Testimony of Raj Date

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Chairman Capito, Ranking Member Maloney, and Members of the Subcommittee, thank you for the opportunity to appear before you again to discuss the work of the Consumer Financial Protection Bureau. I'd like to talk to you today about how the CFPB is fulfilling its mission to help consumer finance markets actually work – for American families, for financial services firms, and for the economy as a whole.

As you know, the Bureau was created as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act in response to the worst financial crisis since the Great Depression. Before Dodd-Frank, responsibility for administering and enforcing the various federal consumer financial laws was scattered across seven different federal agencies. For each of those seven agencies, consumer protection was only one of its responsibilities. As a result, no agency was solely accountable for protecting consumers of financial products and services.

The Dodd-Frank Act created the CFPB as a single point of accountability for consumer financial protection. Fortunately, Congress had the foresight to supply us with a range of tools – including research, supervision, rulemaking, enforcement, and consumer education. I am pleased to report that in the year since our launch, we have been using the tools you gave us to address challenges in a number of different markets and deliver tangible value to American consumers.

We've launched an evaluation of overdraft protection and payday lending. We've worked to help students better understand their financial options. And we've started figuring out whether shorter, more transparent credit card agreements can make a meaningful difference to consumers' understanding. Of course, as you might imagine, the place we're spending most of our time is in the mortgage market.

The American mortgage business was supposed to be the broadest, deepest, most liquid, most sophisticated consumer finance market in the world. But it failed us -- because it failed to calibrate price, and it failed to calibrate risk. As a result, millions of homeowners ended up in loans that they either couldn't understand or couldn't afford -- or both. The mortgage crisis and resulting financial upheaval have impacted virtually every person in this country. Americans are still recovering from the profound failures of the residential mortgage market.

Congress recognized this in passing the Dodd-Frank Act, and enacted a number of new statutory provisions to reform the mortgage market. Congress also directed the Bureau to issue implementing regulations under these new provisions. Mortgage reform, therefore, is appropriately front and center on the CFPB's agenda.

The failures of the mortgage market help to underscore -- by contrast -- what functioning, efficient markets are supposed to look like. They're supposed to be transparent; they're supposed to be fair; they're supposed to create financial incentives for hard work and smart decisions. The Dodd-Frank Act addresses each of those areas, and the Bureau is helping to rebuild those elements of a well-functioning mortgage market.

Let me start with transparency. Markets don't work well if both parties to a transaction don't understand what they're getting into. So not only are we integrating federal disclosure forms as Congress directed us to do, but we're simplifying those forms as well. The idea is for borrowers to have a better chance to actually understand the price and risk of their obligations. The integrated and simplified forms should also reduce burden on the lenders, brokers, and settlement agents -- many of them small businesses -- who are responsible for providing the disclosures to consumers.

We're working to bring greater transparency to mortgage servicing, by proposing common-sense rules of the road, and asking the public to weigh in. For example: we're considering requiring servicers to give borrowers better information about how much they owe every month; an earlier heads-up that an adjustable rate payment is about to change; and a warning if borrowers are going to be force-placed into a potentially expensive insurance policy. We're still at the early stages of these rulemakings. But I'm optimistic that we can find a common-sense path forward.

Another priority for the Bureau is basic fairness. Federal consumer financial protection is about fairness with respect to consumers. But fairness among financial services firms – irrespective of their charters – matters, too.

We saw, in the lead-up to the crisis, how an inconsistent or incomplete oversight scheme was doomed to fail. Commercial banks, for example, were subject to explicit federal supervision, while many other critical mortgage market participants were not. It shouldn't matter if you're a broker, a thrift, a bank, a finance company, an industrial loan company, or an investment bank. If you want to be in the business of consumer finance, you should play by the rules like everybody else.

The mortgage market should be driven by financial incentives that make sense – those that reward hard work and smart risk-taking. Let me be clear: There is nothing inherently wrong with risk. Indeed, financial markets are supposed to absorb and price certain kinds of risk. But people shouldn't get paid for taking risk that they can't understand, they can't rank, they can't quantify, or they can't price. Especially when the downside of those risks is primarily borne by consumers or taxpayers, or when the downside of those risks can create dangerous ripple effects throughout the broader economy. For too long, we lived in a mortgage marketplace where people were able to take bad risks – that ultimately had devastating consequences – and get paid anyway.

I've spent the vast majority of my career in financial services. I've been in and around finance companies, commercial banks, and investment banks. And one thing I have learned is that people generally do what they are paid to do. So if we want businesses to do the right thing, they shouldn't be paid to do the wrong thing. Bankers shouldn't win when customers lose. Ideally, lenders' and borrowers' financial incentives should be aligned. After all, both of them win when borrowers can afford their loans.

That leads me to another effort underway at the Bureau: Dodd-Frank's ability-to-repay requirement in mortgages. Again, going back to my days as a banker: People who are going to lend money should care about getting paid back. And if you care about getting paid back, you should inquire about, and evaluate, a borrower's ability to pay you back. This should not be controversial. And it isn't, to the vast majority of financial institutions that actually held on to some of the risk of the mortgages they were originating during the bubble. Nor should it be surprising to any banker trying to build or sustain a customer franchise – after all, a customer franchise endures and thrives only if its customers win.

In its simplest form, the ability-to-repay provision of the Dodd-Frank Act requires that lenders reach a good-faith determination that a mortgage borrower has a reasonable ability to repay the loan. If lenders don't do that, the law lays out consequences. As part of the broader ability-to-repay mandate, Congress also designated so-called "qualified mortgages," which are structurally safer and pose lower risk for borrowers, and which are underwritten according to standards that make it reasonable to expect that borrowers have an ability to repay. The Federal Reserve Board proposed a regulation last year to give definition and effect to the ability-to-repay provisions, and the Bureau inherited that proposal when we opened for business last July. We have had the benefit of extensive public comment on the proposal, and have undertaken significant analysis, with a cross-functional Bureau team of economists, lawyers, and market experts.

We are considering a wide range of issues. First and foremost, we want to ensure that consumers are not sold mortgages they can't afford. We want to minimize compliance burden to the extent possible, in part through the careful definition of those lower-risk "qualified mortgages." We want to encourage a competitive market that does what markets are supposed to do – calibrate risk and price. We want to craft a sensible rule that works for the market throughout the credit cycle, but we also want to be mindful of just how fragile and risk-averse the market seems to be today.

Restoring confidence in this market is critical to industry, to consumers, and to our broader economy. We're going to take the time to get it right. We recently issued a notice reopening the record on qualified mortgages for a short period of time. We plan to finalize the ability-to-repay rule before our January deadline.

The mortgage market will recover when we have restored transparency, when we have restored fairness, and when we have restored financial incentives that reward people for making smart decisions. As we approach the Bureau's one-year anniversary, that is what we are working toward – not just in the mortgage market, but across other financial services markets as well: transparency, fairness, and incentives for responsible behavior. Thank you.