collection-expanded-home-mortgage-disclosure-act-information-about-ethnicity-and-race-2017-under-regulation-b/>

<sup>41</sup> See <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/status-new-uniform-residential-loan-application-and-collection-expanded-home-mortgage-disclosure-act-information-about-ethnicity-and-race-2017-under-regulation-b/>

requirements;<sup>42</sup> a final rule making technical corrections to Regulation Z with respect to the Know Before You Owe rule;<sup>43</sup> and a final procedural rule establishing an application process under which a person may identify an area that has not been designated by the Consumer Bureau as a rural area for the purposes of a Federal consumer financial law and apply for such area to be so designated.<sup>44</sup> In addition, the Consumer Bureau issued an interim final rule that expanded eligibility for special provisions and added an exemption for certain small creditors operating in rural or underserved areas under the Consumer Bureau's mortgage rules.<sup>45</sup> The Consumer Bureau also issued a notice and request for information regarding HMDA resubmission guidelines, which describe when supervised institutions should correct and resubmit HMDA data.<sup>46</sup>

During the reporting period covered by the Fall 2016 report, the Research and Markets teams released reports on third party debt collection operations<sup>47</sup> and, jointly with the Federal Housing Finance Agency, a technical report about a profile of 2013 mortgage borrowers that includes statistics from the National Survey of Mortgage Originations.<sup>48</sup> The Regulations office issued a final rule in August 2016 amending certain mortgage servicing rules issued in 2013 under RESPA and the Truth in Lending Act.<sup>49</sup> These amendments focus primarily on clarifying, revising, or amending provisions regarding force-placed insurance notices, policies and procedures, early intervention, and loss mitigation requirements under Regulation X's servicing provisions, and periodic statement requirements under Regulation Z's servicing provisions. In conjunction with this final rule, the Consumer Bureau issued an interpretive rule under the Fair Debt Collection Practices Act (FDCPA), which constitutes an advisory opinion for purposes of the FDCPA and provides safe harbors from liability for servicers acting in compliance with specified mortgage servicing rules in Regulations X and Z.<sup>50</sup>

Following the issuance of a March 2015 report,<sup>51</sup> in May 2016, the Consumer Bureau proposed a rule concerning the use of agreements providing for arbitration of any future dispute between covered persons and consumers in connection with the offering or providing of consumer

<sup>42</sup> See <http://www.consumerfinance.gov/about-us/newsroom/cfbp-finalizes-rule-to-improve-information-about-access-to-credit-in-the-mortgage-market/>

<sup>43</sup> See <https://www.federalregister.gov/documents/2015/12/24/2015-32463/2013-integrated-mortgage-disclosures-rule-under-the-real-estate-settlement-procedures-act-regulation>

<sup>44</sup> See <https://www.federalregister.gov/documents/2016/03/03/2016-04643/application-process-for-designation-of-rural-area-under-federal-consumer-financial-law-procedural>

<sup>45</sup> See <http://www.consumerfinance.gov/about-us/newsroom/cfbp-rule-broadens-qualified-mortgage-coverage-of-lenders-operating-in-rural-and-underserved-areas/>

<sup>46</sup> See <http://www.consumerfinance.gov/about-us/newsroom/cfbp-seeks-public-input-on-mortgage-lending-information-resubmission-guidelines/>

<sup>47</sup> See

[http://files.consumerfinance.gov/f/documents/20160727\\_cfbp\\_Third\\_Party\\_Debt\\_Collection\\_Operations\\_Study.pdf](http://files.consumerfinance.gov/f/documents/20160727_cfbp_Third_Party_Debt_Collection_Operations_Study.pdf)

<sup>48</sup> See [http://files.consumerfinance.gov/f/documents/201605\\_cfbp\\_nsm-technical-report-16-01.pdf](http://files.consumerfinance.gov/f/documents/201605_cfbp_nsm-technical-report-16-01.pdf)

<sup>49</sup> See <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/amendments-2013-mortgage-rules-under-real-estate-settlement-procedures-act-regulation-x-and-truth-lending-act-regulation-z/>

<sup>50</sup> See

[http://files.consumerfinance.gov/f/documents/20160804\\_cfbp\\_Bureau\\_Interpretations\\_Safe\\_Harbors\\_from\\_Liability\\_under\\_FDCPA.pdf](http://files.consumerfinance.gov/f/documents/20160804_cfbp_Bureau_Interpretations_Safe_Harbors_from_Liability_under_FDCPA.pdf)

<sup>51</sup> See <https://www.consumerfinance.gov/data-research/research-reports/arbitration-study-report-to-congress-2015/>

financial products or services.<sup>52</sup> The proposal would prohibit covered providers of certain consumer financial products and services from using an arbitration agreement to bar the consumer from filing or participating in a class action. Under the proposal, companies would still be able to include arbitration clauses in their contracts, but for contracts subject to the proposal, the clauses would have to say explicitly that they cannot be used to stop consumers from being part of a class action in court.

In July 2016, the Consumer Bureau published a notice of proposed rulemaking and request for comment on payday loans, auto title loans, and other similar credit products. Among other things, the proposal would require lenders to make a reasonable determination that the consumer has the ability to repay a covered loan before extending credit. It would also require lenders to make certain disclosures before attempting to collect payments from consumers' accounts and restrict lenders from making additional payment collection attempts after two consecutive attempts have failed.<sup>53</sup> The comment period for both of these proposals has closed, and the Consumer Bureau is in the process of reviewing comments.

Also in July 2016, and in furtherance of its obligations under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act, the Consumer Bureau outlined proposals under consideration that would reform the debt collection market by capping collector contact attempts and by helping to ensure that companies collect the correct debt.<sup>54</sup> Under the proposals being considered, debt collectors would be required to have more and better information about the debt before they collect. The proposals under consideration were the focus of a Small Business Review Panel convened by the Consumer Bureau to gather feedback from small industry representatives.

The Consumer Bureau recently finalized a key rulemaking not covered by the reporting periods. In October 2016, the Consumer Bureau finalized federal consumer protections for prepaid account users<sup>55</sup> that require financial institutions to limit consumers' losses when funds are stolen or cards are lost, investigate and resolve errors, and give consumers free and easy access to account information. The Consumer Bureau also finalized new Know Before You Owe prepaid account disclosures to give consumers clear, upfront information about fees and other key details. Finally, prepaid companies must now generally offer protections similar to those for credit cards if consumers are allowed to use credit on their accounts to pay for transactions that they lack the money to cover.

The Consumer Bureau is committed to ensuring our rules and regulations are tailored and balanced, so that as we fulfill our mandate to protect consumers, we are mindful of the impact of compliance on financial institutions and responsive to their concerns. We engage in rigorous evaluation of the effects of proposed and existing regulations on consumers and financial

<sup>52</sup> See <http://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-proposes-prohibiting-mandatory-arbitration-clauses-deny-groups-consumers-their-day-court/>

<sup>53</sup> See <http://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-proposes-rule-end-payday-debt-traps/>

<sup>54</sup> See <http://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-considers-proposal-overhaul-debt-collection-market/>

<sup>55</sup> See <http://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-strong-federal-protections-prepaid-account-consumers/>

institutions throughout our rulemaking process, and maintain steady dialogue with consumer advocates and industry participants. To support the implementation of and industry compliance with its final rules, the Consumer Bureau has published a number of plain-language compliance guides summarizing certain rules, and has actively engaged in discussions with industry about ways to achieve compliance.<sup>56</sup> The Consumer Bureau also continued its efforts to streamline, modernize, and harmonize financial regulations that it inherited from other agencies.

The Dodd Frank Act mandated that the Consumer Bureau undertake a regulatory review process as part of our rulemaking authority. Section 1022 of the Dodd-Frank Act requires that within five years after the effective date of any significant rule or order adopted by the Consumer Bureau under Federal consumer financial law, the Consumer Bureau must assess the rule's effectiveness in meeting the purposes and objectives of the Consumer Financial Protection Act and any other stated goals for a particular rule.<sup>57</sup> The Consumer Bureau is committed to these reviews and, as required under the Act, will seek public comment and publish a report on its assessments as we complete each review.

In addition to implementing the Dodd-Frank Act, the Consumer Bureau continues to explore other areas where regulations may be needed to ensure that markets function properly and possibly harmful or inefficient practices are addressed. The Consumer Bureau will continue implementing the Dodd-Frank Act and using its regulatory authority to ensure that consumers have access to consumer financial markets that are fair, transparent, and competitive.

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The Consumer Bureau continues to grow and evolve as an institution and today consists of 1,678 employees working to carry out the Consumer Bureau's mission. The Consumer Bureau has worked to build a human capital and organizational infrastructure that promotes – and will continue to promote – diversity, transparency, accountability, fairness, and service to the public. That infrastructure includes:

- Demonstrating a strong commitment to openness by utilizing the Consumer Bureau's website to share information on its operations;
- Recruiting highly-qualified, diverse personnel;
- Providing training and engagement opportunities for Consumer Bureau staff to improve skills, increase knowledge, and maintain excellence; and
- Further promoting diversity and inclusion in the Consumer Bureau's workforce and among its contractors, including through the Consumer Bureau's Office of Minority and

<sup>56</sup> See <http://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/>

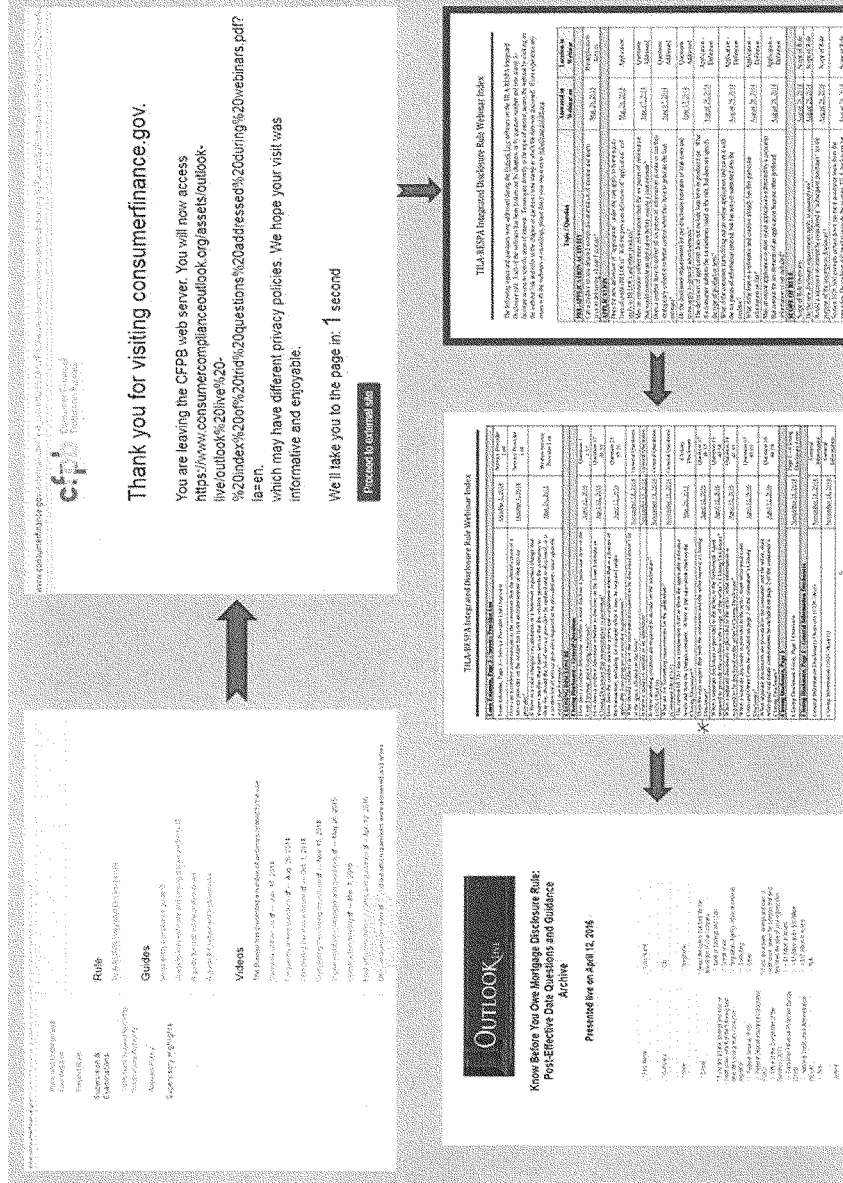
<sup>57</sup> 12 U.S.C. § 5512(d).

Women Inclusion (OMWI).

The Consumer Bureau recognizes that the best way to effectively serve consumers is to ensure that its workforce reflects the ideas, backgrounds, and experiences of the American public. OMWI supports the Consumer Bureau's mission by working with the offices of Human Capital and Civil Rights to continue building a diverse and inclusive workforce that can foster broader and better thinking about how to approach markets.

Thank you again for the opportunity to provide the Consumer Bureau's Spring and Fall 2016 Semi-Annual Report testimony. Consumer Bureau staff will continue to fulfill the vision of an agency that is dedicated to ensuring that the American people have access to a fair, transparent, and competitive consumer financial marketplace. I would be happy to answer any of your questions about the Consumer Bureau's work.





SETTLEMENT AGREEMENT  
BETWEEN  
CONSUMER FINANCIAL PROTECTION BUREAU  
AND  
NATIONAL TREASURY EMPLOYEES UNION

The Consumer Financial Protection Bureau ("Bureau") and the National Treasury Employees Union ("Union" or "NTEU"), on behalf of [REDACTED]

[REDACTED] (collectively, "Grievants"), enter into this Agreement to resolve the Grievants' grievances alleging that each Complaint's compensation is inequitable (collectively, "Grievances") and all other matters concerning their compensation as of the effective date of this Agreement. The Bureau and the Union (hereinafter, "the Parties") freely, voluntarily, and knowingly agree and stipulate to the following terms:

1. Bureau's Specific Agreements: In exchange for the Union's promises in Section 2 of this Agreement, the Bureau agrees as follows:

a. Lump Sum Payment: The Bureau will provide each Grievant with a lump sum payment as follows:

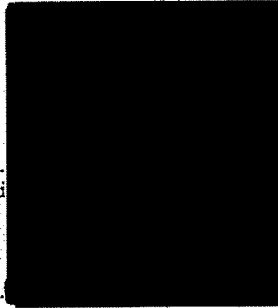
- i.
- ii.
- iii.
- iv.
- v.
- vi.
- vii.
- viii.
- ix.
- x.
- xi.
- xii.
- xiii.

Payment should be electronically transferred to each Grievant's bank account no more than fourteen (14) calendar days after the receipt of the information described in Section 2(a) and the receipt of notification of the withdrawal of the Grievances and/or arbitration invocations pursuant to Section 2(b). In the event that unexpected administrative difficulties delay processing of the payment, the Bureau will endeavor to inform NTEU of such delay prior to the expiration of the fourteen (14) day period and will make a good faith effort to process the payment within thirty (30) calendar days of the receipt of the information described in Section 2(a).

b. Salary increase: Each Complainant's base salary, as of the effective date of this

Settlement, will be increased by 3%, to the following base salaries:

- i.
- ii.
- iii.
- iv.
- v.
- vi.
- vii.
- viii.
- ix.
- x.
- xi.
- xii.



The Bureau will implement this base salary increase within three pay periods of the effective date of this Agreement. In the event that unexpected administrative difficulties delay processing of the salary increase, the Bureau will endeavor to inform NTEU of such difficulties and process the salary increase as soon as reasonably possible.

2. Union's Specific Agreements: The Union, in exchange for the Bureau's promises in Section 1 of this Agreement, agrees as follows:

- a. Receipt of Lump Sum Payment and Provision of Financial Information: The Union acknowledges that the lump sum payment set forth in Section 1(a) and the salary increase described in 1(b) is a complete and final settlement of the Grievances and any remaining Claims, defined below. The Union will, within five (5) calendar days of the effective date of this Agreement, provide to the Bureau all information that is necessary to process the lump sum payments described herein. This information will include at a minimum, for each Complainant and for NTEU: bank name, bank address, bank phone number, account number, routing number, and type of account.
- b. Withdrawal: The Union agrees to withdraw, with prejudice, the Grievances and arbitration invocations. If the Union must take action to withdraw any pending grievances or arbitration invocations, the Union agrees to take that action within five (5) business days of the effective date of this Agreement.
- c. Waiver and Release: By entering into this Agreement, the Union agrees not to pursue any grievance or invoke arbitration based on claims that the salary, including base salary and locality pay, as of the effective date of this Agreement, of any employee of the Bureau's Office of Enforcement is inappropriate, unfair, or illegal. ("Claims"). This waiver and release includes, but is not limited to, claims that pay was set inequitably or that the pay was the result of disparate treatment. The Union hereby waives, releases, and forever discharges the Bureau, its employees, agents, and representatives (in their official and/or personal capacities) from any Claims, except claims that are not waivable

as a matter of law.

3. Mutual Agreements: In addition, the Parties mutually agree to the following terms:

- a. No Establishment of Precedent: The terms of this Agreement are binding only on the Parties to this Agreement and will not establish any precedent, or be used as a basis by the Union, the Bureau, or any other representative to seek to justify similar settlement terms in any subsequent claim or dispute.
- b. Entire Agreement: This Agreement constitutes the complete understanding between the Union and the Bureau regarding the Grievances and Claims. No other promises or agreements will bind the Parties unless they are in writing and signed by both Parties.
- c. Non-Admission: This Agreement does not constitute an admission by the Bureau of any wrongdoing on its part, and the Bureau expressly denies that it, its officers, agents, employees or representatives, violated any law, regulation, contract, or employment practice with regard to the Grievants or NTEU. Similarly, this Agreement does not constitute an admission by the Union of any wrongdoing by the Grievants or the Union, and the Union expressly denies that Grievants, Grievants' agents, or representatives, violated any law, regulation or contract with regard to Grievants' employment with the Bureau. Rather, the Agreement reflects the Parties' interest in resolving these allegations to the satisfaction of both Parties.
- d. Voluntary Agreement: The Parties have entered into this Agreement voluntarily, without coercion or intimidation, and with a complete and thorough understanding of its terms.
- e. Consideration: The Parties acknowledge and agree that the consideration stated in this Agreement constitutes full, fair, reasonable, and adequate consideration for the representations, releases, and promises made herein.
- f. Accord and Satisfaction: In accepting the consideration stated in this Agreement, the Parties intend this Agreement to be a full and final accord and satisfaction and release of the Grievances and Claims.
- g. Attorneys' Fees and Costs: Except as described herein or as otherwise agreed to by the Parties in writing, each Party shall bear the Party's own costs, expenses, and attorneys' fees incurred in connection with this Agreement, and each Party expressly waives any claim for recovery of any costs, expenses, or attorneys' fees from the other Party.
- h. Non-compliance: The Parties understand and agree that any failure to comply with any of the foregoing terms and conditions constitutes a breach of the Agreement. Should the Union breach the Agreement, the Bureau will be entitled to a return of the lump sum payments described in Sections 1(a) and 1(c), as well as a reversion of the salary increases described in Section 1(b).

4. Tax and Other Consequences: The Union acknowledges and agrees that the lump sum

payments set forth herein may be subject to taxes which will be the sole responsibility of the Complainants and/or the Union. The Bureau offers no opinion as to the tax treatment of such payments.

5. Severability: In the event that any provision contained in this Agreement is held to be invalid under operation of law, that provision shall be deemed severable from this Agreement, and the remainder of this Agreement shall remain in full force and effect.
6. Effective Date: This Agreement is effective on the date of the last signature below.
7. Effect of Signature: By signing this Agreement, the Parties agree that they have read and understand the entire Agreement, the effect(s) of each provision, including the Withdrawal and Waiver provisions set forth in Section 2. The Parties agree that signatures via facsimile or PDF are legally sufficient to effectuate this Agreement.

Mary Nicolson  
NTEU

10/6/2014  
Date

Christa Cullen  
Bureau Management Official

10-6-2014  
Date

Kate Julia  
Bureau Management Representative

10/7/14  
Date

7/19/2012 Draft  
Sensitive and Pre-Decisional

Notes from the Auto Finance Discrimination Working Group ("AFDWG")  
Attended on behalf of Nonbank Supervision by Kali Bracey

*Brief History of the AFDWG and Summary of the Problem*

We held an AFDWG meeting on July 18, 2012. The group is chaired by Rick Hackett and Patrice Ficklin. This was the second meeting of the entire group. At the first meeting on April 12, 2012, we explored a detailed workplan to address issues in the auto lending market including subjective dealer markup and high-margin additional products. After our first meeting, we learned that Raj Date wanted to streamline the mission and goals of working groups Bureau-wide. Our broad mission has been streamlined a bit.

At the same time, our sense of urgency was accelerated a bit because Eric Reusch and the markets team have been reviewing the fair lending data that have been gathered through bank supervision. They have discovered evidence of disparate impact on women and minorities from subjective dealer markup at six indirect auto lenders – five banks and one nonbank affiliate of a bank. The six entities represent about 24% of outstanding loans and 19% of originated loans. We now need to figure out what to do to prevent disparate impact going forward for both banks and nonbanks. The thought is that we should eliminate dealer markup which is the source of the problem. The lenders quote the dealers a rate and the dealers make a profit on the markup between the lender rate and the rate the consumers pay. The data from the six lenders indicate that this is being done in a discriminatory manner. The challenge is to reach all market participants simultaneously, or as simultaneously as possible, so that the discriminatory practices are eliminated across the board entirely. If the banks have to eliminate the dealer markup while the nonbanks can continue with the markup, then the dealers will happily use the nonbanks to fund their auto financing and the disparate impact will continue.

*Research Team Methodology and Impact on Markets*

Because race and gender information is not collected by the indirect auto lenders, the Research team formulated a robust methodology using name and census block data as proxies to determine the race and gender of borrowers. The Markets team has determined that minority and women borrowers pay approximately 30 to 90 basis points more in interest rates for auto loans than whites. This amounts to \$1-\$2.5 billion range in disparate impact annually.

*Non-Supervisory Data Collection*

There was also discussion of non-supervisory data collection efforts including trade groups, §1022(c)(4) requests, and enforcement tools. At least one auto lender has spoken confidentially to the Markets team and stated that they recognize that they have a problem with disparate impact. The auto lenders would rather not pay dealer markups but they feel powerless

because if one lender stops offering markups, the dealers will simply finance through another lender that will pay the markups. OGC will look into the viability of §1022(c)(4) requests. Because this authority is controversial and the Bureau has never used it before, we would have to be careful before using it that authority. In response to a question, I stated that there was no data needed in order to draft the larger participant rule. Rick represented to the group that Peggy thought that enforcement should issue CIDs to the nonbanks but Patrice seemed reluctant to do so. Rick thought that it made the most sense to try to get out a proposed larger participant rule on auto lending this fall in order to send a strong message to the nonbanks.

#### *ECOA and UDAAP Legal Theories*

The legal theories for pursuing enforcement actions against the banks include ECOA and UDAAP. Patrice expressed confidence in the Bureau's data and methodology based on the ECOA case law. Shirley Chiu, the attorney representing Enforcement, outlined several theories including actions under §1031, §1036, or a principal/agent theory for pursuing UDAAP violations based on the consumer's lack of knowledge about the presence of the dealer markup and the powerful disincentive to terminate an auto transaction at the financing stage when the consumer has already been at the dealer for several hours.

#### *Next Steps*

The AFDWG is presenting an update to the policy committee on August 9, 2012. Patrice and Eric will circulate a deck for the members of the committee to review. We will have an opportunity to weigh in on the deck and Peggy will be able to weigh in at the policy committee. I thought it would be helpful for you to have the outline of the AFDWG policy committee presentation so I have reproduced it below.

### **Template for AFDWG Policy Committee Discussion**

- 1) Bureau Priority Setting Process
  - a. Original AFDWG assignment and goals
  - b. Changes to MCP Process and impacts to AFDWG
  - c. Potential harm analysis
- 2) Supervision Activity (Update of Preliminary Findings)
  - a. Market size and share of examined institutions
  - b. Review of Bank “A”
  - c. Review of Bank “B”
  - d. Explanation of FL testing (Research)
    - i. Proxy methodology
    - ii. Controlling for dealer impacts
  - e. Non-Supervisory Data Collection Efforts
    - i. Trade Groups
    - ii. 1022 (c)(4) requests
    - iii. Enforcement Tools
- 3) Legal Doctrines and Risks
  - a. ECOA
    - i. Disparate Impact/Disparate Treatment
  - b. UDAAP
- 4) Remedies
- 5) Market Issues
  - a. How lenders might circumvent activities
    - i. “Squeezing the balloon”
  - b. How to avoid tipping the playing field and timing concerns
  - c. Presumed market responses
    - i. Prime versus subprime
    - ii. Secondary markets and rating agencies
    - iii. Dealers
- 6) Timing Charts
  - a. Project plans with milestones and timelines to compare options



**epic.org**

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Washington, DC 20009, USA

+1 202 483 1140  
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April 5, 2017

The Honorable Jeb Hensarling, Chair  
The Honorable Maxine Waters, Ranking Member  
U.S. House Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, DC 20515

**RE: Hearing on "The 2016 Semi-Annual Reports of the Bureau of Consumer Financial Protection"**

Dear Chairman Hensarling and Ranking Member Waters:

We write to you regarding the hearing "The 2016 Semi-Annual Reports of the Bureau of Consumer Financial Protection."<sup>1</sup> The Electronic Privacy Information Center was established in 1994 to focus public attention on emerging privacy and civil liberties issues. EPIC is a leading advocate for consumer privacy and has appeared before this Committee on several occasions.<sup>2</sup>

Last month, EPIC submitted a complaint to the Consumer Financial Protection Bureau over the use of Starter Interrupt Devices (SIDs).<sup>3</sup> SIDs are used by subprime auto lenders who attach these devices to vehicles as a condition of financing. EPIC's complaint alleges that these devices are used to "monitor borrowers' real-time location, limit borrowers' movements to prescribed boundaries via geo-fencing technology, and disable vehicles in remote or dangerous locations" in violation of the Consumer Financial Protection Act.<sup>4</sup> The EPIC complaint asks the CFPB to start an investigation into the practices of two specific auto lenders and to investigate similar practices used by other auto lenders.

<sup>1</sup> *The 2016 Semi-Annual Reports of the Bureau of Consumer Financial Protection*, 115th Cong. (2017), H. Comm. on Financial Services., <http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=401705> (April 5, 2017).

<sup>2</sup> See, e.g., Marc Rotenberg, EPIC Executive Director, Testimony before the U.S. House Committee on Financial Services, *Cybersecurity and Data Protection in the Financial Sector* (Sept. 14, 2011), <http://financialservices.house.gov/uploadedfiles/091411rotenberg.pdf>; Marc Rotenberg, EPIC Executive Director, Testimony before the U.S. House Committee on Financial Services, *ICANN and the WHOIS Database: Providing Access to Protect Consumers from Phishing* (July 18, 2008), <https://epic.org/privacy/whois/Rotenberg-Whois-Testimony-2008.pdf>; Marc Rotenberg, EPIC Executive Director, Testimony before the U.S. House Committee on Financial Services, *The Role of FCRA in Employee Background Checks and the Collection of Medical Information* (June 17, 2003), <https://epic.org/privacy/medical/fcratestimony6.17.03.pdf>.

<sup>3</sup> Complaint, Request for Investigation, Injunction, and Other Relief Submitted by The Electronic Privacy Information Center ("EPIC") to the Consumer Financial Protection Bureau (CFPB), *In the Matter of CAG Acceptance, LLC, and Gordon Howard Associates, Inc., d/b/a/ PassTime USA* (Mar. 15, 2017), available at <https://epic.org/privacy/cfpb/EPIC-CFPB-SID-Complaint.pdf>.

<sup>4</sup> *Id.*

EPIC Letter to House Committee  
on Financial Services

1

CFPB  
April 5, 2017

Defend Privacy. Support EPIC.

Auto lenders, who charge interest rates as high as 30% to borrowers, install SIDs on the vehicles as a condition of financing. The lenders can then remotely disable vehicles when borrowers are late on payments or travel outside of certain geographical areas. Many SIDs also monitor the location of vehicles and record and store where the driver is traveling.

The two companies at issue in EPIC's complaint are PassTime USA, a SIDs developer, and CAG Acceptance, LLC (CAGA), a subprime lender. PassTime requires borrowers to waive any rights to location privacy, including those established in federal and state law. Once the SIDs device is installed, CAGA does not identify any restrictions on location monitoring. As such, both companies obtain substantial amount of information about borrowers such as where they work, live, worship, and socialize. These companies use SIDs devices to disable cars while they are idling red lights, in remote locations with limited cellular or wireless service, and refueling at gas stations. The privacy and safety problems with these devices are well documented. One woman in Texas had her car repossessed by a lender after the car was located at a shelter where she was staying to escape her abusive husband.<sup>5</sup> Another borrower testified before the Nevada Assembly that CAGA had twice disabled her vehicle while she was driving.<sup>6</sup>

As NPR explained:

For borrowers in default, the repo man is no longer the one to fear — it's Big Brother. Growing numbers of lenders are getting tech savvy, remotely disabling debtors' cars and tracking customer data to ensure timely payment of subprime auto loans. The practice has created problems for consumers and raises privacy concerns.<sup>7</sup>

The Consumer Financial Protection Bureau plays a critical role in protecting consumer privacy. The Committee should urge the Bureau to act on EPIC's complaint on SIDs.

We ask that this letter be entered in the hearing record. EPIC looks forward to working with the Committee on these issues.

Sincerely,

/s/ Marc Rotenberg  
Marc Rotenberg  
EPIC President

/s/ Caitriona Fitzgerald  
Caitriona Fitzgerald  
EPIC Policy Director

<sup>5</sup> Michael Corkery and Jessica Silver-Greenberg, *Miss a Payment? Good Luck Moving That Car*, N.Y. Times (Sept. 24, 2014), <https://dealbook.nytimes.com/2014/09/24/miss-a-payment-good-luck-moving-that-car/>.

<sup>6</sup> T. Candice Smith, Testimony before Assembly Committee on Commerce and Labor, Nev. State Assembly (Mar. 22, 2013), available at <http://www.leg.state.nv.us/Session/77th2013/Exhibits/Assembly/CL/ACL4931.pdf>.

<sup>7</sup> Robert Szypko, *Your Car Won't Start. Did You Make The Loan Payment?*, NPR (Oct. 16, 2014), <http://www.npr.org/sections/alltechconsidered/2014/10/16/356693782/your-car-wont-start-did-you-make-the-loan-payment>.

Dear Member of Congress:

The following organizations write to express strong support for the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) and to oppose any effort to weaken or undermine the law.

The 2008 financial crisis caused the worst economy since the Great Depression, decimating the labor market. While all businesses suffered from the crisis, the economic wreckage caused by the financial industry disproportionately hurt small businesses. At the peak of the recession, the job loss rate for businesses with fewer than 50 employees doubled that of businesses with 500 or more employees. And between 2007 and 2012, an astonishing 60% of the total net job losses were in the small business sector. To date, the job creation rate of small businesses lags well behind the pre-recession levels, and small businesses widely struggle to obtain sufficient financing.<sup>1</sup>

That small business owners fared worse during the Great Recession is not surprising. Research shows small firms are far more susceptible to the impact of financial crises than their larger counterparts.<sup>2,3</sup> Largely reliant on bank capital to fund their growth, small business owners feel the credit market swings more acutely.<sup>4</sup> When economic downturns arise, small business owners are less able to utilize alternative financing sources or dip into financial reserves.

**That is why our organizations steadfastly support the Dodd-Frank Act. The law was passed in the aftermath of the Great Recession to ensure that such a crisis never again happens.**

Recognizing that the economic collapse was largely caused by a regulatory void, the bill substantially changed the supervision of banking institutions. It established the Financial Stability Oversight Council to monitor “too-big-to-fail” banks that pose a risk to the US financial system, imposed more stringent regulatory capital requirements on large and small banks, and instituted the Volcker Rule to separate commercial and investment dealings. The Dodd-Frank Act also created the Consumer Financial Protection Bureau (CFPB), an agency responsible for enforcing compliance with consumer financial laws. These measures restored badly needed stability to the financial markets, increased transparency and accountability, and created vital protections for consumers. The result: a financial system that is markedly safer for small business owners.

Beyond the structural reforms, the Dodd-Frank Act also directly benefited business owners through saving money, freeing up capital, and increasing transparency in small business lending. These provisions include:

<sup>1</sup> Karen Mills and Braydon McCarthy, “State of Small Business Lending: Credit Access during the Recovery and How Technology May Change the Game,” (July 22, 2014). [http://www.hbs.edu/faculty/Publication%20Files/15-004\\_09b1bf8b-e62a-4c63-9c4e-0374f770856f.pdf](http://www.hbs.edu/faculty/Publication%20Files/15-004_09b1bf8b-e62a-4c63-9c4e-0374f770856f.pdf)

<sup>2</sup> Duygan-Bump, Burcu, Alexey Levkov and Judit Montoriol-Garriga, “Financial Constraints and Unemployment: Evidence from the Great Recession,” Federal Reserve Bank of Boston (December 14, 2011) Working Paper No. QAU10-6.

<sup>3</sup> Mills and McCarthy (2014).

<sup>4</sup> National Federation of Independent Businesses, “Small Business, Credit Access, and a Lingering Recession,” (January 2012).

- The Durbin amendment, which limits fees charged to retailers for small business debit card processing and requires that these transactions are reasonable and proportional to the cost of processing those transactions.
- The establishment of a new complaint system to help consumers, small businesses, and the CFPB spot worrisome practices. Small businesses are beginning to realize there is finally a place for them to go to raise concerns about problematic financial practices and to seek assistance, and they are doing so regarding a variety of concerns that are impacting their ability to grow and to hire.
- Requirements that level the playing field in lending so that small banks, who are more likely to lend to small business owners, can compete with larger banks on equal terms. These include graduated capital and liquidity requirements (higher capital requirements for bigger banks), graduated deposit insurance (bigger banks pay more than small banks), and a \$10 billion floor for CFPB examination.
- Section 1071, which directs the CFPB to collect publicly available small business loan data—information that has been difficult to come by, but is essential to increase access to capital for small businesses, particularly female-owned and minority-owned. These data can allow policy makers and the public to see whether small business owners have equal access to much needed loan products, or are relegated to higher cost and potentially harmful products like certain fintech loans and Merchant Cash Advances.

Dodd-Frank opponents often invoke small businesses in their opposition, claiming that its regulatory and enforcement actions have harmed businesses by drying up credit. Small business owners do face significant challenges accessing credit, but we strongly disagree that this problem is caused by the Dodd-Frank Act. Government data show that small-business loans dropped sharply before Dodd-Frank existed. Rather, the evidence strongly suggests that credit dried up because of the financial crisis itself, which could have been averted or at least mitigated had the stabilizing measures contained in Dodd-Frank been in effect before the crisis. To blame Dodd-Frank for the crisis-induced credit crunch confuses cause and effect.

Furthermore, we firmly believe that the protections instituted in the Dodd-Frank Act are the necessary safeguards to enable businesses and entrepreneurs to take the financial risks to start or expand their business. For instance, 63% of small business owners used their personal assets, such as their homes (though these loans are generally not captured by home lending reporting requirements) or personal savings, as collateral to secure financing, and over half used personal savings to finance their business.<sup>5</sup> As such, protecting these “consumer investments” is critical to small business success. Likewise, removing forced arbitration clauses that disempower consumers is beneficial to small businesses, who are subject to the same clauses whenever they open a credit card account or a bank account.

Additionally, when consumers’ financial lives are held hostage to predatory payday loans or student loans that lock them in a cycle of debt, businesses suffer. Under the weight of this debt, customer dollars are siphoned away from the local economy, consumer demand for goods and services slackens, and Main Street businesses lose revenue. Strong, local businesses

<sup>5</sup> “2015 Small Business Credit Survey: Report on Employer Firms.” Federal Reserve Bank of Atlanta. <https://www.frbatlanta.org/-/media/Documents/research/small-business/survey/2015/report-on-employer-firms/2015-report-on-employer-firms.pdf?la=en>.

depend upon robust enforcement of the Dodd-Frank Act.

In conclusion, the Dodd-Frank Act has made enormous strides in creating a fairer marketplace in which small businesses, consumers, and local economies can thrive. We urge you to oppose any attempt to weaken this vital law or dismantle the agencies it has created. Please contact Michelle Sternthal at [michelle@mainstreetalliance.org](mailto:michelle@mainstreetalliance.org) or 202-263-4529 with any further questions.

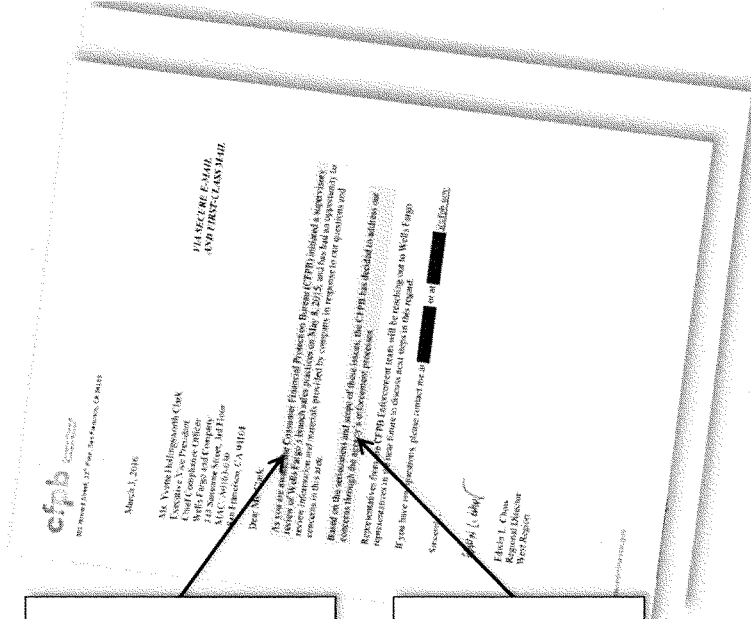
Sincerely,

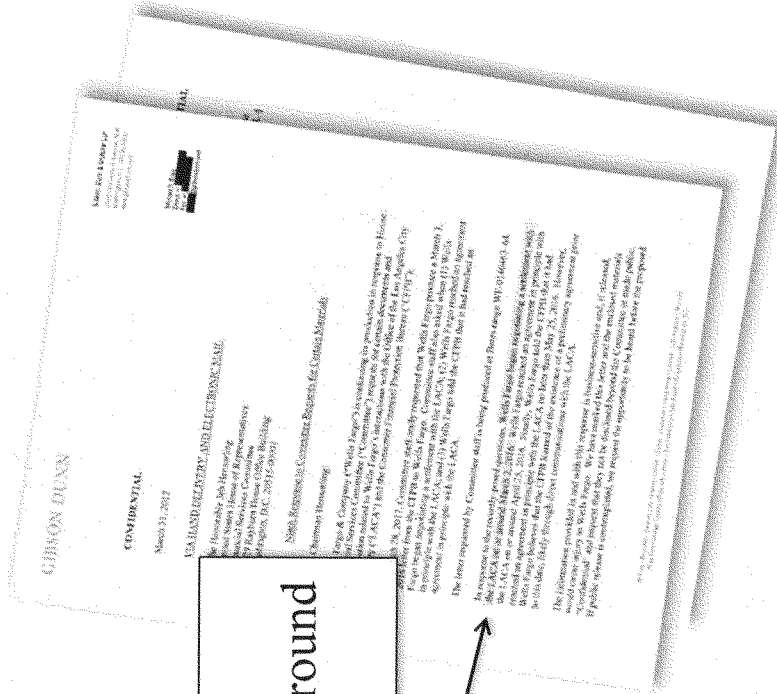
Main Street Alliance  
Accion Chicago  
Allied Progress  
Asian Pacific Islander Small Business Program  
California Association for Micro Enterprise Opportunity  
California Reinvestment Coalition  
California Resources and Training  
Center for Responsible Lending  
Empire Justice Center  
Franciscan Action Network  
Interfaith Center on Corporate Responsibility  
National Community Reinvestment Coalition (NCRC)  
NAACP  
Opportunity Fund  
Jefferson Economic Development Institute  
Self-Help Credit Union  
Women's Economic Ventures  
Woodstock Institute

“As you are aware, the Consumer Financial Protection Bureau (CFPB) initiated a supervisory review of Wells Fargo’s branch sales practices on May 8, 2015”

“Based on the seriousness and scope of these issues, the CFPB has decided to address our concerns through the agency’s enforcement processes.”

Source: CFPB





“Wells Fargo began negotiating a settlement with the LACA on or around March 2, 2016”

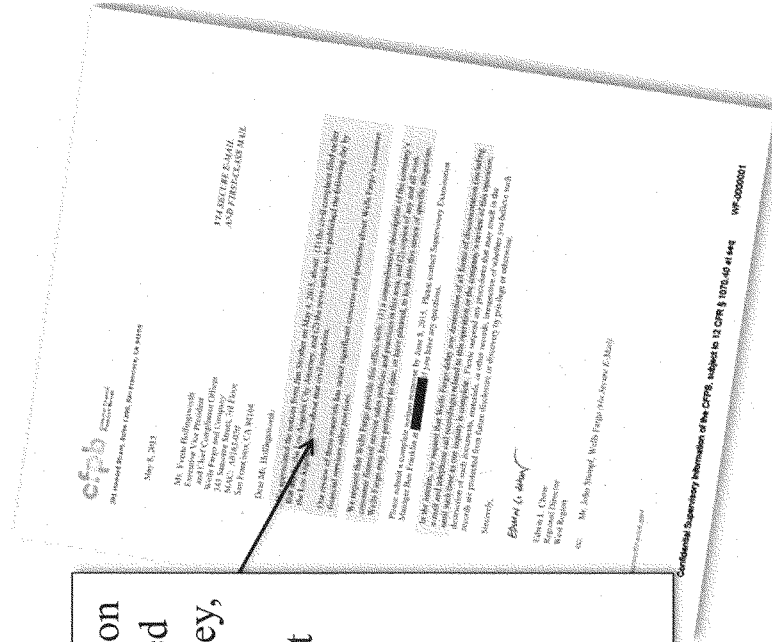
Source: Letter from Gibson, Dunn, & Crutcher LLP

“We appreciated the notices from Jim Strother on May 4, 2015, about: (1) the civil complaint filed earlier that day by the Los Angeles City Attorney, and (2) the news article to be published the following day by the Los Angeles Times about that civil complaint.

Our review of these materials has raised significant concerns and questions about Wells Fargo's consumer financial services sales practices.”

Source: CFPB

(1/2)



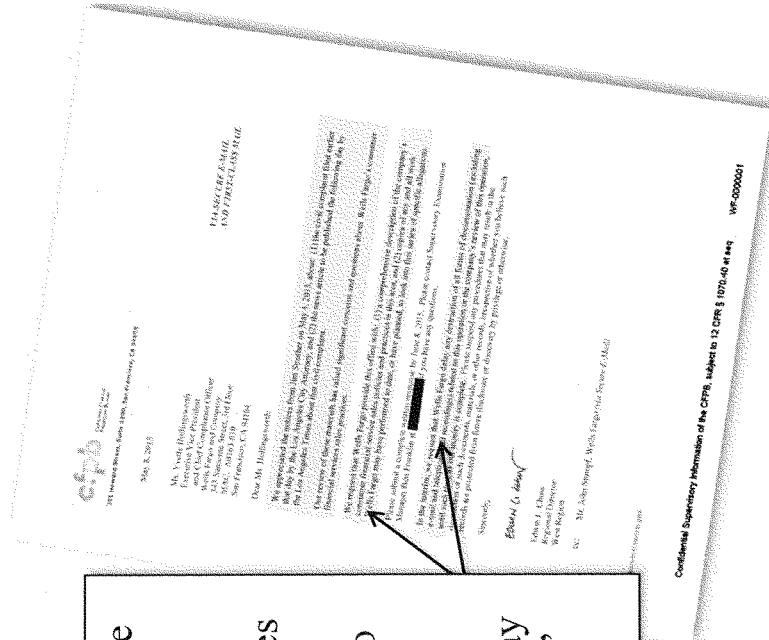


“We request that Wells Fargo provide this office with: (1) a comprehensive description of the company's consumer financial service sales policies and practices in this area, and (2) copies of any and all work Wells Fargo may have performed to date, or have planned, to look into this series of specific allegations.

In the interim, we request that Wells Fargo delay any destruction of all forms of documentation.”

Source: CFPB

(2/2)



“Bureau staff first became aware of some related issues around Wells Fargo’s sales practices through whistleblower tips in mid-2013, and began conducting initial evaluation of the situation at that time. Bureau staff continued to assess those issues internally through 2014, and then began directly engaging Wells Fargo in the spring of 2015.”

Source: CFPB

cfpb  
Consumer Financial Protection Bureau  
www.consumerfinance.gov

September 23, 2016

The Honorable John H. Johnson  
Chairman  
U.S. House of Representatives  
2179 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Henshaw,

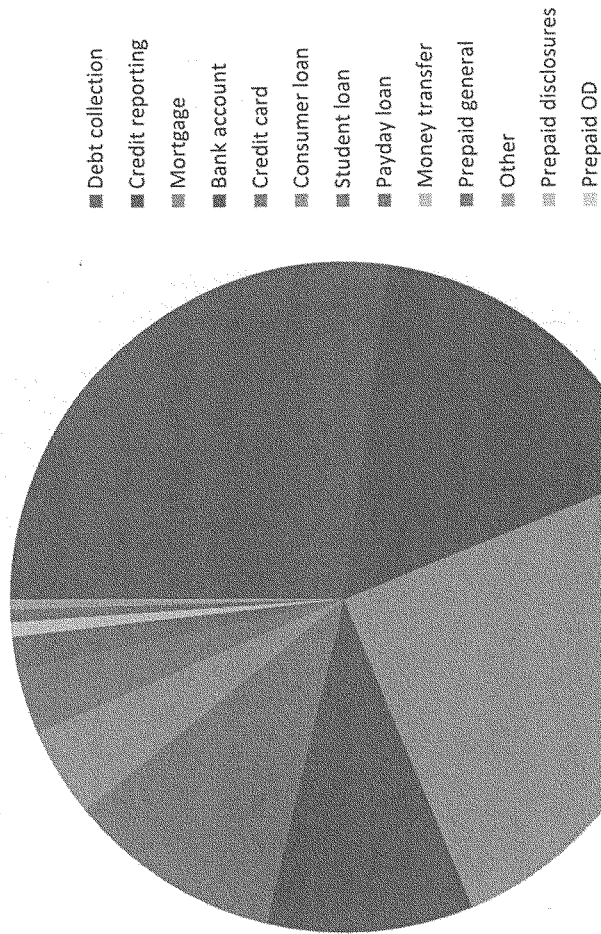
Thank you for your letter of September 16, 2016 regarding the Consumer Financial Protection Bureau’s recent statement on Wells Fargo’s sales practices. The Bureau’s investigation into the security of these sales practices is ongoing, and we are committed to ensuring that Wells Fargo’s sales practices are consistent with the Bureau’s mission. The Bureau’s investigation into the security of these sales practices is ongoing, and we are committed to ensuring that Wells Fargo’s sales practices are consistent with the Bureau’s mission. The Bureau’s investigation into the security of these sales practices is ongoing, and we are committed to ensuring that Wells Fargo’s sales practices are consistent with the Bureau’s mission.

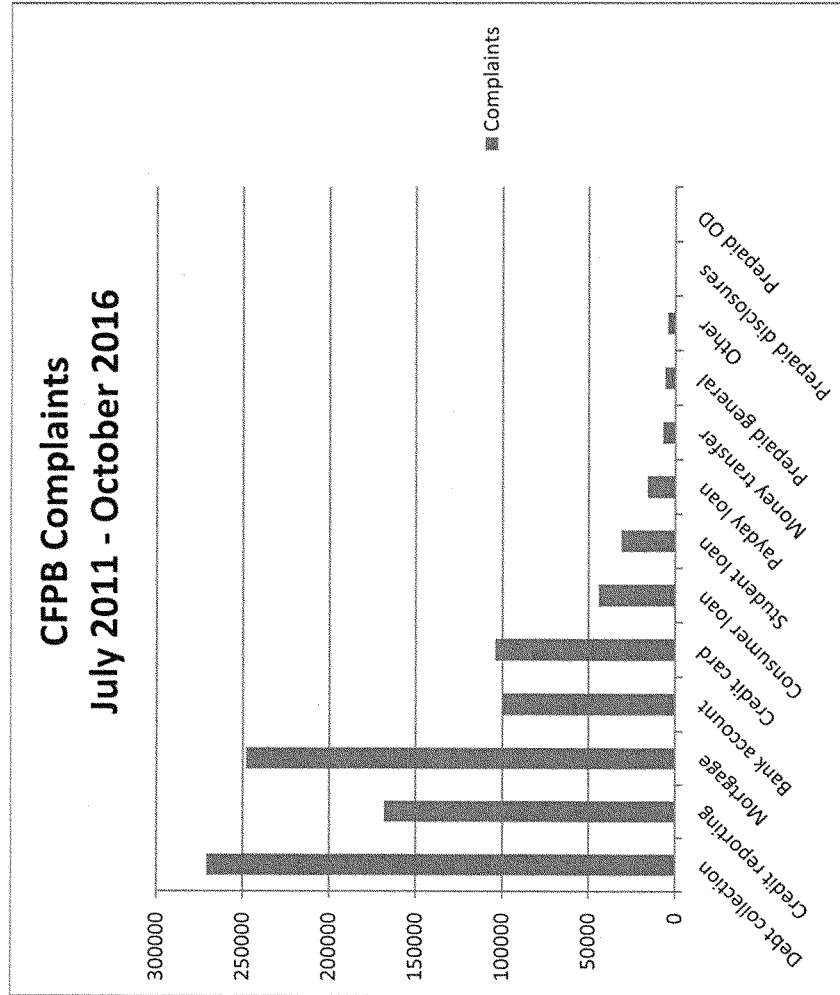
Bureau staff first became aware of some related issues around Wells Fargo’s sales practices in mid-2013, and then began directly engaging Wells Fargo in the spring of 2015. During this time, the Bureau’s investigation into the security of these sales practices is ongoing, and we are committed to ensuring that Wells Fargo’s sales practices are consistent with the Bureau’s mission. The Bureau’s investigation into the security of these sales practices is ongoing, and we are committed to ensuring that Wells Fargo’s sales practices are consistent with the Bureau’s mission. The Bureau’s investigation into the security of these sales practices is ongoing, and we are committed to ensuring that Wells Fargo’s sales practices are consistent with the Bureau’s mission.

Under the terms of the Consent Order, Wells Fargo will pay full redress to victims, as well as a \$100 million civil penalty, reflecting the nature and extent of the violations. Additionally, Wells Fargo will be required to implement a comprehensive compliance program, and the Bureau will continue to monitor Wells Fargo’s compliance with the Consent Order. The Bureau’s investigation into the security of these sales practices is ongoing, and we are committed to ensuring that Wells Fargo’s sales practices are consistent with the Bureau’s mission. The Bureau’s investigation into the security of these sales practices is ongoing, and we are committed to ensuring that Wells Fargo’s sales practices are consistent with the Bureau’s mission.

cc: Bureau of Consumer Financial Protection

### CFPB Complaints July 2011 - October 2016





**House Committee on Financial Services**  
***The Semi-Annual Report of the Bureau of Consumer Financial Protection***  
**Questions for the Record**  
**April 5, 2017**

**Questions for the Honorable Richard Cordray, Director, Consumer Financial Protection Bureau, from Chairman Hensarling:**

*Question*

On March 20, I sent you a letter asking you what should be a very simple question: absent action taken by the Administration, will you fulfill your full term as CFPB Director? In your response letter, you said you “have no insights to provide.”

During the hearing, Representative Zeldin again asked you this same question, and you testified “I have no insights to provide on that...so, you know, your speculation about that is as good as mine.”

Director Cordray, reporting has speculated that you are considering running for Governor of Ohio in the 2018 gubernatorial election. While some Ohio Democrats have already declared their candidacy, it has also been reported that others “believe the field will remain murky until the former Ohio attorney general decides what to do.” As you may know, federal agency employees, including yourself, are generally prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election. Under these circumstances, your deliberate silence regarding your intentions as CFPB Director could be construed as interference with the decision-making of other candidates, which could affect the result of the 2018 Ohio gubernatorial primary and general elections.

Only you can put an end to speculation about your intentions because they are known only to you.

Let me ask a third time: absent action taken by the Trump administration (which includes any action taken as a result of the *PHH* litigation), will you serve your entire term as CFPB Director?

If you will not commit to serving your full term, on what date will you resign from office?

*Response*

Thank you for your continued interest in the Consumer Financial Protection Bureau and my own personal plans. As you know, I was nominated by the President and confirmed by the Senate to serve a term of office that will be completed in July 2018. You ask whether there is some specific date on which I plan to resign from office. At this time, I have no further insights to provide on that subject.

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**Questions for the Honorable Richard Cordray, Director, Consumer Financial Protection Bureau, from Congressman Andy Barr:**

*Question 1*

As you know Section 1022 of the Dodd-Frank Wall Street Reform and Consumer Protection Act authorizes the Consumer Financial Protection Bureau (CFPB) to exempt entities from new regulations based on certain “factors.”

In particular, Section 1022 (3)(A) states:

“The Bureau, by rule, may conditionally or unconditionally exempt any class of covered persons, services providers, or consumer financial products or services, from any provision of this title, or from any rule issued under this title, as the Bureau determines necessary or appropriate..., taking into consideration the factors.”

These factors include “(i) the total assets of the class of the covered persons; (ii) the volume of transactions involving consumer financial products or services in which the class of covered person engages; and (iii) existing provisions of law which are applicable to the consumer financial product or service and the extent to which such provision provide consumers with adequate protections.”

Additionally, Section 1022 (2)(A)(i) states that “The Bureau shall consider, the potential benefits and costs to consumer and covered persons, including the potential reduction access by consumers to consumer financial products or services resulting from such rule.”

However, the Bureau has rarely exercised its Section 1022 powers to make broad exemptions for community financial institutions despite overwhelming evidence that some CFPB rules are doing more harm than good to American consumers. A prime example is the international remittance rule. In 2006, Congress expressly indicated its desire to see credit unions get more involved in offering remittances to those in their field of membership (P.L. 109-351, Section 503). The 2013 CFPB remittance rule has had the opposite effect, as studies by both NAFCU and CUNA have found that credit unions have cut back or stopped offering international remittances, primarily due to the burden from the new CFPB regulations and the unrealistic and unworkable 100 remittance exemption. This is especially troubling considering the fact that Kentucky is home to Fort Knox, Fort Campbell, the Blue Grass Army Depot Base, and many of our troops rely on their credit unions to send these remittances to loved ones overseas.

Given the action of Congress in 2006, why didn't the CFPB fully exempt credit unions as a class from the remittance rule or at least provide a broader exemption? Clearly credit unions are a “class” of institutions. This would seem to be a prime example of when this 1022 authority could be used, as the overall credit union industry is a small player in the remittance market and driving them out of the market definitely creates a potential reduction in access by consumers. With the CFPB’s 5 year assessment of this rule it is mind, do you believe the CFPB has the

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power to amend this rule to address these concerns? I would think that it would benefit U.S. military members and their families to do so. Also, other “classes” of institutions are impacted by this rule. Have you explored applying a broader exemption to these institutions as well?

*Response*

Prior to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), federal consumer protection rules did not apply to most remittances. Yet, consumers in the United States were sending billions of dollars to foreign countries via remittances each year. The Dodd-Frank Act established new standards for remittance transfers and authorized the Consumer Financial Protection Bureau (Consumer Bureau) to issue rules that would make these standards clear and effective. As you know, those requirements took effect on October 28, 2013, as the remittance rule.

The remittance rule gave consumers strong new protections. It requires companies to give accurate disclosures to consumers before they pay for a remittance transfer. The remittance rule also requires remittance transfer providers to investigate disputes and remedy certain errors. For example, if a consumer’s money arrives later than promised, then that consumer may be entitled to a refund of the fee paid for the transfer.

As you are aware, in authorizing the Consumer Bureau to write rules, the Dodd-Frank Act requires us to review some of our rules within five years after they take effect. We are conducting that review of the remittance rule, and we will issue a report of the assessment in the fall of 2018. As required by law, the assessment will address the rule’s effectiveness in meeting the purposes and objectives of Title X of the Dodd-Frank Act, which include consumer access to consumer financial products and services, as well as the specific goals of the remittance rule, using available evidence and data.

The Consumer Bureau announced its intention and plan to assess the 2013 Remittance Rule on March 17, 2017, with a request for information that sought comments from the public on how the Consumer Bureau should conduct its assessment.<sup>1</sup> The Consumer Bureau sees conducting the assessment as an opportunity to advance the Consumer Bureau’s and the public’s knowledge of the benefits and costs of the key requirements of the remittance rule. We expect that the assessment will also provide the public with information about the remittance market, and help the Consumer Bureau fulfill its commitment to be an evidence-based and effective agency. As the Consumer Bureau conducts its assessment of the remittance rule, the Consumer Bureau expects to consider the effects of specific provisions of the rule to the extent feasible. For example, the Consumer Bureau may collect and analyze information about the rule’s safe harbor provision for providers that send fewer than 100 remittance transfers each year.<sup>2</sup> The Consumer Bureau does not anticipate that the assessment report will include specific proposals to modify

<sup>1</sup> See <https://www.federalregister.gov/documents/2017/03/24/2017-05681/request-for-information-regarding-remittance-rule-assessment>.

<sup>2</sup> See 12 CFR 1005.30(f)(2).

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the rule, although the findings made in the assessment will inform the Consumer Bureau on whether a future rulemaking should be considered. As part of its assessment of the impact of the remittance rule on credit unions, the Consumer Bureau expects to analyze call report data submitted by credit unions to the National Credit Union Administration regarding their remittance services.

The Consumer Bureau amended the original February 2012 final rule on several occasions, both before and after its effective date. The purpose of each of these rulemakings was to address compliance challenges and to reduce the costs of compliance. For example, to give credit unions, banks, and thrifts additional time to develop better communication mechanisms with foreign financial institutions, the Consumer Bureau extended an exception in the rule that allows insured financial institutions flexibility in meeting disclosure requirements for five years (until July 2020). The Consumer Bureau provided this extension based on a determination that the termination of the exception would cause some remittance transfer providers to stop sending certain transfers.<sup>3</sup> The Consumer Bureau also adjusted requirements related to the disclosure of foreign fees and taxes, transfers to and from U.S. military installations abroad, and error resolution, to address compliance concerns.<sup>4</sup> The Consumer Bureau made the adjustment to the error resolution provision and to address transfers to and from military installations abroad in response to concerns expressed by credit unions and their trade associations.<sup>5</sup>

With respect to a broader exemption from the remittance rule for credit unions, the Consumer Bureau notes that in adopting Section 1073 of the Dodd-Frank Act, Congress provided specific accommodations for depository institutions, including giving them time to improve communications with foreign financial institutions that conduct currency exchanges or impose fees on certain open network transactions. The statute creates a temporary exception to permit insured depository institutions, including credit unions, to provide “reasonably accurate estimates” of the amount to be received where the remittance transfer provider is “unable to know [the amount], for reasons beyond its control” at the time the sender requests a transfer through an account held with the provider. Additionally, the statute provides that only those that provide remittances in the normal course of their business must comply with the rule. Based on data submitted by several credit unions and other commenters to the rule, the Consumer Bureau adopted a safe harbor of 100 annual transfers. As noted above, the Consumer Bureau may assess the efficacy of this safe harbor provision in its ongoing assessment. The purpose of these, and the other provisions noted in this response, is to ease compliance challenges for credit unions while maintaining consumer protections.

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<sup>3</sup> See 79 FR 55970 (Sept. 18, 2014).

<sup>4</sup> See 78 FR 30661 (Mar. 23, 2013) (adjusting requirements regarding error resolution and disclosure of foreign fees and taxes); 79 FR 55970 (extending temporary exception to July 2020 and making other adjustments including regarding transfers to and from U.S. military installations abroad).

<sup>5</sup> See *id.* at 55976-77.



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*Question 2*

Manufactured housing is an important source of affordable housing, especially for rural and low-income consumers in Kentucky. I've become increasingly concerned about the availability of credit for those borrowers seeking access to such housing due to the CFPB's regulations. In fact, Home Mortgage Disclosure Act data from 2013 to 2014 shows that number of manufactured housing loans made per year from \$50 to \$75k has decreased between 10 to 14 percent.

As you may know, earlier this year I introduced the Preserving Access to Manufactured Housing Act (H.R. 1699) to fix this problem. This legislation, allows for the first mortgage on a homeowner's principal home to not be considered "high cost" if (1) the mortgage annual percentage rate is no more than 10 percent of the average prime offer rate, (2) the transaction does not exceed \$75,000 and, (3) the mortgage points and fees paid to the mortgage originator are 5 percent or less of the transaction or \$3,000. The bill also excludes manufactured home retailers and sellers from the definition of a loan originator, so long as they are only receiving compensation for the sale of the home and not engaged in financing the loans. Last Congress, this legislation passed the House by a vote of 263 to 162, with 22 democrats supporting the measure.

While Congress could resolve these problems by adopting this legislation, the truth is that CFPB could simply fix these problems itself. With that in mind and the fact that HMDA data shows manufactured housing lending is on the decline, isn't it time to change the rules that are making it harder for Americans of modest means to purchase affordable housing like manufactured homes?

*Response*

While the total number of first-liens (including both home purchase and refinancing) on manufactured homes, originated for between \$50,000 and \$75,000, did fall between 2013 and 2014, this decline was driven in large part by a drop in refinancing activity between 2012 and 2014 that affected both the manufactured home and site-built home financing markets. In contrast, the number of first-liens to purchase manufactured homes between \$50,000 and \$75,000 has risen steadily since 2011. Originations of first-lien purchase loans for manufactured homes in this dollar range were approximately six percent higher in 2014 than in 2013, and nearly 20 percent higher in 2016 than in 2013.

The Consumer Bureau is committed to ensuring that housing markets operate fairly, transparently, and competitively for all consumers and believes that manufactured housing can serve important housing needs in communities throughout the United States. Manufactured housing owners deserve the same or similar consumer protections as other homeowners, and we carefully monitor the market and consider our rules to determine when different treatment is warranted. When implementing the Dodd-Frank Act amendments to the Home Ownership and Equity Protection Act (HOEPA), the Consumer Bureau did not make any special adjustments to the thresholds for manufactured housing beyond those included in the statute by Congress. This

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was because the primary goal of the statutory amendments was to extend the special HOEPA protections to any housing credit that is priced over those thresholds and to include home purchase loans. The Consumer Bureau is committed to continuing to monitor the manufactured housing market as new data and information become available, including with respect to home purchase originations for relatively low dollar amounts.

*Question 3*

On October 7, 2016, the Office of Advocacy of the U.S. Small Business Administration (OFA) submitted a comment letter about the CFPB's proposed rule concerning payday, vehicle title, and certain high-cost installment loans. The comments stated that the economic impact of the proposed rule on small firms and American consumers may be greater than what is indicated in the CFPB's analysis required under the Regulatory Flexibility Act. How is the CFPB ensuring that the economic impact of this proposed rule is being mitigated not just with respect to the issues the SBA has raised, but also from the myriad of comments the small business community has raised? Such mitigation, as you know, is required under the Small Business Regulatory Enforcement Fairness Act amendments to the Regulatory Flexibility Act.

The OFA letter stated that the "CFPB's proposed rule may force legitimate businesses to cease operation. Imposing such a regulation will not alleviate a consumer's need for short-term credit. The consumer will still need to pay his/her bills and other expenses. Imposing these strict regulations may deprive consumers of a means of addressing their financial situation." Knowing that the OFA believes the proposed rule may hinder the ability of American consumers to make ends meet, potentially harming their credit, and possibly making it even harder for Americans to succeed, are you willing to postpone moving forward with the proposed rule, until the OFA's concerns about the rule closing many legitimate businesses are 100 percent eliminated? If not, how are you ensuring the impact on consumers will be minimal?

*Response*

In the Notice of Proposed Rulemaking on Payday, Vehicle Title, and Certain High-Cost Installment Loans, the Consumer Bureau sought to develop a rule that protects consumers from debt traps due to unaffordable loans. The Consumer Bureau's research since 2012 has found that consumers who take out payday and title loans often cannot afford to pay back all of the money they owe by the repayment date. The consumer harm resulting from an inability to repay includes repeat reborrowing, the loss of consumers' vehicles, and fees from failed attempts by lenders to debit payments from consumers' checking accounts. The Consumer Bureau and third-party research has found that both large and small payday lenders depend on consumer reborrowing for a substantial fraction of their loan volume.

The Consumer Bureau proposed ability-to-repay requirements that would ensure that lenders only make loans to consumers who have the ability to repay the loans on their terms, without reborrowing and without forgoing basic living expenses. At the same time, the proposal would preserve access to safe credit for consumers and also mitigate the impacts on small businesses.

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The Consumer Bureau examined the effects of payday loan reforms in Colorado, Virginia, and Washington on the number of payday loan storefronts and found that more than 90% of borrowers remained within five miles of a storefront lender five years after the legal changes. The proposal exempts from the ability-to-repay requirements certain covered short-term loans. Lenders could avail themselves of these exemptions provided they comply with certain requirements that would protect consumers from the harms of unaffordable loan payments.

The Consumer Bureau is currently reviewing public comments on the proposed rule and will consider and respond to comments in accordance with its obligations under the Administrative Procedure Act. In so doing, the Consumer Bureau will carefully weigh the benefits and costs of the regulation to consumers and lenders and seek to balance the need for essential consumer protection in these markets.

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**Questions for the Honorable Richard Cordray, Director, Consumer Financial Protection Bureau, from Congresswoman Joyce Beatty:**

*Question 1*

The Dodd-Frank Wall Street Reform and Consumer Protection (Dodd-Frank) Act requires the Bureau to conduct an assessment of each significant rule or order it finalizes no later than 5 years after the effective date of that rule or order. In the Consumer Financial Protection Bureau's Semi-Annual Report to Congress, the Bureau states that it will begin its five-year retrospective reviews, starting with the remittances rule, followed by relevant mortgage rules. In reassessing these rules, does the Bureau plan to look at whether or not these rules are adequately tailored for smaller financial institutions, namely community banks and credit unions?

*Response*

In authorizing the Consumer Financial Protection Bureau (Consumer Bureau) to write rules, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires us to review some of our rules within five years after they take effect. As required by law, the assessment will address the rules' effectiveness in meeting the purposes and objectives of Title X of the Dodd-Frank Act, which include addressing reducing unwarranted regulatory burden, as well as the specific goals of the rules, using available evidence and data.

Specifically, the Consumer Bureau will investigate the impact of its rules on different segments of affected markets in its assessments. To the extent that data allows, the Consumer Bureau will investigate impacts on smaller financial institutions and on consumers who receive financial services from these institutions. Data about small providers and their customers is often limited and requires specialized outreach to obtain. The Consumer Bureau has solicited comments on its plans for assessing certain rules and on the rules themselves. Commenters can provide evidence and data on whether the rules are adequately tailored for smaller financial institutions.

*Question 2*

Under Dodd-Frank, the Consumer Financial Protection Bureau, Office of Minority and Women Inclusion (OMWI) is required to create standards to assess the diversity and inclusion policies and practices of regulated entities within the authority of the Bureau. Understanding that the OMWI offices among the federal financial regulators proposed and finalized interagency standards in June 2015, can you provide an update for the Committee of where in the process is the Bureau's OMWI office in collecting this information from the regulated entities?

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*Response*

Following the finalization of interagency standards by the federal financial regulators in June 2015, the Consumer Bureau's Office of Minority and Women Inclusion (OMWI) continued with the planning necessary to implement and achieve the initiatives set forth in the new standards. This planning work included:

- Creating a self-assessment tool that would be offered to entities within the Consumer Bureau's authority that may be used on a voluntary basis to assess their diversity and inclusion policies and practices;
- Identifying key stakeholders, both internal and external to the Consumer Bureau, and establishing lines of communication and collaboration to ensure smooth and effective implementation of the standards; and
- Building Consumer Bureau processes for ensuring separation of the implementation of the standards from other Bureau engagements with entities within its authority.

In November 2016, the Consumer Bureau's OMWI hosted an initial roundtable listening session with members of the mortgage industry to gather additional information about their experiences, and challenges with diversity and inclusion in management practices. Representatives from twenty different organizations of varying sizes attended the roundtable, as well as the OMWI Directors from other financial regulatory agencies. The roundtable provided an opportunity for participants to exchange ideas and learn about common practices that currently exist in the mortgage industry to further diversity and inclusion among its participants. It also provided a forum for these stakeholders to share their practices with other industry counterparts that may not have addressed these challenges in the same ways. The Consumer Bureau published a summary of these discussions in April 2017, which may be found at [http://files.consumerfinance.gov/f/documents/201704\\_cfpb\\_OMWI-Regulated-Entities-External-Report.PDF](http://files.consumerfinance.gov/f/documents/201704_cfpb_OMWI-Regulated-Entities-External-Report.PDF)

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**Questions for the Honorable Richard Cordray, Director, Consumer Financial Protection Bureau, from Congressman Charles Crist:**

Director Cordray, traveling around my hometown of south St. Petersburg, Florida, I hear concerns from small business owners who lack access to traditional capital. While it is important to improve access to capital for all businesses, I am particularly troubled when small businesses in a primarily black neighborhood in my district cannot access capital. I'm concerned about disparate impact in a community that is very important to me and to my district.

Everyone – especially women and persons of color – should be able to have a good idea, take a risk, and make money doing it. It's the American way. Entrepreneurship creates jobs and lifts the standard of living for everyone. But all that starts with capital, the lifeblood of small business.

*Question 1*

Why are women- and minority-owned small businesses in my neighborhood having trouble accessing traditional sources of capital?

*Question 2*

What steps is the Bureau taking to fix it?

*Question 3*

What further action is needed from Congress?

*Response 1-3*

In a May 2017 White Paper on the Small Business Lending Landscape,<sup>6</sup> the Consumer Financial Protection Bureau (Consumer Bureau) discussed research finding that access to financing is vitally important for allowing businesses to grow. For small businesses, financing not only provides resources that smooth business cash flows for current operations, but also affords business owners an opportunity to invest in future growth. Unfortunately, with the current available data, it is not possible to confidently answer basic questions regarding the state of small business lending. The Federal Financial Institutions Examination Council Call Reports and Community Reinvestment Act reports are two of the best available data sources on loans of \$1 million or less and small business lending. However, these reports only capture lending by banks and exclude activity by nonbank lenders and other nondepository financial institutions. Moreover, the Call Reports provide data on small loans, but not information on the size of the businesses obtaining those loans, or information about the business owners. Therefore, these

<sup>6</sup> [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201705\\_cfpb\\_Key-Dimensions-Small-Business-Lending-Landscape.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201705_cfpb_Key-Dimensions-Small-Business-Lending-Landscape.pdf)

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reports provide only limited, general information about small business lending and contain no information on lending to women-owned and minority-owned small businesses in particular.

Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the Equal Credit Opportunity Act to require financial institutions to compile, maintain, and submit to the Bureau certain data on credit applications by women-owned, minority-owned, and small businesses. Congress enacted Section 1071 of the Dodd-Frank Act for the purpose of facilitating enforcement of fair lending laws and enabling communities, governmental entities, and creditors to identify business and community development needs and opportunities for women-owned, minority-owned, and small businesses. Given the current lack of comprehensive data in this area, the data collection mandated by Section 1071 of the Dodd-Frank Act will provide valuable insight to communities, public sector entities, and financial institutions, as well as to advocates and regulators about small business lending.

Section 1071 also requires the Consumer Bureau to prescribe rules and issue guidance as may be necessary to carry out, enforce, and compile data pursuant to this section. The Consumer Bureau is in the early stages of considering how best to implement the Section 1071 mandate. Due to the various types of lending institutions and products that could potentially fall within its scope, the Consumer Bureau is mindful that any data collection efforts must be fully informed and carefully implemented. To that end, as an initial step in the rulemaking process, on May 10, 2017, the Consumer Bureau held a field hearing and released a Request for Information<sup>7</sup> seeking information from the public and industry participants for various types of information regarding the small business lending market. The Bureau looks forward to a productive dialogue with these stakeholders as it moves forward to implement its rulemaking requirement under Section 1071 of the Dodd-Frank Act. In the meantime, the Bureau has been conducting supervisory activity in this area, which helps expand and enhance our knowledge base on small business lending, including the credit process, existing data collection processes, and the nature, extent, and management of fair lending risk.

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<sup>7</sup> <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/open-notices/request-information-regarding-small-business-lending-market/>

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**Questions for the Honorable Richard Cordray, Director, Consumer Financial Protection Bureau, from Congressman Randy Hultgren:**

*Question*

I've noticed the Student Loan Ombudsman's office has been testifying at state hearings recently and often works with state officials, such as attorneys general. For example, he testified before the California legislature on March 22, 2017. Section 1035 of the Dodd-Frank Act permits the Ombudsman's office to make recommendations to Congress, but it provides no such authority on state legislative affairs. Why do you believe the Student Loan Ombudsman has the authority to make recommendations on state legislative affairs?

*Response*

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires that the Consumer Financial Protection Bureau (Consumer Bureau) "shall coordinate with State regulators, as appropriate, to promote consistent regulatory treatment of consumer financial . . . products and services." 12 U.S.C. 5495. When appropriate, to fulfil this obligation, Consumer Bureau staff, as well as the Student Loan Ombudsman, engage with state policymakers who request technical assistance.

The Consumer Bureau's Student Loan Ombudsman has published a series of reports identifying a broad range of student loan servicing practices that may inhibit student loan borrowers seeking to repay their debts. As part of this ongoing work, the Consumer Bureau has received requests for background briefings and technical assistance on related issues from state policymakers, including state attorneys general, state banking regulators, and state legislators. In some cases, state legislatures have also considered or enacted legislation to expand state oversight of student loan servicers. When asked by state policymakers considering such legislation, the Student Loan Ombudsman has provided background information about federal efforts in the student loan servicing market.



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**Questions for the Honorable Richard Cordray, Director, Consumer Financial Protection Bureau, from Congressman Blaine Luetkemeyer:**

*Question 1*

In November of 2013 the CFPB issued an advanced notice of proposed rulemaking on debt collection activities. Now that the SBREFA panel has been completed, when can industry participants expect a proposed rule to be published?

*Response*

The Consumer Financial Protection Bureau (Consumer Bureau) released an outline of proposals under consideration in July 2016 in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) in conjunction with the Office of Management and Budget (OMB) and the Small Business Administration's (SBA) Chief Counsel for Advocacy to consult with representatives of small businesses that might be affected by the rulemaking. These proposals under consideration would apply to parties who are considered "debt collectors" under the Fair Debt Collection Practices Act (FDCPA). The outlined proposals focused on three primary issues. First, that collectors contact the right consumers and ask for the right amount. Second, that consumers clearly understand the debt collection process and their rights. Third, that consumers are treated with dignity and respect, particularly in their communications with collectors. The Consumer Bureau announced its intention at that time to move forward with separate rules for first-party creditors who collect on their own accounts.

As we evaluated the feedback on the proposals under consideration, it became clear that writing rules to make sure debt collectors have the right information about debts is best handled by considering solutions from first-party creditors and third-party collectors at the same time. All of these parties must work together to ensure they are collecting the right amount of debt from the right consumer, though those actually collecting on the debts continue to have responsibility for possessing correct and accurate information. Accordingly, the Consumer Bureau has decided to consolidate the issues of "right consumer, right amount" into the separate rule it will develop for first-party creditors, which will cover these intertwined issues for debt collectors as well. That way, the Consumer Bureau can address this entire set of considerations, market-wide.

In the meantime, the Consumer Bureau will be able to move forward more quickly with a focused rule specifically for those who are considered "debt collectors" under the FDCPA. The Consumer Bureau intends to issue this proposed rule primarily concerning FDCPA collectors' communications practices and consumer disclosures later in 2017.

*Question 2*

The debt collection activities SBREFA outline contained several references to data and recordkeeping requirements applying retroactively. Some of these requirements are not

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contained in current portfolios and could render them valueless. Will the proposed rule clarify that the data and recordkeeping requirements only apply prospectively?

*Response*

The SBREFA outline discussed information flow between creditors and collectors and collector recordkeeping requirements in general terms. The Consumer Bureau has engaged in considerable outreach with stakeholders since convening the panel under SBREFA and, as a result, has received a great deal of feedback regarding the proposals under consideration. Both industry and consumer groups have expressed general support for updated interpretations of the law because so much is happening in this marketplace that the law cannot easily keep pace with developments. As noted above, however, feedback also indicated that drafting rules to make sure debt collectors have the right information about their debts is best handled by considering solutions from first-party creditors and third-party collectors at the same time. First-party creditors like banks and other lenders create the information about the debt, and they may use it to collect the debt themselves, or they may provide it to companies that collect the debt on their behalf or buy the debt outright. All of these parties must work together to ensure they are collecting the right amount of debt from the right consumer, though the party collecting on the debts remains responsible for possessing correct and accurate information. Information flow is a quite complex area of the industry, and we will take the time to engage in further examination and analysis of the issue. The Consumer Bureau is moving forward currently with a proposal on other topics covered during the SBREFA panel, and to the extent the proposal contains any data and record keeping requirements, the Consumer Bureau intends to solicit public comment on these issues.

*Question 3*

The debt collection market has taken notice of consent orders that have banned parties to the orders from reselling debt for a period of time. However, allowing debt to be resold to local and specialty-asset class debt buyers has numerous demonstrable benefits. Is the CFPB considering banning the resale of debt in its proposed debt collection rule?

*Response*

The Consumer Bureau generally recognizes that regulations that impose costs on the credit system or that limit benefits to the credit system can have an adverse effect on consumer access to credit. Section 1022(b)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) expressly requires the Consumer Bureau in prescribing a rule under the Federal consumer financial laws (such as the FDCPA) to consider, among other things, “the potential benefits and costs to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services resulting from such rule.” Consistent with the Dodd-Frank Act, the Consumer Bureau routinely considers the effects of its regulations during its rulemaking process.

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The Consumer Bureau has issued an Advanced Notice of Proposed Rulemaking to commence a debt collection rulemaking proceeding. The Consumer Bureau is developing the factual information necessary to assess the costs of possible debt collection regulations and their effect on consumer access to credit. The Consumer Bureau conducted a qualitative survey of debt collection firms. The study included a written questionnaire sent to 60 debt collection firms and phone interviews with more than 30 debt collection firms and vendors to the collections industry. The objective of the study was to obtain a baseline understanding of the operational costs of debt collection firms, and the Consumer Bureau anticipates using the results of the study to better understand the likely impact of any potential regulations on the debt collection industry. This study was in addition to Consumer Bureau meetings with key industry stakeholders to discuss their current costs as well as their concerns about changes in costs that might be associated with our contemplated debt collection rulemaking, market changes, or changes attributed to other regulations. These meetings have included creditor groups to better understand how the regulation of third-party debt collectors could affect their ability to recover unpaid debts and to extend credit.

The next step in the debt collection rulemaking was convening a SBREFA panel in conjunction with OMB and the SBA's Chief Counsel for Advocacy. The SBREFA process provided a mechanism for the Consumer Bureau to obtain input directly from small business representatives early in the rulemaking process. At a SBREFA panel meeting, the Consumer Bureau sought information from small business representatives about the potential economic impacts of complying with possible regulatory options, as well as regulatory alternatives that would achieve the Consumer Bureau's objectives, while minimizing the costs imposed on small entities. The Consumer Bureau released an Outline of Proposals under Consideration and Alternatives Considered in July 2016 in advance of convening a SBREFA panel. The panel met on August 25, 2016, and focused on companies that are considered "debt collectors" under the FDCPA.

The review Panel issued a report on the input received from small businesses during the panel process. When the Consumer Bureau proposes a rule, the Panel's final report will be placed in the public rulemaking record. The Consumer Bureau discusses and considers the Panel's report and the comments and advice provided by small businesses when it prepares a proposed rule.

As noted above, the Consumer Bureau intends to move forward with a proposed rule for debt collectors subject to the FDCPA covering communications practices and consumer disclosures as the next step. The Consumer Bureau intends to follow up separately at a later time on issues involving the movement of information or accounts between creditors and collectors. The Consumer Bureau's proposed debt collection rules will be put out for public comment, which will provide ample opportunity for stakeholders to provide the Consumer Bureau with information about their potential costs and benefits. This information will be very valuable to the Consumer Bureau in developing final debt collection rules that protect consumers without imposing unnecessary or undue costs on debt collectors or the credit system.

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*Question 4*

I am concerned that CFPB processes lack transparent and accountable standards for data collection. One example is the Bureau's abuse of the so-called "generic clearance process" under the Paperwork Reduction Act. Normally, when a federal agency collects data from the public, it must seek comment on the proposed survey or other collection and then receive OMB's approval to conduct the survey. The public comments help the agency ensure that its survey instrument asks the right questions and that it surveys a representative sample of consumers, so that the data obtained is meaningful and not distorted. But, under the generic clearance process established by OMB, the Bureau can seek public comment on a broad collection topic—such as the "testing of model forms" or "consumer education"—and then use the approval it receives from OMB to conduct surveys and other collections without notice to, or comment by, the public. OMB's rules forbid the use of generic clearances for "substantive or policy issues," but the Bureau has used a generic clearance on at least two occasions to conduct research into overdraft practices.

- a. Will you commit that, in the future, you will follow OMB's published guidance and not seek to collect data on a substantive or policy-related issue under a generic clearance?

*Response*

The Consumer Bureau works closely with OMB to ensure that we follow the Paperwork Reduction Act (PRA), including obtaining OMB approval for all information collections for which the PRA is applicable, including collections under the generic clearance process, prior to implementation. This review and approval ensures that each information collection, including a generic information collection, is within the parameters established by OMB. The overdraft collections that you are referring to were not intended to directly inform substantive or policy issues. Rather, they were formative in nature and intended to assist the Consumer Bureau understand issues with overdraft disclosures which is how they have been used by the Consumer Bureau. The information collected on overdrafts under OMB's generic PRA clearance process was reviewed and approved by OMB for the generic collection. The Consumer Bureau is committed to ensuring compliance with the PRA and will continue working with OMB to ensure that it follows OMB's guidance in regards to the use of information collections, including the use of generic clearances.

*Question 5*

Please provide the specific numbers of CFPB enforcement actions and settlements since November 8, 2016, and the numbers of CFPB enforcement actions and settlements taken in the previous year (November 1, 2015 through November 7, 2016).

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*Response*

From November 8, 2016 to May 24, 2017, the Consumer Bureau took 31 enforcement actions, 19 of which were settlements. During this time period, the Consumer Bureau also settled 8 additional matters that had been filed previously as lawsuits. From November 1, 2015 to November 7, 2016, the Consumer Bureau took 39 enforcement actions, 28 of which were settlements. During this time period, we also settled 5 additional matters that had been filed previously as lawsuits.

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**Questions for the Honorable Richard Cordray, Director, Consumer Financial Protection Bureau, from Congresswoman Carolyn Maloney:**

*Question 1*

There was a lot of discussion about consent orders in the hearing. Can you explain what the function of a consent order is for the Bureau?

*Response*

A central part of the Consumer Financial Protection Bureau's (Consumer Bureau) mission is to stand up for consumers and make sure they are treated fairly in the financial marketplace. One way we do this is by enforcing Federal consumer financial laws and holding financial service providers accountable.

Consumer Bureau enforcement actions have been marked by orders, entered by the agency or by a court, that hold wrongdoers accountable for their violations of law. These orders, either alone or in conjunction with the Consumer Bureau's complaint, specify the facts of a case and the resulting legal conclusions. Consent orders, which are entered into with the agreement of the parties, serve a number of purposes for the Consumer Bureau. First, we use consent orders to stop illegal practices and obtain relief for harmed consumers. Consumer Bureau consent orders memorialize those remedial terms and specify the monetary and injunctive relief to be provided. Second, we seek to deter future illegal conduct through the imposition of civil money penalties. Third, consent orders are a key element of transparency in the Consumer Bureau's oversight program because they make public specific information about the problems we are identifying and addressing as we enforce the law. Our orders are intended as guides to all market participants to avoid similar violations and make an immediate effort to correct any such improper practices.

*Question 2*

The Bureau's work on the Wells Fargo fake-accounts scandal was questioned — inaccurately, I believe — during the hearing. Can you provide us with a more accurate description of the Bureau's work on the Wells Fargo investigation?

*Response*

As detailed during testimony last fall before the Senate Banking Committee and on April 5, 2017, before the House Financial Services Committee, the Consumer Bureau first learned of problems related to Wells Fargo's sales practices through whistleblower tips in mid-2013. Later that year, in October and December, reporting by the *L.A. Times* confirmed that there were issues in this industry, and at Wells Fargo, specifically. This reporting contributed to the Consumer Bureau's understanding of the nature of those issues, as did the lawsuit filed by the City of Los

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Angeles against Wells Fargo in May 2015, and the investigative work performed by the City Attorney's staff. Notwithstanding the *L.A. Times'* article and the City Attorney's lawsuit, Wells Fargo persisted in its unlawful conduct.

As the Consumer Bureau's own investigation moved forward, which included gathering information from victims, third-parties, and the bank itself, it became clear that Wells Fargo's problem was systemic and widespread. It was not isolated to Los Angeles County, or California, but it in fact occurred in every state where Wells Fargo did business. The Consumer Bureau reached this conclusion based on its own independent investigation of Wells Fargo, which involved three full days of testimony from high-level Wells Fargo executives, compelled answers to the Consumer Bureau's interrogatories, and the production of over 7,000 unique documents.

The work performed by the Los Angeles City Attorney's staff further aided the Consumer Bureau's investigation. Declarations from a number of the bank's customers and several former employees obtained by the City Attorney's staff provided additional evidence to support the Consumer Bureau's investigation. However, the City Attorney lacked the authority and ability to compel testimony from the bank's highest officers and litigation tactics employed by Wells Fargo impeded the City Attorney's efforts to collect critical information in support of its case. The Consumer Bureau used its investigatory tools under the Dodd-Frank Act, including the power to compel the production of evidence, which resulted in Wells Fargo producing a PricewaterhouseCoopers Report that estimated the number of fraudulent accounts. The Consumer Bureau shared this important evidence with the City Attorney to help strengthen the City's case. The Consumer Bureau routinely partners with other law enforcement and regulatory agencies, such as state attorneys general, state financial regulators, other federal regulators, U.S. Attorney's offices, and local offices, like the Los Angeles City Attorney. As was the case here, we used all of our combined tools and resources to ensure the best results for consumers.

This partnership and cooperation between the City of Los Angeles and the Consumer Bureau helped bring the City's case and the Consumer Bureau's investigation to a more swift and successful resolution than had we acted alone. As the Chief Deputy City Attorney stated in his testimony before the Senate Banking Committee, he "really believe[d]" that the added weight of the Consumer Bureau helped to make a "decisive difference in terms of the outcome as well as the speed" of its case against Wells Fargo. In fact, it was only after the Consumer Bureau issued its consent order against Wells Fargo that the bank finally put an end to the practice of opening fraudulent accounts in consumers' names.

By mid-2016, the Consumer Bureau concluded its investigation, and I determined that an enforcement action was appropriate. I authorized the Consumer Bureau staff to attempt to resolve the matter, or to file a lawsuit if settlement could not be reached. In September 2016, the Consumer Bureau reached a settlement with Wells Fargo.

The Consumer Bureau's consent order shined a national light on Wells Fargo's widespread conduct and brought relief to consumers throughout the United States. Additionally, the

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Consumer Bureau's involvement ensured that Wells Fargo would be prohibited from engaging in this type of unlawful conduct going forward. The Consumer Bureau's settlement also compelled Wells Fargo to provide refunds to each of the consumers it harmed throughout the United States and imposed a \$100 million penalty for its unlawful actions, the largest penalty in the Consumer Bureau's history.

*Question 3*

As you know, Congress gave the Bureau a very important authority in Dodd-Frank — the authority to protect consumers from “abusive” acts and practices. How is the Bureau’s “abusive” authority defined, and how important of a tool is it?

*Response*

The definition of “abusive” comes from the Dodd-Frank Act. 12 U.S.C. § 5531 defines an act or practice as abusive when it:

- (1) Materially interferes with a consumer’s ability to understand a term or condition of a consumer financial product or service;
- (2) Takes unreasonable advantage of a consumer’s lack of understanding of the material risks, costs, or conditions of the product or service; a consumer’s inability to protect his or her interests in selecting or using a consumer financial product or service; or a consumer’s reasonable reliance on a covered person to act in his or her interests.

In other words, if certain persons or entities involved in the consumer financial industry — defined by Dodd-Frank as “covered persons” or “service providers”— takes unreasonable advantage of consumers in certain ways or interfere with consumers’ ability to understand a term or condition of a financial product or service, the entity will be in violation of the law. Depending on the identity of the entity, the prohibition on abusive acts or practices may be enforced by the Consumer Bureau, the prudential regulators, or state regulators and law enforcement agencies.

The authority to address abusive conduct is important to the Consumer Bureau’s ability to protect consumers in the financial marketplace. Although we often cite abusiveness along with claims of unfairness, deception, and regulatory violations, the tool allows us to reach conduct that concretely harms consumers in the ways specified in the statute. As Judge Sarah Evans Baker of the United States District Court for the Southern District of Indiana noted in scrutinizing the Consumer Bureau’s abusiveness theory in *Consumer Financial Protection Bureau v. ITT Educational Services, Inc.*, legislative history “suggests that the term was added, in part, to enable the Consumer Bureau to reach forms of misconduct not embraced by” the standards that had been applied to the terms unfair and deceptive. No. 14-cv-00292-SEB-TAB, 2015 WL 1013508, at \*34 (S.D. Ind. Mar. 6, 2015).



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The Consumer Bureau has addressed abusive conduct in the student finance, general consumer finance, deposits, debt collection, small dollar lending, and debt relief industries in matters like *CFPB v. ITT Educational Services*, No. 14-cv-00292-SEB-TAB, 2015 WL 1013508 (S.D. Ind. 2015); *CFPB v. PayPal*, No. 15-CV-01426 (D. Md. May 19, 2015); *CFPB v. S/W Tax Loans*, No. 15-CV-00299-JB-WPL (D.N.M. Apr. 16, 2015); *In the Matter of Wells Fargo Bank*, No. 2016-CFPB-0015 (Sept. 8, 2016); *In the Matter of ACE Cash Express*, No. 2014-CFPB-0008 (July 10, 2014); *CFPB v. Freedom Stores*, No. 2:14-cv-00643-AWA-TEM (E.D. Va. Jan. 9, 2015); *CFPB v. American Debt Settlement Solutions*, No. 9:13-cv-80548-DMM (S.D. Fla. Jun. 7, 2013); and *CFPB v. College Education Services*, No. 8:14-cv-03078-CEH-EAJ (M.D. Fla. Jan. 15, 2015). The matters in which the Consumer Bureau addressed claims of abusiveness, in many cases along with other claims, have resulted in approximately \$230 million in relief ordered to over 500,000 consumers.

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**Questions for the Honorable Richard Cordray, Director, Consumer Financial Protection Bureau, from Congressman Bill Posey:**

*Question 1*

Under Section 1025 of Dodd Frank, the CFPB has supervisory examination authority over banks and credit unions with assets of more than \$10 billion to assess compliance with federal consumer financial laws and associated risks to consumers. And under Section 1026 of Dodd Frank, the CFPB may include examiners on a sampling basis in the examination of smaller banks and credit unions.

- a) When the CFPB exercises these authorities, does it examine banks' and credit union's relationships with payday lenders?

*Response*

The Consumer Financial Protection Bureau (Consumer Bureau) is focused on ensuring compliance with Federal consumer financial law, assessing compliance systems and procedures, and detecting and assessing risks to consumers. This approach is set forth in our Supervision and Examination Manual, which we make public on our website at [www.consumerfinance.gov](http://www.consumerfinance.gov). Given this consumer-protection mandate, the Consumer Bureau focuses on risks to consumers rather than risks to institutions. This drives our strong focus on consumer compliance management systems to ensure that regulated institutions adapt their controls to their business strategies and operational complexity. In exercising this authority in connection with the very large banks and credit unions it supervises, the Consumer Bureau would not typically examine the relationship between payday lenders and these institutions.

The Consumer Bureau has not exercised its discretionary authority under section 1026(c)(1) of Dodd-Frank to include examiners on a sampling basis of the examinations performed by the prudential regulator to assess smaller bank and credit union compliance with the requirements of Federal consumer financial laws.

- b) Have CFPB examiners discouraged banks or credit unions from providing banking services to payday lenders?

*Response*

No. The Consumer Bureau, including its examiners, have not discouraged banks or credit unions from providing banking services to payday lenders, and it does not seek to disfavor any lawful business activity. Our concern instead lies in ensuring compliance with Federal consumer financial law, assessing compliance systems and procedures, and detecting and assessing risks to consumers, which is the focus of our work. This approach is embodied in our Supervision and Examination Manual. Our examiners receive extensive training on the provisions of the Manual,

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and senior-level review of findings and recommendations contained in our supervisory letters and examination reports is a key component of the Consumer Bureau's supervisory process.<sup>8</sup>



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<sup>8</sup> See, e.g., CFPB Supervision and Examination Manual at 5-6 (Oct. 2012), available online at [http://files.consumerfinance.gov/f/201210\\_cfpb\\_supervision-and-examination-manual-v2.pdf](http://files.consumerfinance.gov/f/201210_cfpb_supervision-and-examination-manual-v2.pdf).