

M E M O R A N D U M

TO: Members of the Committee on Financial Services

FROM: FSC Committee Majority Staff

DATE: July 3, 2013

RE: July 9, 2013, Subcommittee on Financial Institutions and Consumer Credit Hearing on “Examining How the Consumer Financial Protection Bureau Collects and Uses Consumer Data”

The Subcommittee on Financial Institutions and Consumer Credit will hold a hearing on “Examining How the Consumer Financial Protection Bureau Collects and Uses Consumer Data,” at 10:00 a.m. on Tuesday, July 9, 2013, in Room 2128 of the Rayburn House Office Building. The sole witness for this hearing will be Mr. Steven L. Antonakes, Acting Deputy Director, Consumer Financial Protection Bureau (CFPB).

The Dodd-Frank Act and Data Collection

Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) created the CFPB to regulate and supervise the offering and provision of consumer financial products or services under federal consumer financial laws. The CFPB can enforce existing federal consumer financial protection rules and promulgate new rules. As of July 21, 2011, the CFPB assumed responsibility for certain consumer financial protection functions that were formerly the responsibilities of the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the now-defunct Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, and the Department of Housing and Urban Development.

Section 1022 of the Dodd-Frank Act requires the CFPB to monitor the risks to consumers that may arise from financial products and services in order to support the CFPB’s rulemaking “and other functions.” To meet Section 1022’s monitoring requirements, the Dodd-Frank Act granted the CFPB “the authority to gather information from time to time regarding the organization, business conduct, markets, and activities of covered persons and service providers.”¹

Section 1022 authorizes the CFPB to gather information from a variety of sources, including examination reports, consumer complaints, voluntary consumer surveys or interviews, and a review of available databases. Section 1022 also permits the CFPB to require any company offering financial products or services, and its affiliates and service

¹ Dodd-Frank Act § 1022(c)(4)(A)

providers, to file “in such form and within such reasonable period of time as the Bureau may prescribe by rule or order” annual or special reports, or answers in writing to specific questions.²

Section 1022 specifically prohibits the CFPB from using its information-collecting authority to obtain records “for purposes of gathering or analyzing the personally identifiable financial information of consumers.”³ It also prohibits the CFPB from obtaining any personally identifiable information about a consumer from a company offering financial products or services, and its affiliates and service providers, unless the consumer provides written permission for the disclosure; even then, the CFPB is prohibited from making proprietary, personal, or confidential consumer information public. Section 1022 also requires the CFPB to issue rules regarding the confidential treatment of information obtained under this section.

Bloomberg News reported in an April article that the CFPB has begun collecting data on at least 10 million consumers in two distinct ways: 1) by compelling supervised entities to provide consumer data upon request, and 2) by purchasing consumer data from outside sources.⁴

This hearing will provide Members with the opportunity to learn more about the CFPB’s collection of consumer data. This hearing will also provide Members with the opportunity to assess whether the CFPB’s data collection efforts fully comply with the standards set forth in the Dodd-Frank Act and other laws, and assess whether the CFPB is properly safeguarding the confidentiality of the consumer data it has collected.

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² Dodd-Frank Act § 1022(c)(4)(B)(ii)

³ Dodd-Frank Act § 1022(c)(4)(C)

⁴ Dougherty, Carter, “U.S. Amasses Data on 10 Million Consumers as Banks Object,” Bloomberg, Apr. 17, 2013, available at <http://www.bloomberg.com/news/2013-04-17/u-s-amasses-data-on-10-million-consumers-as-banks-object.html>.