THE SEMI-ANNUAL REPORT OF THE CONSUMER FINANCIAL PROTECTION BUREAU

HEARING

BEFORE THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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THE SEMI-ANNUAL REPORT OF THE CONSUMER FINANCIAL PROTECTION BUREAU

Thursday, March 29, 2012

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

The committee met, pursuant to notice, at 9:38 a.m., in room 2128, Rayburn House Office Building, Hon. Spencer Bachus [chairman of the committee] presiding.

Members present: Representatives Bachus, Hensarling, Royce, Biggert, Miller of California, Capito, Garrett, Neugebauer, McHenry, Posey, Westmoreland, Luetkemeyer, Huizenga, Duffy, Renacci, Hurt, Dold, Canseco, Stivers; Frank, Waters, Maloney, Gutierrez, Velazquez, Sherman, Miller of North Carolina, Scott, Green, Cleaver, Donnelly, Carson, and Carney.

Chairman BACHUS. The committee will come to order.

Mr. Cordray, as you know, we are going to have some vote interruptions and I would like everyone to know, the Members as well as anyone listening, that Mr. Cordray has agreed to stay until 2 p.m., which is a very nice accommodation. We very much appreciate that.

And we thank you for your attendance today to deliver the semi-annual report of the Consumer Financial Protection Bureau (CFPB). The CFPB is an independent Federal agency whose authority, as many of us have said, is "far-reaching;" some have said "unprecedented."

Title X of the Dodd-Frank Act confers virtually unfettered discretion to the Director to identify financial products and services deemed to be unfair, deceptive or abusive and to ban them under what has been described as a highly subjective standard that has no legally defined content.

All of us agree on the need to protect consumers. All of us also agree that every government bureaucracy needs transparency and oversight.

The simple truth is that there is no reason we cannot have both robust consumer protection and an agency that is accountable for the action it takes and the resources it uses.

The cause of greater accountability was not well-served by the President's decision to circumvent the advice and the consent of the Senate and install the CFPB's Director in a constitutionally questionable maneuver.

As I have told you previously, Mr. Cordray, I believe neither you nor the agency you head were well-served by that decision since it cast a legal cloud over the legitimacy of the Bureau's regulatory and enforcement activity.

And I have also previously stated that this dispute has nothing to do with you personally, but with the structure and lack of accountability surrounding the agency you have been asked to lead.

The House has passed two bills this Congress, H.R. 1315 and H.R. 4014, that make the CFPB more accountable without in any way hampering its ability to protect consumers.

H.R. 1315 includes provisions placing the CFPB under the management of a five-member bipartisan commission, an idea originally proposed by and supported by House Democrats. H.R. 4014, which passed the House just this week with strong bipartisan support and the support of Mr. Cordray, fixes a critical omission in the Dodd-Frank Act that could have resulted in a regulated institution waiving their attorney-client privilege when sharing confidential information with the CFPB.

Given that the CFPB is not subject to the annual congressional budget process, hearings like this are essential to the oversight process. In fact, hearings like this are the only opportunity currently available to Congress to exercise any oversight of the CFPB at all.

Again, Mr. Cordray, I thank you for your appearance.

And I now recognize Mrs. Maloney.

Mrs. MALONEY. Okay. Is Mr. Frank coming, or should we wait for him?

Chairman BACHUS. We are going to—

Mrs. MALONEY. First of all, I would like to—should I wait for Mr. Frank or—

Chairman BACHUS. I will allow Mr. Frank to come in and make an opening statement.

Or would you like Mr. Hensarling—

Mrs. MALONEY. Okay. I will just go ahead, in the interest of time.

First of all, I would like to welcome Director Cordray and really thank you for your impressive accomplishments so far. I know that when we were doing the markup on Dodd-Frank, I offered an amendment that called for an annual report and oversight by this committee of the CFPB.

That was later amended to make it a semi-annual report to Congress. But if I had known that you would be before this body, or someone as senior as yourself would be before this body 15 times so far this year alone, I would not have offered that amendment, because you have been very accountable to us and to this Congress.

And I would like to say it was great to have you in my district in New York, where you discussed and launched an inquiry into overdraft practices. I know that you have had similar meetings across this country with various concerns from student loans to mortgages to just general concerns of consumers.

And as we reach the 3-month anniversary of the CFPB as a fully operational agency, I would like to note some of the Bureau's outstanding work.

While some will undoubtedly continue to define the CFPB as an unchecked agency, I believe that the Bureau's accomplishments and oversight have been extraordinary.

The Bureau has initiated an examination into the growing level of student loan debt and its ramifications on our economic recovery. It is tirelessly helping consumers understand financial products and services through the "Know Before You Owe" Program.

The Bureau has taken great steps to curtail deceptive, unfair, and abusive debt collection practices. They have modified and put forward a simplified mortgage application that people can actually understand.

And the Bureau is resolving consumer complaints, launching bank and nonbank supervision programs, developing simple disclosures for credit cards and other financial products, targeting specific abuses aimed at older Americans and servicemembers, and creating offices just to address these concerns.

I think this is a great list of accomplishments for a new agency. And from what I can see in your report, it is just the beginning.

I hope that during this hearing we can focus on what the CFPB has laid out in its report rather than constant complaints that there is not enough oversight or accountability.

The Bureau's structure, the positive GAO report, the very fact that Director Cordray is appearing today before us in his 15th appearance, or of other senior staff, is a testimonial to the number of checks placed on the Bureau.

I would say it is very accountable, given the number of times you have been here. And I congratulate you on your fine record so far.

I look forward to your testimony and to hearing about the plans for the future to work for safety and soundness and the protection of our consumers.

Thank you.

Chairman BACHUS. Mr. Hensarling is recognized for 2½ minutes.

Mr. HENSARLING. Thank you, Mr. Chairman.

On January 4th of this year, the President made an alleged recess appointment of our witness, Richard Cordray, to head the newly created CFPB.

The problem was that the Senate was not in recess at the time. In fact, it was in pro forma session. The Senate has the constitutional authority to determine the rules of its proceedings, not the President.

Under a similar set of circumstances in 2007 when, inconveniently for Democrat Senate Majority Leader Harry Reid, a Republican was in the White House, he was quoted as saying, "The Senate will be coming in for pro forma sessions to prevent recess appointments."

Now, one may not like the policy, but it is a pretty convincing confirmation that a pro forma session is not a recess. So it is fairly clear the Senate did not believe that they were in recess on January 4th; and under the Constitution, they could not have been in recess because the House did not consent.

Therefore, there can be no recess appointment.

But had there been a recess appointment, this doesn't solve the President's problem. Section 1066 of Title X of Dodd-Frank clearly states that the Director must be "confirmed by the Senate."

A recess appointment is not a Senate confirmation.

In 2005, then-Senator Barack Obama indicated recess appointees lose credibility because they cannot make it through the confirmation process.

Mr. Cordray, we just met for the first time about 15 minutes ago. And although we don't know each other, those whom I know from Ohio say you enjoy a good professional reputation. They respect you. They respect your judgment and your fairness, so this is not personal. But in my humble opinion, I believe you sit before us as an unconstitutional appointee, an unlawful appointee in using the President's characterization, and you suffer from a loss of credibility from the outset.

So for as long as you may occupy this office, you have been given an incredibly, incredibly important charge to protect consumers. But you have also been granted unprecedented, unaccountable, unilateral powers to ban and ration consumer credit products, restrict the fundamental economic freedoms of our citizens, and effectively control huge swaths of our economy. So obviously, I look forward to hearing your views.

I yield back the balance of my time.

Chairman BACHUS. Thank you.

Mr. Green is recognized for 3 minutes.

Mr. GREEN. Thank you, Mr. Chairman.

And I thank the ranking member as well.

Mr. Director, I thank you for appearing today. And I am excited about some of the things that are happening, especially this Office of Servicemember Affairs that you are working on. I think that this is an initiative that all of us will be proud of, helping our servicemembers, which is an opportunity for me to extend a word of gratitude to all of the members of the committee for helping with the Homes for Heroes Initiative that we passed, the legislation.

And my colleague, Mr. Hensarling, yesterday gave an expression of appreciation and I thank him for using a little bit of his time to give his expressions.

I did not mention Mr. Grimm when I talked about this other initiative, the Homes for Heroes, and this is not something that you are associated with, Mr. Cordray, but Mr. Grimm was the cosponsor and I want to make sure that I mention him.

With reference to your appearance today, you also have an Office of Older Americans that I think is important. I understand that Mr. Skip Humphrey is the person who will lead this agency or office, and I am eager to hear more about this.

I have some of the accomplishments. You have been there a short time, but your list of accomplishments has become very impressive over a very short period of time.

This test pilot program, "Know before You Owe"—I think that is something that consumers with credit cards will be excited about. You have initiated an examination into the student loan debt. I think it is something that college kids, especially, are going to be excited about. You have an "Ask the CFPB" Q&A opportunity for members of the public so that they can increase their financial literacy.

You have initiated an overdraft exploration program and you are going to look at the harmful effects on consumers. You have created a first-of-its-kind program, a database, the Repeat Offenders Against Military Database (ROAM). And this is to combat the fraud that targets our veterans and their families. I think it is an important program as well. There are many others that you have initiated and I am looking forward to working with you.

I do want to just call to your attention something I think is important to you. A lot of the small banks are still having a good deal of consternation. And I look forward to working with you so we might do some things to allay their concerns.

I am confident that there are ways by which we can make sure that they have a greater understanding of what we are attempting to do with this agency. So I thank you for being here today. I am eager to hear more from you. And I yield back the balance of my time.

Chairman BACHUS. Mrs. Capito, for 2 minutes?

Mrs. CAPITO. Thank you, Mr. Chairman.

And I want to welcome Mr. Cordray from the neighboring State of Ohio to this morning's hearing, which is the first statutorily mandated hearing to discuss the CFPB and to discuss the report.

A little over a year ago, Professor Warren visited my office to update me on the progress of standing up the CFPB. She said at the time that the CFPB provided an opportunity to knock down the silos that existed between Federal financial regulatory agencies and to provide clarity to consumers and institutions in consumer supervision.

Unfortunately, from all of the interviews and testimony that we received, this is not what is occurring. I fear that the CFPB has just created a new silo. Although the prudential regulators transferred some personnel to the CFPB, some of these agencies have not eliminated FTE positions and they were not transferred.

So rather than using this opportunity to ensure there is no duplication among the agencies, we have just added another bureaucracy to the equation. It is my hope, Mr. Cordray, that you and your team will be judicious in assessing the staffing needs going forward and will work with the prudential regulators to eliminate these duplicative divisions and positions.

It does add an unnecessary and added burden, I think to particularly the community banks, as they are moving forward trying to unlock and create jobs and get lending in small businesses going again.

I do have questions, like my colleague from Texas, on the nature of the appointment of Mr. Cordray as the Director. I do believe it could lead to some legal challenges of the CFPB actions and create some more ambiguity. So I hope that this becomes more clarified. But I would like to thank you for appearing before the committee and I look forward to your testimony.

Chairman BACHUS. Ms. Waters is recognized for 1½ minutes.

Ms. WATERS. Thank you.

Mr. Chairman, I thank you for holding this hearing this morning.

And Director Cordray, I am pleased that you have another opportunity to testify before our committee. In fact, we have been seeing a lot of you. As I understand it, you have been before the Congress 5 times since you were appointed CFPB Director back in January.

That is once every few weeks. And that is not to mention all of the times other employees of the CFPB who have come up to Congress to testify since the Bureau opened its doors. Your agency has been before Congress 16 times over the short course of its life.

It is clear that this agency is setting the gold standard in terms of transparency and accountability. The CFPB has gone out of its way to solicit public and industry feedback on mortgage disclosure forms as well as a student loan disclosure sheet.

Moreover, the CFPB is governed by budget caps, veto by the Financial Stability Oversight Council, and an annual GAO audit, to name just a few of the provisions to which the Bureau is uniquely subject. So I am pleased to hear from you what is included in your semi-annual report to Congress and your plans for what you will undertake in the coming months.

Thank you and I yield the balance of my time to Mr. Gutierrez.

Chairman BACHUS. So you will reserve 10 seconds for Mr. Gutierrez?

I recognize Mr. Royce.

Mr. ROYCE. We have expressed our concern from time to time about this arrangement, but this legislation that set up the CFPB is going to add to the regulatory costs that are growing at a rapid clip.

It has few checks and balances, but broad, largely undefined authority. And here is the main point: It separates safety and soundness regulation from consumer protection regulation.

Prior to her departure, this is what FDIC Chairman Sheila Bair had to say about this problem: "Banking agencies' assessments of risks to consumers are closely linked with and informed by a broader understanding of other risks in financial institutions. Placing consumer protection policy-setting activities in a separate organization, apart from existing expertise and examination infrastructure, could ultimately result in less effective protections for the consumer."

If we are not able to mandate coordination between the CFPB and the prudential regulators through changes in law, my hope is that this semi-annual hearing before Congress can at least serve as a platform for a discussion of the key concerns that so many prudential regulators have on this issue, and which we by past experience have learned the hard way is a big problem with bifurcated regulation.

I yield back, Mr. Chairman.

Chairman BACHUS. Thank you.

Mr. Baca is recognized for 1 minute and 15 seconds.

Mr. BACA. Thank you very much, Mr. Chairman and Mr. Ranking Member.

I also want to thank Mr. Cordray for being here today. One of the biggest accomplishments contained in the Dodd-Frank Act was the creation of the Consumer Financial Protection Bureau.

I say, finally we have a cop on the beat whose sole purpose is to ensure that the American consumers are getting a fair shake in the marketplace. In the past 4 years, it has been dominated by efforts to clean up the mess created by the previous structure which left enforcement and regulation based solely on financial industries' bottom line.

If we are to accept the notion that the financial sector was created and exists and depends on the activity of the American consumer, then I think it is imperative that we do all that we can do to protect the well-being of the American consumer.

In just a few short months since Mr. Cordray took his post, the CFPB has taken on a number of issues including the Know Before You Owe Program, which is great, and ensuring that consumers know what they are getting into with mortgages, student loans or credit cards.

I hope that this good work will continue and I hope that we can discuss the next steps that we can do to work with the CFPB to ensure accountability and transparency.

But at the same time, as Ed Royce indicated, we need mandates. But remember that we need mandates with funding, as well. You can't just have a mandate without giving the additional funding to make sure that we have the accountability and the transparency. That has to come hand-in-hand together. And I look forward to your testimony. Thank you very much.

Chairman BACHUS. Thank you.

Mrs. Biggert, for 1 minute?

Mrs. BIGGERT. Thank you, Mr. Chairman.

And welcome, Director Cordray.

I would like to echo a number of concerns expressed by my colleagues on this side of the aisle. I am particularly concerned about reports that the CFPB is engaging in regulatory activity that could jeopardize the safety and soundness of financial institutions.

I am also concerned about attempts to regulate forced placed insurance. And finally, I am told that the simplified Real Estate Settlement Procedures Act/Truth in Lending Act (RESPA/TILA) mortgage disclosures that the CFPB is developing may, in fact, be more complicated than previous disclosures. I welcome your comments on these matters and thank you very much for being here.

And I yield back.

Chairman BACHUS. Mr. Gutierrez is recognized for 2 minutes and 15 seconds.

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

First of all, welcome. And, second, I would love to see how we went from 7 pages to 3 pages and made it more complicated, because that is what we have done in terms of disclosure of transactions and key terms and something easier to understand. I agree.

I know you are currently testing the document and I congratulate you. I think that is what we should be doing. But, maybe—Democrats—I am sorry—not a partisan party, just appointed by a Democratic President. Maybe we did find a way to take 7 pages and reduce it to 3 pages and make it more complicated.

But I want to tell you that credit cards companies, you have to stay on top of them. They are getting trickier and trickier every day in terms of trying to figure out how it is they hoodwink the American public.

Student debt, I think, should be a nonpartisan issue. One trillion dollars, more than all the credit card debt in America and all—that is the youth; that is—those are the ones being—they are not going to be able to buy a home. We have to figure out a way to make sure, as they engage in student debt, that they are not getting ripped off also. And that the terms and the agreements are such that they are going to let the next generation of great America, our children, to be able—so I am happy you are looking into that.

You have done so many things, and I would like to say that, you have been—I think it has been 5 times, you have had the job a short time—and 5 times—let me see that would make like 16 times since last year.

It looks like we are going to get—what the best thing about you is that people just want to see you on Capitol Hill.

And I have to tell you, every time one of those bankers come knocking on my door and asking if we are going to talk about this, I think next year at Halloween, they are going to have like, a Cordray costume for all the bankers and all their things because you are just a scary man when it comes to them.

But, you know what? I don't think that is so bad. I think that they need to have a little bit of the fear of the Lord in them as they move forward.

And, lastly, we have to stay on top of them. Because last week I opened up my account and I said, "Huh, Banco Popolare?" I keep $250 there at Banco Popolare because that is the minimum for their savings account, so they won't charge you every month.

They raised it to $500 and charged me $4 because I was under the $500 in order to keep my money. They are continuing to do these little tricky, tricky things. They continue to put their hands in the consumers' pockets. Keep up the good work. Thank you.

Chairman BACHUS. Thank you.

I will go in with you. We will get a copyright on a Richard Cordray Halloween outfit.

Mr. Miller is recognized for 1 minute.

Mr. MILLER OF CALIFORNIA. Thank you.

Mr. Cordray, mortgage origination is a critical function of our housing finance system reforms directed by Dodd-Frank, and must be implemented with considerable care and caution.

The CFPB has been quite active in this area, working on the ability to repay regulations for residential mortgage loans, working on integrated mortgage disclosure requirements under RESPA and the Truth in Lending Act, and working on new requirements for mortgage origination.

But, sir, if not well-crafted, these rules will harm, not help, consumers by drying up liquidity in the mortgage market, driving up costs, and limiting access to mortgage credit.

We have already seen the rule implemented in the name of the Consumer Protection Act saying the impact of limiting consumer access to lower-cost loans. Some cases' rules said in the name of the Consumer Protection—prevented borrowers from closing on their own home purchases because of legitimate discrepancy in the closing table.

There are rules that are implemented in the name of consumer protection that have forced mortgage originators to offer loans where consumers ultimately pay more for their closing costs. While we must protect the consumer, we must make sure that costs to increase the name of consumer protection are not implemented.

We must not inappropriately restrict liquidity or consumer protection in the name of consumer protection. In your testimony, I hope you will address the ways you will make sure that access to credit and preserve consumer closing costs will not increase or formulate these new rules are done properly.

I yield back.

Chairman BACHUS. Thank you.

Mr. Carney, for 1 minute.

Mr. CARNEY. Thank you, Mr. Chairman. I want to thank you for having this hearing today.

And I thank Director Cordray for coming in again. It is good to see you.

My colleagues on the other side of the aisle are concerned about how you were appointed. I am just happy that you were appointed and that we have a good man directing this agency, doing a difficult job at a very challenging and important time.

I look forward to following up on the conversations that we have started in my office when you were the enforcement director, I think at the time, about nonbank lending payday-loan making, short-term lending and, in particular, practices on the online lending environment. I appreciate the fact that you have had field hearings on this issue in Alabama and I look forward to continuing our conversation on that.

Thanks again for the great work that you are doing and I look forward to our conversation today.

Chairman BACHUS. Mr. Dold?

Mr. DOLD. Thank you, Mr. Chairman, and I am—

Chairman BACHUS. For 1 minute, I am sorry.

Mr. DOLD. Thank you, Mr. Chairman, and I am one of those on the other side who are concerned about how the appointment was made and I think that just goes down to the basic structure of the law.

We all know there is an ongoing discussion about the CFPB's organizational structure. It is also a big concern that I have. Should the CFPB structure be the same structure that the House, under Democrat control, passed in the 111th Congress, which is also the structure that we have been advocating in this committee during this Congress? Or should the CFPB structure remain as it is today with few checks and balances, I believe, for the American public?

While the structure discussion continues, I think that we all should be able to agree on some fundamental principles. First, strong consumer protection is important, necessary, and good for consumers and private sector businesses.

Second, the CFPB's rulemaking and other processes should be constructive and transparent while thoroughly and objectively considering all viewpoints from interested parties.

Third, regulations that stifle legitimate product availability, innovation, competition, and growth would be inefficient and ineffective while unnecessarily harming consumers, employment and our economy.

As we move forward, I hope that the CFPB and Congress will use common ground as a basis for analyzing existing and future proposals.

Mr. Cordray, I appreciate your time and your being here today.

Chairman BACHUS. Thank you.

Mr. Frank, for 2 minutes.

Mr. FRANK. Thank you, Mr. Chairman.

Mr. Cordray, welcome to one of the longest running series in Washington, the hearings on oversight over your agency in which my colleagues complain that there is no oversight.

I look forward to the reruns going forward.

They complain that the CFPB is not being oversighted, and we have oversight hearings and hearings about the structure, because they have nothing firm to complain about.

The agency has been in existence now for a considerable period of time and there are no problems, none of the horrors and abuses that we were threatened were going to happen have happened.

So, in the absence of that, let me talk about an important issue which was our addition of the word "abusive" to the practices you were to protect people against, and unfair and deceptive definitions.

People say, "What do you mean by abusive?" We defined it. We defined it in the statute to say it is abusive if it materially interferes with the ability of a consumer to understand the term or a condition; or takes unreasonable advantage of a lack of understanding on the part of the consumer—the risks, costs or conditions; the inability of the consumer to protect the interest.

In other words, it may depend on the consumer. And if people think that is some farfetched notion, remember that one of the problems we had with the subprime loans was they were going to an 80-year-old and urging her to refinance when she had nearly paid off her mortgage. Now, refinancing for some people might be a good idea. When it is sold to an 80-year-old, it is probably not such a good idea.

This allows you to deal with ignorance. And there are people who said, why are you getting involved in ignorance? And I quoted before, and I misplaced the book, and I wish I had the book for a very distinguished economist who said, "Of course there needs to be a capacity in the government to protect people, not just against deception and not just against unfairness, but against people who would take advantage of their ignorance."

That is what "abusive" does. And we, in acting on that, and in giving you the authority to protect people against abuse, so defined, we are following the instruction of that particular economist whose name is Friedrich Hayek.

And I urge my colleagues, who quote Hayek more than they read it, to look specifically at what he said and there will be great support for dealing with efforts to exploit the ignorance of individuals.

Thank you, Mr. Chairman.

Chairman BACHUS. Thank you.

We have one, and possibly two, votes on the House Floor, so Members may want to do that. We will come back and hear your testimony.

I recognize Mr. Canseco for 1 minute.

Mr. CANSECO. Thank you, Mr. Chairman.

This week, just across the street from the Capitol, we have been reminded about the constitutional limits of our Federal Government as the President's health care law appears to be in serious jeopardy.

Unfortunately, I believe it won't be very long before matters involving the CFPB end up in the very same place. We must be ever so mindful today that President Obama gave a recess appointment to Mr. Cordray, despite the fact that the Senate was in session at the time, a black-and-white matter, despite the Administration's spin that there is some gray there.

This political maneuver by the President has set up a constitutional crisis at a time of already heightened uncertainty in our economy. In other words, at a time when we can least afford it.

With that, Mr. Chairman, I yield back.

Chairman BACHUS. Thank you.

Mr. Garrett will close out the opening statements, and then we will go vote. We will come back as soon as we can. So, I would encourage the Members to make your way to the Floor.

Mr. FRANK. Mr. Chairman, with your indulgence, I have another committee I have to go testify at, so I won't be back right away. It is not a sign of my lack of interest in the oversight of this agency.

Chairman BACHUS. Thank you.

Mr. Garrett, for 1 minute.

Mr. GARRETT. Thank you.

Mr. Cordray, the fact that you are here today is quite troubling, in yet another display of this Administration's arrogance and flagrant disregard of the Constitution.

The only check in Dodd-Frank of the CFPB is the position of the Director requires Senate confirmation, and this President ignored it. The only way this President gets around the confirmation process is to rely on the constitutional power to fill the vacancies that may arise during a recess.

But the problem is that this constitutional authority depends on the Senate being in recess. I suppose this President is an impatient man, but instead of waiting for a constitutionally significant recess of at least 3 days, this President declared the Senate in recess and this was a unilateral infringement on the constitutional powers of this Congress to determine for himself when it is in recess.

The recess appointment clause was adopted to ensure unfettered continuation of the government. It is not here to provide an escape hatch for this President when he wants to avoid the Senate confirmation process.

History tells us this, the founding fathers said so: "Nothing more than a supplement for the purpose of establishing an auxiliary method of reappointment," they said, "in cases in which the general method was inadequate."

This position was illegitimately occupied and has not only been granted broad indefinable powers that will affect almost every aspect of American business; it also has been insulated from the congressional appropriations process and oversight.

I say all that, Mr. Cordray, with nothing ill against you personally. But as a Member of this Congress, who has sworn an oath to support and to defend the Constitution, I find the method in which you were appointed extremely offensive and a violation of the highest law of this land, the Constitution of the United States.

With that, I yield back.

Chairman BACHUS. Thank you.

At this time, we will stand in a brief recess.

[recess]

Chairman BACHUS. The committee will come to order. Are we ready to proceed?

Mr. Cordray, you are recognized for a 5-minute opening statement. And if you wish to go over, that won't be a problem. We won't be interrupting you.

STATEMENT OF THE HONORABLE RICHARD CORDRAY, DIRECTOR, THE CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Mr. CORDRAY. Thank you. Chairman Bachus, Ranking Member Frank, and members of the committee, I want to thank you for this opportunity to testify on the first semi-annual report of the Consumer Financial Protection Bureau detailing the Bureau's accomplishments in its first 6 months.

In January, I presented this information to your colleagues in the Senate, and I look forward to presenting it to you today.

Before I became Director, I promised Members of Congress in both Chambers and on both sides of the aisle that I would be accountable to you for how the Consumer Bureau carries out the laws you enact.

I said that I would always welcome your thoughts about our work and I stand by that commitment. I am pleased to be here with you today to tell you about our work and to answer your questions.

The people who work at the Consumer Bureau are always happy to discuss our work with the Congress. This is the 15th time, maybe the 16th time, I learned this morning, that we have testified before either the House or the Senate.

And my colleagues and I look forward to working closely with you, with the businesses who serve their customers in the consumer finance markets, and with the millions of American consumers themselves.

I am honored to serve as the first Director of this new Consumer Bureau. I am energized and inspired by the many talented people who work at the CFPB, and I am driven by the challenges and responsibilities of our mission to protect American consumers.

Our mission is of critical importance to making life better for Americans. Consumer finance is a big part of all our lives. Mortgages allow people to buy a home and spread the payments over many years. Student loans give young people with talent and ambition access to an education. Credit cards give us immediate and convenient access to money when we need it.

These products enable people to achieve their dreams. But as we have all seen in recent years, they can also create dangers and pitfalls if they are misused or not properly understood.

During my years in State and local government, I became deeply engaged in consumer finance issues. I saw good people struggling with debt they could not afford. Sometimes, those people had made bad decisions they came to regret. Sometimes, an unexpected event like a loved one getting sick or a family member losing a job overwhelmed even their most careful planning.

Still other times, I saw unscrupulous businesses which obscured the terms of loans or engaged in outright fraud, causing substantial harm to unsuspecting consumers and even ruining their lives and devastating their communities.

I am certain that each one of you hears every day from your friends, your neighbors, and constituents in your district who have these kinds of stories to tell. These people do not want or expect any special favors. They just ask for a fair shake and a chance to get back on track toward the American dream.

One of our primary objectives at the Consumer Bureau is to make sure that the costs and risks of these financial products are made clear. People can make their own decisions and nobody can or should try to do that for them. But it is the American way for responsible businesses to be straightforward and upfront with their customers, giving them all the information they need to make informed decisions. That is good for honest businesses and it is good for the overall economy.

Another key objective is making sure that both banks and their nonbank competitors receive the evenhanded oversight necessary to promote a fair and open marketplace.

Our supervisors are going onsite to examine their books, ask tough questions and fix the problems we uncover. Under the laws enacted by you, the Congress, and with a Director now in place, we have the ability to make sure this is true across all financial products and services.

The Consumer Bureau will also make clear that violating the law has consequences. Through our field examiners, our direct contact with consumers and businesses, and our highly skilled researchers, we have multiple channels to know the facts about what is happening in the marketplace.

We plan to use all of the tools available to us to ensure that everyone respects and follows the rules of the road. Where we can cooperate with financial institutions to do that, we will. When necessary, however, we will not hesitate to use enforcement actions to right a wrong.

As we move forward with our work, we need to hear directly from the consumers we protect and the businesses who serve them. We do this on our Web site, consumerfinance.gov, where consumers are able to tell us their personal stories.

We also make it a point to get out of Washington regularly and hear from people firsthand. Thus far, we have held town hall meetings in Philadelphia, Minneapolis, Cleveland, and New York City. And we held a field hearing in Birmingham, Alabama.

We are hearing from thousands of Americans about what works and what does not. We are listening closely. And we hope that many of you will join us at these events when we come to your communities.

Accomplishing our mission will take time. But as you can see from our semi-annual report, we are already taking important steps to improve the lives of consumers.

Thank you. I look forward to answering your questions.

[The prepared statement of Director Cordray can be found on page 50 of the appendix.]

Chairman BACHUS. Thank you, Director.

Director, you have probably heard Ranking Member Frank talk about "abusive" as being a new term but he said it was defined in the Act. There has been a lot of focus by both sides on what is abusive, how that would be determined by your agency, and also by the lender, how they would know whether it was abusive or not.

I am looking at the definition of "abusive," and one of the things is it "takes unreasonable advantage of a lack of understanding on the part of the consumer."

Now, whether they understood something or not, would that not depend on maybe their ability to think and understand and reason? To a certain extent, would that be based on their, either what we call commonsense or I.Q.?

Mr. CORDRAY. I think that prong of the abusive definition is, in fact, situational and somewhat subjective. I think some of the prongs of the definition that Congress enacted, and which, of course, is the law that we must follow and carry out, are firmer. And some of them are a bit less firm.

So we have been trying to puzzle through exactly how that pretty straightforward and very explicit definition of the term that is in the law—it is the law that we are supposed to enforce—should be applied in the facts and circumstances of individual situations.

And that is something that we are just trying to assess very carefully as we go.

Chairman BACHUS. In fact, you would almost have to go situation by situation, would you not?

Mr. CORDRAY. With some of the prongs, I think that may be more true than with others, yes.

Chairman BACHUS. And that could be a problem for an institution or a lender, in that the same agreement in some cases, depending on just the ability of the consumer to understand or focus on the agreement, could determine whether it is abusive or not.

For instance, under the definition and under the law, a financial institution could be liable any time a consumer simply doesn't understand the product or service. Is that not correct?

Mr. CORDRAY. No, I don't think that is quite what the law says. It does speak of taking unreasonable advantage of the consumer.

Chairman BACHUS. Of their lack of understanding.

Mr. CORDRAY. That is right. So I think that for an institution, if they are in a situation, they should be thinking carefully about whether they are taking unreasonable advantage of their consumer. And I think you often have a pretty good sense of whether you are doing that or not; maybe not always.

Chairman BACHUS. No.

Mr. CORDRAY. And if so, you should hesitate and think again, and be careful that you are treating your customers fairly. I think it is something good businesses think about every day.

Chairman BACHUS. Okay. There was an article in "American Banker" that talked about an interview with you in which you indicated you didn't anticipate the agency writing a rule around—you were asked in a follow-up question whether your statement meant that people will mostly have to look at your actions as a model for how the new term "abusive" is defined.

And you are reported to have responded, "I think that is probably right." Was that a correct reporting of your response?

Mr. CORDRAY. It was.

Chairman BACHUS. Okay. Does that mean that you are going to sort of use your enforcement authority, rather than rulemaking authority, to set the standard on what is abusive?

Mr. CORDRAY. I think it meant several things. Number one, it meant that for us to define what abusive means feels a little presumptive, given that Congress defines what abusive means. Our job is to carry out what Congress says, given us as the law that finds us, not to make up that law ourselves.

Having said that, we have to go in and supervise institutions. So there is some guidance that we have provided around that set of terms—unfair, deceptive and abusive acts or practices—in our examination manual, which is public and available on our Web site. And institutions have every opportunity to look carefully at that and to inquire with us and ask questions about anything that is unclear to them.

But I do think that how the law that Congress has defined applies in particular situations is something that we are going to have to measure on a facts and circumstances basis as we go.

But Congress defined it, not us. And it is our job to try to apply it on its terms.

Chairman BACHUS. But I think you are acknowledging some difficulty with being able to at least write a rule and tell institutions when they would be and when they may not be violating the law, it seems.

Mr. CORDRAY. No, I don't think so. I just don't think that is probably the preferred approach, when Congress has defined the term already. We could further define the term, but are we going to define it differently from what Congress defined? I don't think so.

We could perhaps clarify how it applies in particular facts and circumstances. But I think we ought to take some time with it, rather than up and just pontificating about it at the beginning.

So that is what we are going to try to do. We are trying to be careful here, measured and thoughtful. Sometimes, that means you don't have all the answers in the first instance. I think that is where we are.

Chairman BACHUS. All right. Thank you.

Ms. Waters?

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

Mr. Cordray, the State and Federal Mortgage Services Settlement unveiled in February set forth new mortgage servicing standards that address issues such as pre-foreclosure referral notices to borrowers, third-party provider oversight, loss mitigation requirements, single point of contact standards, and other measures.

However, the settlement only covers five of our major mortgage services. And the servicing standards will only be in place for the life of the settlement. That is 3 years.

I know you have a lot on your plate. But does CFPB have any plans to develop permanent servicing standards that cover the entire servicing industry? If so, will CFPB use the servicing standards in the State/Federal settlement as a template for whatever you develop?

Mr. CORDRAY. Thank you, Congresswoman, for the question.

It is a very timely question.

And the answer is, we do have the intention of developing servicing standards that would apply across the industry. One of the things we want is for all servicers to be put on a level playing field. As you noted, the servicing settlement was a partial step.

It was an important step forward, but it is a partial step. It only applies to certain institutions, and only applies to certain loans in their portfolio. We are working with an interagency group of other Federal agencies to develop standards. That was true before the servicing settlement was reached, and it remains true after the settlement was reached.

There is no question that the provisions in the settlement, which were worked over very carefully on a Federal/State basis with those institutions, are going to be the basis for trying to provide broader guidance to the market.

But as you noted, there are many servicers out there that have not been touched by this settlement. They have not been affected in any way. Some of them, nonbank servicers, have never been overseen by anyone. And we need to bring them under the umbrella, so that everybody is playing by the same rules, as quickly as possible.

So we are going to move forward on this. We have certain mortgage servicing rules we are required to adopt by January. We are looking at what else should be part of that. And we are consulting closely with our fellow agencies.

But we see that as a high priority. For me, I saw mortgage servicing problems in Ohio going back to when I was a local treasurer, then State treasurer, then State attorney general, and now have found them to be national in scope.

Ms. WATERS. Thank you very much. That is great. I really appreciate that.

I have been following very closely the mortgage servicing consent, or the process initiated by the OCC and the Federal Reserve Board for the five largest mortgage servicers. This process allows the servicers to hire their own auditors to investigate their foreclosure practices during 2009 and 2010.

I fail to see why they didn't include the CFPB in this process. And we didn't get a really good answer. Given CFPB's new jurisdiction over servicing, what do you think? Do you have any desire to be involved in this process?

Mr. CORDRAY. Congresswoman, we are taking complaints now on our Web site, and in calls from people about mortgage issues. Quite a few of those complaints deal with foreclosure situations and other servicing issues.

I think the Congress is well-served on any kind of initiative like this, that the OCC has embarked on, to exert oversight, just as you exert oversight over our efforts and processes. I think it ought to be kept in mind that the OCC was the very first of the Federal agencies to step up and document the extent of the abuses in the mortgage servicing sector.

They issued the first report on that. It demonstrated the seriousness in this. As they saw it, it was so serious that it affected the safety and soundness of institutions. That allowed everyone to build and move forward toward the servicing settlement.

And now, as you say, it is very important for us to broaden that across the industry and make sure all these other processes are working as well as possible. It is a complicated space, but the Consumer Bureau has very significant authority here, both to examine institutions, banks and nonbanks, to enforce the law going forward, and to write rules.

We will do that very carefully. And we are glad to consult with you as we go.

Ms. WATERS. Thank you very much.

And I will yield back the balance of my time.

Mrs. CAPITO [presiding]. Thank you.

Mr. Hensarling is recognized for 5 minutes for questions.

Mr. HENSARLING. Thank you, Madam Chairwoman.

Mr. Cordray, I want to follow up on the line of questioning that Chairman Spencer Bachus had. I think what I heard you say with respect to the term "abusive" was that the law was clear in this area. But I thought I also heard you say it was situational and subjective.

I know that at least the co-author of Dodd/Frank, Senator Dodd, during the Senate debate on the creation of the Act, said on the Senate Floor, "I have never claimed our proposal of consumer protection is perfect. I acknowledge the word abusive does need to be defined, and we are talking about striking that or making it better."

The language never changed after that. So for the record, I want to say at least the co-author of the Act doesn't find it too clear. And I am just wondering, is it clear or is it subjective? Is it clearly subjective?

Are those competing or complementary terms? I don't understand your point of view.

Mr. CORDRAY. Congressman, what I was saying, which is I think undeniable, is that this is not an undefined term in the law. Some people have mistakenly said that the term "abusive" is vague or that it is not defined.

Congress explicitly defined the term. They laid out several specific prongs that would have to—

Mr. HENSARLING. So it can be defined, but it is subjective?

Mr. CORDRAY. It is very expressly defined in the law. There are criteria that people are supposed to use in determining whether—

Mr. HENSARLING. But did you not earlier say it was subjective, in your testimony just a few minutes ago?

Mr. CORDRAY. What I said was if you look at those prongs, they have to be applied in facts and circumstances, common to many legal definitions that Congress has adopted. And some of the prongs are situational to the individual consumer.

I think that is true.

Mr. HENSARLING. Can a consumer product be both fair and abusive?

Mr. CORDRAY. I think Congress has made a judgment. And again, it is not for me to just make up terms and go forward on any basis I please. I am supposed to enforce the law that you all have enacted and we intend to do that. Congress has—

Mr. HENSARLING. —case law surrounding and greater statutory specificity with respect to "unfair." The question is, is the term "abusive" redundant of "unfair" or is this something that is completely separate. So, the question is: Can you have a fair product which is still yet an abusive product?

Mr. CORDRAY. Yes.

Mr. HENSARLING. So the answer is yes?

Mr. CORDRAY. I would be glad to answer your question.

The answer to your question is Congress has put together three different terms in that passage. They have talked about "unfair," "deceptive," or "abusive" acts or practices.

Congress has seemed to indicate that there is a distinction among each of those categories. That isn't to say there can't be some overlap. There may be significant overlap. But I think the answer to your question is Congress has pretty clearly spoken and said there could be a practice that would not be unfair, but that would be abusive.

Mr. HENSARLING. Mr. Cordray when you—

Mr. CORDRAY. —lawyers who are arguing back and forth and trying to understand exactly the parameters of that and it may be some time before everybody comes—

Mr. HENSARLING. In interpreting the term, "abusive," you said it could be situational. Is situational consumer-specific; atomistic, down to the individual consumer? Could it be?

Mr. CORDRAY. The chairman asked me specifically about a particular prong, which was the consumer's understanding. That seems unavoidably situational, meaning consumer by consumer.

Mr. HENSARLING. So a product could be abusive to one individual consumer, yet not abusive to another consumer? Is this correct?

Mr. CORDRAY. I think the law seems to pretty clearly contemplate that, yes. Then there are other prongs that are—that is not necessarily true of.

Mr. HENSARLING. So if I am the financial institution, if I am the First State Bank of Mineola, Texas, and I want to roll out a product, in order to avoid litigation or enforcement action, am I going to foresee the day where I have to impose a financial literacy test on each and every one of my customers to avoid an enforcement action from your agency?

Mr. CORDRAY. No, I think it merely reflects the kind of careful practices that good businesses engage in all the time. And to go back to the ranking member's comments, if you are offering a refinancing to an elderly customer that you know full well may be having some difficulty understanding the terms—

Mr. HENSARLING. But you did say it could be consumer-dependent, down to the individual consumer, correct?

Mr. CORDRAY. So, again, I think good businesses and good banks are mindful of this. They would not approach certain customers with certain products that they would approach other—

Mr. HENSARLING. My time is almost up, Mr. Cordray.

Just one other quick question—you said at one point, "Fraud is fraud." But you have also been on the record as saying, "Frankly, there is a lot of fraud that is committed in the marketplace that is not on its face necessarily technically illegal." So is fraud, fraud? Or is there legal fraud and illegal fraud; or the mere fact that your agency determines that you don't like the fraud, then it becomes illegal?

Mr. CORDRAY. I appreciate you asking about that. The subcommittee chair of a different committee asked me about the same quote. That was an unfortunate either misquote or perhaps out-of-context quote of mine.

I didn't mean to imply that something that is in compliance with the law would be illegal. That is obviously not definitionally correct. But you can have fraudulent acts and practices that may or may not rise to an actual illegality. It depends on whether there is materiality, whether there is reliance, whether there is damage. That is a standard matter in securities laws.

But our job will be to protect consumers against fraud, against unfair, deceptive acts and practices and abusive to the extent that definition is relevant and adds to the other definitions, which remains kind of a matter under debate.

Mr. HENSARLING. Thank you, Mr. Cordray.

My time—

Mrs. CAPITO. Mrs. Maloney, for 5 minutes?

Mrs. MALONEY. Thank you.

Director Cordray, yesterday, I read in one of the papers that you have a new feature on the CFPB Web site called, "Ask Us Anything." I wanted to call it to the attention of my colleagues and others because financial literacy is something that I care deeply about and I firmly believe that when people have the best information, they can make the best decisions for their financial lives.

Can you report on the usage of this function? And how will these questions inform your work going forward?

Mr. CORDRAY. Thank you, Congresswoman.

It is something that we think will be an important foundation that we will build on going forward. As we prepared the Bureau to receive and to handle and to resolve consumer complaints in the credit card area and in the mortgage area, and now we are into other areas as well, we inevitably developed training materials for our folks who would be receiving those complaints to be able to address different questions, to be knowledgeable about the products they would be talking about and the like.

And it occurred to us that rather than limit that information only to our own employees who would be dealing with these complaints, if we could put it out on our Web site and make it more available to the public at large, maybe they could answer a lot of questions for themselves. They could go to it and get that information when it is most pertinent and convenient for them.

We will continue to build on this. This will be an iterative process. People can add questions that they would like to have us answer. They can offer their thoughts about the answers that we are providing to the questions that are raised.

We expect we will build this out across the whole range of products and services. We hope to become a trusted resource for people out in the marketplace who need to know more. They know they need to know more. They aren't sure where to go to get it. Sometimes, they will go to Web sites now that are self-interested Web sites where somebody is trying to sell them a product, and therefore, the information may be distorted by that self-interest.

We don't have any of that. So we hope to promote this and we would be glad if you would promote it among your constituents and others as well. It is intended to help muscle up consumers so that they can protect themselves.

Mrs. MALONEY. Director Cordray, most of us hear quite a few complaints from our constituents about student loans. In fact recently it has been reported that student loan debt reached $1 trillion and that it is even higher, which is hard to believe, than credit card debt.

I know that you have released a shopping sheet for student loans so that parents and students can make a comparison about what the terms are. What steps are you taking to further educate students and parents about the merits and drawbacks of the various options they have in student loans? And are you including the deferred interest and all those other aspects?

Mr. CORDRAY. Those are good questions. This is obviously a subject of growing importance to a number of Americans and should be for the country as a whole. Because, as was mentioned earlier, the population we are talking about here are young people who have the ability to make something of themselves. They are the kinds of young people we would like to see rise towards success in our society. They are held back only by lacking the means they need to be able to finance an education.

This becomes a momentous decision for a young person and their family. Do they get on the right financial track? Or do they get on the wrong financial track? And if they end up on the wrong financial track, they are not going to achieve what they could achieve.

We are going to be deprived of their talents in our society. And they are going to end up in a financial mess that will last them for years. It is one of the very few big decisions people will make in the course of their lives that has lasting repercussions; like the mortgage decision; like certain retirement decisions.

We have the financial aid shopping sheet that you mentioned because we want to make the prices and risks and comparisons clear for young people and their families who are not familiar with this. They have not done it before or maybe they have done it once. Maybe they didn't get it right then either.

We also have a student debt calculator so that people can understand what their rights are; what the repayment alternatives may be. So that once they are in situations of having significant student loan debt, they can best plan their path forward to getting out from under that debt and relieving that cloud over their future.

We are working closely with the Department of Education on initiatives around that. And I am sure we will have many more ideas as we go. There are a lot of areas of concern.

Holly Petraeus, who heads our Office of Servicemember Affairs, has indicated that the 90/10 rule for financial institutions creates some perverse incentives for them to offer loans to students that they know full well are going to default at high levels because that gives them access to the 90 percent of Federal funding, especially from the G.I. Bill.

I know it is something Congress is starting to look at. We do urge you all to look carefully at this and what the unintended consequences have been.

We have many young people, some of whom serve their country, and many others as well who need the opportunity to succeed and they are foundering because of bad financial decisions.

Mrs. MALONEY. Thank you.

Mrs. CAPITO. The gentlelady's time has expired.

Mr. Miller, for 5 minutes?

Mr. MILLER OF CALIFORNIA. Thank you. I am sure you are aware, to address the alleged abuses of mortgage origination, Congress passed the SAFE Act, which was a significant achievement at its time but it is potentially, I believe, being jeopardized.

We are hearing of reports of lenders training their own loan origination staffs. That was not our intent. This is inconsistent with the Act's principles that we should be independent-training these individuals with respect to pre-licensing and continuing education requirements. Mortgage origination training should be independent; the best regulatory tool we have to ensure all loans are originated are licensed and qualified. And that is important.

And it is a three-part question. I am going to try to give you time to answer it. Do you share my concern about lenders training their own personnel? And what do you plan to do to address this development? Do you plan to include language to address this issue in the CFPB's mortgage origination rule?

Mr. CORDRAY. Thank you, Congressman, for that question. It is a thoughtful question because I would agree with you that training your own staff, although that, I suppose, can be cost-effective, there are real questions about whether that is sufficient and adequate to achieve what we want.

And you can imagine that when you train your own staff, the training might be distorted a bit by the potential self-interest of the organization which, again, I think is inconsistent with the congressional intent.

I will take that comment back with me, and I will have my staff get back to you on how we see it and what we are planning to do about it. The SAFE Act is, as you know a statute that did come over to us now to enforce.

There are a number of questions that have come up about it including—the chairman had raised the question with us about transitional licensing, which is another new issue for us. But we will be glad to look at that and think carefully about that. My sense is you are—

Mr. MILLER OF CALIFORNIA. —problematic and you plan on addressing it in a fashion?

Mr. CORDRAY. I will have my staff get back to you on that. Yes.

Mr. MILLER OF CALIFORNIA. Great. Thank you.

In your testimony, you say that the CFPB will be proposing a new Loan Origination Compensation Rule within the next 6 months, I believe you said. And in April of last year, the Federal Reserve implemented a loan origination compensation rule aimed to protect consumers from unscrupulous lending practices, which we are all concerned about.

But we think the provisions actually went too far. While intended to prevent steering, the Fed rule actually causes consumer to multiply pay more in their closing cost, this because the Federal rule has forced mortgage originators to only offer loans with the closing costs rolled into the loan.

I introduced a bill that would ensure consumers have the ability to pay their closing costs upfront, if they so choose, no matter how the mortgage company pay their employees. I don't think those two are connected.

While the Fed rule is intended to protect consumers from mortgage originators that would try to overcharge buyers, it is causing buyers to lose their home purchases and deposits because of legitimate discrepancies in closing costs. My bill would allow the mortgage originator to reduce their compensation at closing to cover differences in costs that are beyond the control of the originator.

This provision is narrowly tailored to protect borrowers from bad actors while still allowing the necessary ability at closing so borrowers are prevented from not closing their home.

My concern is if there is a discrepancy at closing such that the originator cannot even modify their compensation to the benefit of the buyer. Can you please tell me how you plan on addressing that; this problem, so it doesn't continue?

Mr. CORDRAY. Okay. Thank you, Congressman. I want to be kind of careful in my response to that. That is an open, pending rulemaking for us.

We were, as you said, given the mortgage loan originator compensation rule that the Federal Reserve enacted and finalized last year. But we were given authority under the law and, in fact, are required to do some work in that area as well, by January of this coming year.

This is an issue that we are looking at. There are other issues we are looking at such as the perhaps unintended effects on pension arrangements and bonus arrangements, especially at some of the smaller institutions.

We have a whole process on that. We have comments that we are digesting. We will be glad to speak further with you.

I am not sure how much I can say publicly, however.

Mr. MILLER OF CALIFORNIA. I am sure you have seen situations where you get ready to close.

Mr. CORDRAY. Yes.

Mr. MILLER OF CALIFORNIA. You pre-stated your costs upfront. The rule they have applied doesn't allow any leeway at all in that.

And you have had situations where everybody who sits around the table and is saying, "Well, this is occurring. We need this type of a reduction." And many times, your mortgage originator will make those allowances rather than lose the closing.

And now, they can't even do that. And that is just a—there are some bad actors out there who would raise costs at closing, and the buyers at the last minute say, "Well, I either do this or I don't get my home."

My bill doesn't allow for that. But to modify the closings and let the person roll those costs that they have in the closing into their loan rather than paying upfront—if it is not in some way impacting them in a negative way, I think it is something you really need to look at.

And I am not in any way asking you to do something that puts the individual at risk due to some unscrupulous individual. But we need to allow some leeway on the part of the buyer, I believe.

Mr. CORDRAY. I hear you on that. We will take that back, and I appreciate that. On its face, it sounds fairly sensible, I would have to say.

Mr. MILLER OF CALIFORNIA. Thank you, sir.

Mr. CORDRAY. Yes.

Mrs. CAPITO. Ms. Velazquez, for 5 minutes for questions.

Ms. VELAZQUEZ. Thank you, Madam Chairwoman.

Director Cordray, in the Small Business Committee, we have heard a great deal of concern among merchant and retail businesses who fear that their financial transactions with other businesses could be subject to CFPB oversight.

What can you say to rest the worries that new regulations will affect purely commercial transactions?

Mr. CORDRAY. The authority that is given to us under the law has to do with consumer financial products and services. It is defined in the law to only really affect matters involving household credit used for personal purposes. And, it is a broad array of products—mortgages, credit cards, student loans, and payday loans. It goes on into debt collection, debt settlement, credit reporting, and other areas.

Contrary to views about the breadth of our authority, we do not have authority over commercial transactions between businesses that don't involve credit to consumers. So I would simply reiterate that is what our law is, and that is not within our purview.

Ms. VELAZQUEZ. Okay.

Some policymakers have expressed concerns that the new Bureau will extend its reach to include businesses that previously were not subject to a Federal financial regulator, like equipment leasing, factory firms or money service businesses.

Should small businesses that previously didn't offer consumer financial products be concerned about a new layer of regulations?

Mr. CORDRAY. If a business does not offer consumer financial products or services, they would not be subject to our oversight. If they do, they would. So money service companies previously were not subject to any Federal oversight, arguably, there are some laws that may have applied to them. They now are potentially subject to oversight by us.

This is a big shift that the law represents, which is that there are plenty of consumer markets where you have chartered institutions, banks, credit unions, and thrifts competing against nonchartered institutions that were not subject to any oversight whatsoever.

And we want to make sure that they are held to the same sorts of standards and principles and people are put on a level with one another.

That is the big part of our job. It is a big challenge for us to do it, but we are working hard to do that as we go over the first few years of our existence.

Ms. VELAZQUEZ. And despite efforts to establish a single regulator for consumer financial protection, the Federal regulators have nonetheless retained enforcement powers for the overwhelming majority of banks. Is there a risk that this will weaken protections for consumers or lead to confusion for financial institutions?

Mr. CORDRAY. I don't know that there should be confusion. I think for the vast majority of banks, as you indicated, and it is my understanding as well, they remain subject to the same regulators they have always had.

For the 110 largest institutions, those with assets over $10 billion, they will now be overseen by us for consumer protection purposes and by their prudential regulator for safety and soundness purposes. So there is some overlap there.

But for all of these reasons, it really behooves us to collaborate closely with our fellow agencies to make sure that we are approaching problems in common, to make sure that we are on the same page, to make sure we are consulting carefully and getting their perspective as we act, and we give them whatever perspective we may be developing as they act.

That is something we are working toward among my fellow heads of the agencies and among the staffs. It takes a little time for everybody to adjust to one another.

Ms. VELAZQUEZ. If I may—

Mr. CORDRAY. Yes.

Ms. VELAZQUEZ. I am the ranking member on the Small Business Committee.

Mr. CORDRAY. Yes.

Ms. VELAZQUEZ. It is quite frustrating for me to, time and time again, when we have community banks coming before the committee to discuss why it is so difficult for them to continue to lend to small businesses, they are saying because of the Dodd-Frank regulations.

And if they have assets of less than $10 billion, those regulations and oversight will not have any direct impact on those community financial institutions.

Mr. CORDRAY. We won't be enforcing the law with respect to them. We won't be examining them, except possibly pursuant to ride-along authority that we don't anticipate utilizing in the immediate future.

Our regulations will affect them. And that is why I have said time and again in front of this and other panels that we need to think carefully about what the effect of our regulations may be on smaller institutions.

That is why we are utilizing the Small Business Regulatory Fairness Act (SBREFA) panels that are provided in law to make sure small providers have the ability to inform us directly about their concerns and their operations and how they work.

That is something we are taking very seriously. We have one, and soon a couple of more, of those panels at work. And so we are listening carefully to them. I am creating an advisory council for community banks and a special advisory council for credit unions so that their perspectives do not get lost in the shuffle for us.

It is important for us. And I agree with you. We need them to be able to lend to small businesses, because small businesses create the vast majority of jobs in this country. And some of the encouraging recent economic news seems linked to the fact that small business lending is up and small businesses are being created at a faster pace. That is a very good thing for us.

Mrs. CAPITO. The gentlewoman's time has expired.

I will recognize myself for 5 minutes for questioning.

In your report, you talk about streamlining inherited regulations and the law "is to address outdated, unnecessary and unduly burdensome regulation."

The President talked about this in his State of the Union; how he wants to eliminate old or antiquated regulations. I guess my question is, what steps are you taking to work with him to eliminate these overly burdensome or repetitive or inherited regulations?

Can you give me specifics—except I don't want to hear about the one-page mortgage, because the last time I asked that question I got a 3-minute answer on the one-page mortgage so—not from you, I will say that. We are all well aware of that, and that is a good thing. We are very happy about that.

So if you could help me with that because the Treasury Secretary pointed to the CFPB as one of the ways to eliminate these old regulations.

Mr. CORDRAY. I appreciate the question. I have also been known to give some long answers from time to time; I am trying to shorten them.

On this, though—I was over at the U.S. Chamber of Commerce yesterday, speaking with them. And one of the things that they praised us for, and I think it is a very common-sense thing for us to do, is our initiative on streamlining the regulations that we have inherited from other agencies.

We didn't write those rules. We are not personally invested in them. They were adopted by different agencies at different times for different purposes. There is often not a lot of careful thought about the aggregate impact of those.

So, we have had a request for information outstanding, published in the Federal Register for a couple of months now asking anyone to bring us their ideas as to how we can cut back and streamline regulations and show that we are a different sort of agency, that we are interested in doing this.

And in the consumer realm, we think there is room to do this, because there has been such a sort of mania for disclosure over the years that those disclosures piled up, piled up, piled up and became very dense and unreadable. Consumers were deriving very little value from them; they were often confused even if they did read them. And we think we can cut that back in some areas pretty substantially.

So this is something we are taking very seriously. The Chamber has given us some thoughtful comments. Hundreds of others have as well. We are going to be digesting those.

Mrs. CAPITO. I would like to follow up with you on that as time moves on.

If you look at it from a community bank perspective, you are having to divert your resources to a compliance officer, an accountant or an attorney to keep up with the vast majority of regulations, not just the new but the old as well. And that diverts resources from the job creation or small business lending that we want to see our financial institutions do.

The Federal Reserve initially proposed the qualified mortgage rule before it was transferred to the CFPB. And it offered two different alternative proposals, with differing protections for liability for lenders.

We have had a lot of discussion about this.

Mr. CORDRAY. Yes.

Mrs. CAPITO. One would give a total safe harbor and one would have a rebuttable presumption protection. Which alternative would you prefer? And will the CFPB draft a different proposal?

Mr. CORDRAY. So, again, I want to be a little bit careful how I answer this question. It is a pending rulemaking. We have been getting quite a bit of input, both from industry and from consumer groups, and also from our fellow agencies.

As you know, it was the Fed who proposed the rule. And then it has come over to us to finalize. It is also a very important rule because providing guardrails around lenders, paying attention to the borrower's ability to repay is something that is very important for cleaning up the mess we have in the mortgage markets.

What we have found as we have been working on this is you can have a sort of definitional safe harbor; a definitional rebuttable presumption. If you leave the standards vague and mushy, there is not a lot of difference between the two, because you can still litigate over whether you comply with the qualifications to get into the safe harbor.

What is very important in this area, though, is that we try to create bright lines, so there will not be a lot of litigation. We don't want this to be punted into the courts and people not to be sure for years to come. And we are going to work to do that.

We want to get this right. This also intersects with the Qualified Residential Mortgage (QRM) rule on risk retention that other agencies are going to be adopting. So we are taking a lot of close inputs from a lot of groups who have competing but, in some ways, converging perspectives on some of these issues.

Mrs. CAPITO. I would urge caution in this area, simply because, as we know, to really get the economy moving again, we have to get this right.

And we have to get first-time home buyers into the market. We have to get people being able to move in order to get our economy moving again.

So I would like to again follow up with you on that. My time has expired. I did want to ask you about the complaint line. And I also wanted to get into the silos.

But I will save that for another day.

And, our next questioner is Mr. Miller.

Mr. MILLER OF NORTH CAROLINA. Thank you, Madam Chairwoman.

I have been puzzled by some of the complaints about the use of subjective terms in the statute and whether that will lead to results that are just snatched out of thin air, because my knowledge actually is that subjective terms are used throughout the law to so that the law applies differently in different circumstances.

And that has, in fact, been viewed as a strength of our legal system. There was an 18th or 17th Century English judge who wrote—and this is probably not exact, but it is close—"There shall be no fixed definition of fraud, lest devious men contrive ways to evade it."

We all see the value in clarity, but clarity can also lead to inflexibility. And there needs to be some subjective standard to reach new circumstances.

The idea that reasonableness is somehow a new thing, snatched out of the air to be applied in the law is very peculiar. The "reasonable man standard," the proximate cause, is not exactly the clearest standard. It obviously depends on circumstance.

Mr. Cordray, do you think you will have any difficulty applying standards of fair, unfair, unreasonable and/or abusive?

Mr. CORDRAY. I think that with standards like that, Congressman, there is a gray area and then there is a core. And within the core, there is really no question that the people who are perpetrating acts that are within that core, they know that what they are doing is probably wrong, and yet they do it anyway.

In the gray area, it is a little harder to judge. And I think we should tread more cautiously in the gray area. But as you say, these are terms that have been defined over decades.

Mr. MILLER OF NORTH CAROLINA. Actually, over centuries.

Mr. CORDRAY. That is true. And it goes back to the common law in many instances, and when they were codified into statutory law. There are still a lot of years of courts interpreting them further.

But for some of them, it is very well-plowed ground at this point. And I think that the main outlines of how people mistreat their customers are pretty well-defined.

When they see that is happening, or they see that is very likely happening, they should be hesitating. They should be rethinking. And I think that is entirely appropriate.

Mr. MILLER OF NORTH CAROLINA. You said there are gray areas and core areas. You have enforcement powers and you have regulatory powers. In the gray areas, would you probably proceed straight to enforcement or would you probably turn to rulemaking and apply that rule prospectively, so everyone would know what the rules were?

Mr. CORDRAY. I think that there could be situations where we might do either. But I also think that there is enough misconduct that occurs in the core areas that we would be well-served to focus on that at the outset, in the first period of our Bureau.

We want to get that cleaned up. Then, we can work on trying to define around the edges a little more clearly.

Mr. MILLER OF NORTH CAROLINA. There have also been concerns today and in the past about whether your rules, the prohibitions on unfair and deceptive and abusive practices, would threaten the solvency of the financial system or financial institutions.

The legislation, as first proposed by the Obama Administration, including a requirement that a plain vanilla product be offered side-by-side with any other product offered by a financial institution; and that was shot down—there were gales of protest.

And there was a sentence or two placed in the law that bears no requirement to offer any given financial product. So it is only your authority, then, to prohibit unfair practices, like you are not allowed to require any financial institutions who offer a product that might be unprofitable for them?

Mr. CORDRAY. One of the mandates in the law is that we are supposed to promote innovation in financial services, which means, let 1,000 flowers bloom, as long as they are not beyond the pale, exploiting or treating their customers unfairly or being deceptive.

We do want there to be innovation and vigorous competition in the financial realm. There will be times when an array of choices is better for consumers. There may be times where, for example in the mortgage market in the lead up to the financial crisis, where there were a lot of exotic products being offered to customers where they were a very poor fit, and the default rate showed that very quickly.

It is something that we are going to have to think carefully about as we go. But again, in general, we want to encourage innovation and we want to encourage competition. But we want it to be fair competition. And we want it to be competition that respects the consumers.

Mrs. CAPITO. The gentleman's time has expired.

Mr. Posey, for 5 minutes.

Mr. POSEY. Thank you, Madam Chairwoman.

It is good to see you again, Mr. Cordray. When you were here previously, you stated, and you also told the chairman earlier today that you promise to be accountable and answerable to Congress and you are eager to work with Congress.

But apparently some of the people in your agency haven't gotten the memo yet. I have heard occasions where—this is from another office, not mine. It remains nameless only so they have no need to fear retribution—but, "Our district is unable to close out certain cases that get referred to them because CFPB states it doesn't have to respond to them, because it reports directly to the Fed."

That was the second day of this month. I pursued that a little bit further when I saw it, and I found a litany of unreturned phone calls and messages that they have.

And so maybe, there are some people who just need to be briefed on your philosophy in the agency.

Mr. CORDRAY. I am not entirely following your question. Are you talking about a financial institution that feels that they couldn't get answers from our agency or someone else?

Mr. POSEY. Congressional offices.

Mr. CORDRAY. Okay.

Mr. POSEY. Members of Congress.

Mr. CORDRAY. That is very different from what I have heard, although I am happy to—and my staff will be happy to take up any particular situations that need to be addressed.

I have heard a lot of compliments from different congressional offices, on both sides of the aisle, in terms of how we are handling consumer complaints. And we are beginning to see on our consumer complaint line lots of post mortems from consumers who are very pleased with the fact that after months of problems—

Mr. POSEY. I don't want to spend all my time on this.

Mr. CORDRAY. I am sure it is a mixed bag.

Mr. POSEY. Yes, I am sure it is.

And there is something called the Victims Relief Fund, wherein your agency hangs on to the money instead of returning it to the Treasury. And it is supposed to be used to compensate victims of wrongful activity.

There is no requirement that I can see that the penalty must be paid to the victims of a specific wrongdoing for which the penalty was collected. What happens to the money if the victim can't be located or there is more money collected than there is due compensation? Are you allowed to keep the money and commingle it with other agency funds?

Mr. CORDRAY. This is something that we have been looking at carefully. It is a provision of the Act, as you said. The first thing that happens in any matter of that sort is we are supposed to make a vigorous effort to find the victims who were wronged and make sure that they are recompensed as fully as possible.

If there is a penalty that is assessed, that doesn't necessarily tie specifically to compensation. But if we can compensate victims, that is our first priority.

If not, the law provides that money can be used to facilitate and aid financial literacy and education efforts around the country for consumers. So, that is a possible disposition of funds as well.

Beyond that, I think we are just trying to be mindful of carrying out the law as Congress enacted it. And that is what it seems to say to us.

Mr. POSEY. Would you anticipate being involved in stipulated settlements?

Mr. CORDRAY. Do you mean settlements that don't go to a final court resolution?

Mr. POSEY. Yes, sir.

Mr. CORDRAY. I imagine that will happen frequently just as it does for every government agency and every private litigator as well.

Mr. POSEY. But you don't anticipate that money will just be unbudgeted revenue to the agency? That the money would be transparent and it would be going to victims or to education as you indicated?

Mr. CORDRAY. I see what you are saying.

When we arrive at a settlement, I think it will typically be our practice to enter that settlement agreement in accord as a consent decree, which creates more enforceability and more transparency.

And then the nature of that document is that the court will specify in the court order how any funds are to be allocated and how they are to be used. And that creates binding law that we have to follow.

So that is what I would expect would typically be the case in our matters that don't go to some final judgment in a court.

Mr. POSEY. That is what I wanted to hear. Thank you very much.

I yield back, Madam Chairwoman.

Mrs. CAPITO. Thank you.

Mr. Scott, for 5 minutes?

Mr. SCOTT. Thank you very much, Madam Chairwoman.

Mr. Cordray, how long have you been on the job?

Mr. CORDRAY. I have been on the job for 3 months, minus 5 days.

Mr. SCOTT. 3 months. And could you tell the committee what areas have raised the greatest number of complaints, the greatest areas of concern; if you had to prioritize on where there is the greatest area of problem and abusive practice lending and carrying out your mission? What would that be? Would it be mortgage servicers? Would it be student loans, credit cards? What would it be?

Mr. CORDRAY. It is a little hard to determine trends yet because it has been a short time and we have been receiving complaints in stages. But I think there is very little question that the pace of complaints has been fastest in the mortgage area, especially around foreclosures and around servicer practices and the frustration that people feel.

In fact, my guess is that the pattern of complaints we are receiving mirrors the pattern of complaints each of your offices receive from your constituents because I think most of these problems are pretty common nationally.

We have also received a lot of complaints around credit cards, typically for smaller dollar issues, but still very frustrating to people. And we have begun receiving complaints about student loans. We expect we will have a significant volume of those and others.

Mr. SCOTT. I am glad that you volunteered that answer; the priority of—area of concerns and complaints have been in the mortgage area.

And I commend you. I think January 20, 2012, you put out in your annual report, a greater emphasis on dealing with the mortgage service area; and certainly commend you on that.

Let me ask you how your Bureau responds to developments that happened and may be a little bit outside, but impact the mortgage area?

For example, recently during this period, I think about a few months ago, there was a settlement made of billions and billions of dollars apportioned out to the States that was designed to go back to help struggling homeowners with their mortgages.

One of the major areas of concern—this difficulty with mortgage holders is having the ability to write down the principal. We have been after that for a long time. The Secretary of the Treasury was before the committee last week and I asked him pointedly about that: "Could that money be used to assist homeowners in their greatest area of need in terms of lowering the cost of their monthly payment, writing down the principal?"

And he said, "Yes." And you are aware of this, are you not?

Mr. CORDRAY. Yes.

Mr. SCOTT. So how are you getting this information out to mortgage holders who are very confused, and do not understand? Are you working to get out to each of the States, the communities, how the mortgage holders who are struggling can take advantage of this?

For example, my State of Georgia's share in this is $816 million. One of the concerns we have had, for example, is that the Governor of Georgia has decided that $110 million of this would not be used. Those funds will be diverted; they wouldn't go to the struggling homeowners.

What I am trying to get at—it seems something like this, where you are really talking about consumer protection, is an area where you ought to weigh in as well.

What has been your response? How have you gotten information out? Where is there a clear understanding of how this money can get into the hands of the consumer to help them for what it was designed to do, to get that principal down and help these people save their homes? And that these States cannot just willy-nilly use this money for a rainy day fund or whatever? And that is a problem. How are you all helping us with that?

Mr. CORDRAY. The mortgage servicing settlement was organized around the principle that there was significant money that was allocated on a State-by-State basis. And State attorneys general would have a significant say in whether that was used, for example, for homeowner counseling, or for razing abandoned houses in cities, which is another big problem, or any of a number of other uses.

There is also money in the settlement, though that is not subject to control at the State level, that will go toward homeowner relief, some of which will be in the form of principal writedowns, others of which will take different forms. Principal writedowns are one tool in the toolbox of addressing an upside down mortgage situation. And the—

Mr. SCOTT. I know my time is short, but could you just tell us quickly what your Bureau is doing to get this vital information out to the consumer?

Mrs. CAPITO. If you could do this quickly, because I want to get one more questioner in before we have to go?

Mr. CORDRAY. That is fine. We are working with these other agencies that reached the settlement which we were not integral to, to make sure that we help publicize what is available to homeowners. But I think the lion's share of that is falling on the backs of the State attorneys general, the HUD Secretary, and the Justice and perhaps Treasury Departments.

Mr. SCOTT. Thank you.

Mrs. CAPITO. Mr. Luetkemeyer, for 5 minutes?

My intention is, after Mr. Luetkemeyer's questions, to put us in a recess, and then come back after the votes. We have two votes.

Mr. CORDRAY. Okay.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman.

Mr. Cordray, in reading your report, I am noticing here that the positions you are filling and have a breakdown of all the different groups that you are hiring—there is nothing there that indicates the breakout of people who actually have some real-world experience with regards to financial services.

Can you tell me, are you hiring people who have some real-world experience, who have ctually worked in a bank or in a credit union, or some sort of a payday-loan place and who actually know the unintended consequences of a rule or law that if proposed by you and the enforcement of it, how that all fits together?

Mr. CORDRAY. Congressman, it is a good question. It would be a pretty poor performance by me if the answer to the question was, "No, we are not." In fact, we are. We have a number of people who have come to the Bureau, I am pleased to say, who have come not from other Federal agencies or not from State government or not from the public sector at all, but from private sector entities; often from banks or other financial institutions.

Mr. LUETKEMEYER. Do you have a number off the top of your head, percentage-wise what it would—

Mr. CORDRAY. I don't have a number, but it is many.

Mr. LUETKEMEYER. Could I get that number, please?

Mr. CORDRAY. —including the Deputy Director of the Bureau who worked in various capacities at Deutsche Bank, at McKenzie, for Capital One, and has intimate knowledge of the financial markets.

Mr. LUETKEMEYER. Could I get that number from you at—

Mr. CORDRAY. Sure, we would be happy to provide that.

Mr. LUETKEMEYER. I appreciate it.

With regards to that, I know there is a movement I have seen that some folks are trying to have Mr. Martin Eakes, who is chief executive officer for the Center for Responsible Lending—do you know Mr. Eakes by any chance?

Mr. CORDRAY. I have not met him, but I have heard quite a bit about him.

Mr. LUETKEMEYER. Okay. They are trying to recommend him, I believe, for a position with your agency. Are you considering that at all?

Mr. CORDRAY. That is news to me, sir.

Mr. LUETKEMEYER. Okay. I was just curious.

The reason I ask is because he has been rather outspoken with his opinion of oversight in regard to the financial services industry. In fact, in 2010 at Duke University's Fuqua School of Business, he made a statement that says, "We have hired 40 lawyers, Ph.D.s and MBAs to basically terrorize the financial services industry." That gives me great pause whenever somebody like that is being recommended to your agency.

If they have the attitude going in that they are there to terrorize the industry that they have oversight over, I am—what is your reaction to that quote?

Mr. CORDRAY. I don't have any particular reaction. I am not familiar with the quote.

Mr. LUETKEMEYER. Does that sound like somebody you would be interested in hiring?

Mr. CORDRAY. With everybody we think about hiring, we would want to look at the full picture. We want a range of viewpoints. But, look, we are looking for a responsible, balanced perspective on the problems we are facing. And, frankly, whether we hire someone or not—and again, this particular situation that you raise is news to me—we are getting input on a broad basis from people who have a lot of different perspectives; some of whom dislike the banks, and some of whom love the banks.

And we want to get all that perspective and filter that in as we figure out how to proceed on some of these hard issues.

Mr. LUETKEMEYER. In your opening testimony, you made the comment that you believed that everybody needs evenhanded oversight. And I think that if you are true to your words there, I would think that Mr. Eakes would have a little difficult trying to gain employment with your agency. But we will—

Mr. CORDRAY. Again, I think the premise of the question is mistaken, but—

Mr. LUETKEMEYER. Another question for you—basically, you have rulemaking authority as well as enforcement authority. And with regards to rulemaking, do you do any cost/benefit analysis of the rules you propose?

Mr. CORDRAY. We make strenuous efforts to, as our statute tells us, assess the benefits, costs, and impacts of each and every rule that we would consider adopting, yes.

Mr. LUETKEMEYER. Is that information public? Is that something we can get our hands on if—

Mr. CORDRAY. It is part of every rulemaking and it is typically published as part of the rulemaking. So, there is nothing hidden about it. And it is something that courts will review carefully when they look at the finished product by us. And so, it is something that, not only do we have every reason to do and do carefully, but also it makes common sense. So—

Mr. LUETKEMEYER. This is, for instance, a rule of thumb or maybe you—can I get your thoughts on it? When you propose a rule and you get a cost/benefit analysis showing that it is going to cost 10 times more than the benefit it is going to return, is that something that alarms you? Is that something that you believe probably is not worthwhile pursuing?

Mr. CORDRAY. That would be of concern to me. And it should be, yes.

Mr. LUETKEMEYER. Okay.

Just give me a quick overview. In your notes and also in your statement, you said that you have been hearing from thousands of Americans about what works and what does not work.

What has worked and what is not working from things you have heard from them?

Mr. CORDRAY. I think there are a lot of Americans who still feel that they have trouble making their voices heard when they are on the other side of the table in some of these transactions, or if the transaction doesn't work out and they are now dealing with a mortgage servicer or a debt collector, someone down the road.

Again, I am sure it is not anything different than what you hear every day from your constituents who sometimes are at their wits' end and coping with situations where they just would like to know that somebody is standing on their side and helping them.

I know you do that. We try to do that as well. And we are happy to work with you to do that together.

Mr. LUETKEMEYER. I appreciate your testimony, Mr. Cordray.

Thank you, Madam Chairwoman.

Mrs. CAPITO. Thank you. The committee will stand in recess. We will have two votes. We will get back as quickly as we can.

Thank you for your patience.

[recess]

Mrs. CAPITO. In the interest of everybody who is here, we are going to go ahead and start, if that is okay.

Mr. Green, for 5 minutes.

Mr. GREEN. Thank you, Madam Chairwoman.

Again, Mr. Director, thank you for being here. I would like to visit with you quickly on several issues. I would like to start, if we may, with the small banks and credit unions.

As I have indicated, I have been meeting with them. And they have expressed some concerns and I would like to give you an opportunity to share with us some of the outreach efforts that you have in place to allay some of their concerns.

Mr. CORDRAY. Thank you, Congressman.

It is something that I have indicated is a point of emphasis for the Bureau. And this goes back to my personal background. I served, as I mentioned before, as the elected State treasurer in Ohio and also as attorney general.

As State treasurer, I worked a great deal with smaller banks in the State because we had a small business lending program that we made available to them and a number of them participated in it.

And out of that work, we created a community bankers' council that advised me about all aspects of the work we were doing at the Treasury and really improved our work.

When I became attorney general, I continued that, and had a bankers' advisory council on the kind of financial issues that we touched on in the attorney general's office.

And so, I have said I am going to do the same as the Director of this Bureau. We are going to have both a community banks' advisory council and a credit union advisory council.

We just met earlier this week to work out how we are going to select members for that, and the frequency of meetings and the like. They are going to have very direct input to me.

The other thing is that we are required by the law in a number of our rulemakings to have special panels that give small providers and small banks the opportunity to give us very direct input about rule proposals and how those would affect their operations and whether there should be adjustments made and the like. That is something we are going to consider with each of our proposals.

We have issued one final rule thus far, on remittance transfers, which are the international transfers of money that many people engage in. And we have issued a supplemental proposal to consider whether there should be a threshold of institutions that don't do these transactions as a regular matter which should arguably be exempt or on a relaxed footing with some of the requirements.

Mr. GREEN. With reference to our servicemembers, I see that you have the Office of Servicemember Affairs.

I am eager to hear what you say about this. I am amazed at how important this has become to our country, the veterans as well as those on active duty.

So could you share a few thoughts, and then I will have one more question for you?

Mr. CORDRAY. Sure. I think you are exactly right. It is of increasing importance to our country because we have a whole new crop of veterans who are, or will be, returning from active duty.

Many of them were activated from National Guard status. And we should be making sure that they are protected both during their active duty, for which they have very special provisions in the law, and after they come back. There is a lot of emphasis right now on hiring veterans and making job opportunities available. But similarly, we want to protect them because many of them have benefits coming under the G.I. Bill. And whenever you have money coming, there are people who have different ideas for you, and many of them are not looking out for your own best interest.

I have been very impressed with Holly Petraeus, both as a colleague of mine and then since becoming Director, as I work with her; she has been a strong voice for our military. She spends a lot of time going across the country visiting military bases and bringing back the insights that she gleans from those trips about the needs and struggles not only of servicemembers, but their families, and making sure that we give voice to those concerns, whether they are within the narrow jurisdiction of the Bureau or whether it means working with the Department of Defense or the Department of Education or others.

There is much that she is getting done. And we want to protect servicemembers every way we can because it feels like the appropriate way to repay our debt to people who have risked so much, and sacrificed so much, for the liberties of the rest of us.

Mr. GREEN. Thank you.

And finally, my district is quite diverse. We have the ballot in my district printed in four languages: English; Spanish; Vietnamese; and Chinese. So I would like to know what you are doing in terms of language translation to make sure that we are communicating with all persons in the country, lawfully here, I might add.

Mr. CORDRAY. First of all, that is fascinating. Second of all, at the Bureau, maybe the most direct way we hear from people is on our consumer complaint line. And this is very important to us; we created this capacity; we are able to field inquiries from people in 187 languages, which pretty much covers the waterfront in this country, as best we can tell.

And we don't want anybody to be blocked from being treated fairly as a consumer by the fact that there is some sort of language barrier that means they can't make their voice heard.

We also know that in many communities where there is a language barrier, they can be the targets of predatory schemes and plans because there is an assumption, often sadly correct, that they will not pursue law enforcement remedies or complain to the government. They will just take their lumps.

We don't want that to be the case. We want those communities to be just as protected as the majority community. And if that means breaking down language barriers to do it, that is something that feels like it is appropriate for us.

Mr. GREEN. Thank you, Madam Chairwoman. I owe you 1 minute and 15 seconds.

Mrs. CAPITO. Thank you.

Mr. Renacci, for 5 minutes.

Mr. RENACCI. Thank you, Madam Chairwoman.

And I want to welcome a fellow Buckeye. No matter what we agree or disagree on, I am sure Saturday night, we will be agreeing on which team should be winning.

Mr. CORDRAY. We sure will.

Mr. RENACCI. But Mr. Cordray, I have heard serious concerns being raised about the CFPB examination policy under which one or more CFPB enforcement attorneys accompany CFPB examiners on all CFPB exams.

Some have pointed out that none of the Federal banking agencies has ever done this, and that having enforcement attorneys participate in exams has a chilling effect on the examination process. I am afraid that the CFPB practice is intimidating and does not foster the openness that you characterize that you would characterize a relationship between the CFPB and the institutions it examines.

Indeed, this practice feeds the institutional fear that the CFPB's main purpose or object during an exam is to obtain documents and information that later can be used to launch an enforcement action. Are you concerned about this as far as the institution's perception of the CFPB?

Mr. CORDRAY. It is something I have had discussions on with a number of bank CEO's. I make it a point—I frequently am calling through the list of the different financial institutions that we are now working with to make sure that they know there is an open line of communication to me. Some of them have raised the issue.

And I have taken pains to explain that we are trying to integrate our supervision and enforcement teams. We want the supervision teams to understand where enforcement works and why and how. And we want the enforcement team to understand how supervision and examinations work, and how; and that often may be a preferable way to address and resolve problems, which is a new thing for a lot of enforcement attorneys who have come from different contexts; like it was new to me coming from an attorney general's office where we didn't have any kind of examination capacity.

So I have indicated it is not an attempt to create some sort of macho message that we are sending. We don't have regional counsels and so this is one way to ensure that our examination teams have proper support. People shouldn't read any message into that and none is intended.

Mr. RENACCI. Okay.

On enforcement also, according to some reports—you may be able to confirm this—the CFPB enforcement staff now has over 100 attorneys, which is more than twice as many as are currently employed by the OCC. This disparity is striking since, unlike the OCC, the CFPB has no 150-year track record of supervision and regulation on which to judge its reasonably anticipated enforcement needs.

Will enforcement be a principal, or what will be a principal focus of these examinations?

Mr. CORDRAY. First of all, I think that number is above where we are at the Bureau. I don't think it is accurate that we have 100 enforcement attorneys at the moment.

But what people need to keep in mind is that we are supposed to enforce the law not only against the banks, the large bank institutions like the OCC does, but also a very significant densely populated nonbank realm as well. And we are going to need enforcement attorneys to address a lot of problems in that area.

We are talking about debt collection. We are talking about mortgage issues, both servicers and brokers. There are a lot of areas that people have a lot of dissatisfaction with; and we need to make sure that the laws are being respected, that they are being followed, that they are being enforced.

So enforcement is one of a number of tools, all of which are essential to doing our job well. And I think particularly given the fact that we are dealing with both banks and nonbanks and no Federal oversight of nonbanks has previously existed, this is appropriate.

But we will continue to calibrate that as we go. We are learning as we go every month, as you can imagine.

Mr. RENACCI. Based on the consumer testimony, the CFPB's overdraft protection and payday-advance field hearing, it is apparent that there exists in the marketplace a growing need for short-term credit options. I believe that it is critical that we identify and address the small number of lenders who operate illegally, whether they are insured depositories or nonbanks.

My concern, however, is that overregulation by the CFPB of the vast majority of regulated bank and nonbank lenders will limit innovative products and access consumers need to legitimate short term credit. Can you provide some assurances that will not be the case?

Mr. CORDRAY. That is a great question. It is an issue that we are thinking a lot about at the Bureau. We had our first field hearing on the issue of short-term low-dollar loans.

We recognized that is an area where consumers have a real demand. They need that product. But we are concerned that products in that area need to be products that help consumers rather than harm them.

There are some banks that are now coming into that sphere and competing. We would like to see there be robust competition with good products and good customer service for consumers who have short-term needs; and many do, no question about it. Not everybody has a rich family member who is always there to provide $500 or $700 when they need it.

So we want to foster competition in that area. But it is something we are thinking carefully about because there are some predatory products as well, and we want to encourage the good products and we want to discourage the bad products frankly.

Mr. RENACCI. Thank you, Mr. Cordray. I yield back.

Mrs. CAPITO. Mr. Sherman, for 5 minutes?

Mr. SHERMAN. Thank you, Director Cordray.

In a world of the darkness of the filibuster, a recess appointment offers one little glimmer of light. And if a series of pro forma sessions constitute real sessions of the Senate, then cartoons are real people.

I welcome you to this committee. I have one long question dealing with mortgage finance and then a whole bunch of questions that are probably so numerous that, for those, you will probably want to just respond for the record.

The Bureau is currently working on the ability to pay qualified mortgage regulation. This is going to shape the future of the mortgage market and people's ability to buy homes. Congress created this "Ability to Pay" rule to ensure, in fact, that creditors were determining the consumer's ability to repay the loan before making the mortgage. Everybody agrees you make a mortgage to someone who can afford to repay it.

However, we have heard from consumer groups—I have heard from industry, I have heard from others—that the Bureau's current thinking might give us a regulation that is so stringent that it could reduce access to mortgage credit in what is already a tight mortgage lending environment.

So I would like your comments on this qualified mortgage rule; specifically whether you intend it to be a broad measure based on ability to pay or a narrower measure that might deny creditworthy buyers access to credit.

You have indicated a desire to finish the rule by the middle of this year. So when finalized, will it require lenders to determine that the borrower has a reasonable ability to pay? Under Dodd-Frank, the lenders can satisfy this requirement by originating a qualifying mortgage which is a safer, more sustainable product. How will that definition of a qualifying mortgage relate to the rules that you are putting together on "Ability to Pay?"

Mr. CORDRAY. Okay.

Mr. SHERMAN. I told you it was a long question.

Mr. CORDRAY. It is a long question, but I have long answers typically, so maybe they match up.

As I said earlier on this subject, I want to be a little careful because it is a pending rulemaking. There was the proposed rule that the Federal Reserve put out, and it has now fallen to us to finalize that rule. We are consulting with other agencies and we have received extensive input on the rule from consumer groups, from industry groups, and from people across the spectrum, all of whom are interested in the mortgage market, the real estate market, and we all feel the same way; we want to see it come back to life and to vibrancy. It is going to be important to the economic recovery.

So this is an important statute. We want to get the rule in the right place. We are trying to be careful as we think about it. And we are looking closely at the alternatives that the Federal Reserve Board proposed.

We are considering how best to give effect to the language of the statute. And as you indicated, congressional intent in this regard is a salient point to us. Ensuring access to credit in the market broadly is important to us. One of the difficulties here is it is not so easy to predict the path forward of the mortgage market.

We had a very overheated mortgage market leading up to the financial crisis. There were a lot of lenders that, astonishingly, were making loans without considering the ability to repay of the borrower—completely ignoring that. They were able, surprisingly, to sell those loans on the secondary market.

Mr. SHERMAN. I am going to have to interrupt you at this point—

Mr. CORDRAY. Yes.

Mr. SHERMAN. —and I will have a number of questions for the record.

Mr. CORDRAY. Okay.

Mr. SHERMAN. One of them will relate to ATM disclosures, which, as you know, have to be a physical disclosure on the machine, as well as a screen that pops up as you are operating the ATM.

What has come to my attention is that there are people who will rip off the external physical disclosure and then somebody will come sue for the fact that it is not on the machine.

Now that we have a more technological world in which every machine also has the screen warning, which is far more noticeable and far more important, one would hope that you would write regulation so that you either didn't have to have the physical one, or that you had the physical one when you installed the machine, but you are not responsible for the fact that somebody comes by and rips it off, and then, coincidentally, somebody comes by and sues you. So that will be one of my questions for the record.

Others will relate to whether to establish an Office of Regulatory Burden Monitoring; whether to have credit unions and community banks involved on your consumer advisory board; the fact that you have a 400-page regulation on remittances, and we hope that, at least for credit unions and other smaller financial institutions, you would be able to put out something a little more streamlined.

Mrs. CAPITO. The gentleman's time has expired.

Mr. SHERMAN. I will ask you also when we expect a larger market participants rule to be finalized.

Mr. CORDRAY. Okay.

Mr. SHERMAN. And we will get all those submitted as questions for the record. I thank you for your appearance.

Mr. CORDRAY. All right. Thank you.

Mrs. CAPITO. Thank you. I am trying to squeeze it in so we can get this before the next vote.

Mr. Royce?

Mr. ROYCE. I would like Director Cordray to return to that quote that I mentioned earlier in this hearing:

"I feel it bears observation that banking agencies' assessments of risks to consumers are closely linked with and informed by a broader understanding of other risks in financial institutions, placing consumer protection policy-setting activities in a separate organization," she said, "apart from existing expertise in examination infrastructure could ultimately result in less effective protections for consumers."

I would just ask you if you agree in concept with her concern there?

Mr. CORDRAY. I hadn't heard that quote before, and I found it curious because the FDIC, in fact, has reorganized their own staff to separate consumer protection staff from other staff so that they can make sure they have a more direct focus on these same issues. So, they have kind of mirrored Dodd-Frank.

Mr. ROYCE. But remember, the quote here is a separate organization.

Mr. CORDRAY. Yes. Okay.

Mr. ROYCE. And that is your point?

Mr. CORDRAY. Yes.

I actually think that the two issues go hand-in-hand. I don't think that you can have a safe-and-sound financial institution that is not treating its customers in a sustainable basis for the long term.

If they are eating their customer base by exploiting them in the short run, which is the kind of things that raise consumer protection concerns, they will not be a safe-and-sound institution in the long run. So I think there is much more harmony between these concepts than people have recognized.

I also think, though—and I would agree with you—that it behooves us to correlate closely with our fellow regulators to make sure that we aren't inadvertently—we certainly don't intend to—undermining anything about the safety and soundness of the financial system, which would also disserve consumers.

Mr. ROYCE. However, since we have lost the argument for inclusion in one organization or in one entity, as she pointed out, you could share that information and have a broader understanding of other risks and financial institutions in terms of your decision-making. Would you agree that the authors of this bill went to great lengths during deliberations to ensure that you were not required to consider safety and soundness?

Mr. CORDRAY. I am not sure I would agree with that.

Under the new law, I sit as part of the Financial Stability Oversight Council (FSCO), along with my fellow regulators. FSOC has the ability to override our rules if they threaten the safety and soundness of the system. I think that means that we will have to, and should want to, take that into account as we write rules and also seek out and hear their perspective and have that inform us.

Mr. ROYCE. Right, with a supermajority vote.

I would point out that perhaps the reason I am focused on that issue of not considering safety and soundness is because I tried during the markups, during Dodd-Frank, to have that included, but I failed in that endeavor.

But let me go to another concern that I have here. The CFPB will now have the authority to rule whether a State law is inconsistent with Federal consumer protection laws. What standards will the CFPB use when exercising this authority, because if little is done in terms of keeping the States on the same page, then we could end up with a patchwork of varying consumer protection laws? And would you agree that would be bad for consumers and businesses?

Mr. CORDRAY. I think we have had a patchwork of consumer laws in this country for decades and another term for it is Federalism, though—

Mr. ROYCE. Or maybe the Articles of Confederation would actually be the term for it, because there are exceptions, like in the insurance industry, where we do have 50 different regulators, 50 sets of rules, 50 separate markets, and a consequence to loss for the consumers and businesses as a result.

But the real reason we gave up on the Articles of Confederation and tried to go to one national market was to avoid such a comeuppance because that is what was so costly pre-Federalist system.

The idea under the Federalist system was that we were going to have at least one national market. That is not where we ended up. And that is where I hope that rather than compound this problem, which I think Dodd-Frank will do, you might work in the other direction to create one national market.

Mrs. CAPITO. The gentleman's time has expired.

Mr. Westmoreland?

Mr. CORDRAY. Could I respond to the Congressman or—

Mrs. CAPITO. Quickly.

Mr. CORDRAY. One of the things that we are supposed to do is ensure coordinated enforcement of the Federal law here.

Dodd-Frank was unusual in allowing States to enforce the Federal law. We want to make sure that we aren't going in 50 different directions on Federal law.

As for State law, we are inclined to be respectful of the States. As we have situations, or if they come to your attention and you want to bring them to our attention, we will be very interested in hearing about concerns in that regard.

Mr. ROYCE. Thank you, Director.

Mrs. CAPITO. Mr. Westmoreland, for 5 minutes.

Mr. WESTMORELAND. Thank you, Madam Chairwoman.

Mr. Cordray, what would be your personal—right over here.

Mr. CORDRAY. Yes, thank you.

Mr. WESTMORELAND. I know it is hard to get the direction from down there but what would be your personal definition of "fair"; F–A–I–R?

Mr. CORDRAY. Congressman, I don't know that my personal definition is relevant here because "unfair" is a defined term in the law. And my job as Director of this Bureau is to enforce the law that Congress has enacted. Therefore, we will apply the terms that Congress specified as to what "unfair" means.

But I do think it is likely that you and I and most people would have a fairly common-sense, probably consensus view of what is fair and unfair. It is not to say we would agree in every circumstance. There probably would be a significant number of circumstances where we would all agree that something was unfair.

And then, there would be areas that are gray areas where we should, as a Bureau, I think tread cautiously and be a little careful. You don't want to come down hard on people when things are not clear.

Mr. WESTMORELAND. Okay. That is fine.

What is the definition of "fair" that you are going by?

Mr. CORDRAY. It is the definition in the Dodd-Frank Act which, itself, builds on years of case law and interpretation—

Mr. WESTMORELAND. Okay.

Mr. CORDRAY. —by the Federal Trade Commission—

Mr. WESTMORELAND. What is the definition that you go by that Dodd-Frank lays out?

Mr. CORDRAY. I don't have it in front of me, but it is a defined term. And the term is defined on the basis of decades of case law that have been very carefully worked out. And this is not an area of controversy, I think, for financial institutions under our purview.

They understand that law. Their concern to us that they have expressed is that we not go deviating from that in some unexpected direction, which we do not intend to do.

Mr. WESTMORELAND. Do you have a definition of "personal responsibility?"

Mr. CORDRAY. That is not a defined term under the law, so I could give you my own view of it.

Mr. WESTMORELAND. Okay.

Mr. CORDRAY. And I will.

I think that consumers have a responsibility to make their own decisions and to be responsible and accountable for their own decisions. They are the ones who have to live with those decisions.

But I do think there is much that we can do as a Bureau and as a country to make sure that consumers are better informed about the choices that they may be making. And we have a responsibility to try to make those choices more accessible to consumers so that they are not confused by back-end pricing; by dense fine print that doesn't specify terms very clearly, and that sometimes fosters and takes advantage of that customer confusion.

Mr. WESTMORELAND. So you are admitting that there is some personal responsibility involved when people make financial decisions and that there are certain consequences to those decisions. Correct?

Mr. CORDRAY. I would acknowledge that, absolutely. Yes.

Mr. WESTMORELAND. Do you or the CFPB—do you all ever recommend products or push a certain product for somebody such as 30-year loan versus an ARM? Do you promote those type of things or is that a personal decision?

Mr. CORDRAY. I don't think that, as a Bureau, it is our role to promote or hawk particular products. That is not what we are doing. But it is our role to enforce and to implement the law.

Congress has made some judgments here about some of the exotic mortgage products, for example, that led to the mortgage crisis, the financial meltdown, the credit crunch that destroyed many businesses in this country and cost a lot of people jobs and homes. We will implement those decisions.

To the extent we have judgments to make, we will try to make them very carefully in this realm.

Mr. WESTMORELAND. But you are not trying to go to a plain vanilla or "everybody gets the same thing" type loans?

Mr. CORDRAY. I don't think we are trying to mandate products for individuals. I think if people are presented with an array of choices that are responsible choices that are clearly explained, then ultimately, they have to make their own decisions. I would agree with you, I think, on that.

Mr. WESTMORELAND. Do you think it enters into the fact that—I think your report was disappointing, to say the least. And do you think that has anything to do with there not being—that you don't have any accountability to Congress as far as funding is concerned?

Mr. CORDRAY. I think we have more accountability to Congress on funding than any of the other banking agencies because all of them are independent of the appropriations process. And I don't hear any strong move here to put them under the appropriations process. The OCC has been around for 100 years; the Federal Reserve has been around for 100 years. In fact, we have a statutory cap on our budget, which none of the rest of them have.

We are subject to multiple audits and testimonies and oversight by Congress. I welcome your active oversight. I am always pleased to come up here and talk to you about the work we are doing and hear from you about your concerns.

If there was anything you were disappointed about in our semiannual report, as you just indicated, I would be happy to have my staff work with yours to understand how we could do better, because we want to improve as we go.

Mrs. CAPITO. The gentleman's time has expired.

Mr. Duffy?

Mr. DUFFY. Thank you, Madam Chairwoman.

Mr. Cordray, just to be clear—I was in here for a pretty decent part of the hearing, but not all of it. Is it fair to say that the rules that come out of the CFPB that apply to big banks will also apply to smaller banks as well, but just implemented by a different regulator? Is that fair to say?

Mr. CORDRAY. They will apply to all banks. And that is one of the reasons why I have said that we should consider carefully whether they perhaps should apply in a different way to smaller banks that don't have an army of compliance officers, and may have different, simpler processes and cannot afford to bear some of the same transitional and other costs.

Mr. DUFFY. And that has been one of my concerns.

Mr. CORDRAY. Yes.

Mr. DUFFY. I have a lot of small community banks in my district. The way it seems today is that the rules are still going to apply to them. And they don't have the resources to hire new compliance officers and new attorneys. Even though you may not be enforcing them, someone else will be enforcing those rules on them.

Is it also fair to say that we could have a consumer who is seeking out a certain product, and you could deem the product fair; but it could also be deemed abusive as well, is that correct; could be fair but also abusive?

Mr. CORDRAY. Yes. We were having this discussion earlier.

Congress used 3 terms in that passage—unfair, deceptive and abusive acts or practices—which seems to be an indication that Congress believed and it defined the terms to some degree that each of them is distinct, although there may well be some considerable overlap among them.

Mr. DUFFY. And in regard to the term "abusive," was it your testimony that you believe that the definition as set out by Congress is sufficient and there is no further definition that needs to be made by the CFPB?

Mr. CORDRAY. It was my testimony that sometimes people have referred to "abusive" as not a defined term.

It, in fact, is defined, and was defined very explicitly by Congress. Our role as an independent Federal agency is to enforce and implement the law that Congress has enacted. So that is the term. That is the way they have defined it. Our job is to try to apply that to the specific facts and circumstances.

Mr. DUFFY. And I think the—

Mr. CORDRAY. If the Congress at some point is going to rewrite that law, we will implement whatever law Congress writes.

Mr. DUFFY. And so to look at the phrase "abusive," the term "abusive," it does give—if you want to call it a definition or it lays out some guidelines for what abusive is—and at one point it says it "takes unreasonable advantage of."

Do you have an idea of what unreasonable advantage means? Do you have a definition of what unreasonable advantage means?

And how would that be implemented? How, if you are a small bank in Wisconsin, would you go to see if CFPB is going to be looking at us taking unreasonable advantage?

Mr. CORDRAY. I think the term "reasonable" is a common term in the law. It is a common term in tort law. The "reasonable man" is the test that courts have used for centuries to try to define behavior. And it becomes more carefully defined over time.

I think that if banks are in a position where they fear they may be deemed to be taking unreasonable advantage of their customers—we had the example earlier of peddling an exotic mortgage product to an elderly widow, that probably would be something where the bank should take a slightly different approach than if they are peddling it to a more sophisticated consumer.

Mr. DUFFY. And so you would agree, though, that it is a subjective standard. There is no bright-line standard on how this can be implemented for the phrase "abusive." It is subjective to the Director or to your staff on what that means.

Mr. CORDRAY. I wouldn't agree with that characterization. I think it is a facts-and-circumstances test. I think that most good businesses know it when they see it. They know when they are walking a line and they know when they are far beyond the line.

They also can communicate with us to get more guidance as we know—

Mr. DUFFY. But humans view facts differently. And if there is no bright-line test, what you might find abusive someone else might not find abusive. What is abusive in Alabama may not be abusive in Wisconsin. Isn't that fair to say?

Mr. CORDRAY. I think it is the case that what is abusive and takes unreasonable advantage can differ from circumstance to circumstance so—

Mr. DUFFY. And I only have 30 seconds left.

I want to have you talk to me about this, because also, when we talk about an unreasonable standard, it talks about "a lack of understanding on the part of the consumer of the material risk, cost or conditions of the product or service."

And you had referenced, in our case law, we will reference a reasonable man. What would a reasonable person know or should know when they engage into that agreement? But this standard isn't the reasonable person. This is the individual standard.

So you are a small bank in Wisconsin and you have one person come in, and the standard that you use with them may not be abusive. But the next person who comes in, the same standard would be used. But because of their background, because of their education, because of their experience, it could be abusive for the second customer who comes in.

How do you comply with this law?

Mr. CORDRAY. I think good businesses do this all the time, sir. I think they think carefully about which customer they are dealing with. Most of the community bankers I speak to, and credit unions, tout the fact that they know their customers. They know them well. They tailor their dealings with the customer to the situation of that customer. It is not one-size-fits-all. I think that is part of their strength.

I would also point out there are other prongs of that definition that are much more objective, such as taking unreasonable advantage of the fact that the consumer is not able to choose their provider. That is true of debt collectors and others. And in that setting, there is really nothing that is subjective at all about that.

So the fact that some of this definition—which Congress has laid down, and we are required to implement—may be firmer and some of it may be softer, I think it is not surprising.

If you all decide at some point to rewrite this, we will implement whatever law you write.

Mr. DUFFY. Thank you.

Mrs. CAPITO. Mr. Stivers, for 5 minutes.

Mr. STIVERS. Thank you, Madam Chairwoman.

And I would like to thank Rich for being here. The problem with having such low seniority on the committee is I don't get a chance to tell all my friends and colleagues who have left that Rich is one of my constituents. I have known him for years. And I have found him to be a great public servant who cares deeply about this country and tries to do the right thing. And he also listens.

So I appreciate him coming to testify before us today. While some of us on this side of the aisle are unhappy about the process under which you were appointed, I do want to assure my colleagues on the record that the President picked someone whom I think can carry out this job very well, and do it in the right way, ensuring we try to protect consumers while still looking out for the safety and soundness as well as competitiveness of our financial services industry.

I would urge you to continue to look out for both competitiveness and safety and soundness while you are protecting consumers, because they are interrelated. And if we put our financial services institutions out of business in the name of consumer protection, we haven't really protected anyone.

So I appreciate you being here.

And I did have a thought for the gentleman from California, who has left, who did compare pro forma sessions to cartoon sessions. And I am just curious if the gentleman believes that the payroll tax cut that was passed during a pro forma session is a cartoon tax cut. I am not sure if he does and he has left, so I won't get my question answered today.

But I would like to turn to more serious business and talk to you about Section 1100G of Dodd-Frank, which requires you to put safeguards in place to ensure that new regulations don't lead to further reduction in the availability or affordability of credit for small businesses and consumers.

And I am just curious what kind of safeguards you are putting in place to make sure that happens? Because obviously we all believe in consumer protection, and I know Mr. Royce from California talked about how he believes it should be integrated.

I hope we can integrate it well. And I hope that you will work with the other regulators to integrate consumer protection into everything, but I do want to make sure that we keep affordable, available credit for our small business and consumers.

Mr. CORDRAY. Thank you, Congressman.

First of all, to go back to a point you made a moment ago, which I very much agree with, it does not help protect consumers if we undermine the safety and soundness of the financial system. Consumers depend on the availability of credit to be able to do things like buy homes, access education, and be able to manage and control their spending. And if the system does not provide those opportunities to people, then their lives are stultified as a result.

And I also very much agree that having a competitive, vibrant financial sector is good for consumers for all those same reasons, lots of availability of choice and the like.

As you point out, our governing law, which is the only thing that gives us authority to do anything, does tell us that access to credit is one of the chief objectives that we are supposed to serve. We will try to be mindful of that as we go about our different tasks.

One of the tasks I have talked a little bit about today is this ability to repay rule in the mortgage market. And there are other mortgage rules that we are required to develop.

In the end, we want a mortgage market where credit is available to people. In the lead-up to the financial crisis, the mortgage market was a market in which credit was available in some of the most bizarre terms; nonunderwritten loans that paid no attention to people's income; to their ability to repay; to their assets; and lots of falsification. It was a very broken market.

And one of the things we need to keep in mind is, as a result of that we had the credit crunch, which has hurt small businesses.

Mr. STIVERS. I only have 1 minute left so—

Mr. CORDRAY. I am sorry.

Mr. STIVERS. —if you could give me the answer, what you are doing to safeguard affordability and availability in writing, that would be great.

And I do want to quickly—

Mr. CORDRAY. Okay. That is fine. You got it.

Mr. STIVERS. —just mention one other thing. The Bureau is working on a two-page prototype credit card agreement, is my understanding. I understand that the printed portion in the contract with definitions comes in at about 4,431 words. And that doesn't include definitional terms that are housed on other pages.

So we are talking about a two-page agreement, a one-page summary, and somewhere between two to seven pages of definitions with other untold information tacked on too.

And I am just curious if the goal is to make sure that people understand and read these contracts, why we aren't building on the one-page agreement summary that is now available under the Truth in Lending Act, rather than developing a government-designed contract?

Mr. CORDRAY. It is a good question, and it is one that we are trying to carefully consider.

We are not in this, at this point, trying to operate in this area by putting out a dictate or a single rule that everybody has to follow. We have come out with a prototype agreement. Several institutions have been interested in piloting that agreement. We are seeing lots of other institutions come out with their own, shorter agreements.

I think what we are all moving toward, and there seems to be a lot of interest in the industry on this, too, is a shorter summary agreement that people can read and understand that pulls out the key points.

And then there is lots of other information that maybe would be good for them to have; maybe it protects the institution against liability; that maybe could be presented on the Internet. It is available if they want to go and look at it there. They can be referenced to it.

But it doesn't necessarily have to pollute the short, clear agreement in ways that cause customers not to read anything, which is what we have seen a lot.

So I think that is what we are working toward. And a lot of institutions are interested in working toward that. And I think we will end up with some pretty good consensus around this.

Mr. STIVERS. I yield back my nonexistent time, Madam Chairwoman.

Mrs. CAPITO. The gentleman's time has expired. So it is just the two of us. And you said you would stay till 2:00, so—

[laughter]

It will you and me for another hour. That is a joke.

Anyway, the Chair notes that some Members may have additional questions—I think Mr. Sherman mentioned he was going to have some—for this witness which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for Members to submit written questions to this witness and to place his responses in the record.

I would like to thank you for your patience.

Mr. CORDRAY. Thank you.

Mrs. CAPITO. I know it has been kind of a herky-jerky day. And I appreciate your honesty and your response in responding to all of the questions.

Mr. CORDRAY. It gives me a better appreciation for all the schedules you have to keep.

Mrs. CAPITO. With that, the hearing is adjourned.

[Whereupon, at 12:49 p.m., the hearing was adjourned.]

A P P E N D I X

March 29, 2012

TESTIMONY OF
RICHARD CORDRAY
DIRECTOR
CONSUMER FINANCIAL PROTECTION BUREAU

Before the
UNITED STATES HOUSE
OF REPRESENTATIVES

COMMITTEE ON FINANCIAL SERVICES

MARCH 29, 2012

The views expressed in this testimony are those of the Director, and do not necessarily reflect the views of the Board of Governors of the Federal Reserve or the President of the United States.

The Semi-Annual Report of the Consumer Financial Protection Bureau (CFPB)

Chairman Bachus, Ranking Member Frank, and members of the Committee, I want to thank you for this opportunity to testify on the first "Semi-Annual Report of the Consumer Financial Protection Bureau" detailing the Bureau's accomplishments in its first six months. In January, I presented this information to your colleagues in the Senate and I look forward to presenting it to you today.

Before I became Director, I promised members of Congress in both chambers and on both sides of the aisle that I would be accountable to you for how the Consumer Bureau carries out the laws you enact. I said that I would always welcome your thoughts about our work. I stand by that commitment. I am pleased to be here with you today to tell you about our work and to answer your questions.

The people who work at the Consumer Bureau are always happy to discuss our work with the Congress. This is the 15th time that we have testified before either the House or the Senate. And my colleagues and I look forward to working closely with you, with the businesses who serve their customers in the consumer finance markets and with the millions of American consumers themselves.

I am honored to serve as the first Director of the new Consumer Bureau. I am energized and inspired by the many talented people who work at the CFPB, and I am driven by the challenges and responsibilities of our mission to protect American consumers.

Our mission is of critical importance to making life better for Americans. Consumer finance is a big part of all our lives. Mortgages allow people to buy a home and spread the payments over many years. Student loans give young people with talent and ambition the access to a college education. Credit cards give us immediate and convenient access to money when we need it. These products enable people to achieve their dreams. But as we all have seen in recent years, they also can create dangers and pitfalls if they are misused or not properly understood.

During my years in state and local government I became deeply engaged in consumer finance issues. I saw good people struggling with debt they could not afford. Sometimes those people made bad decisions they came to regret. Sometimes an unexpected event – like a loved one getting sick or a family member losing a job – overwhelmed even their most careful planning. Still other times, I saw unscrupulous businesses who obscured loan terms or engaged in outright fraud, causing substantial harm to unsuspecting consumers and even ruining their lives and devastating their communities.

I am certain that each one of you hears every day from your friends, your neighbors, and constituents in your district who have these kinds of stories to tell. These people do not want or expect any special favors. They just ask for a fair shake – and a chance to get back on track toward the American Dream.

One of our primary objectives at the Consumer Bureau is to make sure the costs and risks of these financial products are made clear. People can make their own decisions, and nobody can or should try to do that for them. But it is the American way for responsible businesses to be straightforward and upfront with their customers, giving them all the information they need to make informed decisions. That is good for honest businesses and good for the overall economy.

So another key objective is making sure that both banks and their nonbank competitors receive the evenhanded oversight necessary to promote a fair and open marketplace. Our supervisors will be going on-site to examine their books, ask tough questions, and fix the problems we uncover. Under the laws enacted by Congress, and with a director now in place, we have the ability to make sure this is true across all financial products and services.

The Consumer Bureau will also make clear that violating the law has consequences. Through our field examiners, our direct contact with consumers and businesses, and our highly skilled researchers, we have multiple channels to know the facts about what is happening in the marketplace. We plan to use all of the tools available to us to ensure that everyone respects and follows the rules of the road. Where we can cooperate with financial institutions to do that, we will; when necessary, however, we will not hesitate to use enforcement actions to right a wrong.

As we move forward with our work, we need to hear directly from the consumers we protect and the businesses who serve them. We do this on our website, consumerfinance.gov, where consumers are able to tell us their personal stories. We also make a point to get out of Washington regularly and hear from people first-hand. Thus far we have held town hall meetings in Philadelphia, Minneapolis, Cleveland, and New York City. And we have held a field hearing in Birmingham, Alabama. We are hearing from thousands of Americans about what works and what does not. We are listening closely, and we hope that many of you will join us at these events when we come to visit your communities.

Accomplishing our mission will take time. But, as you can see from our semi-annual report, we are already taking important steps to improve the lives of consumers.

Thank you. I look forward to your questions.

JANUARY 30, 2012

Semi-Annual Report of The Consumer Financial Protection Bureau

July 21 - December 31, 2011

cfpb Consumer Financial Protection Bureau

Message from Richard Cordray

DIRECTOR OF THE CFPB

On July 21, 2011, the Consumer Financial Protection Bureau began operations as the country's first federal agency focused on protecting American consumers. I am proud to state in this Inaugural Semiannual Report to Congress that the Bureau is well on its way to doing just that.

Consumer finance is an important part of American life. Financial products and services are used not only to help achieve the American Dream but to help us live our daily lives. Student loans, mortgages, and credit cards – these are all products that help us move forward and live more conveniently. But as we saw in the run-up to the 2008 financial crisis, these kinds of products can also get consumers and the larger economy into trouble. The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act created the Bureau to make sure that consumers are protected and businesses operate in a fair and competitive market. American consumers and the honest businesses that serve them deserve this transparent and honest environment.

Before the Dodd-Frank Act, responsibility for administering and enforcing federal consumer financial laws was scattered across seven different federal agencies. Now consumers can look to just one agency. We do not take this responsibility lightly. We are working hard to make costs and risks clear, to level the playing field in consumer financial products and services, and to enforce consumer financial laws.

In our first six months, under the leadership of Raj Date, the Special Advisor to the Secretary of the Treasury, we made great progress in building the agency. We began examining the country's largest banks. We started several Know Before You Owe campaigns to encourage transparency in key credit markets. And, among many other things, we started consumer education campaigns, began taking and resolving mortgage and credit card complaints from consumers, and launched offices dedicated to older Americans, students, and servicemembers.

Throughout all of our hard work, we have been motivated by the needs of the American consumer. From our website's "Tell Your Story" feature to our toll-free phone number to our trips across the country to talk to consumers and industry, we are making every effort to be both accessible and transparent to the American public. We also take seriously the important role that Congress plays in overseeing our work. That is why we put so much effort into reports like this one. And that is why we have testified before Congress 12 times so far, with more to come. We understand that this open communication is critical for us to learn and do the best job we can.

We realize the road ahead is long. This year will be important for us as we expand our work on behalf of all Americans. We look forward to the challenge and we hope that our federal and state government colleagues, our friends in industry, and the public join to help us deliver on Congress's vision that we stand on the side of consumers to improve their daily lives.

Sincerely,

Richard Cordray

Director Cordray with Deputy Director Raj Date, who served as Special Advisor to the Secretary of the Treasury on the CFPB during the first six months of the Bureau's operation.

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Executive Summary

The Consumer Financial Protection Bureau ("CFPB" or "Bureau") is the nation's first federal agency focused solely on consumer financial protection. Previously, seven different federal agencies were responsible for consumer financial protection.[1] Rulemaking, supervision, and enforcement authorities were divided inefficiently across these agencies. Gaps in oversight resulted in practices that hurt consumers, responsible companies, and the economy as a whole.

The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") created the CFPB on the premise that a focused, accountable agency should be responsible for consumer financial protection. Congress vested the CFPB with authority under more than a dozen consumer protection laws to write rules, supervise financial services companies, and enforce the law.[2]

In fulfillment of its statutory responsibility and its commitment to accountability, the CFPB is pleased to present its inaugural Semi-Annual Report to the President and Congress. This report summarizes the CFPB's activities and accomplishments over the period from its launch on July 21 through December 31, 2011 and provides information required by the Dodd-Frank Act.[3]

The Dodd-Frank Act defines five objectives for the CFPB:

- to ensure that consumers have timely and understandable information to make responsible decisions about financial transactions;
- to protect consumers from unfair, deceptive, or abusive acts or practices, and from discrimination;
- to reduce outdated, unnecessary, or unduly burdensome regulations;
- to promote fair competition by consistent enforcement of the consumer protection laws in the Bureau's jurisdiction; and
- to encourage markets for consumer financial products and services that operate transparently and efficiently and to facilitate access and innovation.[4]

Since opening its doors, the CFPB has advanced toward these goals and has laid the foundation of a great institution.

[1] The agencies which previously administered statutes transferred to the Bureau are the Board of Governors of the Federal Reserve System ("Federal Reserve"), Department of Housing and Urban Development ("HUD"), Federal Deposit Insurance Corporation ("FDIC"), Federal Trade Commission ("FTC"), National Credit Union Administration ("NCUA"), Office of Comptroller of the Currency ("OCC"), and Office of Thrift Supervision ("OTS").

[2] These statutes include, among others, the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801 et seq.); the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) ("ECOA"); certain portions of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) ("FCRA"); the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.) ("HMDA"); the Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1601) ("HOEPA"); the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.)("RESPA"); the Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. 5101 et seq.); and the Truth in Lending Act (15 U.S.C. 1601 et seq.)("TILA").

[3] Future reports will cover six-month increments beginning January 1st and July 1st. Appendix A provides a guide to the Bureau's response to the reporting requirements of Section 1016(c) of the Dodd-Frank Act.

[4] Dodd-Frank Act, Public Law 111-203, Section 1021(b).

DELIVERING FOR AMERICAN CONSUMERS

In its first six months, the CFPB has taken significant steps to make consumer financial markets work better for consumers and responsible companies by:

- resolving consumer complaints about credit cards and mortgages;
- launching a supervision program that will promote compliance with consumer protection laws in the Bureau's jurisdiction by financial companies of all kinds;
- evaluating and developing disclosures that make the costs and risks of financial products easier for consumers to understand;
- working to implement statutory protections for consumers who rely on consumer financial products, such as mortgages;
- launching the Bureau's website – consumerfinance.gov – and using it to engage the public in a range of projects;
- creating several ways in which individuals can alert the CFPB about potential violations of consumer protection laws in the Bureau's jurisdiction; and
- improving information about the structure of consumer financial markets and consumer behavior through practical market intelligence and independent research.

BUILDING A GREAT INSTITUTION

All of this has taken place while the CFPB has been in full start-up mode – literally building the Bureau team by team.

No standup work has been more important than hiring the CFPB's staff. The CFPB team now consists of more than 750 employees across the country, including more than 230 who transferred from federal banking regulators and other agencies. Examiners, economists, lawyers, and experts in finance, technology, and outreach have come to the Bureau from across the country. They bring substantial experience from regulatory and law enforcement agencies, financial services companies, and a range of nonprofit organizations. The expertise, diversity of perspective, and sheer energy of this team are the Bureau's most important asset.

Additionally, the Bureau has worked to build an infrastructure that will continue to promote transparency, accountability, and fairness. That includes:

- launching statutorily required offices for Community Affairs, Consumer Response, Fair Lending & Equal Opportunity, Financial Education, Older Americans, Minority and Women Inclusion, Research, and Servicemember Affairs;[5]
- recruiting highly qualified personnel and promoting diversity in the CFPB's workforce and among its contractors;

[5] Dodd-Frank Act, Public Law 111-203, Section 1013.

- working toward signing memoranda of understanding with federal banking regulators and other agencies to establish protocols for information sharing, coordination, and where appropriate the conduct of "simultaneous" supervisory activities;

- defining procedures to promote fair enforcement of the law, such as the Bureau's Notice and Opportunity to Respond and Advise ("NORA") Policy;

- designing an ethics program to promote public confidence in the integrity and impartiality of the Bureau's employees;

- establishing a financial management infrastructure with effective internal controls; and

- building a 21st Century information technology infrastructure to ensure that supervisory activity was not interrupted upon transfer, that consumers and industry have an easy-to-use and trusted system for handling consumer complaints, and that allows the Bureau to build innovative online products rapidly.

NEXT STEPS

On January 4, 2012, President Barack Obama appointed Richard Cordray as the CFPB's Director. Since then, the Bureau has launched its nonbank supervision program; issued regulations governing certain international money transfers; and announced the formation of the Repeat Offenders Against Military ("ROAM") Database to track scams that target the military community. The CFPB also held its first field hearing in Birmingham, Alabama to gather information on payday lending from consumers and officials from industry, advocacy groups, and government agencies.

This report marks the Bureau's beginning. Over the next six months, the pace of the Bureau's efforts to make consumer financial markets work better will intensify. Visit the CFPB's website (consumerfinance.gov) and check in on the CFPB's work over the coming months.

The Bureau's Structure

The CFPB's structure brings diverse professional perspectives to bear on the challenges of understanding the marketplace for consumer financial products and services. The Bureau's six primary divisions feature talented teams of examiners, economists, lawyers, and policy analysts who have experience working for consumers and industry in the public, private, and non-profit sectors. These divisions include:

CONSUMER EDUCATION AND ENGAGEMENT

Engaging consumers and enabling them to take control of their financial lives are top priorities for the CFPB. The Bureau aims to provide consumers with the information they need when they need it, so that they can achieve their own financial goals.

The Consumer Education and Engagement Division has six offices:

Financial Education provides consumers with information to help them make informed financial decisions, studies effective practices for improving the financial capability of consumers, and promotes innovative strategies in the field of financial education.

Consumer Engagement encourages the public to participate in the CFPB's work and develops programs to help consumers make informed financial decisions through the CFPB's website, social media, and other tools.

Older Americans helps improve financial literacy among Americans aged 62 years and over and helps protect them from financial fraud and exploitation through outreach, education, and targeted initiatives.

Servicemember Affairs educates servicemembers, veterans, retirees, and their families about financial products and services; assists Consumer Response in addressing complaints from servicemembers; coordinates state and federal efforts to protect military consumers; and informs the Bureau's staff about the unique experiences of military members and their families.

Students increases awareness about the impact of financial decisions associated with various educational programs and other financial products and identifies policy and marketplace issues with a special impact on students.

Financial Empowerment enhances access to and knowledge of financial products and services among lower-income consumers and promotes opportunities for asset creation among working families and new entrants to banking.

RESEARCH, MARKETS AND REGULATIONS

The Research, Markets and Regulations Division leads the Bureau's efforts to articulate an informed perspective about current issues in consumer financial markets. This division includes the following groups:

Research investigates an array of topics related to consumer financial markets and publishes findings to improve information available to market participants and to inform the Bureau's work. Research also evaluates benefits and costs of potential and existing regulations.

The **Markets** teams -- Mortgages; Cards; Installment and Liquidity Lending Markets; and Deposits, Collections and Credit Information – provide practical market intelligence and monitoring to Bureau colleagues and to the public.

Regulations ensures that rules implementing the consumer protection laws under the Bureau's authority are issued and interpreted in an informed, fair, and efficient manner in accordance with the law.

SUPERVISION, ENFORCEMENT, AND FAIR LENDING & EQUAL OPPORTUNITY

The CFPB's Supervision, Enforcement, and Fair Lending & Equal Opportunity Division promotes compliance with consumer financial protection laws under the Bureau's authority.

Supervision monitors bank and nonbank providers of consumer financial products and services for compliance with the applicable consumer protection laws.

Enforcement investigates potential violations of laws in the Bureau's jurisdiction, pursues appropriate enforcement actions against those who violate these laws, and supports consumer protection enforcement nationwide.

Fair Lending & Equal Opportunity leads the Bureau's efforts to ensure fair, equitable, and nondiscriminatory access to credit for individuals and communities through supervisory oversight and enforcement of federal fair lending laws, outreach, education, and engagement.

CHIEF OPERATING OFFICER

This division sustains the CFPB's operational infrastructure to support the Bureau's growth and enable its success. This division includes a budget and finance team to oversee the Bureau's financial planning and management; a procurement team to oversee the Bureau's contracts with outside contractors and service providers; a Human Capital office that recruits, hires, and works to retain highly qualified personnel across the Bureau; a records office that manages the Bureau's compliance with the Freedom of Information Act, the Privacy Act, and other laws; and an operations team that manages the CFPB's physical plant. In addition, this division includes three teams whose work directly touches the public:

Consumer Response addresses consumer complaints, provides consumers with information, and connects them with additional resources where appropriate. Consumer Response's about issues confronting consumers in the marketplace helps inform many aspects of the Bureau's work.

The Office of Minority and Women Inclusion ("OMWI") ensures that a commitment to inclusion informs the Bureau's work, that the Bureau promotes opportunities for underrepresented populations in its hiring and contracting, and that the Bureau fulfills its mandate to assess the diversity practices of the companies that it supervises.

Technology and Innovation ("T&I") develops online products that help inform consumers, track consumer complaints, and make critical data available to the public. T&I maintains a 21st-century data infrastructure in support of the Bureau's mission.

EXTERNAL AFFAIRS

The Bureau's External Affairs Division maintains robust and steady dialogue with stakeholders of all kinds. This ensures that the perspective of consumers, industry, advocacy groups, state and federal officials, and other stakeholders shape the Bureau's work, and in turn that these groups have the latest information about the CFPB and its work.

This division has five offices:

> **Small Business, Community Banks and Credit Unions** conducts outreach to small businesses and smaller credit providers, especially community banks and credit unions.
>
> **Community Affairs** keeps the Bureau connected to consumer advocacy, faith-based, fair lending, civil rights, and other nonprofit groups
>
> **Intergovernmental Affairs** conducts outreach to municipal, state, and other government entities.
>
> **Legislative Affairs** serves as a liaison to Members of Congress and congressional staff.
>
> **Media Relations** serves as a liaison to local, regional, and national media.

The CFPB will also create a Consumer Advisory Board comprised of a range of external stakeholders. That board will consult with the Bureau about the exercise of its functions and provide information on emerging practices in consumer financial markets, including regional trends and concerns.

GENERAL COUNSEL

This office is responsible for the Bureau's interpretation of and compliance with all applicable laws, advises the Director and the Bureau's divisions, and defends the Bureau against legal actions by outside parties. This team also administers the Bureau's ethics program to promote public confidence in the integrity and impartiality of the Bureau's employees.

OMBUDSMAN

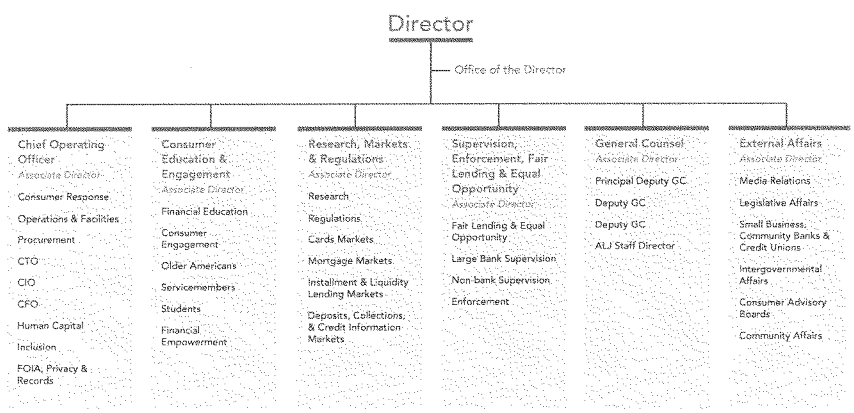
The Ombudsman provides an alternate, informal way to resolve individual and systemic complaints about the CFPB's supervisory and enforcement activities. By spring 2012, the Ombudsman's office will be addressing matters brought by consumers as well as companies in the Bureau's jurisdiction.

The CFPB's creation of offices for Community Affairs, Consumer Response, Fair Lending & Equal Opportunity, Financial Education, Older Americans, OMWI, Research, and Servicemember Affairs satisfied requirements of the Dodd-Frank Act.[6] The Dodd-Frank Act also required appointment of a Private Education Loan Ombudsman to monitor the resolution of private student lending complaints and an Ombudsman who will help resolve consumer and industry complaints about the Bureau's supervisory and enforcement processes.[7] Both of these Ombudsmen have been appointed.

[6] Dodd-Frank Act, Public Law 111-203, Section 1013.

[7] *Ibid; Dodd-Frank Act, Public Law 111-203, Section 1035(a).*

ORGANIZATIONAL CHART



Delivering for American Consumers

The Dodd-Frank Act vested the CFPB with responsibility for implementing and promoting compliance with more than a dozen federal consumer protection laws. Since July 21, 2011, the Bureau has begun to improve the information available to consumers, respond to consumer complaints about credit cards and mortgages, supervise certain large banks and mortgage servicers, and engage consumers, industry, and other stakeholders in these efforts.

KNOW BEFORE YOU OWE

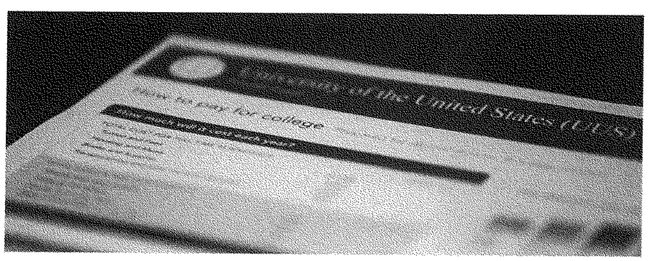
Over the past year, the CFPB has worked to make the costs and risks of financial products easier to understand. This is the heart of the Bureau's signature campaign – Know Before You Owe.

Consumers expect to be held responsible for their purchases and debts. But they deserve to be able to make a choice about what products and services to use based on a fair presentation of the costs, risks, and benefits of those offerings. This kind of transparency encourages personal responsibility and smart decision-making. The CFPB has published prototype forms for mortgages, student loans, and credit cards that are designed to make important information easier to find.

Know Before You Owe also shows that the Bureau is intent on engaging the public in its work in innovative ways. During each project, the CFPB invited the public – consumers, the financial services industry, and advocates – to comment on draft forms.

Finally, these projects demonstrate how the CFPB team approaches problem-solving. Each project resulted from a truly interdisciplinary effort that spanned the entire Bureau – from regulations attorneys and product experts to community affairs and technology specialists. This type of innovation results from the CFPB's investment in expertise drawn from diverse professional points of view.

consumerfinance.gov received over 220,000 unique pageviews for *Know Before You Owe*



MORTGAGES

Buying a home is a process with many important decisions – not least of which is figuring out what kind of mortgage makes sense today and over time. This process is not always as easy as it could be. The federally-required forms that companies give after receiving a mortgage application contain a lot of information, but in too many instances homebuyers have trouble finding what they need to understand how much a particular mortgages costs and how its costs might change over time.

The Dodd-Frank Act amended federal statutes governing mortgage loans, including the Truth in Lending Act ("TILA") and the Real Estate Settlement Procedures Act ("RESPA"). Those amendments require that by July 21, 2012, the CFPB propose integrated disclosures and accompanying rules for mortgage loans that satisfy the requirements of both TILA and RESPA.[8]

[8] Dodd-Frank Act, Public Law 111-203, Sections 1032(f), 1098, 1100A.

The integrated disclosures are meant to provide information that will make the terms of mortgages more transparent to consumers and make it easier for industry to comply with various federal laws. Consumers will receive the first disclosure shortly after applying for a mortgage. While consumers now receive seven pages of information, the Bureau has developed a three-page prototype form that is designed to make it easier to understand the loan before consumers make a commitment.

The second disclosure focuses on the transaction's closing. It will confirm key terms – like the loan amount and interest rate – and provide a detailed record of the closing costs that the consumer will pay. The draft forms would reduce the page length of affected federal disclosures by up to 50 percent, making the closing process easier for both consumers and industry. Testing of the closing document is ongoing.

Over seven rounds of testing, the Bureau received through its website approximately 27,000 individual comments providing feedback on the prototype mortgage forms. Roughly half of these comments were provided by consumers and half by industry.

STUDENT LOANS

Financial aid offers from colleges and universities are a critical step in the education financing process for both federal and private student loans. But today offers that students receive often fail to make basic information clear – for example, how much of a particular aid offer is made up of loans that need to be paid back and how much comes from grants that do not.

The Higher Education Opportunity Act of 2008 required the Secretary of Education to develop a model financial aid offer format to help students and their parents make informed decisions about how to finance postsecondary educational expenses.[9] This shared mission to improve the shopping process made the CFPB and the Department of Education natural partners in a Know Before You Owe project on student loans.

[9] Public Law 110-315, Section 484.

In October, the agencies released a suggested financial aid "shopping sheet" that presents important financial aid information – such as estimated monthly payment levels after leaving school – in a standardized, easy-to-read format. The "shopping sheet" is intended to give students and their families a better chance to make an informed decision about financial aid.

CREDIT CARDS

Credit cards are among the most frequently used consumer financial products. And yet their most basic terms are often set forth in long and complicated agreements that few consumers read. To spark a conversation about improving credit card agreements, the CFPB released a prototype in December. That agreement is written in plain language, and it makes the prices, risks, and terms of a particular card more visible.

The Bureau is testing the prototype with the Pentagon Federal Credit Union, which has about 350,000 credit card customers. Once again, the CFPB invited the public to weigh in on the prototype on its website and has received more than 7,500 comments since December.

Responding to Consumers

Consumer Response – the team that receives complaints directly from consumers – began taking credit card complaints on July 21, 2011, and mortgage complaints on December 1, 2011.[10] The CFPB expects to handle consumer complaints with respect to all products and services within its authority by the end of 2012.

The CFPB's phased-in approach to taking complaints has allowed Consumer Response to improve its intake processes, enhance automated communication with companies, and ensure the system's ease-of-use and effectiveness for consumers. The CFPB aims to provide services that are trusted by consumers and companies alike.

Even as Consumer Response expands its capacity, consumers may still contact the CFPB about products beyond credit cards and mortgages. The Bureau answers those inquiries and refers consumers to an appropriate regulator or to additional resources where appropriate.

The Bureau also created a "Tell Your Story" feature on its website that gives consumers the opportunity to share their experiences – positive or negative – with consumer financial products and services. These submissions, like formal complaints, are reviewed by staff to help the Bureau understand current issues in the financial marketplace.

HOW THE CFPB HANDLES COMPLAINTS

The CFPB collects complaints on its website and by telephone, mail, email, fax, and by referral from other agencies. The CFPB's U.S.-based contact centers handle calls with little to no wait times. Cutting-edge technology makes the process more efficient and user-friendly for consumers and companies. The CFPB's toll-free telephone number provides services to consumers in 187 languages, and the Bureau provides services for hearing- and speech-impaired consumers. For companies, the CFPB provides a secure email address for communicating directly with dedicated staff about technical issues.

Consumer Response screens all complaints submitted by consumers based on several criteria, including whether they involve matters within the Bureau's primary enforcement authority, are complete, or duplicate prior submissions by the same consumer. Screened complaints are sent via a secure web portal to the appropriate company.[11] The company reviews the information, communicates with the consumer as appropriate, and determines what action to take in response. The company reports back to the consumer and the CFPB how it has responded and the CFPB invites the consumer to review the response. The CFPB prioritizes review and investigation of complaints where the company fails to provide a timely response or where the consumer disputes the response.[12] Throughout this process, Consumer Response is supported by Bureau colleagues – like the Markets and Regulations teams, Servicemember Affairs, and Fair Lending – who lend subject matter expertise and help monitor complaints involving certain groups.

[10] This section presents an overview of CFPB's Consumer Response activities since beginning operations. The Bureau published a more detailed report on the first three months of Consumer Response's credit card complaint data. It is available on consumerfinance.gov.

Additionally, as required by the Dodd-Frank Act, Consumer Response will file a separate Congressional report on its operations on or before March 31, 2012. Dodd-Frank Act, Public Law 111-203, Section 1013(C).

[11] If a particular complaint does not involve a product or market that is within the Bureau's jurisdiction or one currently being handled by the Bureau, Consumer Response refers them to the appropriate regulator.

[12] Companies are required to provide the CFPB with a timely response consistent with the requirement s of the Dodd-Frank Act. The CFPB initially requested that companies respond within 10 calendar days, but increased the requested response time to 15 calendar days with the addition of mortgages on December 1, 2011. See Dodd-Frank Act, Public Law 111-203, Section 1034(b).

Throughout this process, a consumer can log onto the CFPB's secure "consumer portal" available on the Bureau's website or call the toll-free number to receive status updates, provide additional information, and review responses provided to the consumer by the company.

RESULTS

How Complaints Reach the CFPB

Between July 21 and December 31, 2011, the CFPB received 13,210 consumer complaints, including 9,307 credit card complaints and 2,326 mortgage complaints.[13]

Since the Bureau began accepting complaints, 44.0 percent of all complaints have been submitted through the Bureau's website and 14.7 percent via telephone calls. Referrals from other regulators accounted for 34.9 percent of all complaints received. The rest were submitted by mail, email, and fax.

The tables presented below show complaints by type, actions taken, company response, and consumer review of company responses.[14]

[13] Consumer complaints are submissions that express dissatisfaction with, or communicate suspicion of wrongful conduct by, an identifiable entity related to a consumer's personal experience with a financial product or service. This analysis excludes multiple complaints submitted by a given consumer on the same issue and whistleblower tips.

[14] Percentages in tables may not sum to 100 percent due to rounding.

Table 1: Most Common Credit Card Complaints Reported by Consumers

	#	%
Billing disputes	1,278	13.7%
Identity theft / Fraud / Embezzlement	1,014	10.9%
APR or interest rate	950	10.2%
Other	854	9.2%
Closing / Cancelling account	478	5.1%
Credit reporting	437	4.7%
Credit card payment / Debt protection	383	4.1%
Collection practices	378	4.1%
Late Fee	364	3.9%
Other Fee	334	3.6%
CREDIT CARD COMPLAINTS IN TOP 10 TYPES	6,470	69.5%

Consumers' Credit Card Complaints

Table 1 shows the most common types of credit card complaints that the CFPB has received as reported by consumers. Over 69 percent of all complaints submitted through December 31, 2011, fell into these 10 categories.

The Bureau's early experience suggests that consumers are interpreting what these categories mean differently – for example, one consumer might choose billing dispute to categorize a problem that another would categorize as an interest rate issue. To improve the reliability of these data, the Bureau may revise the options over time to promote consistent categorization of complaints.

Consumers' Mortgage Complaints

Table 2 shows the types of mortgage complaints that the Bureau has received, as reported by consumers.

Table 2: Types of Mortgage Complaints Reported by Consumers

	#	%
Applying for the loan (Application, originator, mortgage broker)	235	10.1%
Receiving a credit offer (Credit decision/Underwriting)	65	2.8%
Signing the agreement (Settlement process and costs)	96	4.1%
Making payments (Loan servicing, payments, escrow accounts)	501	21.5%
Problems when you are unable to pay (Loan modification, collection, foreclosure)	889	38.2%
Other	540	23.2%
TOTAL COMPLAINTS	2,326	100.0%

How Companies Respond to Consumer Complaints

Approximately 9,885 or 75 percent of all complaints received between July 21 and December 31, 2011, have been sent to companies for review and response.[15] Table 3 shows how companies responded to these complaints.

Responses include a description of any steps taken or that will be taken in response to the complaint, communications received from the consumer in response to any steps taken, and any follow up actions or planned follow up actions in further response to the complaint as well as a categorization of the response. Beginning December 1, 2011, response category options included "closed with relief," "closed without relief," "in progress," and other administrative options. Relief is defined as objective, measurable, and verifiable monetary value to the consumer as a direct result of the steps taken or will be taken in response to the complaint. Where a company responds "closed with relief," additional space is provided to describe that relief and to assign an estimated dollar amount.[16]

Companies have responded to 88.1 percent of the complaints sent to them. Companies report closing over 55 percent of complaints with relief and approximately 31 percent without relief.

[15] The remaining complaints have been referred to other regulatory agencies (10.9 percent), found to be incomplete (5.4 percent), or are pending with the consumer or the CFPB (4.7 percent and 4.2 percent, respectively).

[16] The CFPB initially asked companies to categorize their response as "full resolution provided," "partial resolution provided," "no resolution provided," or another administrative option. While companies' responses under the initial categorizations were maintained, for operational and reporting purposes responses categorized as "full resolution provided," or "partial resolution provided" are considered a subset of "closed with relief" and responses categorized as "no resolution provided" are considered a subset of "closed without relief."

Table 3: How Companies Have Responded to Consumer Complaints

	All		Credit Card		Mortgage	
	#	%	#	%	#	%
Company reported closed with relief	5,476	55.4%	4,785	64.1%	306	18.6%
Company reported closed without relief	3,028	30.6%	2,069	27.7%	768	46.7%
Company provided administrative response	203	2.1%	112	1.5%	71	4.3%
Company reviewing	1,178	11.9%	497	6.7%	498	30.3%
TOTAL COMPLAINTS SENT TO COMPANY	9,885	100.0%	7,463	100.0%	1,643	100.0%

Consumer Review

Once the company responds, the CFPB provides this response to the consumer for review. Where the company responds "closed with relief" or "closed without relief," consumers are given the option to dispute the response.[17] Complaints with disputed company responses are among those prioritized for investigation. Table 4 shows how consumers responded to the 7,349 complaints where they were given the option to dispute that companies report as closed or where full or partial resolution was reported. Consumers are asked to notify the CFPB within 30 days if they want to dispute a company's response. Nearly 40 percent of such consumers did not dispute the responses provided. Approximately 13 percent of consumers have disputed the responses provided. The rest are pending with the consumer.

[17] Initially consumers were given the option to dispute responses from companies that indicated a resolution had been provided. Consumers were not offered an option to dispute responses indicating that no resolution had been provided. With the shift to closure categories, consumers are given the option to dispute both responses with and without relief.

Table 4: Consumer Review of Company Responses

	All		Credit Card		Mortgage	
	#	%	#	%	#	%
Pending consumer review of company's reported resolution	3,488	47.5%	2,400	41.3%	809	77.4%
Consumer did not dispute company's reported resolution	2,910	39.6%	2,681	46.1%	76	7.3%
Consumer disputed company's reported resolution	951	12.9%	734	12.6%	160	15.3%
TOTAL COMPLAINTS FOR CONSUMER REVIEW	7,349	100.0%	5,815	100.0%	1,045	100.0%

"I want to thank you for your help on my issue, you helped me resolve it and in fact the resolution is pretty much everything [I] had hoped for..."

Warren from Maryland

Leveling the Playing Field

The CFPB's work is based on the principle that companies offering a particular consumer finance product or service should be supervised in the same way and that consumers should receive the protections afforded them by federal law regardless of where they obtain the product or service.

RULEMAKING

Since the Bureau's launch, its rulemaking activities have focused on two main areas: implementing protections required by the Dodd-Frank Act and streamlining inherited regulations.[18]

[18] Additional information regarding individual rulemaking projects is available in the CFPB's semi-annual regulatory agenda, which is posted on the website of the Office of Information and Regulatory Affairs. http://www.reginfo.gov/public/jsp/eAgenda/StaticContent/201110/Statement_3170.html

IMPLEMENTING STATUTORY PROTECTIONS

The Dodd-Frank Act requires the CFPB to develop regulations to address deep flaws in the mortgage market that the financial crisis revealed. The CFPB is in the process of finalizing certain proposed rules issued by the Federal Reserve. These rules include, among other things, regulations defining lenders' obligations to assess borrowers' ability to repay mortgage loans, including certain protections from liability for "qualified mortgages."

Patrice Ficklin, Asst. Director for Fair Lending & Equal Opportunity, and Stephen Stetson from Alabama Arise particpate in a roundtable on payday lending in Birmingham, Alabama January 19, 2012

The CFPB is also developing proposed regulations to implement other provisions of the Dodd-Frank Act focused on the mortgage market. These regulations will address a variety of origination and servicing practices, including disclosure requirements, loan originator compensation and anti-steering rules, data reporting requirements, restrictions on high-cost loans, and other servicing practices. In addition, the Bureau is participating in interagency processes to consider mortgage servicing standards and to propose various regulations concerning appraisals.

Many of these requirements have statutory deadlines and will become self-executing in January 2013 unless the Bureau issues implementing regulations. Accordingly, the Regulations office has made these rulemakings a priority, so that the CFPB will deliver the consumer protections that Congress intended and provide clarity and certainty to the market regarding their nature and scope.

On July 2011, the CFPB published an interim final rule to implement amendments to the Alternative Mortgage Transaction Parity Act ("AMTPA").[19] This interim final rule clarifies the circumstances under which companies may make alternative mortgage transactions pursuant to AMTPA in states that would otherwise prohibit such transactions. The CFPB expects to publish final regulations to implement the Dodd-Frank Act's amendments to AMTPA based on comments from the public.

In January 2012, the Bureau issued regulations governing certain international money transfers (remittances) pursuant to the Electronic Fund Transfer Act.

STREAMLINING INHERITED REGULATIONS

As one of its statutory objectives, the CFPB must "reduce unwarranted regulatory burden" by identifying and addressing "outdated, unnecessary, or unduly burdensome regulations."[20] The Bureau has undertaken the following projects to serve this goal:

Restatement of Inherited Regulations

The Dodd-Frank Act transferred to the CFPB rulemaking authority under more than a dozen consumer protection laws previously held by other agencies. The CFPB republished the regulations it inherited – a necessary step when one agency takes over rulemaking authority from another. On July 21, 2011, the CFPB published a list of implementing regulations previously issued by other agencies that the CFPB will enforce,[21] and in December 2011, republished these regulations as CFPB rules with certain technical and conforming changes.[22]

Targeted Review of Inherited Regulations

In December 2011, the CFPB sought input from the public on how to streamline existing regulations implementing federal consumer financial laws.[23] The Bureau requested recommendations and data to help identify and prioritize opportunities to simplify, update, or eliminate regulatory requirements. The public can comment on these issues through early March. The Bureau will consider comments received from the public and assess opportunities to streamline existing regulations.

SUPERVISION

The CFPB's Supervision program aims to monitor how companies' current business practices comply with consumer protection laws under the Bureau's jurisdiction, to detect emerging risks in the consumer financial marketplace, and to articulate consistent expectations about compliance.

[19] 76 Fed. Reg. 44226; see also Dodd-Frank Act, Public Law 111-203, Section 1083.

[20] Dodd-Frank Act, Public Law 111-203, Section 1021(b).

[21] 76 Fed. Reg. 43569. See also Dodd-Frank Act, Public Law 111-203, Section 1063(i).

[22] The regulations implement certain portions of the FCRA; certain portions of the Gramm-Leach-Bliley Act, the Secure and Fair Enforcement for Mortgage Licensing Act, ECOA, the Fair Debt Collection Practices Act, the Truth in Savings Act, the Interstate Land Sales and Full Disclosure Act, the Consumer Leasing Act, certain portions of the Electronic Fund Transfer Act, section 43(c) of the Federal Deposit Insurance Act, HMDA, RESPA, TILA, and section 626 of the Omnibus Appropriations Act of 2009. The restated regulations have consolidated multiple versions of the regulations under those statutes where rulemaking authority was previously split across multiple agencies.

[23] 76 Fed. Reg. 75825.

SCOPE

The CFPB's supervision program has two parts that operate under common procedures and share staff. The large bank supervision program began operations in July and focuses on compliance at banks, thrifts, and credit unions with assets over $10 billion, their affiliates, and certain service providers.

The CFPB is also the first federal agency required to implement a supervision program over nonbank providers of consumer financial products and services -- certain financial services companies without a bank, thrift, or credit union charter. There are thousands of such nonbanks – mortgage lenders and brokers, credit bureaus, payday lenders, and more – and they affect millions of Americans each year. The CFPB launched its nonbank supervision program in January 2012.

Over the past year, the CFPB has invested in building its supervision program and launched examinations of certain large banks and mortgage servicers.

INITIAL SUPERVISION ACTIVITIES

Since July 21, 2011, the CFPB's large bank supervision program has focused on understanding the products and services offered by institutions in its jurisdiction, including how each ensures compliance with consumer protection laws and regulations. It has also begun several examinations in conjunction with activity previously scheduled by the prudential regulators. The CFPB's Supervision staff has worked closely with other federal and state banking and other regulatory agencies with institutions in the Bureau's jurisdiction to learn from their experience and to coordinate examination activities. As part of these activities, the CFPB has begun assessing the policies and practices of certain mortgage servicing companies, including their default servicing practices like loan modification and foreclosure.

SUPERVISION AND EXAMINATION MANUAL

On October 13, 2011, the Bureau issued the first version of its *Supervision and Examination Manual*.[24] This manual instructs CFPB's examiners on how to determine if providers of consumer financial products and services are complying with federal consumer financial laws; how to assess whether companies appropriately monitor their own compliance; and how to identify risks to consumers in these markets. The examination manual and supervision processes will be revised over time based on experiences in the field and comments from industry and other stakeholders.

[24] The *Supervision and Examination Manual* is available on consumerfinance.gov

ADDITIONAL EXAMINATION PROCEDURES

In October 2011, the CFPB released its *Mortgage Servicing Examination Procedures*,[25] a module of the *Supervision and Examination Manual*. The *Mortgage Servicing Examination Procedures* describes the Bureau's approach to identifying key risks to consumers in servicing operations, such as improper foreclosure practices and inaccurate payment processing, the types of information that the Bureau's examiners will gather to evaluate

[25] The *Mortgage Servicing Examination Procedures* are available on consumerfinance.gov

mortgage servicers' policies and procedures, and how examiners will assess whether servicers are in compliance with applicable laws.

In January 2012, the CFPB issued two additional modules to its supervision manual regarding *Mortgage Origination* and *Short-Term, Small-Dollar Lending Examination Procedures*.[26]

[26] The updates on *Mortgage Origination* and *Short-Term, Small-Dollar Lending Procedures* are available on consumerfinance.gov

RECRUITING & TRAINING

The CFPB has assembled a diverse and highly-qualified group of examiners. The Bureau's field staff includes examiners from the prudential regulators, state banking agencies, and industry. The Bureau's examiners are being trained to supervise banks and nonbanks. Training examiners to work in both sectors will help to ensure consistent oversight across both sectors and increase the CFPB's flexibility in allocating resources across the country. Examiners report to regional management in offices in New York, Chicago, San Francisco, and Washington, D.C.

ENFORCEMENT

The CFPB aims to consistently enforce the consumer protection laws in the Bureau's jurisdiction and to support consumer protection efforts nationwide by investigating potential violations independently and in conjunction with other state and federal law enforcement agencies.

CONDUCTING INVESTIGATIONS

Since the CFPB's launch, Enforcement has been conducting investigations identified by CFPB staff or transferred by the prudential regulators and HUD. Further detail regarding these and other ongoing investigations will not generally be made public by the Bureau until such time that a public enforcement action is filed.

JOINT TASK FORCE ON FORECLOSURE SCAMS

In December 2011, the CFPB, the Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP"), and the U.S. Department of the Treasury ("Treasury") announced the creation of a joint task force to combat scams targeted at homeowners seeking to apply for the Home Affordable Modification Program ("HAMP"), a foreclosure prevention program administered by Treasury. This joint task force aims to protect taxpayers by investigating and shutting down these scams and by providing education programs to vulnerable homeowners.

WHISTLEBLOWER HOTLINE

In December 2011, the CFPB announced several ways in which individuals can alert the Bureau about potential violations of federal consumer financial laws. Current or former employees, contractors and vendors, and competing companies may submit information or tips. People who submit tips may request confidentiality or even remain anonymous to the extent permitted by law.

FAIR LENDING

The CFPB's Fair Lending and Equal Opportunity office leads the Bureau's efforts to ensure fair, equitable and nondiscriminatory access to credit for individuals and communities. Fair Lending can use many tools to work toward this goal – from supervision and enforcement to research and outreach.[27] Specifically, the Bureau is working to fulfill its fair lending mission in the following ways:

[27] This section provides an overview of the Bureau's fair lending activities. Additional information on topics addressed here will be provided in subsequent reports.

SUPERVISION

Fair Lending is providing guidance and support to the Bureau's supervision staff as they begin to assess fair lending compliance by companies in the Bureau's jurisdiction. Fair Lending staff is coordinating with the prudential regulators regarding their fair lending analyses and prior examinations of supervised institutions.

ENFORCEMENT

The Bureau's Fair Lending and Enforcement offices have begun investigating fair lending matters, including those transferred from the prudential regulators. In addition, the offices are engaging in early-stage research to identify new investigations. Further detail regarding these and other ongoing investigations will not be made public by the Bureau until such time that a public enforcement action is filed.

RULEMAKING

In conjunction with CFPB's Rulemaking office, Fair Lending has begun planning for several rulemakings mandated by the Dodd-Frank Act, including those regarding collection and reporting of small, minority- and women-owned business loan data under ECOA and reporting of additional data fields for all companies required to report under HMDA.

OUTREACH

To educate consumers and companies about fair lending compliance, Fair Lending staff has met with industry trade organizations, individual consumers, and financial institutions of all sizes, as well as national and grassroots consumer and civil rights groups.

CONSUMER RESPONSE

Fair Lending provides legal and analytical support to Consumer Response to ensure effective investigation of discrimination complaints.

Educating and Engaging Consumers

Listening to and learning from consumers is central to all that the CFPB does. This work – done by all staff, but lead by the Bureau's Consumer Education and Engagement Division and Community Affairs office – connects the Bureau to the real experiences of consumers across the country. Conversations with consumers – wherever they occur – also provide the CFPB an opportunity to provide them with the information and tools that they need, so that they can achieve their own financial goals.

EDUCATION & ENGAGEMENT

The Bureau is reaching out to consumers all over the country – through CFPB events, conferences, social media, and more.

Since July 2011, the CFPB has engaged in over 250 meetings, roundtables, and other events with a wide range of nonprofit groups that work directly with consumers. CFPB's senior staff has visited more than 50 cities since July 21, 2011, including some of the communities that have been hardest-hit by the financial crisis. CFPB staff has also held town halls in Philadelphia, Pa.; St Paul, Minn., and Cleveland, Ohio in conjunction with significant policy announcements or speeches.

Over 50 cities visited by senior staff since July 21

In December 2011, Servicemember Affairs hosted a Financial Fitness Forum in Washington, D.C. to raise awareness regarding consumer financial practices and services tailored to military personnel and their families. To prepare, the Bureau published a Notice and Request for Information on these issues.[28]

[28]76 Fed. Reg. 54998

Since launching the CFPB's website in February 2011, Consumer Engagement has used the blog to engage the public in the Bureau's daily work – for example, by inviting the public to comment on prototype disclosures as part of the Know Before You Owe campaign and webcasting some of the CFPB's major events. Additionally, the Bureau has posted information designed to address topics of widespread concern – such as what to do when falling behind on a mortgage – and the specific needs of military families, older Americans, and students.

In October 2011, the Bureau launched an online Student Debt Repayment Assistant tool for the Bureau's website. The tool helps students understand their loan repayment options. There have been more than 30,000 unique pageviews of tool since its launch.

Older Americans is conducting a series of outreach meetings around the country with its core constituency, key public officials, financial institutions, industry, advocates, and other stakeholders. This included roundtables with consumer groups, service providers, and law enforcement in Maine, Massachusetts, Minnesota, New York, Florida, and California.

Servicemember Affairs staff visited 15 military bases in the past year. Those visits include listening to servicemembers and their leaders about the financial challenges that they face, observing financial education training, and providing educational materials.

Servicemember Affairs raised awareness about the acute financial impact that servicemembers face when they receive Permanent Change of Station ("PCS") orders and are required to move. Given the difficult conditions in the housing market, PCS orders may force military families to sell homes at a significant loss. Treasury has made it easier for families in this situation to qualify for loan modifications. Fannie Mae and Freddie Mac have also recognized PCS moves as a qualified hardship for purposes of consideration of a loan modification.

The CFPB's Private Education Loan Ombudsman will work with institutions of higher education, lenders, and other participants in the private education loan programs to address challenges in the student lending marketplace. The Ombudsman will coordinate with the Department of Education to help resolve complaints from borrowers of private education loans and will submit a report to Congress later this year.

In January 2012, the CFPB held a field hearing in Birmingham, Alabama to gather information on the payday lending market. Consumers, as well as officials from payday lenders, advocacy groups, and government agencies, shared their insight into how payday loans work for consumers.

In 2012, the CFPB will set up a Consumer Advisory Board to provide a formal mechanism for consulting with a range of external stakeholders about the Bureau's work and emerging practices in consumer financial markets, including regional trends and concerns.

Evidence-Based Analysis

Understanding how consumer financial markets work, the avenues for innovation in financial products and services, and the potential for risk to consumers is a core component of the CFPB's mission. The Bureau's aim is to ground all of its work – from writing rules and litigating enforcement actions to its outreach and financial literacy efforts – in the realities of the marketplace and the complexities of consumer behavior.

To do this, the Bureau has invested in its capacity to understand market dynamics, to assess risks to consumers, and to study the structure and efficiency of consumer financial markets and the nature of consumer behavior in these markets.

To build a foundation for rigorous analysis, the Bureau is acquiring detailed data in a number of areas, including mortgages, credit cards, and credit bureau reports. In every case, the Bureau will strictly respect privacy laws and considerations.

The CFPB's efforts to improve the information available to policymakers and market participants have already begun.

In July, the Bureau published two required reports:[29]

- **Remittances**

  The CFPB studied how exchange rates used in remittance transfers are disclosed to consumers and the potential for using remittance histories to enhance the credit scores of consumers. The CFPB also obtained additional data to evaluate the predictive value of using remittance history in credit scoring and will produce a second report on this subject.

- **Credit Scores**

  The Bureau examined the differences between credit scores sold to consumers and scores used by lenders to make credit decisions.

Additionally, the CFPB's Research and Markets teams are collaborating with their colleagues from the Students and Older Americans offices to prepare required reports on private student lending and reverse mortgages and to provide recommendations on best practices concerning financial advisors who work with older Americans.[30]

As part of Financial Education's efforts to understand effective financial education practices, the CFPB began a pilot program that will evaluate certain programs in the field and publish the results to help inform and advance the field of financial literacy.

[29] Dodd-Frank Act, Public Law 111-203, Sections 1073(e) and 1078(a), respectively. Both reports are available on consumerfinance.gov

[30] Dodd-Frank Act, Public Law 111-203, Sections 1077, 1076(a), 1013(g)(3)(C).

The CFPB has also hosted three research-oriented conferences designed to promote discussion of regulatory issues related to consumer finance among academics, consumer advocates, industry representatives, and public officials.

- In December 2010, the CFPB hosted a symposium to inform its work on the integrated TILA-RESPA disclosures for mortgages. The event addressed effective practices for communicating information about mortgages and research on how disclosures affect consumer behavior.

- In February 2011, the Bureau held a conference to assess the impact of the Credit Card Accountability Responsibility and Disclosure Act (the "CARD Act") and released related data from issuers and consumers.

- In October 2011, CFPB hosted a symposium focused on new research on sustainable mortgages and access to credit. Panelists discussed the relationship between lending standards and default risks, policy options to affect access to credit, and approaches to improving data on mortgage lending.

Building a Great Institution

The CFPB has grown from a handful of early arrivals in the summer of 2010 to over 750 employees nationwide. This growth has been matched by sustained effort to implement policies to govern the Bureau's activities, launch important relationships, and create a transparent culture that allows the American people see how their agency is doing. Taken together, these efforts mark an important investment in building an agency that can deliver the consumer protections guaranteed by federal law.

DEFINING THE BUREAU'S POLICIES AND PROCEDURES

As part of its implementation work, the Bureau has implemented several important policies and procedures, including:

COORDINATION OF REGULATORY ANALYSES, INTERAGENCY CONSULTATION & SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT PANELS

The CFPB has prepared to implement various requirements under the Dodd-Frank Act concerning analysis of certain benefits, costs, and impacts of the CFPB rules; consultation with prudential regulators and other appropriate agencies over the course of a rulemaking; and consultation with small regulated entities prior to proposing certain rules as required under the Small Business Regulatory Enforcement Fairness Act of 1996. Staff has studied and consulted with other federal agencies that have similar obligations.

NOTICE AND OPPORTUNITY TO RESPOND AND ADVISE ("NORA") POLICY

In November 2011, the CFPB outlined plans to provide advance notice of potential enforcement actions to individuals and companies under investigation. The NORA process begins with the Bureau explaining to individuals or companies that evidence gathered by the CFPB indicates they have violated consumer financial protection laws. Recipients of a NORA notice can then respond in writing before a final decision is made to begin legal action. Although the NORA notice is not required by law, it reflects the CFPB's commitment to fundamental fairness in the exercise of its enforcement authority. The decision to give notice in any particular case is discretionary and will depend on factors such as whether prompt action is needed.

PROCEDURES FOR ENFORCEMENT INVESTIGATIONS AND ADJUDICATION

In July 2011, the CFPB adopted Rules Relating to Investigations and Rules of Practice for Adjudication Proceedings as interim final rules and anticipates finalizing these rules after consideration of public comments. The CFPB's Rules Relating to Investigations include procedures for investigating whether persons engaged in conduct that violates federal consumer protection laws enforced by the CFPB. The CFPB's Rules of Practice for Adjudication Proceedings set forth the rules for conducting adjudication proceedings to ensure or enforce compliance with these laws.

DISCLOSURE OF RECORDS AND INFORMATION

Also in July, the CFPB adopted an interim final rule establishing procedures for the public to obtain information from the CFPB under the Freedom of Information Act, the Privacy Act of 1974, and in legal proceedings. The rule establishes CFPB's procedures regarding the confidential treatment of information obtained from persons during supervisory or other regulatory activity. The CFPB anticipates finalizing the rule after consideration of public comments.

Over the next six months, the CFPB will continue to issue rules necessary to launch required functions:

ESTABLISHING THE SCOPE OF THE NONBANK SUPERVISION PROGRAM

"Larger Participants"

The Dodd-Frank Act requires that the CFPB supervise all nonbanks in the residential mortgage, private education lending, and payday lending markets. The nonbank supervision program will also apply to nonbanks that are "larger participants" in other markets, as defined by a forthcoming rule. In June 2011, the CFPB formally sought public comments on how to define a "larger participant"[31] and held a series of roundtable discussions with industry, consumer and civil rights groups, and state regulatory agencies and associations. The Bureau is reviewing the more than 10,400 comments on that topic and will soon propose its initial "larger participants" rule.

[31] 76 Fed. Reg. 38059.

Procedural Rules

Under the Dodd-Frank Act, the CFPB may also supervise any nonbank that it determines is engaging or has engaged in conduct that poses risks to consumers with regard to consumer financial products or services.[32] The CFPB will publish rules setting out procedural guidelines for implementation of this provision in the next few months.

[32] Dodd-Frank Act, Public Law 111-203, Section 1024(a)(1)(C).

ETHICS

The CFPB is establishing a model government ethics program that fosters high ethical standards and maintains the public's confidence that Bureau employees conduct their duties with integrity and impartiality. Key components include: pre-employment ethics review of candidates for executive positions, including a review of financial interests; comprehensive, interactive ethics training for every new CFPB employee, including specialized training for executives and examiners; development of supplemental ethics regulations tailored to the Bureau's mission, taking into account the nuanced ethics issues facing regulators; and implementation of an online electronic filing system for generating, tracking, reviewing and monitoring completion of financial disclosure forms.

INVESTING IN PARTNERSHIPS

The CFPB is committed to collaborating with local, state and federal partners and groups representing consumers, industry, and a wide array of other stakeholders. These partnerships will allow the CFPB to share information about emerging risks to consumers, coordinate and leverage resources, and promote innovative strategies in consumer protection and education. Over the past year, the Bureau has begun establishing these important relationships in a variety of contexts.

The CFPB has pursued efforts to establish Memoranda of Understanding ("MOU") with each of the prudential regulators, federal law enforcement agencies, state agencies, and various industry or self-regulatory organizations. These agreements establish a framework for sharing information about institutions within the Bureau's authority, coordinating activities and the use of resources, and promoting best practices. In the case of the prudential regulators, the MOUs will also establish protocols for conducting "simultaneous" examinations so that the burden of the Bureau's supervisory activities on companies can be reduced as the Dodd-Frank Act requires.

In April 2011, the Bureau signed a Joint Statement of Principles with the National Association of Attorneys General. Under this agreement, the CFPB and state attorneys general will work together to share information, data, and analysis; develop joint training programs; and, where appropriate, support each other through joint or coordinated investigations and enforcement actions

In early July, the CFPB's Servicemember Affairs and Enforcement offices and Judge Advocates General of all the service branches signed a Joint Statement of Principles to ensure that the CFPB can help protect military families from illegal practices.

Servicemember Affairs also established a working agreement with the Department of Veterans Affairs to refer military families to one-on-one foreclosure prevention assistance.

In October 2011, the CFPB's Private Education Loan Ombudsman entered into an MOU with the Department of Education to share information about private student loan complaints.

The CFPB Director serves as the Vice-Chair of the Financial Literacy and Education Commission ("FLEC"), which is developing a national strategy for financial education. Senior staff from Financial Education works with the representatives of 22 other member federal agencies to enhance financial literacy efforts and avoid duplication.

In January 2012, the CFPB announced a joint effort with state attorneys general and the Department of Defense to track companies and individuals who repeatedly target servicemembers, veterans, and their families. The Repeat Offenders Against Military ("ROAM") Database will provide centralized information to local, state and federal law enforcement agencies to support their work investigate and stop financial scams against the military. The CFPB and its partners will continue to encourage agencies across the nation to share information to support this project.[33]

[33] Agencies that wish to contribute information to the ROAM database or request information should email the Bureau at ROAMDatabases@cfpb.gov.

OPEN GOVERNMENT

Transparency is not just a key element of the CFPB's vision for consumer financial markets. Openness about what the Bureau is doing and how it operates is also an essential ingredient in how the CFPB is being built. The CFPB has taken these steps to makes its operations transparent to the public:

- Leadership Calendars

  The Bureau published on its website the daily calendars of Elizabeth Warren and Raj Date, each of whom served as Special Advisor to the Secretary of the Treasury on the Consumer Financial Protection Bureau. Director Cordray's daily calendar will also be published on the website.

- Budget Updates

  The CFPB publishes quarterly budget updates on its website to provide a snapshot of how the Bureau's resources are being used.

- Reports

  The CFPB has published reports on its implementation activities and an interim report on the first three months of Consumer Response's credit card complaint data.

- Congressional Oversight

  In 2011, the Bureau's senior staff testified 11 times before Congressional committees.[34] The CFPB publishes written testimony submitted as part of those appearances on its website.[35]

[34] Appendix B contains a complete list of Congressional appearances by CFPB staff.

[35] Written testimony can be found on consumerfinance.gov

BUDGET

HOW THE CFPB IS FUNDED

The CFPB is funded principally by transfers from the Federal Reserve System, up to limits set forth in the Dodd-Frank Act. The Director of the CFPB requests transfers from the Federal Reserve in amounts that are reasonably necessary to carry out the Bureau's mission. Annual funding from the Federal Reserve System is capped at a fixed percentage of the total 2009 operating expenses of the Federal Reserve System, equal to:

- 10 percent of these Federal Reserve System expenses (or approximately $498 million) in fiscal year ("FY") 2011;
- 11 percent of these expenses (or approximately $547.8 million) in FY 2012; and
- 12 percent of these expenses (or approximately $597.6 million) in FY 2013 and each year thereafter, subject to annual inflation adjustments.

During fiscal year 2011, the CFPB requested transfers from the Federal Reserve totaling $161.8 million to fund implementation activities to launch operations and to continue to build operating capacity.[36]

These funds are held in an account for the Bureau at the Federal Reserve Bank of New York. Bureau funds that are not funding current needs of the CFPB are invested in Treasury securities on the open market. Earnings from those investments are also deposited into the Bureau's account.

If the authorized transfers from the Federal Reserve are not sufficient in fiscal years 2010-2014, the CFPB can ask Congress for up to $200 million, subject to the appropriations process. The CFPB did not request an appropriation in FY 2011 and does not plan on doing so in FY 2012 or FY 2013.

Pursuant to the Dodd-Frank Act, the CFPB is also authorized to collect civil penalties against any person in any judicial or administrative action under federal consumer financial laws. The CFPB maintains a separate account for these funds at the Federal Reserve Bank of New York. The CFPB did not collect any civil penalties in FY 2011.

AUDITED FINANCIAL REPORT FOR FISCAL YEAR 2011

In November 2011, the CFPB issued its first Financial Report, including financial statements for fiscal year 2011 that were audited by the Government Accountability Office ("GAO") in accordance with generally accepted government accounting standards. The GAO's audit report concluded that the CFPB's fiscal year 2011 financial statements are fairly presented in all material respects. The GAO also concluded that the CFPB had effective internal control over financial reporting as of September 30, 2011, and found no reportable instances of noncompliance with the laws and regulations it tested.

[36] More detailed information on CFPB's budget is available in the Bureau's Annual Financial Report and FY 2013 Budget Justification. To facilitate oversight, CFPB's Financial Report for Fiscal Year 2011 is attached as an appendix to this report. It is also available on consumerfinance.gov.

The Bureau's FY 2013 Budget Justification will be available on the Bureau's website following the release of the President's FY 2013 Budget

KEY CFPB EXPENDITURES IN FISCAL YEAR 2011

During fiscal year 2011, the majority of CFPB spending was related to essential, one-time costs related to standing up the Bureau, such as information technology and mission-specific and human capital support. The CFPB incurred $123.3 million in obligations, including $68.7 million in contract and support services, $48.4 million in salary and benefits, and $6.2 million in other expenses.

Implementation Activities

The Bureau's significant start-up expenditures in fiscal year 2011 include:

- $18.6 million to Treasury for various administrative support services, including information technology and human resource support, office space, and detailees;
- $6.7 million to Treasury's Office of the Comptroller of Currency for office space and support services for complaint processing;
- $6 million to Treasury's Bureau of the Public Debt for cross-servicing of various human resource and financial management services, such as core financial accounting, transaction processing and travel;
- $4.4 million to a contractor for human capital policies and assistance in developing salary and benefits packages consistent with statutory requirements;
- $4.3 million to an information technology contractor for project management support services; and
- $4.3 million to a contractor for the development of Consumer Response.

Members of the CFPB team.

Recruiting and Hiring

Over the past year, the CFPB has focused on recruiting and hiring the most highly qualified individuals. These efforts have focused on filling vacancies at its headquarters in Washington, D.C., and in its examiner workforce which is distributed across the country and organized by regions focused on satellite offices in Chicago, New York City, and San Francisco.

The $48.4 million that the CFPB spent on salary and benefits in fiscal year 2011 supported approximately 660 employees who were onboard by the end of September 2011. By the end of December 2011, the Bureau had 757 employees. In addition to competitive hires, these include approximately 230 highly qualified regulators, researchers, lawyers, and market practitioners who transferred from the consumer protection divisions of the prudential regulators and other agencies.

Figure 1: CFPB Positions Filled through December 31, 2011

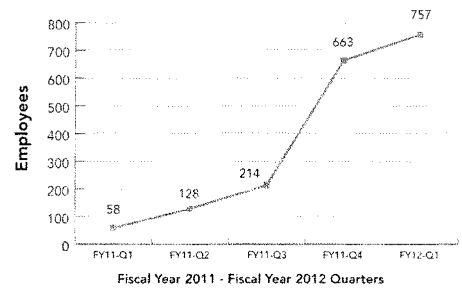


Figure 1 displays the quarterly growth of on-board positions filled for the CFPB through December 31, 2011

DIVERSITY[37]

Diversity has been a cornerstone of the Bureau's foundation, its programs, and its contracting since its establishment. In January 2012, the Bureau formally established an Office of Minority and Women Inclusion ("OMWI") to ensure that inclusion continues to inform its work. OMWI will focus on developing and refining standards for:

- equal employment opportunity, workforce diversity, and inclusion at all levels of the agency;
- increased participation of minority-owned and women-owned businesses in the CFPB's programs and contracts; and
- assessing the diversity policies and practices of companies that the CFPB supervises.

The CFPB has met with representatives from FIRREA agencies[38] and other stakeholders to assess how to structure and staff OMWI and to identify best practices for promoting hiring and contracting diversity.

[37] This section presents an overview of the Bureau's effort to promote diversity across its workforce and contractor support community. A more complete analysis will be presented in the Bureau's required annual Human Capital report, which will be published later in 2012.

In July 2011, the Bureau published a report on its goals for recruitment and retention, training and workforce development, and workforce flexibilities. That report is available on consumerfinance.gov.

[38] These agencies include OCC, OTS, FDIC, NCUA, the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the Federal Reserve. See 12 U.S.C. § 1833b and 15 U.S.C. § 78d.

DIVERSITY IN THE CFPB'S WORKFORCE

As of December 31, 2011, CFPB had 757 employees onboard, approximately half of the Bureau's anticipated staffing level. The CFPB's workforce is 47 percent women and 53 percent men. Over 30 percent of the CFPB workforce is comprised of minorities, including approximately 19 percent of the Bureau's employees who self-identified as African-American, 7 percent as Asian, and 5 percent as Hispanic.

Figure 2: Bureau-wide gender and minority statistics to FIRREA benchmarks by pay band

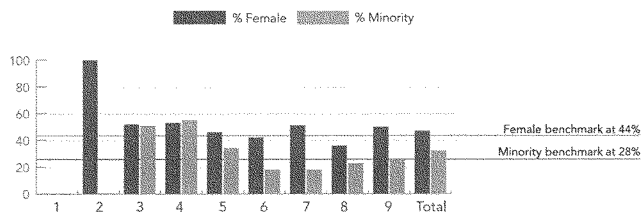


Figure 2 compares the CFPB's workforce to the FIRREA community with respect to diversity by gender, race, and national origin. Figure 2 shows that the CFPB has a relatively even distribution of women and minorities across pay bands. The CFPB workforce has more women in pay bands 3, 4, and 7 than FIRREA counterparts represented by the green line in Figure 2. Women also account for approximately 37 percent of pay bands 8 and 9, the pay bands that contain the CFPB's senior leadership positions. The Bureau's workforce has more minorities overall than the FIRREA agencies, and this is especially pronounced in pay bands 3, 4, and 5 as represented by the blue line in Figure 2.

The overall variation of salary compensation across pay bands within CFPB with respect to gender is 0.2 percent. Finally, the comparable gap between pay for minority and non-minority populations is 0.6 percent.

OMWI'S ROLE AT THE CFPB

Now that it has been established, OMWI will help all parts of the Bureau bring diverse perspectives to bear on its work and promote inclusive hiring and contracting practices.

Recruitment

As the CFPB continues to grow, OMWI will work with the federal OMWI community, local and national media, and other stakeholders to develop awareness of existing opportunities at the Bureau to promote the opportunities for women and minorities in its workforce and to diversify its applicant pool. In addition to promoting diverse applicant pools for immediate openings, OMWI will work with the Bureau's Human Capital office to develop long-term plans that focus on active participation at recruitment and outreach events for all levels of candidates. The aim is to continually support the capacity to attract diverse applicants for any job openings that may arise.

The CFPB is taking the following steps to create a pipeline of diverse candidates:

- targeted recruiting at colleges and graduate schools;
- creating an Employee Referral Program for hard-to-fill positions that that fosters contacts among underrepresented populations;
- forming strategic alliances and partnerships with organizations that serve underrepresented populations;
- developing a recruiting tool kit to provide each of CFPB's teams with tips for reaching diverse candidate pools;
- creating a recruitment website that reflects best practices for promoting diverse applicant pools; and
- utilizing social media and other technological tools to attract diverse talent.

Regulatory Oversight

Under the Dodd-Frank Act, OMWI must assess and monitor the diversity policies and practices of the companies that the CFPB supervises. OMWI will continue the Bureau's efforts to define procedures for conducting this oversight.

DIVERSIFYING PROCUREMENT PARTICIPANTS

The CFPB has also worked to promote diversity among the companies that compete to receive its contracts. The Bureau's Procurement office is currently measuring obligations for certain small business contracts awarded to minority-owned small disadvantaged businesses and women-owned small businesses against goals based on the percentage of total dollars spent or obligated on contract actions.[39] As shown in Figure 3, in fiscal year 2011, the CFPB exceeded an initial goal of awarding at least 5 percent of its contracting dollars to minority owned small disadvantaged businesses and women owned small businesses.[40] In fiscal year 2011, 21.82 percent of CFPB contract dollars went to small disadvantaged businesses. Of that amount, 76 percent or roughly $5.5 million was awarded to certified 8(a) firms. Additionally, 6.57 percent of contract dollars went to woman-owned small businesses.[41]

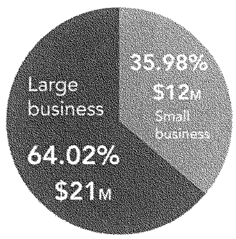
[39] Note that obligations are measured for contract awards valued above $3,000.

[40] The Bureau's goals for fiscal year 2011 were set by Treasury. Going forward, the CFPB's OMWI will help determine appropriate targets.

[41] Results from first quarter of fiscal year 2012 have not yet been validated.

FY11 Socioeconomic Obligations

FY11 Total Obligations



	Obligated dollars
Small disadvantaged business	$7.2M
Woman owned small business	$2.2M
Service disabled veteran owned small business	$1.3M
Other small business	$0.7M
HubZone small business	$0.6M

Going forward, the CFPB's Procurement office will work with OMWI to research and develop further strategies to increase the levels at which minority and women owned enterprises – both large and small – participate in the CFPB's contracting opportunities. OMWI will also develop procedures to promote opportunities for fair inclusion of women and minorities within the population of contractor staff and, as applicable, subcontractor staff in accordance with the Dodd-Frank Act.

Shopping Challenges

Promoting markets in which consumers can shop effectively for financial products and services is central to the CFPB's mission. When the costs, risks, and other key features of financial products are transparent, consumers may be able to compare products and choose the best one for them.

SCOPE

This report represents a set of preliminary observations about opportunities and challenges that consumers face when shopping for mortgages, credit cards, and student loans.

The Bureau aims to develop better data and evidence over time about consumers' shopping patterns and behaviors, and the ways that market structure and sales practices may shape these patterns.

This report focuses on consumers' ability to shop for loans based on price terms – for example, interest rates and fees – since that has been the focus of several of our most important projects in the last year. It also discusses consumers' ability to shop on monthly payment or total obligation.

Consumers may consider other factors, including product features, convenience, quality of service, and, in some cases, providers' financial stability. Future reports may consider those factors, as well as fair lending issues that may limit some consumers' ability to shop.

OVERVIEW

The U.S. consumer financial services market offers consumers a wide variety of credit, payments, and deposit products. Within any given product category, there are typically a wide array of features and terms, giving rise to a large number of potential combinations from which consumers can make a choice. In this kind of marketplace, shopping can help consumers find a product that meets their specific needs.

The market also contains a lot of information about certain elements of product prices. For example, those consumers who have Internet access – and it is important to bear in mind that many do not[42] – can readily use common websites to find certain rate information on mortgage loans or auto loans for borrowers with strong credit histories. Many consumers receive several credit card offers each month quoting them interest rates based on their credit histories.

[42] For example, Pew reports that 22 percent of adults and 58 percent of seniors do not have Internet access. Pew Internet & American Life Project, "Demographics of Internet Users" http://www.pewinternet.org/Trend-Data/Whos-Online.aspx

In this environment, consumers who want to shop on price still face many challenges:

Nonstandard information. The Truth in Lending Act standardized how rates are stated when consumers borrow money. Lenders must quote an annual percentage rate ("APR"). For many types of products, however, disclosures of fees are not standardized and information about fees is not readily available. For example, the presentation of fees for checking accounts and prepaid cards is not standardized and cannot be easily checked on websites or elsewhere.

Price can be complex. Consumer financial products can have such a wide variety of rates and fees that consumers have difficulty getting a clear sense of how much the product will cost. Determining which rates and fees will apply in certain circumstances often depends on a complicated set of legal rules about when different charges apply. In this context, disclosures mandated by government can simplify the price but only to a degree.

Price can depend on future behavior. The actual price to an individual consumer may depend on how the consumer ultimately uses a product, which can be difficult for the consumer to predict when they choose one offer over another. Consider the credit card, the most common consumer credit product. The actual cost of using a particular card depends on when consumers borrow, whether they make a purchase or take a cash advance, how much they borrow, and when and how much they pay back. Similarly, the actual cost of a checking account depends on the amount and timing of the consumer's deposits and withdrawals.

A consumer may have a hard time predicting these patterns, let alone determining how different patterns translate to different costs. Marketing materials may emphasize the cost for the consumer who uses the product in the most favorable way. Mandatory disclosures can help draw attention to a product's cost under less favorable circumstances. But, sometimes pricing is so complex that it cannot be reduced to an easy-to-understand disclosure, and that is when shopping may be most difficult.

Price can depend on credit quality. Risk-based pricing is the practice of charging higher prices for consumers whose credit history or lack of credit history indicates that these consumers are more likely to have trouble repaying the loan. For some credit products, risk-based pricing may make it possible for some lenders to expand access to credit and may make the allocation of credit more efficient. Risk-based pricing of credit products may make shopping harder, particularly for borrowers with weaker credit histories or borrowers who are uncertain about the strength of their credit history. For some credit products, risk-based pricing may make it possible for some lenders to expand access to credit and may make the allocation of credit more efficient.

Risk-based pricing can make it more difficult for consumers to obtain accurate price information when they are shopping. The lender does not determine the exact price it will charge a particular consumer until the lender has reviewed information about the borrower, known as underwriting the loan. The lowest-risk borrowers – assuming that they can correctly self-identify – may be able to rely on prices quoted in advertising, but higher-risk borrowers cannot assume that they will be able to obtain a loan at the advertised price. Such borrowers may not obtain an accurate price quote until after they have invested time and effort, and sometimes until after they have paid a fee to apply for a loan.

MORTGAGES

In 2010, approximately 7.8 million consumers took out a mortgage loan to purchase a house or refinance an existing loan.[43] Limited available evidence about consumers' shopping behavior suggests that consumers do not, or perhaps in some cases cannot, obtain information about mortgage products from more than a small number of lenders. Surveys conducted before the financial crisis suggest that roughly 20 to 30 percent of mortgage borrowers contacted only one lender, a similar fraction considered two lenders, and about half contacted three or more lenders.[44] Some studies estimate many consumers could see significant savings if they shopped more.[45] This evidence suggests that borrowers find the time and effort of additional shopping to be quite costly, underestimate the potential value from shopping, or both.

Several factors contribute to this phenomenon:

Timing. Consumers who are seeking a mortgage to purchase a home (as opposed to refinancing an existing mortgage) ordinarily face time pressure to complete the purchase. This pressure may lead consumers to shop less for a mortgage because they undervalue the benefits of comparison shopping and lack the time to do it.

Pricing complexity. Since the crisis in 2008, certain types of particularly complex mortgages have become much less common. Thus, on the whole, the array of available mortgage products has likely become simpler. Furthermore, although adjustable rate mortgages are still available, most consumers seem focused on fixed-rate, fixed-payment mortgage loans for a variety of reasons, including the low interest-rate environment. In 2010, these loans comprised over 90 percent of mortgage originations, or $1.4 trillion, compared to 52 percent and 55 percent respectively in 2005-2006.[46] If this reflects an increase in the number of borrowers that consider only fixed-rate, fixed-payment loans, then comparison shopping is likely easier for such consumers, all other things being equal.

But shopping even for relatively simple products – such as fixed-rate, fixed-payment mortgages – involves complex decisions. For example, these products often offer a trade-off between interest rates and discount points. Studies offer some evidence that many consumers struggle to understand this relationship.[47] Even for the consumer who understands discount points, comparing offers with different combinations of rate, points, and fees can be difficult.

Pricing variability and volatility. The interest rate on a mortgage, as on other credit products, will vary from consumer to consumer based upon the consumer's creditworthiness. In addition, mortgage rates can fluctuate daily based on secondary market supply and demand. Thus, a consumer can more effectively comparison shop if the consumer can efficiently obtain customized, firm rate quotes from more than one lender. However, obtaining firm rate quotes from more than one lender requires the consumer's time and effort to provide information to multiple lenders.

[43] Inside Mortgage Finance, "Mortgage Market Statistical Annual," 2010.

[44] Jinkook Lee and Jeanne M. Hogarth, "Consumer information search for home mortgages: who, what, how much, and what else?," Financial Services Review 9, 2000, 277–93; James M. Lacko and Janis K. Pappalardo, "The Effect of Mortgage Broker Compensation Disclosures on Consumers and Competition: A Controlled Experiment," Federal Trade Commission Bureau of Economics Staff Report, Feb. 2004 http://www.ftc.gov/be/workshops/mortgage/articles/lackopappalardo2004.pdf

[45] Susan E. Woodward and Robert E. Hall, "Diagnosing Consumer Confusion and Sub-Optimal Shopping Effort: Theory and Mortgage-Market Evidence," NBER Working Paper No. 16007, May 2010 http://www.nber.org/papers/w16007

[46] About 9 percent were adjustable-rate, fully-amortizing mortgages; interest-only loans were less than 1 percent. Inside Mortgage Finance, "Mortgage Market Statistical Annual," 2010.

[47] Susan E. Woodward, "A Study of Closing Costs for FHA Mortgages," May 2008, at 57-58 http://www.huduser.org/portal/publications/hsgfin/fha_closing_cost.html

James M. Lacko and Janis K. Pappalardo, "Improving Consumer Mortgage Disclosures An Empirical Assessment of Current and Prototype Disclosure Forms," Federal Trade Commission Bureau of Economics Staff Report, Jun. 2007, at 30 http://www.ftc.gov/os/2007/06/P025505MortgageDisclosureReport.pdf

Lacko and Pappalardo, 2004 at 50.

Moreover, even firm rate quotes are contingent on circumstances that may be difficult for the borrower to predict or control. If, for example, the appraised value of the home is lower than anticipated,[48] the lender usually reserves the right to charge a higher rate. Consumers have no ready way of anticipating how different lenders will respond to such a change in circumstances. In the case of a home purchase transaction, shopping after a change in circumstance may be impractical as the closing date will likely be near.

[48] Leonard Nakamura, "How Much is That Home Really Worth? Appraisal Bias and House-Price Uncertainty," Business Review, Q1 2010, 11-22 http://www.phil.frb.org/research-and-data/publications/business-review/2010/q1/brq110_home-worth-appraisal-bias.pdf

Third Parties. Consumers may seek to save time by turning to a mortgage broker to shop for the consumer or by using a third-party website. Mortgage brokers can offer a consumer loans from multiple lenders, potentially helping consumers to find a better deal than they would find on their own. Brokers also can offer the consumer advice and expertise. However, brokers generally do not have a legal obligation to represent the best interests of the consumer.[49] Third-party websites aggregate price quotes from multiple lenders and serve as an additional mortgage shopping channel, but the selection and placement of products within a site's list may be influenced by placement fees paid by the retail lender or mortgage broker.

[49] Until recently, a broker could present a consumer with a loan that provides the broker a higher commission but was not necessarily the best loan for the consumer. New rules adopted by the Federal Reserve Board prohibit a mortgage broker (or a loan officer) from steering a consumer to a loan that is not in the consumer's best interest to increase the broker's compensation. They also prohibit a mortgage broker (or a loan officer) from receiving compensation based on the terms or conditions of a loan. The Dodd-Frank Act included related provisions addressing mortgage originator compensation, and the Bureau will be issuing rules to implement these provisions.

Whether the consumer shops through a broker or a website, the consumer faces the challenges discussed above. For example, rates quoted by brokers or websites may not accurately reflect the actual rates and terms a consumer will receive after the lender has considered or underwritten their application.

Complexity of Disclosures. Mandatory federal disclosures are meant to make shopping easier. RESPA requires lenders to disclose detailed information on closing costs shortly after application. This disclosure is known as the Good Faith Estimate ("GFE"). TILA requires lenders to state different information regarding loan costs, including an APR that takes into account interest, points, and certain one-time fees to create a single rate. But the APR's usefulness for purposes of comparing prices across loans is limited for various reasons. For example, the APR includes only certain types of fees and excludes others. The interaction between the RESPA and TILA disclosures has long been recognized as inefficient and confusing for consumers and industry. There is also evidence that many consumers find it difficult to read, understand, and use the required disclosures.

As discussed more fully above in the "Know Before You Owe" section, the Bureau is overhauling these disclosures on the basis of extensive testing with consumers and will propose new disclosures for public comment in July.

CREDIT CARDS

The credit card is one of the most common consumer financial products in the U.S. As many as three-fourths of U.S. households have a credit card, and many have more than one.[50] Nearly 514 million credit cards were in circulation as of December 31, 2010.[51] Credit cards provide consumers with convenience, serving as a substitute for cash and checks and providing ready access to credit.[52]

In 2010, consumers opened 39.0 million new bank credit card accounts and 34.3 million retail accounts, a significant proportion of which were retail credit cards.[53] It is unclear the extent to which consumers shop before applying for a new credit card. In January 2011, the CFPB commissioned a survey among consumers who currently hold a bank credit card. In that survey, 13 percent reported that they had applied for a bank credit card in the preceding twelve months, and of those, 30 percent reported that they had compared several different cards. However, because the number of respondents who had applied for a credit card was small, information about the shopping behavior in this survey must be used with caution.

Consumers who desire to shop for a credit card face several challenges.

Pricing Complexity. Credit card terms can be complex and hard to follow, making the total cost of using the card difficult to understand or predict and comparison with other cards even more challenging. Different transactions – such as cash advances, balance transfers, and purchases – may be subject to different APRs. And while APRs are communicated in percentages, various fees may be communicated in dollar terms, percentage terms, or a mix of dollar and percentage terms.

Consumers also face complex trade-offs. For example, promotional periods differ in length and cover different types of transactions. Consumers may seek to weigh the benefit of a longer or shorter introductory period against the benefit of a higher or lower "go to" APR. Additionally, some credit cards come with an annual fee. Consumers may seek to weigh a card with a fee and a lower APR against a card without a fee and higher APR. Some cards have rewards programs. Products with rewards may have different APRs or fees than products without rewards.

To make these various tradeoffs accurately, consumers must predict their propensity to carry a balance from month to month, foresee their spending and payment patterns, evaluate their rewards redemption preferences, and anticipate their need and appetite for cash advances. With so many moving parts, consumers may struggle to make value-maximizing decisions.

Information limitations. The introductory and "go to" APR on a credit card generally depend on the consumer's riskiness as assessed by the issuer based on pricing methods that are not public. This can make it more difficult for consumers to compare prices across products or to evaluate the competitiveness of a particular offer. Most issuers' websites, for example, display APRs in broad ranges (e.g., from 12.99 percent to 20.99 percent) based on credit quality segments. Thus, a consumer is left to guess what the ultimate price might be. Further, consumers who apply for credit cards are generally assigned a higher APR than the rate offered to customers identified by the issuer. While this does imply a potential penalty for consumers who shop actively, it may reflect genuinely higher risk profiles of consumers who actively seek credit.

[50] Brian Bucks, Arthur Kennickell, Traci Mach, and Kevin Moore, "Changes in U.S. Family Finances from 2004 to 2007: Evidence from the Survey of Consumer Finances", Feb. 2009, at A46 http://federalreserve.gov/econresdata/scf/files/2007_scf09.pdf

[51] The Nilson Report, Issue 965, Feb. 2011, at 8. This report refers to bankcards associated with the major payment networks (Visa, MC, Amex, and Discover).

[52] Thomas A. Durkin, "Credit Cards: Use and Consumer Attitudes, 1970 – 2000," Federal Reserve Bulletin, Sep. 2000, at 624 - http://www.federalreserve.gov/pubs/bulletin/2000/0900lead.pdf

[53] Experian-Oliver Wyman Market Intelligence Report: Bank Card Report, Q3 2011; Experian-Oliver Wyman Market Intelligence Report: Retail Report, Q3 2011.

Mail offers provide many consumers a steady flow of information about rates available to those consumers from the large, national card issuers. In the first three quarters of 2011, 60 percent of households received credit card mail solicitations,[54] and the average solicited household received five solicitations per month. Seventy-six percent of those solicitations contained a "pre-screened" price offer, that is, a specific price based on the fact that the consumer satisfied certain credit criteria specified by the card issuer.[55] Under the Fair Credit Reporting Act, these offers must be "firm offers," which means that if the consumer returns the application the consumer will receive the offered price unless the consumer no longer meets credit criteria established by the issuer at the time of the solicitation. Thus, consumers who are "in the market" for a new credit card and who receive and retain multiple pre-screened offers from different issuers can compare those offers. But many households – 40 percent in the first three quarters of 2011 – do not receive mail solicitations. Moreover, mail solicitations are dominated by the large national issuers whereas consumers may wish to shop more broadly.

[54] Synovate Mail Monitor, "Direct Mail Landscape," Q1-Q3 2011. Synovate maintains a consumer panel and obtains from these panelists on a monthly basis all credit card solicitations received during the month.

[55] *ibid.*

Consumers are also solicited in person at bank branches and retail points of sale or by phone. In those settings, the consumer may be less likely to see or understand key price terms or to have compared different offerings before submitting an application.

Third Parties. Instead of visiting multiple issuers' websites or branches, consumers sometimes use an "aggregator" (i.e., a third-party website that contains information on multiple products from multiple issuers). Third-party sites may narrow a consumer's search by providing a list of products that meet certain consumer-defined parameters, such as low-interest, cash rewards, travel rewards, etc. But the selection and placement of products within that list may be influenced by placement fees paid by card issuers. Additionally, third-party sites quote the same ranges of rates the consumer would find on the issuers' websites, not a specific rate.

Disclosure limitations. For consumers who have received and are evaluating mail solicitations, certain key terms will be disclosed in a standardized format. However, not all of the material terms are necessarily disclosed in solicitations. For example, credit lines vary across credit cards and these are not disclosed until after the consumer has applied for and obtained the card. Similarly, many of the key elements of rewards products are not disclosed until the consumer has obtained the card.

As discussed above in the "Know Before You Owe" section, the CFPB has developed a draft prototype of a simplified credit card agreement that spells out the terms for the consumer and provides the appropriate legal protections to the issuer.

STUDENT LOANS

Student loans are a significant portion of household debt, second only to mortgages. Total outstanding student loan debt is estimated at $865 billion.[56] And over the past decade, total student loan borrowing has increased 57 percent per full-time enrolled student.[57] A likely factor in the increase is the rising cost of tuition and fees at colleges and universities.[58]

[56] Quarterly Report on Household Debt and Credit, Federal Reserve Bank of New York http://www.newyorkfed.org/research/national_economy/householdcredit/DistrictReport_Q32011.pdf

[57] College Board, "Trends in Student Aid," 2011.

[58] Tuition and fees at public colleges have increased by an average of 5.6 percent per year above the rate of general inflation. College Board, "Trends in College Costs," 2011, at Figure 4.

Students who need help in paying for post-secondary education can fund their educations with a mix of loans, grants, and tax benefits. Loans, however, make up 47 percent of the money students receive.[59] Of loans outstanding in 2011, approximately 90 percent are federally-supplied and 10 percent are from private sector lenders.[60] Originations of private student loans have been declining, from a ten-year high of $22 billion in 2007 to $6 billion in 2010.[61]

For many students, before shopping for loans they first must choose between two or more schools, each with different costs and financial aid packages. Students may seek to compare the cost of different schools in terms of the total debt the student will have upon graduating or the total monthly debt burden the student will have. These figures depend, in substantial part, on tuition, room, and board, which can vary. For a given cost, the debt burden from a particular financial aid package depends on a number of factors, including most importantly the amount of any institutional grants available to the student (e.g., scholarships) and, potentially, the availability of any school-subsidized sources of borrowing.

Prospective students and their families may have difficulties comparing their financing options across different educational institutions. After application and acceptance to a particular institution, potential students typically receive financial aid award letters. Financial aid letters detail the cost of attendance and aid packages. But these award letters typically do not clearly distinguish between gift aid and loan aid, do not fully inform students of their projected debt burden to complete several years of education, and typically do not estimate the future monthly payments to retire such debt. Additionally, the format and language of financial aid award letters are not standard across institutions.

Students who have selected a school and who need to borrow to finance the cost face an initial decision of whether to utilize federal loans or private loans. Students who use only federal loans do not need to worry about shopping for the best rate because federal law sets the rates. Rates and other terms may vary, however, between different types of federal loan programs. And, for students who need to (or elect to) resort to private loans, the terms and conditions of private student loans vary considerably across providers, so shopping could pay high returns. But comparing quotes from private lenders is challenging for several reasons:

Pricing variability. Students generally do not have significant credit histories and thus it is difficult to assess the creditworthiness of a student borrower. However, most private loans require a co-signer – typically the student's parents or other close relatives – and the rate the consumer will pay will depend upon the creditworthiness of the co-signers. The lender will typically not commit to a specific rate until after underwriting and approving the loan, which requires an investment of time and effort by the applicant and the loan co-signer. Obtaining a rate quote may also entail some delay, because federal Truth in Lending rules require that once a lender has approved an education borrower and quoted a rate, that quote must be binding on the lender for 30 days.[62] Lenders are therefore reluctant to communicate an approved rate until all conditions of loan approval have been fully satisfied.

[59] College Board, "Trends in Student Aid," 2011.

[60] Based on reported volumes under servicing from Student Loan Servicer's Alliance, plus publicly reported portfolios of private loans held by large financial institutions not part of SLSA. These reported volumes are approximately equal to, but cannot be directly attributed to, Department of Education public reports on federal loan volumes. Outstanding federal loans cannot be publicly verified, in part because not all large servicers of federal direct loans report their volumes publicly

[61] College Board, "Trends in Student Aid," 2011, at 10.

[62] 12 CFR § 226.48(c).

Information availability. Most students who obtain private loans appear to learn about them from the colleges and universities they are considering. Some schools provide students a list of "preferred lenders." To prevent schools from improperly steering students to particular lenders, a lender may not make payments to a school in connection with private education loans. In addition, under Department of Education rules, a school that recommends a lender must maintain a "preferred lender list" with at least two unaffiliated lender options and must provide students with an explanation of the competitive methodology by which the list was compiled.

Students can also find private lenders through other sources such as the Internet. As with other credit products, there are third-party websites which aggregate information from different lenders. However, the information these sites display may be influenced by placement fees paid by the various lenders.

Regardless of whether the student identifies the lender through the college, by doing an Internet search, by using a third-party website, or through other means, the student will still find it difficult to obtain reliable information as to the interest rate available to the student until the student has completed the application process.

As discussed more fully above in the "Know Before You Owe" section, the CFPB is working with the Department of Education to improve students' ability to compare financial aid packages based on factors such as total debt burden and monthly debt payment. As discussed more fully above, the agencies have published a prototype shopping sheet and are gathering comments from the public.

APPENDIX A

Statutory Reporting Requirements

This appendix provides a guide to the Bureau's response to the reporting requirements of Section 1016(c) of the Dodd-Frank Act.

Section 1016(c)(3) requires "a list of significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders or other initiatives to be undertaken during the upcoming period."

In 2011, the Bureau adopted the following significant rules and orders and conducted the following significant initiatives:

1. AMTPA interim final rule;

2. TILA-RESPA mortgage disclosure integration project;

3. restatement of inherited regulations via interim final rules;

4. interim final rules defining procedures for investigations, rules of practice for adjudication proceedings, and procedures for disclosure of records and information;

5. Notice and Request for Comment regarding defining "larger participants" in certain markets;

6. studies on remittances and credit scores;

7. targeted review of inherited regulations;

8. issued the Bureau's Supervision and Examination Manual; and

9. Notice and Opportunity to Respond and Advise ("NORA") policy.

In January 2012, the Bureau published regulations concerning remittance transfers. In the next six months, the Bureau plans the following rules, orders, and other initiatives:

1. final rules defining lenders' obligations to asses borrowers' ability to repay mortgage loans, including certain protections from liability for "qualified mortgages;"

2. proposed integrated disclosures and accompanying rules for mortgage loans that satisfy the requirements of both TILA and RESPA;

3. proposed rules to implement provisions of the Dodd-Frank Act regarding the mortgage market, including origination and servicing practices, including loan originator compensation rules, data reporting requirements, restrictions on high-cost loans, maintenance of escrow accounts, and other servicing practices;

4. convening of panels to consult with small regulated entities prior to proposing certain rules as required under the Small Business Regulatory Enforcement Fairness Act of 1996;

5. participation in interagency processes to consider mortgage servicing standards and to propose various regulations concerning appraisals;

6. propose initial rules to define the scope of the Bureau's nonbank supervision program;

7. final regulations based on certain interim final rules issued since July 21st, including those that establish procedures for investigations and rules of practice for adjudication proceedings among others;

8. supplemental ethics regulations for the CFPB's employees;

9. required studies on private student loans and, reverse mortgages and provide recommendations on best practices concerning financial advisors who work with older Americans;

10. continued expansion of the Bureau's capacity to handle consumer complaints with respect to all products and services within its authority by the end of 2012;

11. a pilot program to evaluate certain financial education programs in the field; and

12. required reports on various aspects of the Bureau's work and operations, including reports on Consumer Response, Financial Education, Fair Lending, and Human Capital among others.

Section 1016(c)(5) requires "a list, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year." The Bureau has been a party to no such actions during the preceding year.

Section 1016(c)(6) requires a report on "the actions taken regarding rules, orders and supervisory actions with respect to covered persons which are not credit unions or depository institutions." In 2011, the Bureau has taken the following actions with respect to such companies:

1. AMTPA interim final rule

2. Restatement of inherited regulations via interim final rules

3. Notice and Request for Comment regarding defining "larger participants" in certain markets

Section 1016(c)(7) requires that the CFPB assess "significant actions" by state attorneys general or state regulators relating to consumer protection laws in the Bureau's jurisdiction. To date, the Bureau is not aware of any action brought by a state attorney general or state regulator since July 21, 2011 that relates significantly to such law.

In addition, the sections of this report identified below respond to further requirements of Section 1016(c):

Statutory Subsection	Reporting Requirement	Section	Page	Dodd-Frank Requirements For Additional Reporting
1	a discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services	Shopping Challenges	40-47	–
2	a justification of the Bureau's budget request for the previous year	Building a Great Institution – Budge	34-36	1017
4	an analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year	Delivering for American Consumers – Responding to Consumers	16-20	1013(b)(3)(C)
8	an analysis of the Bureau's efforts of to fulfill its fair lending mission	Delivering for American Consumers – Fair Lending	25	1013(c)(2)(d), 1085(1), 1094
9	an analysis of the Bureau's efforts to increase workforce and contracting diversity consistent with the procedures established by OMWI	Building a Great Institution – Diversity	36-39	1067(b)

APPENDIX B

Congressional Testimony

In 2011, senior CFPB staff testified before Congress on the following occasions:

- **March 16, 2011**: Elizabeth Warren before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit
- **April 12, 2011**: Holly Petraeus before the Senate Homeland Security & Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia
- **May 24, 2011**: Elizabeth Warren before the House Oversight and Government Reform Subcommittee on TARP, Financial Services and Bailouts of Public and Private Programs
- **July 7, 2011**: Raj Date before the House Financial Services Subcommittees on Financial Institutions and Consumer Credit and Oversight and Investigations
- **July 13, 2011**: Kelly Cochran before the House Financial Services Subcommittee on Insurance, Housing and Community Opportunity
- **July 14, 2011**: Elizabeth Warren before the House Oversight and Government Reform Committee
- **July 28, 2011**: Dan Sokolov before the House Small Business Subcommittee on Investigations, Oversight and Regulations
- **September 6, 2011**: Richard Cordray Nomination Hearing before the Senate Banking Committee
- **November 2, 2011**: Raj Date before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit
- **November 3, 2011**: Holly Petraeus before the Senate Banking Committee
- **November 15, 2011**: Skip Humphrey before the Senate Banking Subcommittee on Financial Institutions and Consumer Protection

Written testimony submitted in connection with these appearances can be found on consumerfinance.gov.

APPENDIX C

Fiscal Year 2011 Financial Report

As required by the Dodd-Frank Act, the CFPB prepared financial statements for fiscal year 2011. The Government Accountability Office (GAO) rendered an unqualified — or "clean" — audit opinion on the CFPB's financial statements. GAO noted no material weaknesses or significant deficiencies in CFPB's internal controls and cited no instances of noncompliance with laws and regulations. Further, the report describes the fiscal year 2011 efforts to establish the CFPB, and the results we have achieved to date.

View the full report at http://www.consumerfinance.gov/report/financial-report-fy2011/

APPENDIX D

Defined Terms

Defined Terms	
AMTPA	The Alternative Mortgage Transaction Parity Act
APR	Annual percentage rate
Bureau	The Consumer Financial Protection Bureau
CFPB	The Consumer Financial Protection Bureau
Dodd-Frank Act	The Dodd-Frank Wall Street Reform and Consumer Protection Act
ECOA	The Equal Credit Opportunity Act
Federal Reserve	The Board of Governors of the Federal Reserve System
FDIC	The Federal Deposit Insurance Corporation
FIRREA	The Financial Institutions Reform, Recovery, and Enforcement Act
FLEC	Financial Literacy and Education Commission
FTC	The Federal Trade Commission
FY	Fiscal year
GAO	Government Accountability Office
GFE	Good faith estimate
HAMP	Home Affordable Modification Program
HMDA	The Home Mortgage Disclosure Act
HUD	The Department of Housing and Urban Development
MOU	Memorandum of understanding
NCUA	The National Credit Union Administration
NORA	Notice and opportunity to respond
OCC	The Office of Comptroller of the Currency
OMWI	Office of Minority and Women Inclusion
OTS	The Office of Thrift Supervision
PCS	Permanent change of station
RESPA	The Real Estate Settlement Procedures Act
ROAM	The Repeat Offenders Against Military Database
SIGTARP	Special Inspector General for the Troubled Asset Relief Program
T&I	Technology and Innovation
TILA	The Truth in Lending Act
Treasury	The Department of the Treasury