

**THE CONSUMER FINANCIAL PROTECTION
BUREAU: THE FIRST 100 DAYS**

HEARING
BEFORE THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT
OF THE
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U.S. HOUSE OF REPRESENTATIVES
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CONTENTS

	Page
Hearing held on:	
November 2, 2011	1
Appendix:	
November 2, 2011	53

WITNESSES

WEDNESDAY, NOVEMBER 2, 2011

Date, Raj, Special Advisor to the Secretary of the Treasury, Consumer Financial Protection Bureau (CFPB)	9
--	---

APPENDIX

Prepared statements:	
Date, Raj	54

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Maloney, Hon. Carolyn:	
Assorted newspaper articles	61
Letter from the National Association of Attorneys General	74
Westmoreland, Hon. Lynn:	
Compliance documents	78
Date, Raj:	
Written responses to questions submitted by Representatives Fincher and Manzullo	88

THE CONSUMER FINANCIAL PROTECTION BUREAU: THE FIRST 100 DAYS

Wednesday, November 2, 2011

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:01 a.m., in room 2128, Rayburn House Office Building, Hon. Shelley Moore Capito [chairwoman of the subcommittee] presiding.

Members present: Representatives Capito, Renacci, Royce, Manzullo, McCotter, Pearce, Westmoreland, Luetkemeyer, Huizenga, Duffy, Canseco, Grimm, Fincher; Maloney, Gutierrez, Watt, McCarthy of New York, Baca, Miller of North Carolina, Scott, Meeks, and Carney.

Ex officio present: Representatives Bachus and Frank.

Also present: Representatives Posey and Green.

Chairwoman CAPITO. This hearing will come to order.

This morning's hearing marks the second oversight hearing this subcommittee has conducted regarding the newly created Consumer Financial Protection Bureau, the CFPB.

Today, we are joined Mr. Raj Date, Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau.

I would like to welcome Mr. Date to his first hearing before this committee in his capacity. And I also would like to thank him for his willingness to participate.

Thank you.

Created by the Dodd-Frank Act, the CFPB has officially been operational for a little over 100 days. However, absent Senate confirmation of the Director, the CFPB does not have its full powers.

The focus of this morning's hearing will give members of the subcommittee the opportunity to learn more about the operations of the Bureau since the designated transfer date. These types of hearings are critical as the drafters of Dodd-Frank allowed for little oversight of the CFPB.

As my colleagues know, the CFPB is funded through a unique mechanism that allows them to draw a percentage of the Federal Reserve's operating expenses each year. They do have the ability to draw on \$200 million in additional Federal appropriations if they exhaust the Federal Reserve funds, which they have not done, as we speak.

However, they have not drawn on these funds so it is very difficult for the U.S. Congress to have oversight about how they are spending taxpayers' dollars.

Bringing the CFPB into the annual appropriations process is just one of the several reforms that Republicans have offered to improve the structure of the CFPB and make it more accountable and a more transparent agency.

Earlier this year, the House passed commonsense reforms to convert the leadership structure of the CFPB to a five-person committee, which is reflective in several other committees and throughout the government, and allow for greater balance between consumer protection and the safe and sound operation of United States financial institutions.

The U.S. Senate should adopt these reforms so that we can move forward with ensuring that American consumers are protected by a balanced and transparent agency.

I look forward to hearing from Mr. Date about the operations of the CFPB. And I thank him also for his visit to my office since the designated transfer date.

I know Members will have many questions for him, so I will save my time for further questions and statements.

In case the Members do not have sufficient time for their questions, I would encourage them to submit their questions in writing. There are many important issues to discuss and we may not have enough time to cover them all today.

I would like to say that on the issue of consumer protection, Republicans and Democrats agree that consumer protection is an extremely important aspect as we make sure that our fellow Americans have access to credit, have fair and transparent disclosures when signing agreements in securing credit, and that oversight of consumer products is an extremely important aspect.

Again, I would like to thank Mr. Date for appearing before the subcommittee.

And I will now yield to the ranking member of the subcommittee, the gentlelady from New York, Mrs. Maloney, for the purpose of making an opening statement.

Mrs. MALONEY. Thank you so much.

Today, I applaud the CFPB for a remarkable string of achievements in its first 100 days of existence. It has already formed two special offices to help advise and educate segments of the market that have been especially vulnerable to predatory practices.

The Bureau is already helping seniors through the Office of Older Americans headed by Skip Humphrey, a former Minnesota State AG and State chair of the AARP.

The Bureau is already looking out for members of our military services through the Office of Servicemember Affairs headed by Holly Petraeus, whom we are honored to have with us today.

Thank you, Holly, for working and responding so swiftly to complaints that mortgage servicers were illegally foreclosing on the homes of servicemembers while they were deployed. She reached out to the CEOs of 25 companies and got them to stop these abusive practices.

The Bureau is already working to help students. It drafted a new financial aid form last week that breaks down the real cost of stu-

dent loans into an easy-to-understand sheet. It features a total tuition cost, projected monthly payments, and the loan default rate from each university.

Yesterday, the Financial Services Roundtable issued a statement strongly supporting the “Know Before You Owe” student initiative saying, “It will help strengthen students’ knowledge about student loans.”

And I request unanimous consent to place their letter in the record.

Chairwoman CAPITO. Without objection, it is so ordered.

Mrs. MALONEY. The Bureau is already making some regulations simpler. It will also begin a targeted review of regulations it inherited from seven different agencies to eliminate unnecessary rules.

It has proposed two versions of a new simplified mortgage disclosure form as part of their “Know Before You Owe” program, and posted them on a crowdsourcing site for comments.

And the Bureau combined two federally acquired mortgage disclosure forms, TILA and RESPA, and made it simpler. And these are the forms that you can literally go on the Internet and vote for the one you think would work the best for you.

The Bureau and its nominee have strong support from the attorneys general around the country. Thirty-seven AGs recently urged the Senate to approve Richard Cordray as the Bureau’s first Director. They described him as a brilliant, well-qualified leader, who has defended consumers while also working to find fair and reasonable solutions for the financial industry.

And I ask unanimous consent to place in the record the statement by 37 different attorneys general.

Chairwoman CAPITO. Without objection, it is so ordered.

Mrs. MALONEY. And also the statement from Treasury Secretary Geithner that talks about all the areas that will be unregulated, that caused the financial crisis, if the CFPB is not up and running.

They have been with us for only 100 days and look at the difference they have made in the lives of so many Americans. I wish it had been 100 years.

My time has expired.

Thank you for what you have achieved under remarkably difficult circumstances. Many seniors, members of the military, and students are better served, and mortgages are simpler.

Thank you for your efforts.

Chairwoman CAPITO. Thank you.

I would like to recognize the chairman of the full Financial Services Committee, Chairman Bachus, for 2 minutes for an opening statement.

Chairman BACHUS. Thank you, Chairwoman Capito.

All of us, Republicans and Democrats, support strong consumer protection. After all, we are all consumers. Our family members are all consumers. Our constituents are all consumers. And they all deserve consumer protection.

In fact, I proposed a subprime lending bill back in 2005, and credit card reform in 2007, and I sponsored the FACT Act.

Then-Ranking Member Frank and I, I think agreed on many things. But one thing that we disagree on, I think, across the aisle

is the structure of the CFPB. My fear is that there are simply no checks and balances. It could easily become a loose cannon.

Now, that would be the worst-case scenario and it may not happen. But the CFPB is headed by a single Director who answers to no one. The Director exercises sole authority over the agency and its staff, a staff that according to the President's budget will be comprised of over 1,200 individuals.

The Director has unprecedented power to ban financial products and services based on whether or not he deems them unfair, deceptive, or abusive under a highly subjective standard that has no legally defined content.

I looked at the 800-page document that was recently released and there are still a lot of loose ends. The Director has singular authority to spend hundreds of millions of dollars with no congressional oversight.

For all these reasons, and the fact that it actually was originally designed by Elizabeth Warren, who first proposed it, as a commission, Republicans have supported a commission and will continue to do so, and urge the Senate to take it up and have a commission.

Thank you, Madam Chairwoman.

Chairwoman CAPITO. Thank you.

I would like to recognize the ranking member of the full Financial Services Committee, Mr. Frank, for 3 minutes for an opening statement.

Mr. FRANK. First, I want to comment on the incongruity of people at an oversight hearing lamenting the lack of oversight. This is an oversight hearing.

Apparently, it is a figment of some people's imagination, because they tell us there was no oversight. So I guess I am wasting the morning.

We are also told that it is unprecedented.

That comes from people who have been on this committee for many years and apparently never heard of the Comptroller of the Currency, because it is structured very much like the Comptroller of the Currency, who was formerly independent of anybody.

This is the same individual with, frankly, greater powers over the bank system of America than this agency has.

We are also then told, there is no oversight here because it gets its money from the Federal Reserve.

If that is the case, if there is no oversight here because it gets its money from the Federal Reserve, then there must not be any oversight of the Federal Reserve, because the Federal Reserve is not subject to appropriation.

The Federal Deposit Insurance Corporation is not subject to appropriation. The Office of the Comptroller of the Currency is not subject to appropriation.

In other words, my Republican colleagues did not object to financial institution regulators being exempt from the appropriations process until the Consumer Bureau came up.

It was okay for the Comptroller of the Currency, a single individual; okay for the Federal Reserve—I have never heard that we didn't have any oversight over the FDIC or over the Comptroller of the Currency.

And I think that gets to the point where my colleagues, two of them have said that Republicans are all for consumer protection. If the consumers could be protected by that kind of rhetoric, I guess they would be in great shape, but they can't be.

And what we should be very clear about is that among the major changes that the Republicans were insisting on before they will confirm people, is a total wrenching out of shape of the Constitution.

The Constitution sets forward ways to legislate and then it has a confirmation power. And because the Republicans don't have the power to get their legislation through, they are using the confirmation power inappropriately to try and coerce us into adopting legislation.

And the commission is a small part of it. The big thing they want to do is this: They want to put the bank regulators back in charge of consumer protection.

Now, my colleagues have said they are for consumer protection, but they seem to have forgotten how to do that when they were in power. I don't remember a single effort to do anything about strengthening consumer protection in general when they were in power.

Yes, the gentleman from Alabama did propose a subprime bill, and we tried to work with him. But the then-Majority Leader, Mr. DeLay, sent word to this committee that it should not be taken up.

And it wasn't until we took the Majority that we were able to get legislation on subprime, first in this committee, although the Wall Street Journal denounced our bill as a Sarbanes-Oxley, which to them is a swear word. For the Wall Street Journal, Sarbanes-Oxley is even worse than hacking people's telephones.

But what we have is a failure to do anything when they were in power.

The argument is that we need better balance. I have to say my colleagues in this committee may be the only people in America who think that the danger is that we will over-protect consumers.

The history of the relationship of consumers to financial institutions, and the role of the regulators, hardly supports the argument that there is a danger that the consumers will be overprotected.

This is the one chance we have to give them the kind of protecting they ought to have.

Chairwoman CAPITO. Thank you.

I would like to recognize Mr. Royce for 1½ minutes for the purpose of making an opening statement.

Mr. ROYCE. Thank you. Thank you, Madam Chairwoman.

The distinction is that our concern is that the danger in this process is that we will not protect in terms of safety and soundness.

Our distinction, our concern, is that the prudential regulator doesn't have the seat at that table that the prudential regulator needs in order to offer the advice on safety and soundness.

And the reason we are concerned about this is because we have gone down this road before. The reason we are concerned about this is because this committee has heard time after time after time from Fannie Mae and Freddie Mac's regulators, both past and current, on this subject.

They have said that the bifurcated regulation contributed to the failure of Fannie and Freddie.

And the CFPB, frankly, expands this problem throughout the financial system. So what we have suggested, which doesn't sound radical to me, is that we go back to the original House legislation introduced by Mr. Frank that had a commission, and allow for the input of the prudential regulator.

That is the ground we are fighting on right now. We are trying to make certain that at least in the process, we don't go down the road again that we faced with respect to the GSE regulation.

And I think that the notion that an independent regulator with no oversight or opportunity for dissent is good for consumers is simply flawed. At the end of the day, the likely result will be higher cost and less access to credit in a market for consumers, and the way this is structured, less input from the prudential regulator.

Chairwoman CAPITO. Thank you.

I would like to recognize Mr. Gutierrez for 2 minutes.

Mr. FRANK. Will the gentleman yield for 10 seconds first?

Mr. GUTIERREZ. I would be happy to yield.

Mr. FRANK. I thank him.

I would say this, the gentleman talked about my objection to my original bill. Yes, there was a commission, although I preferred it individually.

But the biggest difference is not the commission. It is the Republican bill, to put the bank regulators back in charge by abetting them under more easily achieved basis overrule the Bureau.

That was never in my bill. This power of the bank regulators by majority rule, to overrule the Bureau in any particular case, that is the heart of my objection to their approach.

Mr. ROYCE. Will the gentleman yield?

Chairwoman CAPITO. It is time for the gentleman from Illinois to make his opening statement.

Mr. GUTIERREZ. Thank you very much.

Mr. Date, it is wonderful to have you here. I hope they receive you warmly over in the Senate for your confirmation hearing. I know that at least on this side, we are receiving you warmly.

It astonishes me what can happen a year later, after we passed the bill. I don't remember a single one of my colleagues on the other side of the aisle voting for the bill that created the consumer protection.

I remember being there working day in and day out. And I don't remember anybody saying, "We are for the consumer."

As a matter of fact, I really like my colleague from California, Mr. Royce, because the American public just heard the Republican response—the prudential regulator. We are concerned about the prudential regulator making sure.

I am sure that makes everybody in America feel so warm and fuzzy about the Congress of the United States and what we are doing, because the prudential regulator is being defended here in this fine committee hearing.

Let me tell you why I think this is a great hearing to have.

I don't know about the prudential regulator, because Bank of America had to cancel the \$5 fee, and that is saving the American people—it will save the American people millions of dollars.

Safety and soundness, yes, the safety and soundness of your debit card and your debit card and your account each and every month so that you have extra dollars in your account in order to access your money.

Why? Because we passed this legislation that said, guess what? You have to tell everybody because you know what? It is dangerous at banks and it is dangerous out there when people take a gun and stick somebody up. That is true.

But you know what you are doing? You are making sure that the electronic stick-up of the banks on American consumers is stopped in America.

How do you do that? By telling people about what these mysterious fees are.

And everybody in America may not know what the prudential regulator is, but let me tell you what they do know. They know about the mysterious fees that show up on their checking and banking accounts.

Mr. Date, I am excited that you are finally going to have an opportunity, hopefully, to get confirmed by the Senate.

Chairwoman CAPITO. Thank you.

The gentleman from Georgia, Mr. Westmoreland, for 1½ minutes for an opening statement?

Mr. WESTMORELAND. Thank you, Madam Chairwoman.

Mr. Date is, hopefully—did you know that Georgia banks have been hit very hard for failures? Most of these banks would not be directly supervised by the CFPB, but would still have to comply with CFPB rules and regulations.

Recently, a banker gave me this 10-page document of forms that had to be filled out if somebody was trying to purchase a home.

And, Madam Chairwoman, I would like to ask unanimous consent that these documents be submitted for the record.

Chairwoman CAPITO. Without objection, it is so ordered.

Mr. WESTMORELAND. And they must be selling houses to first-graders with all the different things that have to be given to the purchaser.

I know that CFPB is committed to reducing paperwork for borrowers. However in its zeal to reduce paperwork, the CFPB must be mindful not to increase regulatory burdens on community banks and credit unions.

The CFPB must make sure that both consumers and businesses get the benefits of streamlined disclosures.

Finally, I have serious concerns that the CFPB will use its unchecked authority to create a backdoor, plain vanilla product.

CFPB must not steer borrowers to certain approved products. If a person is responsible enough to buy a house, they must be responsible enough to decide what mortgage product works best for them, not the one that the government tells them is best for them.

And with that Madam Chairwoman, I yield back.

Chairwoman CAPITO. Thank you.

I would like to recognize Mr. Scott for 2 minutes for the purpose of making an opening statement.

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

Let me just say how important this hearing is because of the timeliness of it. I was one of the co-sponsors who created the CFPB through the Dodd-Frank bill and was very proud to do so.

I think what we have to ask ourselves at this time is what is in the best interest of two things: the consumer; and our financial institutions.

And the CFPB is designed at this time to do both. But most importantly right now, I think we have to look at the plight that the consumer is in.

We started this about 2 years ago. And the plight of the consumer is in a worse situation today than even then.

We have staggering unemployment and joblessness. In my State of Georgia, it is 10.2 percent. In many parts of my district, it is 15 percent to 16 percent.

And when you combine that with the loss of mortgages, never has there been a more significant time to offer the consumer what the CFPB has to offer. To give them the education that is needed. To give them the protective armor that they need as they go and they battle these two twin hurricanes that are hitting them simultaneously: joblessness; and loss of their homes.

In the midst of this, you still have predators out there, predators who are willing to take advantage of this double whammy that the consumer is in.

Now, we are arguing here. But as the old saying goes, "While we are arguing, Rome is burning."

Consumers often look at us up here, trading back and forth, back and forth in here.

We have the CFPB. It is in place. It is an excellent foundation. Is it perfect? What is perfect?

But it is certainly the best vehicle to go about what we need to do at this time, to do the essential good of providing our consumers with the information and the protections that they need to be able to deal in this whirlwind of economic downturn that they find themselves in.

Thank you, Madam Chairwoman.

Chairwoman CAPITO. Thank you.

I would like to recognize Mr. Luetkemeyer for 1½ minutes for the purpose of making an opening statement.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman.

I appreciate you holding this hearing today because I believe it is important that Congress examine the CFPB at every opportunity, particularly given that there is little or no oversight of the—our concerns that the authorities given to the CFPB are far too broad.

The CFPB, in my judgment, will undoubtedly change the way the private sector offers financial products to consumers. And I remain unconvinced that it will do so in a way that truly benefits the American people.

Before the July 21st transfer date, CFPB examiners were collecting information and participating in examinations. They have already undertaken major rulemakings that will no doubt change the way the private sector operates.

We understand that regulations are meant to protect consumers. However, in the past few years, we have seen numerous examples

of overly burdensome regulation that has and will continue to hurt consumers.

In some ways, we seem to be missing the goal of consumer protection, and in doing so, we are compromising safety and soundness over financial institutions.

People in the financial services industry are very apprehensive about the CFPB. From the rules already proposed and the areas of those yet to be promulgated, it gives us all cause for great concern.

I thank Mr. Date for testifying today—for participating, and I appreciate that he has requested feedback from the private sector.

I would encourage the Bureau to continue to engage with the industry and consumer groups to encourage that all points are taken into account.

Thank you, Madam Chairwoman, and I yield back the balance of my time.

Chairwoman CAPITO. Thank you.

I would like to recognize Mr. Canseco for 1½ minutes for the purpose of making an opening statement.

Mr. CANSECO. Thank you, Madam Chairwoman.

The 2,300-page Dodd-Frank legislation created the Consumer Financial Protection Bureau, an incredibly powerful agency giving sweeping powers to carry out its well-intended, but vaguely defined, mission of consumer protection.

Like many other members on the Financial Services Committee, I have serious concerns with the CFPB. Nonetheless, it is the law of the land.

As Members of Congress, we have a duty to ensure that this new agency is operating correctly and appropriately.

The CFPB reached a milestone earlier this year when on July 21st, it stood up and officially acquired consumer protection rules and authorities from seven other agencies.

Given the vast mandate and power of the CFPB, the decisions it makes will have an enormous impact on our Nation's financial institutions and the consumers they serve, as well as our economy.

I look forward to hearing from Mr. Date.

And I thank Madam Chairwoman for holding this important hearing.

I yield back.

Chairwoman CAPITO. Thank you.

That concludes our opening statements.

I would now like to introduce our witness for the purpose of giving a 5-minute opening statement, Mr. Raj Date. Mr. Date is the Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau.

Welcome, Mr. Date.

STATEMENT OF RAJ DATE, SPECIAL ADVISOR TO THE SECRETARY OF THE TREASURY, CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Mr. DATE. Thank you, Chairwoman Capito.

Chairwoman CAPITO. Pull the microphone closer to you. I know how fast you talk, so I want to make sure I get it all.

Mr. DATE. I'm ready.

Thank you, Chairwoman Capito, Ranking Member Maloney, Chairman Bachus, Ranking Member Frank, and members of the subcommittee for inviting me today.

I am eager to testify about the Consumer Financial Protection Bureau.

My name, again, is Raj Date. I serve as the Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau, where our mission is to help consumer financial markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives.

Before the Dodd-Frank Act, responsibility for administering and enforcing the various Federal consumer financial laws was scattered across seven different Federal agencies, but not one of those agencies was solely focused on consumer financial protection.

The CFPB is the first agency whose mission is making sure that consumer financial markets work for American families.

In our first 100 days, we have been hard at work to promote a consumer financial market where consumers know what they are getting into, where firms follow the rules, and where specific populations are protected and empowered.

The Bureau is creating more transparent financial markets starting with mortgages and student loans. With our “Know Before You Owe” mortgage initiative, we are creating a single, shorter, more useful mortgage disclosure form to replace two overlapping documents that Congress asked us to combine.

Our work in this area will not only reduce regulatory burden, but it will also make the cost, and the risk of a loan, more clear and allow consumers to comparison shop for the best loan.

Before we began the regulatory process, we displayed those prototype forms on our Web site. And we invited comments from the public, from industry participants, and from market experts.

We have conducted five rounds of testing. And we have received more than 22,000 comments to date.

Just last week, we announced another “Know Before You Owe” initiative, this time on student loans. We partnered with the Department of Education to develop a draft, one-page financial aid shopping sheet that would improve the way schools communicate loan and repayment information to students.

The Bureau is also working to create a market where firms follow the rules. One thing made clear in Dodd-Frank was that the Bureau is to make mortgage markets work for all consumers irrespective of the charter that a business happens to fall under.

To this end, we recently released our supervision and examination manual, and our examination procedures for mortgage servicing. Both of those documents are meant to provide direction to our examiners in how to determine providers of financial products and services are following the law. We consider both to be evolving documents and we welcome feedback.

Over the coming months, we will release more guides like these that explain examination procedures for different products and lines of business.

We have also been hard at work building up the Bureau to protect and empower specific groups of consumers.

Dodd-Frank directs the Bureau to create offices and positions focused on the needs of servicemembers, seniors, and students. Our Office of Servicemember Affairs, headed by Holly Petraeus, has been traveling across the country hearing from servicemembers and their advocates about the unique challenges that they face.

With that on-the-ground information, Mrs. Petraeus has already brought attention to important issues like aggressive marketing by for-profit colleges to military personnel. She has also brought attention to the difficulties of servicemembers who are underwater, but not delinquent on their mortgages, and then they receive military orders to move.

We recently brought on Skip Humphrey to head our Office of Older Americans. That office will help seniors navigate financial challenges by educating them about their options in areas like long-term savings, and planning for retirement, and long-term care.

The Bureau will work with senior groups, financial institutions, law enforcement offices, and other Federal and State agencies to identify and prevent scams targeting seniors. We also recently named Rohit Chopra as our private education loan ombudsman.

The Bureau will work with the Department of Education to receive, review, and attempt to resolve complaints of borrowers of private student loans. In July, the CFPB and the Department of Education will provide a report on private student loan complaints to Congress.

At the same time, we are also working to fill other important positions like the head of our Office of Minority and Women Inclusion.

Finally, and perhaps most importantly, the CFPB will tackle our mission knowing that we are singularly accountable for it.

Consumer protection in financial services is a hard job. And by enacting Dodd-Frank, Congress recognized that if you do not make someone singularly responsible for a hard job, you should not expect that it gets done well.

You can count on us to make sure that consumer financial markets actually work for families, for the honest firms that serve them, and for the economy as a whole.

Thank you again for this opportunity. I look forward to your questions.

[The prepared statement of Mr. Date can be found on page 54 of the appendix.]

Chairwoman CAPITO. Thank you.

We will now start the question-and-answer portion of the hearing, and I will begin with the first question.

You mentioned just at the end of your statement about your agency being singularly responsible for consumer protection. And in the Dodd-Frank bill, it actually says, "Section 1064 requires that the prudential regulators cede that authority to the CFPB."

But in fact, in talking anecdotally with you and others, it seems to me as though the prudential regulators have still held on to consumer protection staff and responsibilities.

So are you really singularly responsible or is it still spread out over the seven prudential regulators?

And what are you doing to make sure those silos, that Mrs. Warren talked about consistently, are still not erected and serve as barriers?

Mr. DATE. In very important ways, that authority has been consolidated from the seven different agencies into the CFPB. For example, we have rulemaking authority across the Federal consumer financial laws that transferred to us on July 21st.

But you point out a very important point, and one that informs our efforts, which is that our supervisory authority extends only to those depositories—banks, thrifts, and credit unions with more than \$10 billion in assets. So that translates into about 100 of the largest bank, thrifts, and credit unions.

There are 15,000 depositories in the country, and so supervision authority with respect to those—everyone else not the biggest 100—remains with the prudential regulators.

That is important for us in at least two ways. One is to make sure—as any right-minded person would I think—that we are coordinated with the other regulators. To me, that is just common sense and good hygiene.

But also it means that we lack, to my mind, the critical feedback loop between community bank supervision and the policy apparatus.

So we have to make sure as we have been doing to date that we get out in the field, and we talk to community banks and credit unions about issues that they are seeing on the ground.

Chairwoman CAPITO. So then, let me follow up here because that is—we were just in Wausau, Wisconsin. We have been in Georgia. I live in West Virginia.

And as you know, there is a great concern amongst small financial institutions. You have already said you are going to have—I think if I am interpreting correctly, that you have the rulemaking authority over these institutions but you don't have the supervisory role.

And so, the carve-out doesn't really exist. Then I think there is a lot of angst out there—even though I realize that you have been out talking with them—as to what kind of role the CFPB is going to be playing over the institutions we know were not the ones doing the subprime loans or the ones who are helping the lady down the street buy a car for her family etc., etc.

And there is a lot. And these institutions are hiring new compliance officers because they are not sure where they are going to fall in this spectrum of authority including your agency.

So what would you say to that?

Mr. DATE. It is certainly true that community bankers are not subject to a different set of rules as the rest of the marketplace.

But in my experience, community bankers are not looking for a special handout or special treatment. What community bankers are looking for is for everybody to play by the same rules.

So in other words, if I run a small bank and I am in the business of providing auto finance, it doesn't feel particularly fair, often-times, that someone who is a finance company, not a depository, is not subject to supervision on exactly the same laws that I am subject to supervision on.

To my mind, that is a fair complaint. And one of the beauties to my mind of the Bureau—

Chairwoman CAPITO. I think the concern—if I could just—because I only have a minute left. The concern, and I share this concern, is that small institutions are face-to-face with the consumer every single day.

They know their families, they know their backgrounds, they know their businesses. They are able to make some, on the face of it, kind of calls, some flexibility.

I think they are concerned about that flexibility, because it could be a one-size-fits-all consumer financial product that will exclude them from being able to offer that to their customers.

But at the same time, I think what they are also worried about is their margins are so thin they don't have—if they have to hire two or three compliance officers to make sure that they are complying with a lot of the things that they comply with anyway, that takes money out of their ability to loan to a small business, to make a car loan or whatever kind of loan they might be making.

And this is the concern that we are hearing especially in the downturn of the economy—high unemployment. The jobs that are being created are—it even said in the study of the Bureau of Labor Statistics that increasing financial regulations will spur employment growth of financial examiners and compliance officers by 31 percent over the next 10 years.

I think that is what is happening in Wausau, Wisconsin, and in Charleston, West Virginia, and that is a source of concern.

But my time is up. I am going to recognize the ranking member for 5 minutes for questions. Thank you.

Mrs. MALONEY. Thank you.

Mr. DATE, do you think that there is anyone out there in the consumer finance world who has studied the regulatory structure of the last decade and thinks, that works, let us keep doing that?

Mr. DATE. Congresswoman, I know a great many people within the business, and I have yet to find a person who says, "Yes, what we were doing over the last decade seems to work, so let us stick with that."

The status quo, to any reasonable person who has been around this business, is untenable.

Mrs. MALONEY. Then why do you think there is still such resistance to the creation of a Bureau which is so clearly needed and everyone says they want to protect consumers, where we have a Bureau that is doing just that as their prime responsibility and focus?

Why do you think there is still such resistance?

Mr. DATE. My sense is that it is because talk is cheap. And when it comes time that the Bureau—as we do all the time—talks about how it is that we are focused on making regulation more efficient and more effective.

How in the case of the mortgage disclosure forms, we are trying to make things cheaper to comply with and simpler for management teams at the same time that it is more effective for consumers.

When we talk about all that, sometimes people are a little bit skeptical, because they have heard things that sound like that before.

And for me, I view it this way, at some level if you don't believe what we say, look at what we do, because that which we have done in the first 100 days is very much in the spirit of reducing the burden and making things better.

Mrs. MALONEY. So you have been reducing the burden and making the financial markets work better and the economy improve in addition to helping our consumers.

I really would like to ask the question of, whose side do you think the opponents of the CFPB are on?

We know from your testimony and reports that Holly Petraeus jumped right in defending servicemembers—our men and women serving overseas for being evicted, foreclosed.

So whose side are they on when they say they don't want the CFPB or such an outstanding advocate to help our men and women in the services?

Whose side do you think they are on when they are not supporting the work of the Bureau to protect our seniors?

And I must say I was very pleased to see the support of the business community for your efforts on the student loans.

So whose side are they on when they are objecting and fighting what you are obviously doing to help our seniors, our members of the military, and now our students?

Mr. DATE. Congresswoman, of course I wouldn't speculate on anything like that.

All I know is that the Congress has given us a set of authorities to be able to make this market better, and to make sure that somebody is on the side of American families in this very important marketplace.

And we have the tools to be able to do that. We have a team that we have assembled that is smart because we are dealing with tough problems, energetic because we work very hard, and that has guts because it takes guts to stand up for ordinary people.

And, that has sacrificed, where they come and they work hard for the public good.

Mrs. MALONEY. I have been told that I cannot place into the record editorials in support of the CFPB at this hearing. So I hope many of my colleagues on the panel will join me on the Floor for a special order tonight where we can read editorials in support for the record.

Chairwoman CAPITO. If I could interrupt—you can ask for unanimous consent. I don't recall who—I am the chairman, and I didn't say—

Mrs. MALONEY. I was told we couldn't put them in.

Well then, let us put into the record a statement from the Consumer Federation of America that outlines all of the areas that there is oversight of the CFPB.

Chairwoman CAPITO. Without objection, it is so ordered.

Mrs. MALONEY. And, Mr. Date, in your own finances, would you want to put the financial management and the protection of your assets and your finances in a committee to decide how to handle your finances?

Or would you like to have one person, like a Mr. Cordray, who is in charge, who is accountable, who has to respond to Congress, the President, and consumers in this country?

Would you put your finances—I wouldn't. I don't think other members in this panel would.

Could you comment on that?

Mr. DATE. Congresswoman, I have been a bank regulator for 102 days, so most of my career has been spent in the private sector investing shareholder money and my money over time.

And I will confess, I typically look for management teams that are headed by a person who knows that they are on the hook, so that you know who to credit and who to blame, so that you know who to help or who to try to influence. Somebody has to be on the hook for her job. That has always been my perspective.

Mrs. MALONEY. My time has expired.

Thank you for your 102 days of service. Thank you.

Chairwoman CAPITO. Thank you.

I would say in terms of the mortgage form, I welcome a one-page or two-page mortgage form, having just refinanced our house. That would be great.

But we know that the other 50 pages are still going to be there.

And I think that in order to—I am not being critical so much of just the way you are stating it, I guess, to say one page on top of the 50 pages that you are still going to have.

Mr. FRANK. Madam Chairwoman, pardon my—whose time is this coming out of?

Chairwoman CAPITO. I am the chairwoman. I took about 30 seconds because I was modeling after you.

Mr. FRANK. No, I always ask unanimous—

[laughter]

I take exception to that. I abide by the rules and ask for unanimous consent—

Chairwoman CAPITO. Okay, with unanimous consent, I will—post-unanimous consent, I will recognize the chairman of the full committee, Mr. Bachus, for 5 minutes.

Chairman BACHUS. Thank you.

Mr. DATE, Congressman Gutierrez said he hoped you would get approved by the Senate. But now, you haven't even been nominated. I guess he was talking about Richard Cordray? Was that—I didn't know?

Mr. GUTIERREZ. Yes, you are right.

Chairman BACHUS. Okay.

You were the number two person at the agency. Do you know why you weren't nominated?

Mr. DATE. Mr. Chairman, I would not presume to have any opinions about something that is solely in the discretion of the President of the United States.

Chairman BACHUS. Okay.

Let me ask you this, the commission form, do you see any advantages to a bipartisan commission as opposed to a single Director?

Mr. DATE. My perspective on governance of the Bureau is that it seemed to me, very much as an outsider at that time, that the Congress deliberated and debated various different governance mechanisms, various means by which to provide accountability and real leadership for the Bureau and its important task, and came to a conclusion.

And my job, as a Special Advisor to the Secretary, is to take that structure and make it work, and to make it work in every dimension. And that is what I am doing.

Chairman BACHUS. But could you do that under a commission form?

Mr. DATE. As I mentioned to the Congresswoman a moment ago, it has been my experience—and again, I have mostly been on the private sector side of this business—that if you want something hard done, you really should have someone singularly accountable for it.

But again, that is my experience. I would not presume to tell the Congress what to do—

Chairman BACHUS. Sure, okay. Thank you.

The term “abusive,” that is really a new term in consumer protection as far as financial products. How would you define that? If it is unfair, if it is not unfair, if it is not deceptive according to you—could it still be abusive and could you give me some examples?

Mr. DATE. In a way, the advantage that we all have is that the Congress set out the definition for “abusive” in the statute. It seems to me to be one that makes sense, and one that over time, we will be able to evaluate against actual fact patterns that we see in the marketplace.

One of our commitments at the Bureau is to make sure that what we do is evidence-based, participatory, and transparent. And the evidence-based part of that means nothing if we pre-judge facts before we actually see them.

But I look forward to being able—

Chairman BACHUS. Are you going to issue regulations? Let us say you go in and you start an enforcement action. Will there be at least a regulation or a guideline that someone will have violated before they are found to have committed abuse?

Mr. DATE. The statute, of course, provides contours for what it—the term “abusive” amongst our other responsibilities—

Chairman BACHUS. So the statute defines “abusive?”

Mr. DATE. Yes, the statute defines “abusive.”

Chairman BACHUS. Do you know what that definition is?

Mr. DATE. Sure. There are two prongs essentially. One has to do with—I will paraphrase. These are my words and not those of the statute precisely—materially interfering with the consumers’ ability to understand something.

And, by the way, that takes us back to what I was saying earlier about the substance of transparency. A market works if consumers and providers—

Chairman BACHUS. So if they don’t understand it, it could be abusive just because they didn’t understand it?

Mr. DATE. The words in the statute, I think, relate to a provider materially interfering with the consumers’ ability to understand—

Chairman BACHUS. Okay.

Mr. DATE. And that is one prong. But, there is some level of detail in the statute.

Chairman BACHUS. Okay. What is the other prong?

Mr. DATE. The other prong which itself has various features is about—and again, these are my—

Chairman BACHUS. Sure.

Mr. DATE. —paraphrasing of the words. But you will recall that it talks about unreasonably taking advantage of the consumers' lack of understanding in particular moments. And there are various prongs, sub-prongs, within that definition.

It is quite detailed. There are a lot of words there. And hopefully, I have given some credit to that in my paraphrasing.

Chairman BACHUS. You keep getting back to that term that “a consumer doesn't understand.”

Would a financial institution be liable if the consumers simply didn't understand the agreement, if it was not unfair or deceptive?

Mr. DATE. I think the experience of the past few painful years is that it is in the financial institutions' interest to have consumers who understand what they are getting into.

When we look at the explosion in the most troubling credit performance in mortgages in the United States, it is quite disproportionately those structures that realistically consumers at that time—not in retrospect but even at the time—probably had difficulty truly appreciating—

Chairman BACHUS. I understand that. But would you determine that on a case-by-case basis or would you have some regulation on—

Chairwoman CAPITO. The gentleman's time has expired.

Mr. Frank, for 5 minutes, for questions.

Mr. FRANK. Thank you, Madam Chairwoman.

Thank you for making clear that the gentlewoman from New York is able to put that material into the record.

I said before I thought it was interesting that we were having an oversight hearing to in part denounce the lack of oversight, and I misspoke.

This is the second oversight hearing we have had this week to denounce the lack of oversight, because there was a field hearing. And I look forward to many more hearings in which we denounce the lack of oversight while we are overseeing this agency.

I am also struck again by the fact that two of my colleagues ever appeared to have heard of the Comptroller of the Currency, an individual appointee independent of any other check and self-financed.

It is apparently only when consumers are the beneficiary of that independence that it upsets some of my colleagues.

Then I should also add that procedurally, this hearing comes 2 days too late. It should have been on Halloween, because we have conjured up a series of spooks, and ghosts, and goblins, and non-existent creatures.

My colleague from Georgia said, this is going to be a backdoor way for them to do the plain vanilla product.

In fact, the ability of this agency to order financial institutions to produce a so-called plain vanilla product was proposed by the Obama Administration and specifically and explicitly rejected.

There is no such power, and that was a conscious decision by this committee.

They are talking about banning. There will not be a lot of things banned.

As a matter of fact, the model we have here—and people talk about the Bank of America—the model of this agency assumes the competitive nature of the American financial system because most of what they will do will be to give people information. And it is no use getting information unless you have options.

The Credit CARD Act, which the gentleman from New York took the lead on and which we passed, did not set rate limits. Some of my colleagues wanted to put rate limits.

What we said was you cannot retroactively raise the interest rate on people which is unfair. They should have the benefit of the bargain they made at that time, but you have to give them notice of any future rate increase.

Now, the notice of a future rate increase wouldn't do any good if you didn't have options. So, I stress again that is essentially our model.

Now, as to "abusive", let me say to the gentleman from Alabama, no, the fact that a consumer couldn't understand it is not in itself a reason to be declared "abusive." And "abusive" came forward, and the gentleman from Texas, Mr. Hensarling, and I had a colloquy about that.

And he pointed out it was an undefined term, unfair and deceptive have a history. And we did define "abusive." There are things that could be neither unfair nor deceptive that could be abusive, and it is not that the consumer didn't understand it. But there were two categories.

First of all, that if not quite deceptive but framed in a way that made it very hard for the consumer to understand and it wasn't the consumer's fault. That is why it says, as Mr. Date says, materially interferes with the ability of the consumer to understand the term.

Secondly, it says that you should not take unreasonable advantage of lack of understanding.

Is it case-by-case? Yes, there are mortgage products that are suitable for some people that are not suitable for an 89-year-old woman who has never had her own experience in economic affairs.

There are things that are reasonable for some people and not for others. And we make that distinction also.

We are about to pass legislation today that says you can offer things to "qualified investors," but you can't offer them to, presumably, unqualified investors, although we don't quite rudely say so.

What makes you a qualified investor?

Apparently, that you have \$1 million. That is less of a guarantee of wisdom than people seem to think.

But this distinction, and that products offered by financial communities will be subject to different rules depending on the personality of the individual, is already in law. And we do say, yes, particularly in the mortgage area.

Now, let me just ask Mr. Date a couple of quick questions.

You have already moved in the Bureau to deal with the congressional problem of a split between the Real Estate Settlement Procedures Act (RESPA) and the Truth-in-Lending Act (TILA).

Talk briefly about what you did there and what the reaction was in the lending community.

Mr. DATE. Sure. Again, the disclosure forms associated with the Truth-in-Lending Act and the Real Estate Settlement Procedures

Act are actually quite similar in their content, but almost confusingly similar, but they are separate requirements to date before Dodd-Frank.

We have the mandate by the Congress—and I am glad to have that mandate—to be able to figure out how to combine that into a single document, one that, therefore, will be not confusingly similar and, therefore, less confusing.

Mortgages are a gigantic—

Mr. FRANK. What is the process of—where are you in that process?

Mr. DATE. We have taken what I believe to be a fairly unique approach in terms of really developing, before proposing a rule, a prototype and getting public feedback on it.

Mr. FRANK. What is the feedback you have gotten quicker from the lending community so far?

Mr. DATE. In general, I think it has been quite helpful.

Mr. FRANK. All right. I am going to be—my time is up.

So, let me say—and the gentlewoman has been holding us to the time, the gentleman from Georgia mentioned the long forms.

In fact, the one case where you have done anything about the forms, you are in the process of consolidating two very different forms. And my feedback from the lending community is they are really quite happy with it.

Thank you.

Chairwoman CAPITO. The gentleman's time has expired.

Mr. Renacci, for 5 minutes?

Mr. RENACCI. Thank you, Madam Chairwoman, and thank you Mr. Date for being here.

Mr. Date, the CFPB has taken over responsibility for the Secure and Fair Enforcement for Mortgage Licensing Act, SAFE, including determining whether State laws are consistent with SAFE.

In this capacity, I understand the CFPB has been asked to provide its views on whether State enactment of transitional licensing would be acceptable.

Such a proposal would allow State-regulated lenders to hire and immediately put to work well-qualified, experienced registered loan originators employed by depository institutions or by out-of-State lenders while they complete any additional State education and testing formalities.

This is a very important issue for many State-regulated lenders. And I understand there is a legal opinion from a major law firm that found it within the State's authority to enact transitional licensing provisions.

When does the CFPB expect to provide its views on this important issue?

Mr. DATE. Thank you, Congressman.

This is obviously not the first time I have heard of the issue. It has been voiced in a number of different forums as we have reached out across the marketplace.

It is one of these issues that actually touches on a lot of the things that really are core to the structure of the Bureau. So the competitiveness on an even playing field as between depositories and non-depositories.

Frankly, the mobility or lack thereof of talent from one kind of institution to another; the efficiency of front-line sales staff, because, after all, complicated financial products have to be explained and sold by someone.

They are all very important issues in a very important market that appear to be unfortunately quite dysfunctional for some period of time.

So we are going to take seriously the issues that have been raised and I know that the team is aware of it.

Mr. RENACCI. Okay. Thank you.

You stated many times that the CFPB will be making decisions based on data. We both know that data can be manipulated in favor of a point of view.

What quality control measures are you putting in place to ensure that the data collected is done so objectively, and that the subsequent decisions made based on that data are also done in an objective manner?

Mr. DATE. It is a great question, because it gets not just to the commitment to be able to use fact-based analytics to inform policy, but the process by which you hardwire that into the decision-making of the Bureau.

We have approached it both through structural means and through processed means.

By structural I mean there is a single person who is the associate director for research, markets and regulations at the Bureau whose job it is to integrate the points of view generated by empirical research, by market-based pragmatism—understanding how money is actually made in the marketplace and what operational constraints exist—and by technical legal regulatory expertise. A single person is responsible for that.

That integrated point of view in which different views can and should be aired is very much core to the structure of what we are doing.

And as you might imagine, there is also governance processes by which internally, even before the various right-minded administrative procedures that we have to undertake to publish a rule, even before those kick in within the Bureau. We have decision-making processes that we will refine presumably over time to make sure that what we are doing is sensible, fact-based, pragmatic, and effective.

Mr. RENACCI. In your testimony earlier, you said that the Bureau has—actually in your written testimony, you said the Bureau has the unique opportunity to streamline and simplify rules. You have also, of course, indicated you have released some manuals and guides already.

My question is, and I am hearing this already, that there is a lot of duplication. What are your—you know duplication of efforts by other organizations.

How is the CFPB going to make sure that we eliminate these duplication of efforts which are going to hamper banks and financial institutions when there are multiple people asking for similar information?

Mr. DATE. I would like to take credit for consolidating a lot of the activity. But really it was the Congress that consolidated a lot

of this duplicative effort by moving the authority for the administration of some 18 Federal consumer financial laws into a single place from 7 different places.

Mr. RENACCI. But what are you going to do to make sure that those other organizations don't continue to ask for similar things or will be talking about similar issues that you are going to be talking about?

Mr. DATE. Both the statute and common sense, I suppose, dictates that our exam reports for example will typically be available to the prudential supervisors. There is no reason why sister agencies should not be able to see what it is that we work on and conclude in the course of our exams.

And so, that prevents the need for somehow redoing work or seeing data that otherwise—

Mr. RENACCI. I am running out of time.

But what if they did? Are you going to pull back that authority at some point in time?

Mr. DATE. I am not sure I understand the question.

Mr. RENACCI. What if they are asking for duplicative information? And, you are saying you are giving them information.

But what if the other organizations are asking, are you going to be the single authority that says here is the information and here is where you get it from?

Mr. DATE. I personally have never been especially shy about my perspective on such things. But they are independent agencies.

Chairwoman CAPITO. The gentleman's time has expired.

Mr. RENACCI. Thank you, Madam Chairwoman.

Chairwoman CAPITO. Mr. Gutierrez for 5 minutes?

Mr. GUTIERREZ. Thank you very much.

I would like to yield the first 30 seconds to Congressman Frank so we can continue this line of questioning.

Mr. FRANK. Well, briefly, I appreciate what the gentleman said because he is telling you to defend your turf, and I think that is reasonable.

The one thing that I just wanted say, and this literally is genuinely bipartisan, the gentleman from Ohio began his questioning with reference to this Federal—to give credit, that was a proposal that came from the chairman of the full committee, Mr. Bachus.

So that is a duty that you have as a result of a very good idea from Mr. Bachus which we incorporated. I just, in his absence, wanted to make clear that insistence on that being harmonized was Mr. Bachus' idea that we were very pleased to incorporate.

Mr. GUTIERREZ. Thank you. I thank the gentleman.

I want to read a quote from the president of the American Bankers' Association: "Unsound, unscientific and dangerous." Don't worry. It is not about the CFPB.

It is from 1933, about none other than the Federal Deposit Insurance Corporation. And the banks railed against it in 1933.

But today, I think you would be pretty hard-pressed to find anyone that thinks that ensuring deposits is somehow unsound and dangerous.

And I think the fact is that the CFPB won't be doing anything dangerous either, or unscientific, or unsound. And hopefully, you won't have to wait 70 or 80 years because none of us will be here.

Hopefully, it won't be long before they say—well, maybe you have that hope.

But I would like to just ask you, simplified forms, valuable guidance so customers can actually understand what they are buying and repaying. Can you tell us a little bit about that in terms of a mortgage?

Mr. DATE. Sure.

Mr. GUTIERREZ. What is different?

Mr. DATE. Absolutely. So if you were to—and I think it is useful to reground this in terms of the credit bubble and the ensuing crisis.

Mr. GUTIERREZ. Okay.

Mr. DATE. So during the course of the mortgage credit bubble, some of the fastest growing products were precisely those products that were the most difficult to understand.

For example, auction ARMs which are potentially negatively amortizing, interest-only loans. Other products where in order to evaluate the risk and the cost of the product, you have to have a relatively sophisticated understanding of rate spreads, and rate movements, some perspective of the forward curve.

I have known bond traders who have difficulty with those concepts. And as a result, we should not be surprised that a number of people who got into these loans didn't fully appreciate the risk of what they were looking at.

And we should not be surprised that credit performance on those loans—which is bad for investors and terrible for borrowers—has been terrible, really quite remarkably awful.

So nobody wins if products are structured in a way and communicated in a way that the borrowers don't really understand what they are getting into—

Mr. GUTIERREZ. My friends on the other side of the aisle say that they love consumers and are—they say there is going to be a lot more paperwork created and that is going to actually stop consumers from getting a mortgage.

Mr. DATE. I think the opposite is true.

There is a point at which more information, more tiny little mice-type, 10-font type in sheet after sheet of paper, not only does not provide any affirmative good in terms of understanding, but it affirmatively destroys whatever understanding otherwise would have been there.

Mr. GUTIERREZ. How about reverse mortgages?

Because we have this growing population, the Baby Boomers, right? I am one of them. And it is growing. It is going to continue by millions and millions of people.

Reverse mortgages, are you going to take a look at those?

Mr. DATE. We are. It is one of these products that on its face, actually it is quite an ingenious thing. The demographics look quite positive. There might be a real productive use for the product and its growth over time.

It is also something that is obviously definitionally the most relevant for a potentially vulnerable population, and one that we are specifically charged with.

And we also have the duty to perform a study and publish it with respect to reverse mortgage. It is important.

Mr. GUTIERREZ. So we will learn—because reverse mortgages sound great. But if you have to pay the taxes, and you have to fix the leaky roof, and you don't understand all of the conditions, a reverse mortgage could literally put you on the street without a stream of income.

So you are going to take a look at that both from—because of your requirement that we put that you look at senior citizens and protect them with a special capacity and in terms of mortgages in a general capacity.

Mr. DATE. Absolutely.

Mr. GUTIERREZ. I think that I am looking forward to those studies and making sure that the public has a broad understanding of those studies so that they can be better protected.

And I thank you very much for your testimony today.

Mr. DATE. Thank you.

Chairwoman CAPITO. Thank you.

Mr. Luetkemeyer, for 5 minutes for questions?

Mr. LUTKEMEYER. Thank you, Madam Chairwoman.

Mr. Date, in your testimony this morning you were talking about basically, you have supervisory authority on anything over \$10 billion and rulemaking authority over everybody else, is that basically correct?

Mr. DATE. Rulemaking authority across the marketplace.

Mr. LUTKEMEYER. Right.

Mr. DATE. Banks, non-banks.

Mr. LUTKEMEYER. Right, right.

It is that area I would like to discuss with you just a second here.

With regards to the mortgage loan originator rule as issued by the Fed in last year and finalized in April, that issue has been transferred to you, the CFPB. And basically, the rule is intended to predict mortgage borrowers from unfair, abusive, and deceptive lending practices that can range from loan originator compensation practices.

Many financial institutions feel the rule has been unclear and confusing, and has led to a lot of compliance problems.

And my question is, because of these concerns, are you in the process of looking at and trying to clarify this rule at all?

Mr. DATE. I absolutely appreciate the purpose for the rule which is that, in the long of the day, you should expect problems if front-line sales staff are incented to sell products in a way that is affirmatively not in a consumer's best interest. So I understand the purpose of the rule.

I also know that it is new. And I also know that there has been a significant amount of friction associated with implementing it.

We also have the ability, and I think the obligation, to revisit pieces of loan originator compensation in terms of our work to be done. And I think that will create an anchor point to be able to evaluate how it is that the new rules are actually working.

We have no particular pride of authorship over something. If something isn't working, we will make sure to try and make it better—

Mr. LUTKEMEYER. The question is—are you going to revisit this rule?

Are you looking it right now to try and see if there is a way that you can just clarify it to make sure that everybody is in compliance with it and that it is continuing to do the job it is supposed to do, which is to protect consumers, yet do in a way that enables the folks to comply with it and make sure it is done correctly?

Mr. DATE. As a general matter, that is true of what we do. And with respect to this specific example, the answer is quite clearly, yes, because let us say—

Mr. LUETKEMEYER. Okay.

What is the timeframe on getting that done?

Mr. DATE. You know what? I would have to look at the specific kind of deadline that is set out in the statute if there is one, and how it fits in to our overall work plan.

But it is definitely on that agenda. There is no question about it.

Mr. LUETKEMEYER. All right. Do you mean 2 weeks, 2 months, 2 years?

Mr. DATE. Certainly, between 2 weeks and 2 years.

[laughter]

Mr. LUETKEMEYER. Okay. Okay, you must work for the government.

Mr. DATE. I have never heard that before actually, so thank you.

Mr. LUETKEMEYER. Okay, very good. Thank you.

With regards to—the gentleman from Georgia a minute ago held up a whole stack of papers that had to do with home mortgage loans.

I know one of the concerns that a lot of originators of home mortgage loans have is the Home Mortgage Disclosure Act, HMDA. It is a very cumbersome rule, a group of regulations to deal with.

The FDIC, whenever they supervise it are very arbitrary in the way that they look at discrepancies in those things. And I am wondering if—is that a rule that you are looking at as well?

Mr. DATE. There are modifications to the HMDA disclosure regime that are required under the statute that will have to be promulgated under regulation. That again, as per your other question, Congressman, creates a logical anchor point to see whether or not the overall kind of reporting regimen makes sense and how it can be streamlined.

It is a source of data that is astonishingly important, and is otherwise not replicable.

Mr. LUETKEMEYER. I am not talking about the data itself. I am talking about the way that it is interpreted by the FDIC, and the way that they supervise.

If you have one error within one loan, and there are 27 things that have to be checked off, little boxes that have to be checked off with this one loan and if you miss one, your whole loan is considered non-compliant instead of one twenty-seventh of a problem.

And so, suddenly, instead of one loan out of 100 or one loan out of—or 10 loans out of 100 being 10 percent problems, it actually is less than four-tenths of a percent, if you have one problem for each one of those loans. So it is a supervisory issue with the FDIC.

But I was curious if you are looking at trying to streamline that because, again, in discussing these situations with my local financial institutions, the last guy I talked to said he is having to hire

five people for compliance now, when he hires four people to do work in the bank—five compliance to four people he hires.

That is where we are headed. If you can streamline that, it would be wonderful. That, to me, should be your charge, just to go and try to find a way to do things easier, simpler, and still protect all the parties involved.

With that, I yield back.

Thank you, Madam Chairwoman.

Chairwoman CAPITO. Thank you.

Mr. Watt, for 5 minutes?

Mr. WATT. Thank you, Madam Chairwoman.

I confess that when I first heard of this hearing, I was a little troubled. But I want to thank the Chair for convening the hearing, because I think the more we learn about what the Consumer Financial Protection Bureau is doing, the more the American people understand why it was created and why it is so important to have such an agency.

So the more hearings we have about this agency, I think the better off we are, especially when we have outstanding witnesses like Mr. Date come and talk about what they are doing.

I am going to presume that my colleagues are listening to the fact that well over 60 percent of the American people think this is an important agency to have, that despite the fact that the Senate has said it is not going to confirm anybody to head the agency.

You all, obviously, are listening to the fact that the agency is important because there has been little effort to try to repeal the creation of the Consumer Financial Protection Bureau, even though you second-guessed it to death.

The more of these kinds of discussions we have, maybe the better off we are, so I thank you for being here.

One of the big advantages of arguments, benefits I thought of having such an agency was this big differential between players in the industry that were regulated already and had somebody overseeing, or at least pretending to oversee the consumer protection part of their imperative, and those players in the industry that were not regulated.

Talk to us a little bit, Mr. Date, if you would, about how the agency has approached trying to equalize the regulatory standards for those who were previously unregulated, and those who were previously regulated.

Mr. DATE. Thank you, Congressman.

It gets to one of the core advantages to my mind of the Consumer Financial Protection Bureau structure, which is that when we have a Director, we will have supervisory authority over both depositories and non-depositories.

And let me give you an example of why that is so important, which again traces back to why it is—at some level why we are here to begin with, which is the mortgage credit bubble and the crisis.

Some of the mortgage products I talked about earlier that proved to be so problematic from the point of view of consumers understanding what they were getting into, and the point of view of ultimate financial performance of those loans.

Most of those products were not originated and held by depositories. They were not originated by bank or thrift or credit union

employees for a bank or a thrift or a credit union balance sheet. They tended to be originated by non-banks, or funded in the capital markets by Wall Street or the GSEs, which are also non-banks.

So if one actually wants to be serious-minded about a level playing field and fixing the problems of the past, we have to take, in my view, a uniform view of both depositories and non-depositories. And that to me is a great advantage of the CFPB.

Mr. WATT. And I would say to my colleagues that of all of the handwringing about the existence of this agency that you sometimes hear, that we sometimes hear in the political arena, the comments I get from my community banks and the previously regulated entities believe that this is a tremendously important benefit to have somebody overseeing all of those entities out there.

The players who were doing just terrible things in the marketplace that the regulated entities were not allowed to do because they were regulated.

So I will yield back.

Thank you.

Chairwoman CAPITO. The gentleman's time has expired.

Mr. Canseco, for 5 minutes?

Mr. CANSECO. Thank you, Madam Chairwoman.

Thank you, Mr. Date, for being here today.

I have the privilege of representing a huge area of Texas that spans from San Antonio to El Paso. There is an enormous number of community banks throughout the district.

And I speak to almost every one of them and I hear the same thing: There is a lot of uncertainty with regards to the regulatory landscape. And given the number of rules and regulations mandated by Dodd-Frank, those things are foremost in their mind.

Now, the CFPB has already undertaken several significant rule-writing initiatives such as the definition of larger participants and also the efforts that we talked about here to consolidate several mortgage disclosure forms.

Has the CFPB made an effort to lay out a game plan, if you will, that will allow financial institutions to know what they can expect and what they should expect in the way of forms or rules and regulations in the foreseeable future?

Mr. DATE. Thanks for the question, which I think is a good one, because having a sense of what is coming is very important to planning, and planning is very important to judicious exercise management bandwidth in any institution, big and small.

As a practical matter, we have tried to communicate with financial institutions across the country in the best way that we know how, which is to actually get out there and spend time with associations of community bankers across the country and over time.

So it is literally true that myself and my predecessor have met with the community bank associations of every State in the union. And what it is that I try to make clear in meetings like those is that the rulemaking agenda for the Bureau, over the near term which I define as that period of time between 2 weeks from now and 2 years from now, is going to be principally driven by what is mandated by Dodd-Frank.

Dodd-Frank involves, to my mind, a lot of quite sensible reforms of a marketplace that did not appear to work particularly well. And

to do those things well, it is going to take—from a rulemaking point of view—the bulk of our energy and good efforts.

Mr. CANSECO. So there is a map out there for them, is that what you are saying?

Mr. DATE. Yes, that map has been helpfully provided to us by the Congress.

Mr. CANSECO. Let me—in that vein, do the policies that you are generating take into account the regulatory costs that financial institutions could incur? And that if they incur them, they will pass them on to the consumer?

Are they being factored into your rulemaking and regulatory actions?

Mr. DATE. Yes, Congressman.

Regulatory compliance cost is a real cost, irrespective of whether it is passed on to consumers or not. It is still a cost.

And as a result, because we are obliged both by the statute and by common sense to consider both the benefits and the burdens associated with rules, so absolutely consider regulatory burden.

Mr. CANSECO. So the CFPB has assumed supervisory and examination authority over large depository institutions which are defined as having \$10 billion or more in assets. For those institutions with less than \$10 billion in assets, prudential regulators retain supervisory examination authority.

However, Section 1026(c) of the Dodd-Frank Act authorizes the CFPB to include its examiners on a sampling basis when the prudential regulators examine an institution with less than \$10 billion in assets.

Now, regulatory costs fall harder on community banks, especially smaller community banks. The prospect of the CFPB also participating in an examination could lead to increased regulatory costs.

Has the CFPB taken steps to outline how it plans to use its authority pursuant to Section 1025(c)?

Mr. DATE. That provision, to me, seems like a sensible way, one of several sensible ways to make sure that the overall regulatory approach to the sector is coordinated.

But I will broaden out the sort of notion of regulatory cost and compliance cost, because it is broader than merely ride-along activity in the following way.

We are very aware that compliance burdens are disproportionately fixed in nature. In other words, they are more like a fixed cost than a variable cost.

And as a result, the arithmetic suggests that they disproportionately burden smaller institutions. It is difficult to argue with the arithmetic of that proposition.

Now, the good news is that means all of our efforts which are multi-faceted to make regulatory burdens streamlined, that is better for institutions and a lot better for consumers, that therefore disproportionately benefits smaller institutions, not bigger ones, for exactly the same dynamics.

So I am pleased by that. And I think we are on the right track.

Mr. CANSECO. Thank you for your candor, Mr. Date.

And, Madam Chairwoman, thank you.

I yield back my time.

Chairwoman CAPITO. Thank you.

Mrs. McCarthy, for 5 minutes for questions?

Mrs. MCCARTHY OF NEW YORK. Thank you, Madam Chairwoman.

And I sympathize with you because I spent a good part of Friday and Saturday filling out refinancing paper forms too. And I am not done yet.

But with that being said, I thank you, Mr. Date, for being in front of us today and bringing your point of view.

Just a couple of questions, being that the Senate has not basically brought up the nomination of the agency's Director, has that implemented you in any way or has that been able to give you certainly the authority at this point to go forward on what the direction of the agency is doing?

Mr. DATE. This is a good news/bad news answer I am afraid, Congresswoman. The good news, from our point of view, is that we have important work to do today. We are literally, today, we have the authority for rule making and supervision authority to transfer it over from the existing Federal regulators on July 21st. And that is an important set of work to both fix that which has been done poorly in the past and make sure that we operate in a surefooted way moving forward.

The bad news part is that there are tens of thousands of non-depository consumer financial products, firms out there, that are supposed to be within the supervisory authority of the Bureau but are not today, absent the Director.

So, I am pleased by where we are but obviously there is a great deal more that we could be doing.

Mrs. MCCARTHY OF NEW YORK. So basically, it is almost like a stalling technique so you really can't get up and running and doing the job that you actually need to do?

Mr. DATE. My concern would be that—and this is not just a concern that I have had within this position, but one that I have observed about the industry over the course of time is that there no great right-minded reason why some firms, namely community banks, credit unions, thrifts should be subject to, in practical terms, a different set, a more exacting set of compliance burdens than other people who are in exactly the same business.

It doesn't make sense. It is bad for consumers. It is bad for the function in the market.

Mrs. MCCARTHY OF NEW YORK. I am being curious—

Mrs. MALONEY. Will the gentlelady yield for 2 seconds?

Mrs. MCCARTHY OF NEW YORK. Certainly.

Mrs. MALONEY. For 5 seconds, so I want to compliment her for raising this issue. It is one that Secretary Geithner repeatedly raises in his public statements on the need to confirm and get the CFPB running.

And what he points out is that a vast array of non-bank financial institutions, that are outside the scope of consumer protection, which was exactly the same mistake that left us so vulnerable to the financial crisis we went through.

As we know, banks and institutions are regulated but there is a whole other area of non-bank institutions that are very large, such as AIG, that are unregulated and this stops that regulation.

So your point is a very important one, and I want to compliment you for raising it.

I yield back.

Mrs. MCCARTHY OF NEW YORK. Thank you, and I take back my time.

I guess the second question would be, how do you envision Congress, especially the way we seem to be in gridlock on everything over here, being involved in supporting the CFPB going forward as we go forward for our consumers?

Mr. DATE. Well, in two principal ways. But I view the role of what it is that we are doing now, the role of oversight, as being quite key to any institution functioning well.

That is part of the reason why I am happy that this is something like—it is probably the eighth. And then Mrs. Petraeus is testifying on the Senate side tomorrow.

So I think that will be the ninth hearing that we will have participated in, which I am glad for that opportunity.

The second is we are in a retail enterprise here. And so understanding issues on the ground, as they are really confronted by community banks on the one hand and consumers on the other, will help us in what we do.

And obviously, Members of Congress have a good and appropriate kind of lens into those issues over time and we would love to hear about them.

Mrs. MCCARTHY OF NEW YORK. Going back to the first part, the question that I had asked you, and you had mentioned the thousands of people who are out there who are going to need to do their job.

Are these going to be new hires or are these coming from the different agencies coming into the new agency?

Mr. DATE. At the CFPB today, we have something like 700 or a little bit more than 700 people. We were privileged to have something like 1,300 applications for people from the prudential regulators to transfer to the Bureau.

We made something like 300 or 350 offers from those 1,300 applications. We have also been in the position—and given the clarity of the mission and the importance of what we are doing and the early team that we assembled, to really get some astonishing talent from other places in the government and the private sector—

Mrs. MCCARTHY OF NEW YORK. Unemployment does that.

Mr. DATE. I think we are the beneficiaries of the fact that the mission is very clear and very important.

Mrs. MCCARTHY OF NEW YORK. I yield back the balance of my time.

Chairwoman CAPITO. Thank you.

Mr. Pearce, for 5 minutes for questions?

Mr. PEARCE. Thank you, Madam Chairwoman, and thank you, Mr. Date.

On page four of your written statement, you talk about following the rules and then you make a comment about the lead up to the worst financial crisis.

You talk about the explosion in lending. And you talk about the failure of the regulatory system.

As you assess those failures, did you ever factor in the calculations or the changes in the lending standards that prohibited institutions from calculating previous payment history?

In other words, that was one of the things that caused bad loans. So, did you calculate concepts like that?

Mr. DATE. In my experience, credit underwriting has been quite different across different asset classes in consumer credit. And to the extent that mortgage has suffered disproportionately in this current crisis, and as the asset class were risk and return were the most divorced from each other, it is precisely because credit underwriting that was seen in the mortgage business was rather divorced from past commonplace, commonsense practices that—

Mr. PEARCE. I just asked if you studied it. Have you analyzed it and assessed it?

Yes or no?

Have you analyzed the effect of telling lenders they could not calculate previous payment history?

Mr. DATE. Which precisely—what was the prohibition on not using—

Mr. PEARCE. I think if you look at the New York Federal Reserve, maybe they have made some comments that declared many of the subprime loans to be—oriented. They have manufactured data.

Have you taken a look at that New York Federal Reserve issuance?

Mr. DATE. Congressman, I am reasonably familiar with, for example, how credit scores are generated. And I am quite certain that payment histories are in fact used—

Mr. PEARCE. Did you—I am asking about the New York Federal Reserve.

Did you take a look at that?

Mr. DATE. I don't think I recognized—

Mr. PEARCE. We will get a copy of it to you because it appeared to—have you looked at Members of Congress who are urging institutions that they could not discriminate on loans, they couldn't charge different rates to one payer and another?

Have you looked at that?

Mr. DATE. I am sure I would not have devoted your resources to individual Members of Congress—

Mr. PEARCE. I see.

On page five, you talk about the Bureau's central responsibility as to identify, address, update unnecessary or unduly burdensome regulations.

Do you have an example of an unduly burdensome regulation that you all have actually have tossed out?

Mr. DATE. Sure, as I discussed earlier, we are now developing the harmonization and streamlining of two very important disclosure forms that are used throughout the multi-trillion dollar mortgage business.

Mr. PEARCE. When you talk about protecting the consumer, are you going to have some sort of a—you constantly talk about in your presentation, your written presentation, the need for better information.

Do you have a little quiz or something that you are going to give to consumers to make sure that they actually read the stuff that you provide to them?

In other words, the consumer may have some culpability and maybe they didn't and maybe they are totally innocent in the processes of this run-up that you have discussed on page four of this run-up of the debt.

But maybe consumers have something to do with that. Are you going to have a measure to see that they are no longer playing their part in trying to get access to credit that maybe they shouldn't get access to?

Mr. DATE. Let me answer that in two ways, both of which are quite core to what the Bureau's mandate is.

Number one is that we, in our dealings with consumers and what we hear from them and what we hear from bankers, who frankly are on the front line of trying to sell products, is that consumers across America by and large are, and want to be, accountable for their own decisions.

American consumers are not children. They want to be treated like grown-ups.

But in order to hold people accountable for decisions and hope that they make good decisions over time, you have to hope that the right information is put before them over time. And we have—

Mr. PEARCE. No, sure, I understand that. But then, they have the ultimate responsibility to take a look at it.

In your discussions nationwide, all the comments that you have gotten from all the bankers, community bankers, what have they told you about Section 10-71?

Mr. DATE. Across-the-board, anyone who has, in my experience, spent time trying to understand the availability, access, pricing, trends, and small business credit finds the paucity of data in small business credit across the United States deeply distressing.

Mr. PEARCE. And now, you are going to implement some of those—are you going to do something to address those concerns, because in a meeting just yesterday with bankers, they still said that this is an operation that they are alarmed by and that they find no useful function in.

And are you going to those or you just got the comment?

Mr. DATE. I will follow the instruction of the United States Congress which is to implement Section 10-71 in a way that is productive to the—

Mr. PEARCE. Thank you, Madam Chairwoman.

I yield back.

Chairwoman CAPITO. Thank you.

Mr. Miller, for 5 minutes?

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

Mr. Date, I have been described in the press in the last month, including the last couple of days, as a critic of the announced debit card fees. And that would probably be a more politically popular position than my real position, which is that I don't want to be approving every fee that a bank charges.

I don't want you, the CFPB, to be approving every fee that a bank charges. I don't get the sense from you that you want to do that either.

But what I would like is for consumers to have the benefit of normal, healthy competition, so that they can figure out what they are getting. They can shop around. And so that the normal forces of competition will give them the best deal available.

And if they want to pay a debit card fee, but not pay something else, that is okay, but the way that these fees were announced and then retracted shows that is simply not happening in consumer banking.

The numbers appear to be snatched out of thin air. One bank said \$5, another bank said \$3, and they both said they were just kidding. And that is not the way pricing happens, pricing works, in other areas of the economy where there is normal, healthy competition.

And some of them are Members on the other side who have talked about—who have suggested that the CFPB's rules might be a threat to safety and soundness of banks, also suggest that normal, healthy competition isn't working because you don't have the power to require banks to offer anything.

If there is a product or a CFPB requirement that would make a line of business unprofitable they don't have to do it. What they are really saying is that they need to be able to make money off consumer banking to make up for losses somewhere else.

And that is a pretty good remarkable suggestion that the big banks that they are facing massive liability from selling mortgage-backed securities, where if a small bank, a community bank, many of which are just dirt lenders, are facing losses from commercial real estate that they will be able to make up that with their consumer practices.

And other lines of business, other industries can't do that where there is normal competition. You don't see companies with several lines of business losing money on one hand, and just raising their prices on the other hand, because consumers will take their business down the street.

And that is obviously not happening in consumer banking.

Mr. Date, do you think there is normal competition, normal healthy competition in consumer banking?

Do you think consumers really do understand currently that they can compare in an understandable way what services and fees are that different banks are offering so they can comparison shop, as you said earlier?

Would standardized plain English disclosures help them, and is that something that you are working on?

Mr. DATE. Thank you, Congressman.

We absolutely are working across the Bureau, across our various policy tools, towards the goal of substantive transparency which is that markets, as you point out, work better if consumers and providers are actually talking about the same transaction.

And to the extent that is made opaque unnecessarily by virtue of regulation that exists, we can make that better. And so, we are absolutely oriented towards that goal.

I will say that in some very important parts of the marketplace, things are definitely better today than they were just a few years ago.

Mr. MILLER OF NORTH CAROLINA. That is a low bar.

Mr. DATE. I grew up for the most part around the credit card business, for example. The credit card business today, after the CARD Act of 2009, is a dramatically more transparent business than it was in 2008—dramatically.

I think that is fundamentally good for franchises in the business, for issuers, for banks, and absolutely for consumers as well. So there are improvements.

Mr. MILLER OF NORTH CAROLINA. How difficult or easy is it for consumers to move from one bank to another if they decide they are unhappy with their bank and think they can get a better deal somewhere else?

Is that something that you are all looking at?

Mr. DATE. We would examine the fact base associated with, in general, deposit practices like is it clear how one opens, maintains, and closes an account over time as part of our usual supervisory activities.

Obviously, it will differ across products, and my sense is money market accounts, and the core DDA product, etc., have historically behaved quite differently from that point of view.

My sense is they probably will behave differently going forward, but there is no reason why we can't really kind of understand the facts on the ground.

Mr. MILLER OF NORTH CAROLINA. I yield back.

Chairwoman CAPITO. Thank you.

Mr. Duffy?

Mr. DUFFY. Thank you, Madam Chairwoman.

One of my concerns as I sit in these hearings is the back and forth in regard to what we, on this side of the aisle, have done to actually reform the CFPB.

I had a bill, I am not sure if you are aware of it. It was the Consumer Financial Protection Safety and Soundness Improvement Act of 2011.

And one of the components of that bill that passed the House, that is now one of the many that is stacked up in the Senate, was that we would move the CFPB from a Director to a commission. And the commission was the original language in the Democrats' bill that passed last year.

I hear a number of comments about how now we want to defang the CFPB when all we are trying to do is make it work better. And that is one of the frustrating things as I sit here.

I think we should have a real conversation about what we are trying to do.

Are we trying to defang it? Are we trying to make it work better?

I don't know if some across the aisle believe that this is the one law that was written perfectly, and we can't have any reform that can improve it, but that is the impression that I get as I listen to this conversation.

And I guess I come from a district with a lot of small banks, a lot of small credit unions.

Is it fair to say that the work of the CFPB will no doubt have an impact on many small banks and credit unions?

Mr. DATE. Yes.

Mr. DUFFY. Okay.

Mr. DATE. Yes, I think things will be better in the marketplace for small institutions.

Mr. DUFFY. But it is going to have an impact on them, right?

Mr. DATE. A better impact, yes.

Mr. DUFFY. Great. And so can you give me some examples of what my banks and my credit unions did to help cause the financial crisis?

Mr. DATE. That, Congressman, gets to exactly the right point, I think.

Mr. DUFFY. What did they do?

Mr. DATE. Precisely, community banks, for example in the State of Wisconsin.

Mr. DUFFY. What did my community banks do?

What did my credit unions do?

Mr. DATE. Community banks in Wisconsin entered the crisis with exposure, as all community banks did, to real estate lending. And by virtue of an inflation of a real estate bubble, principally by, frankly, non-depositories due to lax underwriting standards over time, when that bubble burst, it disproportionately impacted community banks, of which Wisconsin has many.

Mr. DUFFY. So is it their fault that they were following these standards? They were following standards, correct?

Mr. DATE. Exactly.

Mr. DUFFY. Were they bad actors?

Mr. DATE. Congressman, the notion of being able to extend the same set of practical rules across non-depositories is exactly the point.

Mr. DUFFY. Let me ask you this: Do you recall what the original name of the Dodd-Frank bill was?

Mr. DATE. I would not have occasion to recall that.

Mr. DUFFY. Would it surprise you that it was called the Wall Street Reform Act?

Mr. DATE. I have no particular reason to be surprised—

Mr. DUFFY. You think a better name for this bill would be the Main Street Reform Act?

Mr. DATE. I am not in the habit of naming legislation, Congressman.

Mr. DUFFY. Okay. And as I hear you testify, you have talked about how it is great that for your management background that you have a one person Director on the CFPB.

Now, I wonder if you would think that the U.S. Government will work better without a board, whether it is Congress or the Senate, and we just have a one person director who manages the control of the country.

Is that your philosophy as well?

Mr. DATE. I am quite sure no sensible person would say that, Congressman.

Mr. DUFFY. Great. I am happy to hear that.

Because as I look at what is happening right now, your agency—I wouldn't say your agency—the CFPB has an incredible amount of power and 1,200 employees, with a \$329 million budget.

And as I look around, I say, who has been elected to run this agency? Who has been nominated to run this agency?

Who has been confirmed to run this agency? And that is my concern.

When we talk about oversight, we can look at these hearings and they are great. I think one of our concerns is there hasn't been a nomination, there hasn't been an election, there hasn't been a confirmation. We don't have budgetary control necessarily over the CFPB.

And as I analyze the impact that this agency is going to have on my consumers, on my small businesses, on my small banks, and on my credit unions, when they really had nothing to do with the financial crisis, that gives me great concern.

I think the original intent was to look at what went wrong on Wall Street, what went wrong with the big financial institutions. But in essence, you have admitted that that is not all that we are going for. We are going for every financial institution, every small bank, every credit union.

And for me, that gives me pause. I don't think we grow our economy. I don't think—I think Mr. Gutierrez was talking about gun stick-ups, was what he said.

I can tell you that my financial institutions, my banks didn't do any gun stick-ups. They treat their customers fairly, openly, and transparently.

Mrs. MALONEY. Will the gentleman yield?

Mr. DUFFY. Oh, my time is up. I yield back to the chairwoman.

Mrs. MALONEY. I ask unanimous consent to respond to his statement that there is no oversight of the CFPB. There is considerable oversight of the CFPB.

Chairwoman CAPITO. Mr. Meeks, for 5 minutes for questions?

Mr. MEEKS. Thank you, Madam Chairwoman.

I was just listening to the colloquy also. But I do believe that Richard Cordray was, in fact, nominated by the President and we are just waiting for the Republican Senate to stop filibustering in the nomination so we will have a person in place there.

Let me just say this: I am pleased to know that you mentioned in your testimony that a well-functioning market is one where the buyer and the seller both understand the terms of the deal, and that buyers are able to make comparisons among products.

Markets function on the availability of information and transparency. And we see obstructions to the information so markets are disrupted. That is why bringing transparency into the marketing and sale of mortgages and consumer loans, I believe, is absolutely fundamental.

I strongly support what you are doing in simplifying mortgage disclosure forms because if you look at my district in South Queens, we have the highest foreclosure rates in New York City. And that is partially because we have the greatest number of fraudulent mortgages that were sold in America.

Countless seniors were duped into taking out reverse mortgages that have left them destitute and many of them homeless. And a

vibrant consumer protection agency is necessary, I believe, to protect all Americans from such predatory behavior.

As indicated, a number of my colleagues on the other side of the aisle have complained that the CFPB is not subject to the congressional appropriations process.

But I want to make two points on that.

First, it was a result of a Republican formulation—Bob Corker, the Senator Corker special, as it is known on the Senate side—that put the CFPB in the Federal Reserve and thus not subject to the annual appropriations process.

But more importantly, we see the Republican obstruction and funding the SEC as well as the CFTC trying to cut the budgets of those agencies to below pre-crisis, pre-Bernie Madoff levels.

Why would we want to subject an agency—created solely to protect consumers and enhance transparency to enable markets to function properly—to the whims of anti-consumer crusaders.

And that is not even to say that on the line of what my colleague was talking about before, we have many laws. Most citizens don't break the law, but they still have the law that they have to abide by also.

So I agree, the credit unions, a lot of the small banks, they have not—maybe they don't have any real negative involvement in this. So they—you still have somebody to look over, doesn't mean you abolish the police. And most of the individuals in a city abide by the law, but you still have the police there.

So the functioning that you have is tremendously important and to make sure that consumers are protected and have choices and have in fact—one of the things that I think that you are doing and stories that I have read that is egregious over the last few days about predatory lending, targeted toward active military service men and women.

Can you describe some of what you learned about this and what specifically, say, I think it is Ms. Petraeus and the Bureau will do to ensure that our folks in uniform and their families are protected from unscrupulous behavior?

Mr. DATE. It is an important focus for us, and one that I am glad that Mrs. Petraeus is leading our efforts in.

We are going to simultaneously make sure that we understand the special circumstances and particular difficulties that our servicemembers have today in financial services, do what we can to make sure that our men and women in uniform are equipped to be able to understand the financial ramifications of what it is that they are going to get into, and that we are attentive to those who would break the law in order to take advantage of precisely those men and women who don a uniform to serve the country.

We take it very seriously.

And I think that Mrs. Petraeus has already been shining a bright light on these issues that inform both our efforts as well as more broadly made a real difference in this marketplace.

Mr. MEEKS. You also, in your testimony, talked about a financial age shopping sheet.

What complications to an efficiently functioning market or consumer protection initially do you see in the student loan market, if you will, in the little time I have left?

Mr. DATE. Student lending is a very big market. And for any individual family or student making a decision to borrow money, it is a big, big decision.

But those decisions are made unnecessarily complicated by the fact that individual schools tend to use their own terminology to describe exactly the same things. So in cases like that, it becomes difficult for a student, or his family, to really get a handle on what they are getting into and how to compare how various schools stack up.

Mr. MEEKS. Again, so that just shows various choices.

And the last thing I wanted to talk is checking transparency.

Can you tell me what you see doing there so that it could be easier for voters, for constituents to move with their feet if they have to?

Mr. DATE. In the PDA or that is to say in checking accounts, broadly speaking, it should function just like other consumer financial services. Consumers should be in the products that they understand and that they want.

That is how a market works. And if we do our jobs right, that will happen.

Chairwoman CAPITO. The gentleman's time has expired.

Thank you.

Mr. Grimm, for 5 minutes for questions?

Mr. GRIMM. Thank you, Madam Chairwoman.

Thank you, Mr. Date, for testifying today, and I have to tell you, I appreciate the fact that you have a lot of zeal.

You are coming with a perspective that is almost completely private sector. I think we do need more of that.

But I am a little cautious because I have heard you say several times throughout your testimony things like "commonsense." This is just commonsense or how the Bureau is going to be making things more efficient, more effective.

And this is my first year here at the Congress, but it is my 17th year in the government. And unfortunately, one of the things I learned early on was—and it is something we need to change—to check common sense at the door.

And if you think a bureaucracy is going to make things more efficient and more effective, then you probably should be medicated. You need to just accept the fact that more government often is the problem, not the answer.

So I just want to put that out there. I know it has only been 100 days, and I would love to have this conversation 3 years from now. I think you would have a totally different perspective. But I think you are being honest from where you sit right now and I respect that.

But I do want to go back because you mentioned before about how someone has to be on the hook. And in the private sector where you come from, you are right, someone is on the hook. If you screw up, if you don't do what you are supposed to do and you get paid for it, you get fired.

And if you screw up badly enough, no one else is going to hire you. That is not how it works in the government.

The accountability is one of the biggest issues we have. It is one of the reasons I ran for Congress because I felt that no one is held accountable.

So the idea that now all of a sudden, a new Bureau has been created, and somebody is going to be held accountable, is almost absurd.

You were asked a question by my colleague, Mr. Duffy, as to what exactly did the smaller institutions, the small banks, the small credit unions do to exacerbate the financial meltdown, for lack of a better term. And you answered how they were affected by it.

Did they contribute? Did they play a major role in the financial meltdown? Yes or no?

Mr. DATE. No.

Mr. GRIMM. Okay.

Mr. DATE. And that is exactly why the—

Mr. GRIMM. Okay, okay, hold on, hold on.

Mr. DATE. [Off mike.]

Mr. GRIMM. It is a yes-or-no question. Thank you.

They didn't. And that is why I think when I speak to my community bankers and my credit unions, they say, "We had nothing to do with the meltdown. We played by the rules and now we are hiring more compliance officers."

I know the intent, and I don't think there is anyone on this panel, I don't think there is anyone who was involved in Dodd-Frank, or in the new Bureau who doesn't have the noblest of intentions. I believe that in my heart and soul.

So it is not the intent that I am worried about. What I am worried about is we are talking about streamlining inefficiencies, and they are already hiring more compliance, and already paying more administrative fees knowing they had nothing to do with it.

Do you understand at least the frame of mind, that they feel they are being punished for something they had nothing to do with? But yet, they are being told by bureaucrats—and whether you like it or not, now you are a bureaucrat—that don't worry, we are going to make it all better. That is a problem.

And I keep hearing about fraud and predatory lending, which are two different things.

Have you personally, and has the Bureau analyzed the defaulted mortgages, how much of that was, in fact, fraud? How much of that never ever should have taken place had the rules that were already on the books been enforced?

I think we had a big lack of enforcement. And adding more rules on top of rules that were not enforced in the first place may not be the answer.

Have you analyzed that?

Mr. DATE. That particular matter which is how many of these loans that were made during the 2005, 2006 integers did not conform to underwriting standards that were later attested to as the loans were sold to investors.

I am quite sure it will be litigated between private parties for quite some time. So, the actual fact-based discovery will be continuing for some period of time.

But I would agree with the notion that an effective regulatory apparatus that is efficient has to include a multitude of tools so you can use the right one, the most efficient one for any given problem. And enforcement does matter.

Consumers—

Mr. GRIMM. I only have 20 seconds.

So on that note, taking the military perspective, if I have a unit that is not working efficiently and effectively, do I throw more bodies and more resources at it, or do I fix what I have first, get that to operate correctly and then worry about expanding it?

That, to me, is common sense. Yes? No?

Mr. DATE. We are building a Bureau that is different in kind and dramatically better at the mission the Congress has given us. And we are dead serious about doing it right.

Mr. GRIMM. Fair enough.

Chairwoman CAPITO. The gentleman's time has expired.

Mr. Carney, for 5 minutes?

Mr. CARNEY. Thank you, Madam Chairwoman.

And thank you, Mr. Date, for coming up today.

I am interested in your answer to the question about the community banks and the effect—they weren't responsible maybe for the financial crisis, but how they might benefit from your actions because I haven't heard that answer yet.

Mr. DATE. Sure. Let me talk about it in two ways: one is near-term; and one is longer-term.

The near-term gets to the fact that compliance costs are real costs and they tend, not always, but they tend to be fixed cost. In other words, it doesn't matter if you are a \$100 million institution or a \$100 billion institution. It doesn't really scale with size.

What that means is that compliance costs are disproportionately tough for small community banks right away.

To the extent we can streamline regulations as we are doing right now on the mortgage disclosure forms, as we are kicking off an effort to really target and review existing regulations to do, well, that benefit disproportionately benefits community banks.

Mr. CARNEY. And you think you can really have some impact there with that review?

Mr. DATE. Absolutely.

Mr. CARNEY. Are you getting much feedback?

I saw in your remarks, your prepared remarks, that you have a survey out, if you will.

Have you been getting much feedback about that?

Mr. DATE. We will get, I think, a fair amount of feedback and we will do primary work, because not every regulatory burden is the same, some things cost real money—

Mr. CARNEY. Right.

Mr. DATE. —and impact how institutions function, and some things do not.

So we want to make sure that we target the right things, that is what—if it were your own money, that is what you would do and that is what we are doing.

Mr. CARNEY. I am glad to hear that. I have to move on. But I think it will be good for all our community banks.

I am also interested in—you mentioned earlier your role in regulating mortgage servicers. And there is, I guess, a release that you put on out on October 13th that talks a little bit about that.

I think that there are real problems in the servicing and our offices hear that every day in terms of timing this documentation, I think it is a complete disaster.

What I am interested in is what do you see as your role there? I have seen your press release. What are the standards you are going to apply for accuracy and timeliness? And then you mention at the end, appropriate enforcement. What does that mean in the context of the servicers?

Mr. DATE. Mortgage servicing is one of these things that is simultaneously a market that is very important in terms of risk to consumers, but also is one that in the pre-Dodd Frank regulatory regime tended to attract not as much supervisory attention as it otherwise should have.

The reason for that was—and these are not my words; I think that the GAO pointed this out earlier in the year—that mortgage servicing was not viewed as a safety and soundness concern, or not a significant one. And as a result, it didn't attract the same kind of supervisory attention as did other areas of the bank.

That has turned out to be a real problem.

When the prudential regulators reviewed 14 institutions in a report that they published in April of this year, 14 out of 14 had serious deficiencies, which is not a great batting average.

We have today, as of July 21st, supervisory authority over most of the largest mortgage servicers in the country with respect to existing Federal consumer financial laws, which means that we will take quite seriously the supervisory authority that we have to make sure that the law is followed, and that those deficiencies get remedied, and that consumers are not harmed.

Mr. CARNEY. We run into this all the time, consumers not having a single point of contact, lost documents, documents that are really in bad shape. Which by the way is a whole other problem and issue, and maybe a subject for an oversight hearing in terms of mirrors and all that, but it is a disaster out there.

And what is your role in that documentation side, if you see any or if you have any?

Mr. DATE. There are real structural problems in mortgage servicing. So for example, the way that servicing compensation works, it is difficult for servicers to actually get paid for dealing with delinquent loans in the right way, in a thoughtful way, in a nuanced way.

And as a result, there has been a systematic underinvestment in the right people, and processes, and technology, and we are living with the results now.

But the fact of the matter is even if the compensation structures are not ideal, you still have to follow the law and that is what we can do.

Mr. CARNEY. So what does the law say?

And then lastly, in 30 seconds, what are the appropriate enforcement actions that you can take?

Mr. DATE. We have an entire range of potential remedies. We have at the front end sort of the ability to participate in an inter-

agency process that we are doing right now, to try to develop sensible, right-minded, practical, national mortgage servicing standards.

The existence of a patchwork set of regulations in this area has not done anyone any great service. So if there can be—come to a conclusion on some sensible national mortgage servicing standards that would go a long way.

Mr. CARNEY. Thank you.

Chairwoman CAPITO. Thank you.

Mr. McCotter, for 5 minutes?

Mr. MCCOTTER. One of the questions that has been repeatedly asked and I think you touched upon it in your opening statement when you referred to—yes, here it is on page four—regulatory arbitrage, which I believe you mean to say businesses, financial entities, look for a least-regulated area to try to set up shop.

Is that correct?

Mr. DATE. That is the gist of it—yes.

Mr. MCCOTTER. Could there not be a corollary related to the community banks and credit unions or bureaucratic arbitrage, where the government looks for areas that are less regulated so that they can expand their power and influence over them?

Mr. DATE. In my experience, the more problematic aspect of it is actually the issue you were raising, that everybody knows where community banks are. Everybody knows the address. You know how many there are. You know how to find them. You know who runs them.

And so as a result, they are much easier to regulate and hold to high standards than are non-depositories. And that is what we have an advantage in fixing.

Mr. MCCOTTER. The second question is, people back home have difficulty in relating to the concept that the government creates bigger bureaucracies to streamline government.

And you said you have hired some 700 employees, the reason for which and I think the reason for the existence of the agencies put forward is so that you can centralize the authority-making within the new consumer Bureau, right?

Mr. DATE. The what Bureau? I am sorry.

Mr. MCCOTTER. The CFPB, you can centralize—

Mr. DATE. Consolidate—

Mr. MCCOTTER. —the host of duplicative authorities that have spread out throughout the years within one central place, right?

Mr. DATE. That is correct, Congressman.

Mr. MCCOTTER. I think the phrase you used was “centralization of authority.”

Mr. DATE. “Consolidation,” but yes.

Mr. MCCOTTER. “Consolidation,” a difference without a distinction.

To me, the question then is what happened to all the other people who were doing this in the Federal bureaucracy? Where did they go?

Since you have consolidated the operations and authority, where did they go?

Mr. DATE. We had something like 1,300 applications from potential transferees from existing prudential regulators.

Mr. MCCOTTER. Will all the people whose authority you have consolidated from their bureaucracies now work for the CFPB?

Mr. DATE. To the contrary, we made 300 to 350 offers amongst those 1,300 applicants because we are building a Bureau that is taking off—

Mr. MCCOTTER. I got what you are doing.
Where will they go?

Mr. DATE. I don't personally know them all, Congressman.

Mr. MCCOTTER. Where will the positions go?

Mr. DATE. [Off mike.]

Mr. MCCOTTER. What happens to the positions whose authority you have consolidated within this new bureaucracy?

What happens to the old bureaucracy?

Mr. DATE. Congressman, I wouldn't be in a position to be able to—

Mr. MCCOTTER. But you know that you have consolidated their authority? What happens to the positions that are currently tasked with implementing that authority within the Federal bureaucracy?

Mr. DATE. Those people, they are individual human beings—

Mr. MCCOTTER. The positions?

Mr. DATE. I am sorry, Congressman. I would not have line-of-sight into the internal staffing decisions of, for example, the OCC or the FDIC that—

Mr. MCCOTTER. Then how can you say you have consolidated the authority if they continue to do the same job in the same positions, despite the fact that this Bureau, this new bureaucracy has been created.

Mr. DATE. I mean it in the quite literal sense that there is—

Mr. MCCOTTER. So do I.

How can you say you have consolidated the authority within this new bureaucracy if you cannot tell me whether the extant positions that are currently doing them have been eliminated, or have had new tasks assigned to them.

Otherwise, you have just added a new bureaucracy on top of people who are continuing to operate as the old bureaucracy.

Mr. DATE. Dodd-Frank, I think, is relatively explicit about this. There are authorities to administer an enumerated set of laws that transferred over to the Bureau on a date certain. That has happened—

Mr. MCCOTTER. Are all those positions now, again, perhaps I misheard you, are all of those positions now coming into the new bureaucracy? And if not, what happens to them?

Mr. DATE. As I said, Congressman, I don't have visibility nor would I into—

Mr. MCCOTTER. So you don't know whether you have consolidated the authority because there may still be positions within the existing bureaucracy that are doing them?

Mr. DATE. Congressman, I—

Mr. MCCOTTER. So you don't know?

Mr. DATE. No, I am quite confident that the authority that it transferred to us by the Bureau—

Mr. MCCOTTER. So what happened to the positions?

Mr. DATE. [Off mike.]

Mr. MCCOTTER. If you take it, so the positions are sitting there with people in them spending taxpayer money with no specific direction at all and no plan for their subsequent phase-out or elimination in a time of massive deficits and debt, decide to save taxpayer's money, you don't know if that is happening?

Or was that not envisioned by the foresight of the bill's drafters?

Mr. DATE. I know that I am executing in the most disciplined way possible for us.

Mr. MCCOTTER. That is not what I asked you. You may be doing the best you can, but it doesn't mean it is good enough.

Chairwoman CAPITO. The gentleman's time has expired.

Mr. MCCOTTER. Thank you.

Chairwoman CAPITO. Mr. Green?

Mr. GREEN. Thank you, Madam Chairwoman. And thank you for allowing me to be a part of the hearing. As you well know, I am an interloper.

And I would like to thank you, sir, for testifying today. I would also like to compliment you on getting your Office of Older Americans and the Office of Servicemember Affairs up-to-speed. It is important that we serve these two communities.

To this end, a brief bit of information which will give you some indication as to why I have some concern about the question, or perhaps the statement that I will make.

In my congressional district, we have the ballot now in four languages: English; Spanish; Vietnamese; and Chinese. By the way, that is for American citizens.

Every person voting is an American citizen and that is the law in this country. So it is all pursuant to the law.

But with reference to our older Americans, senior citizens who are in the twilight of life, many of whom do not understand English as well as you and I, are you preparing to have your materials printed in other languages so that they may be not only informed, but they may have an opportunity to benefit from much of what you do?

Mr. DATE. It is a great question, Congressman. And we are trying to address that access in a couple of different ways.

One is to test over time, if you co-develop in both English and another language, you get to a different result or not. Because, for example, if it makes just as much sense to develop in English and then translate after that, that is one thing.

But you may—I don't know—and you may in some cases, if you co-develop in, for example, English and Spanish at the same time, you might get slightly different looking things. And we are going to test that over time. If there is no difference, then we will just develop in English.

The other important element, though, is that we have multilingual capabilities in our consumer response center today. Literally, like 150 different languages capability, which is important, that is the nature of America.

Mr. GREEN. Thank you. And I celebrate this diversity. I think it makes us a better country.

Now, moving to another area, it has been my opinion that where we have few facts, we have much speculation. There is a lot of speculation about the appeals process for some of our financial en-

tities given that you don't have your permanent Director in place. They are concerned that appeals may be arbitrary, whether findings may be arbitrary and capricious.

Now, I have met with some of the small bankers, and I have not heard any say that they want a process that will allow them to always prevail. They tell me that they want a fair process so that they can get a fair hearing such that they can have some confidence in the findings.

To this end, what are we doing to not only have it but to make sure that they understand it, and that there is a desire to be fair so that they won't have this speculation that can create adverse opinions.

Mr. DATE. Yes, I absolutely agree, Congressman, with the notion that speculation about what we might do or not do doesn't actually do anybody any good.

Our supervisory process is not meant to sneak up on anybody. We want to be clear about what our expectations are not just to our field examiners but to institutions as well.

And that is why I think we took an important step a couple of weeks ago in publishing our supervision and examination manual. It has become sort of the guidepost of what financial institutions can expect.

Mr. GREEN. Does it contain within it—and I have not perused it but I will—information about the appeals process when there is a desire to challenge a decision made by the agency?

Mr. DATE. Already, and over time, we will supplement a number of published guidelines about what appeals processes and administrative procedures will apply to that set of issues, which I think are important ones. We obviously have had the benefit of being able to look at what other Federal agencies have done to be able to construct something that is fair-minded.

Mr. GREEN. Thank you.

I have two final comments. First, I do meet with small bankers and they are exhibiting a lot of consternation about additional staffing and this appeals process. I don't find that to be unusual when people are having to deal with the unknown. So if we can make it as much known to them as quickly as possible, I think it would be a great benefit to all of us.

And the final comment is with reference to the original name of the Dodd-Frank Act. I have received some intelligence indicating that it was the Wall Street Reform and Consumer Protection Act. So it has always contained the notion that there would be consumer protection as a part of the Act.

Thank you, Madam Chairwoman.

I yield back.

Chairwoman CAPITO. Thank you.

Mr. HUIZENGA, for 5 minutes?

Mr. HUIZENGA. Thank you, Madam Chairwoman. And I apologize for having to step out to get prepared for another hearing with this committee a little later on this afternoon that I may be a part of.

But I was able to be here for about the first hour or so, and I appreciate your time again here in front of us.

And I know you have covered a lot of ground, a lot of territory, but I don't think this has been talked about much. I feel I need to

learn a little more about it and hope this is enlightening to the committee as well.

I know that the CFPB has stated it had some plans to finalize the ability to pay rule early next year, and that it is regarding a regulation for lenders, what they are going to be able to do.

Now, I have a background in real estate and developing, and am very concerned about how we got ourselves into this with some of those practices before.

But it is requiring, or potentially requiring, a lender to do a “good faith investigation” as to the ability to pay for a loan, which seems slightly redundant to me. I want to know why people will be making loans who wouldn’t have an ability to pay. But I think that is a part of our problem.

I understand there are two alternatives regarding qualified mortgages. And I am wondering if you could expand on that a little bit regarding safe harbor, as well as, I believe, it is rebuttable presumption, what those differences would be and why we wouldn’t just go with the safe harbor standards so that everybody knows what the rules are clearly and can play by those.

Mr. DATE. Congressman, it is a—when I get to sort of process setting where we are, describe a little bit about what is this qualified mortgage thing anyway, and then see if there are some subsequent points that we have time for around it.

Mr. HUIZENGA. We will have to go quickly. We have about 3 minutes.

Mr. DATE. You would be astonished by how fast I can talk.

So, first, let us start with the premise, why would people be making loans where the borrower doesn’t have the ability to repay, anyway. Certainly, I grew up on the credit card business, the subprime auto finance business.

Believe me, lenders in those businesses tend to care whether or not borrowers can pay you back. It is an important facet of the lending process.

As we saw on the mortgage credit—and during the credit bubble though, because risk and return tended to be de-linked just given the fragmentation of the secondary markets around mortgages, you ended up with originators not necessarily having the same stake in the outcome.

And as a result, it became less important in terms of how you actually got paid on the front end. It is whether or not the borrower had the ability to repay down that road.

Now Dodd-Frank, appropriately in my mind, takes a sensible approach to say, there should be a good faith investigation and to ability to repay.

But that alone, as your question points out, would not necessarily provide concrete guidance to the marketplace on such an important topic. And as a result, we are moving quickly, as quickly and as carefully as we can, to be able to provide some guidance about the so-called qualified mortgage which would be something that definitionally meets the ability to repay requirement.

Process-wise, the Federal Reserve Board proposed a definition for the qualified mortgage. We inherited on July 21st that proposal.

We are right now evaluating the fairly extensive comments associated with it with an eye towards providing a final rule to the marketplace in real clarity early next calendar year.

That is actually substantially ahead of the deadline set out in Dodd-Frank. The reason why this is really at the top of our agenda in terms of the alacrity with which we are pursuing it is that it is a gigantically important concept. And it is important in that it provides kind of a foundational element for other elements of mortgage reform that are being pursued by other agencies.

So for example, the risk retention framework and the qualified residential mortgage definition in part depends on the definition of qualified mortgage. So that is why we are moving so quickly.

Mr. HUIZENGA. All right, I appreciate that. And I had a chance with Chairwoman Capito to be in Wisconsin earlier this week, and talked a little bit about this.

When I was going through and getting my real estate license 20 years ago, I was taught that people aren't brown, they are not yellow, they are not white, and they are not black. They are green. And they are green because they simply do or do not have an ability to repay. It is my hope and desire to make sure that those rules that you are implementing are based on that, and that it then provides that guidance.

Because we got way outside the bounds, I believe, when we saw people taking on mortgages, oftentimes voluntarily, that they didn't fully understand what that meant, and they had no ability to sort of control themselves.

Hey, I am of that generation. We want it all. I get it.

And I only want the third stall garage and the master bathroom suite, but sometimes, we can't have that.

So, thank you, Madam Chairwoman. I appreciate the time.

Chairwoman CAPITO. Mr. Manzullo, for 5 minutes?

Mr. MANZULLO. Thank you.

I find it quite frightening that you made the statement that there are tens of thousands of products to be examined to see whether or not they should be regulated.

I practiced law for 22 years before I came here, and closed over 1,000 real estate transactions: commercial; agricultural; and residential.

We made up our closing statements at that time that gave enough information so that people could understand.

When RESPA came along in the mid-1970s, we had to sit there and pretend that the closing took place 3 days before because the requirements were so stupid that said that we should adjourn the closing, and come back 3 days later because a consumer had the right to vitiate the mortgage.

And now, we have the community banks who did absolutely nothing to bring about this crisis, bearing the brunt of the regulations. When in fact—and I totally disagree with your statement that says on page four, “The regulatory system prior to Dodd-Frank failed to protect consumers from harmful practices in this gigantic lending market.”

Number one, Fannie Mae and Freddie Mac could have set their own underwriting standards, not only to the loans that they collateralized, but also the crap that they bought on the open mar-

ket, the subprimes that two Presidents said that they should buy up because they wanted to have more housing going on.

The second thing is the Fed has always had the authority, as per Chairman Bernanke in the summer of 2009, to set underwriting standards and to govern documents of the institutions over which the Fed has had the authority.

But you know what they did? Not until October 1, 2009, did the Fed come out with the outlandish regulation that you had to have written proof of your earnings.

Come on. Now, we have another bureaucracy coming along, blaming the smaller institutions, putting more regulations upon them, when in fact, it was the Federal Government itself that could have stopped this, knowing full well that people were buying homes when they could not even make the first mortgage payment on it.

The people are not going to read documents. When I used to close a real estate transaction, it was maybe this many papers. The mortgage was two pages. The note was one page. And now, it is this many pages.

People don't read all that stuff. The lending agent or the person who closes the loan hands the documents and essentially says if you don't sign this stuff, you don't get your new house.

And now, we are going to have more and more and more and more and more disclosures.

This doesn't work, Mr. Date, going in and trying to set up a new Bureau to do the job that the Federal Government could have done adequately before.

And my question is, you are going to redo RESPA, is that correct?

Mr. DATE. One of our—

Mr. MANZULLO. Tell me. Yes or no?

Mr. DATE. We are streamlining RESPA—as we speak.

Mr. MANZULLO. Oh, okay, no. No, there are, according to the testimony of several years ago when we fought RESPA like crazy, because it really is not that clear. It tries to add things to it. It is more confusing for the consumer.

There were eight people at HUD who worked on RESPA. Are those eight people still doing the same thing? Do you know that?

Mr. DATE. I wouldn't know exactly who the eight people were—

Mr. MANZULLO. Can you find out for me?

I want you to make an inquiry, and get back to this committee within 7 days and find out if anybody at HUD is working on the RESPA disclosures. I want to know that.

And if they are doing that, they should be reassigned somewhere else or fired because that is the authority that you say that you have assumed as part of the Consumer Financial Protection Bureau.

Wouldn't you be concerned if they were still doing the same thing at HUD on RESPA?

Mr. DATE. I am across the Bureau. I am quite concerned about our continued ability to make sure we have absolutely the best people in the room—

Mr. MANZULLO. That is what I am talking about.

Mrs. MALONEY. Will the gentleman yield?

Mr. MANZULLO. No, I won't yield.

My question is, according to your testimony, you are going to be streamlining whatever it is and working over this document that has been beaten to death over the past several years, that continues to expand in size, scope, and makes it even more difficult for consumers to read.

I want to know if the people at HUD who have been working on that for years are still going to be working on that same RESPA form. Do you know that to be a fact?

Mr. DATE. We have a team that—

Mr. MANZULLO. No, no. Do you know that to be a fact? Are they still at HUD working on RESPA?

Mr. DATE. Congressman—

Mr. MANZULLO. If you don't know, you can say you don't know.

Mr. DATE. I have been a Federal regulator for 102 days. I don't know the specific—

Mr. MANZULLO. I am not holding it against you if you don't know. If you don't know, just say you don't know, and that is okay.

Mr. DATE. Of course, I don't know. I am sorry.

Mr. MANZULLO. Okay. But could you find out for us if they are still doing that work?

Mr. DATE. I am confident that our staff will find a way to make sure that you have the oversight information you need.

Chairwoman CAPITO. The gentleman's time has expired.

Mr. MANZULLO. Does that mean that you are going to get back to me with the information?

Mr. DATE. I am entirely happy to provide you with the information that you need with respect to RESPA administration, which I think is a very important topic in consumer finance broadly.

We take that job quite seriously, and I am heartened to hear your enthusiasm for it.

Mr. MANZULLO. Thank you.

Chairwoman CAPITO. Thank you.

I asked the ranking member if—because I had one additional question I wanted to ask—she wouldn't mind if I ask for unanimous consent that both of us would get another 2 minutes for questioning.

And without objection, I think she said to go ahead.

Mrs. MALONEY. Absolutely.

Chairwoman CAPITO. Good. So I thank you.

And I know you have a busy schedule, so this won't take very long.

I wanted to go to the Bank of America interchange, the debit card, \$5 a month issue, because we heard several Members talking about a concern about what it is doing to consumers.

The CFPB was made aware of this change that Bank of America was making to their debit card previous to the announcement that they made? Is that correct?

Mr. DATE. I would, if you don't mind Chairwoman Capito, like to steer clear of talking about specific conversations with specific supervised entities.

But I can say that we routinely are talking to institutions that are within our supervisory universe across the range of consumer finance issues.

Chairwoman CAPITO. But transparency is what we are looking for here. This has been the big complaint, obviously, the transparency and previous subprime.

And my assumption would be that Bank of America came to the CFPB in a disclosure and examination, saying that this was their intent. They have obviously since dropped this intent.

And I guess my question, my follow-up question, would be if it went forward, then it was judged by the CFPB to not be deceptive, unfair, and abusive because it was revealed in transparent.

Is that a safe assumption?

Mr. DATE. I think it is broadly true that in a productive regulatory relationship, bank management teams—and I will broaden that—financial institution management teams ought to feel comfortable talking about what is happening in the business, plans for the business with their regulators, at least in part to have a sense of whether or not something feels like it is within the confines of the law.

Chairwoman CAPITO. Okay. So let us take it a different step.

Let us say this fee was assessed without revealing to the customer or to you, that would be judged as abusive, unfair, or deceptive?

Mr. DATE. There are specific disclosure requirements, I believe, in the Truth in Savings Act with respect to pricing changes on—
Chairwoman CAPITO. Right.

Mr. DATE. —deposit accounts.

Chairwoman CAPITO. Right.

Mr. DATE. But there is an existing law and existing regulation—
Chairwoman CAPITO. Right.

Mr. DATE. —that govern it.

Chairwoman CAPITO. So I am really not getting an answer, I guess. And maybe we can talk about this outside the scope of the committee hearing.

But I am curious to know since this has caught a lot of attention, shall we say, and rightly so, to see what the interplay of the Bureau and this type of financial move would have been and should be, and would be going forward.

So I will ask the ranking member, and I will do a little wrap up.

Mrs. MALONEY. Just in response to your question, in Bank of America's own statement that they sent out, they said they listened to their customers and they were repealing this.

What happened is many customers were voting with their feet and going to other institutions that were not charging this additional fee. And so in a sense, the open and transparent market brought more competition into the area. And Bank of America said they listened to their customers and that is why they were withdrawing it.

I would like to respond to my good friend who is asking you about regulation. And I want to compliment you for beginning a targeted review of all regulations that you inherited from seven different agencies that had consumer protection in them.

But it wasn't their first goal; they had other duties. So consumer protection became a secondary thought, or a third thought, or wasn't even thought about at all.

That is why we need one agency which is focused on helping consumers. And I would state that when you help consumers, you help the overall economy. You help the financial institutions.

So following up on his request for information, I would like you to bring back to this committee, and I would like a copy of it as well as the chairwoman, the regulations that you are seeing that are a duplication, that aren't necessary, that no longer are needed, so that we are saving money for institutions.

I want to document how much money we are saving for institutions by erasing unnecessary regulations. And you have come out with "Know Before You Owe," which has received a mountain of applause for taking complicated documents that no one reads, where the fine print is so small that one can even hardly see it and making it understandable, so that consumers can understand the risk, so that they can understand the cost, and so that they can make choices that are appropriate for them.

Madam Chairwoman, I request additional minutes to respond to what I feel was an unfair attack on the CFPB. And I think it is important for the public knowledge and important for this hearing.

I request an additional 2 minutes to respond.

Chairwoman CAPITO. And I will take another 2 minutes.

Mrs. MALONEY. Yes, absolutely.

This is an important hearing. This is important to our economy. It is important to our consumers.

And I feel—I would like to point out that many people today made the allegation that there was no oversight of the Consumer Financial Protection Bureau.

That is not true. There is more oversight on this facility, on this Bureau, than all of the other Federal regulators.

First of all, it is accountable to the President, to the Congress, and to the Judiciary. The Director is appointed by the President and can be removed by the President for any cause that is appropriate.

The Director must testify before Congress semi-annually. They are required to. They have an annual GAO audit. They have annual reports to Congress on consumer complaints and financial literacy, again, required in our law.

Enforcement measures can be appealed. They can be appealed to the United States Court of Appeals. And agency actions are subject to judicial review.

Now, they have incredible oversight which, I think, is—no other regulator has it. Other regulators have unprecedented veto over CFPB rules.

Even after the CFPB finalizes the regulation, any member agency of the Financial Stability Oversight Council (FSOC) that objects to a regulation can petition the FSOC to get it removed. So other agencies can overrule the actions of the CFPB.

No other regulator has that oversight. And there is mandatory rulemaking consultation with regulators and small businesses and information sharing on bank supervision.

Any study they do on a financial institution, that institution has access to that study.

And they also have a capped budget. They have a capped budget. Other regulators do not.

Like all bank regulators, the CFPB's budget is not subject to the appropriations process.

This is the standard operating procedure, but it is tied to a percentage of the Federal Reserve's budget. So, their budget is capped.

And I would say that there is oversight and that was misinformation. But the information that has come out today is the extraordinary help that Mrs. Petraeus is giving to help our service men and women keep their homes while they are defending America in Afghanistan and Iraq, that there is a new senior area to help the seniors who are incredibly abused by predatory practices, and even the business community is coming out in applause of the student loan know before you sign these contracts.

How are you going to repay it? These are positive steps forward that help out young people, help our seniors, help our members of the service. And they are part of the solution, not the problem.

They didn't create the financial crisis. And I would argue that if they had been in place, we might have prevented the financial crisis.

So I want to congratulate you, Mr. Date, and the dedicated members of your staff for the hard work that you are doing. And I appreciate your testimony today and your hard work.

I yield back.

Chairwoman CAPITO. Thank you. And I would like to also thank you, Mr. Date, for your very informed testimony today.

Obviously, you know your stuff, so to say and I appreciate that.

And I want to thank Mrs. Petraeus for joining us here today and for what she is doing to benefit our Armed Forces. I do think you have targeted, we in our legislation, in the legislation that targeted three extremely—

Mrs. MALONEY. I applaud the chairwoman's statement. But may I be recognized for 2 seconds on Holly Petraeus?

Chairwoman CAPITO. Okay.

Mrs. MALONEY. Two seconds. We agree. Everyone says Congress doesn't agree.

We agree on the fine work that they are doing to protect the men and women in the service. And I request a hearing on what we are doing in this particular area.

Stories of what this agency has done to protect the homes of the men and women serving in the military, I think is something that is worth exploring more. Maybe there is more support we should give to her in her efforts.

Chairwoman CAPITO. All right. I thank the ranking member, and I think that is an excellent suggestion.

Let me just ask a quick question on TILA and RESPA, because we have heard a lot about that. And I mentioned and I think at the very beginning that I am refinancing—a lot of people here across America are refinancing and still finding this when you come in and you try to read through it.

So, I have tried to find out what are the actual lengths of a RESPA and TILA agreement now, 6 to 12 pages, is that your understanding?

Mr. DATE. I wouldn't be able to tell you precisely—it is longer than it should be.

Chairwoman CAPITO. Okay. Amen to that. So it is going to go to two pages, but just for point of clarification for folks who go in and you told me when you were in my office that this final regulation probably will not be finalized for at least 2 years after it goes to the comment period, etc., etc., right in the form it gets voted on and all that.

Is that pretty much essentially what—

Mr. DATE. Yes, among other things, we actually have to formally propose a regulation.

Chairwoman CAPITO. Right.

Mr. DATE. And we will—there are all manner of quite right-minded procedural—

Chairwoman CAPITO. Right. So it is a couple of years away.

So if you are refinancing a couple of years away, you might have instead of this first 12 pages, you might have 2 which should be great because you can see—

We are still going to have all this. And I think that is what Mr. Manzullo was alluding to as well because even as the attorney, he was saying he is not reading it.

I know certainly I was not reading it, signing some things that are probably—not exactly sure what I signed. And I think that is an issue with these complex—as particularly something as valuable and as precious as a home.

So we will follow that and see where you go.

I would like to say in response to my colleague's assertion that the FSOC that one certain regulator can come in and say that a decision by the CFPB needs to be overturned.

The threshold to overturn is upending the entire financial system of the United States is one of the issues.

And also, in order for that to be overturned it is a to what extent-thirds vote by that body which is a pretty high bar as we know as we try to pass some things here with two thirds votes. And it is very difficult.

We had a commonsense reform to that because we liked the concept of being able to overturn a decision.

However, let us make it a reasonable bar, a high bar, but a reasonable bar. And I think that we should look at that, maybe not in the first 102 days. Maybe that is not going to get all the way through the Senate.

But I certainly think it is an issue that is going to be recurring as the CFPB grows and matures into a longer-serving Bureau.

But essentially, I think that—no, I am going to bring it down here, because we have already dragged Mr. Date through a couple of hours, and I think he is ready to go home.

So I appreciate you coming, and I appreciate the dialogue that your office has with this committee. And I look forward to seeing you in the future.

Thank you very much.

Mr. DATE. Thank you.

[Whereupon, at 12:31 p.m., the hearing was adjourned.]

A P P E N D I X

November 2, 2011

Testimony of Raj Date
Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau
Before the Subcommittee on Financial Institutions and Consumer Credit
Committee on Financial Services
United States House of Representatives
November 2, 2011

The Consumer Financial Protection Bureau: The First 100 Days

Thank you Chairman Capito, Ranking Member Maloney, and members of the Subcommittee for inviting me to testify about the Consumer Financial Protection Bureau (CFPB). I am pleased to have this chance to update you on our progress.

My name is Raj Date and I serve as the Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau. Our mission at the CFPB is to help consumer financial markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. We are here to restore confidence that markets for consumer financial products and services can work *for* families rather than *against* them. And we are here to give our nation's financial institutions a more level playing field on which to innovate and compete.

In the three months since we launched the CFPB, we have been hard at work building the agency. We have hired some 700 employees, many of whom were hired from the prudential regulators' consumer protection divisions. We have travelled across the country to meet and listen to consumers, consumer groups, civil rights organizations, big banks, community banks, investors, and trade organizations. And, among other things, we have started on site examinations of the largest banks, we have started our consumer education campaign, and we have started to take consumer complaints and solve consumer problems. We are working on a summary of our consumer response efforts that will be provided to you. It has been an exceptional beginning.

Before the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), responsibility for administering and enforcing the various federal consumer financial laws was scattered across seven different federal agencies – the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Federal Reserve, the National Credit Union Administration, the Department of Housing and Urban Development, and the Federal Trade Commission. For each of these agencies, consumer

financial protection was just one of their responsibilities. Not one of them was solely focused on consumer financial protection.

The CFPB is the first agency whose sole mission is making sure that consumer financial markets work for American families. In addition to rulemaking and enforcement responsibilities, we have authority to supervise large depository institutions and their affiliates. This supervisory jurisdiction covers the 100 or so largest banks, thrifts, and credit unions in the United States, which collectively hold the majority of bank assets in the country and interact with the majority of consumers. When we have a Director in place, we will also supervise key nonbank providers of consumer financial products and services.

To achieve our goals, we are working to be transparent and participatory in everything we do. Our goal is to be an open agency, sharing with the public not only what we are doing but how we are doing it. And to carry out our mission, we have lots of tools in our toolkit – research, supervision, rulemaking, enforcement, and consumer education. Having a full range of tools means we do not have to force a square policy peg into a round hole. Our goal is to use each of these tools in the smartest way possible, matching solutions to problems.

In the first 100 days, we have been hard at work to promote a consumer financial market where consumers know what they are getting into, where firms follow the rules, and where consumers are protected and empowered.

Transparency

One of the CFPB's primary objectives is to bring clarity to the marketplace by promoting easy-to-understand disclosures that make prices and risks clear up front. This will ensure that consumers get the information they need to make the financial decisions they believe are best for themselves and their families.

A basic premise of an efficient, well-functioning market is that the buyer and the seller both understand the terms of the deal, and that buyers are able to make comparisons among products. But in the years leading up to the financial crisis and continuing through today, in many consumer financial markets, that was not the case.

We saw the most egregious example of this in the mortgage industry during the housing bubble, when the fastest growing mortgage products were some of the most complicated: hybrid ARMs, option ARMs, interest-only loans. The potential costs and risks of these mortgages were often not clearly understood. To properly calculate the costs and risks, borrowers needed sophisticated knowledge of things like rate caps and rate spreads. The result was that too many consumers ended up with mortgages they couldn't afford.

The Bureau is doing what it can to fix this lack of transparency in financial product markets. With our *Know Before You Owe* mortgage initiative, we are creating a single, shorter, more useful mortgage disclosure form that satisfies the requirements of the Truth in Lending Act and the Real Estate Settlement Procedures Act. Congress asked us to combine these two forms, and our work in this area will both reduce regulatory burden and make the costs and risks of a loan clearer so that consumers can choose the mortgage that best meets their needs.

Our goal with the form is to reduce unwarranted regulatory burden for industry at the same time that we improve the usefulness of information provided to consumers. Before we began designing the sample form, we reached out to the public, industry participants, and market experts to find out what on the current disclosure forms is helpful for consumers, what is not, and what is information overload. What do consumers really need to know? And what approach makes the most sense for the industry?

We incorporated that feedback as we developed alternative forms, the first two of which we introduced back in May. We invited comments from stakeholders and displayed the forms on our website. We have continued to seek public comments through four subsequent rounds of testing, and have received more than 22,000 comments to date.

And just last week we announced another exciting *Know Before You Owe* initiative with student loans. In partnership with the Department of Education, we are working to improve the way schools communicate loan and repayment information to students. At the CFPB, we are deeply committed to working cooperatively with other agencies in order to efficiently use resources and to further common goals.

In that vein, along with the Department of Education, we released a draft one-page “financial aid shopping sheet” that would provide students and their families with important information such as estimated monthly payment levels after leaving school, and school-related information like graduation rates. It gives information on how students from that school have fared in repaying their loans. Just like with our *Know Before You Owe* mortgage initiative, we are soliciting feedback from the public, industry, and other stakeholders on how to provide the best possible information for students.

The financial aid shopping sheet is intended to be a thought starter to advance both the Bureau’s mission in the student loan area and the Department of Education’s interests in promoting more informed decisions about higher education. We, and the Department of Education, hope that it is a first step toward greater transparency in this area, and that the process will result in useful tools for colleges, student loan providers, and others who are interested in providing better information to students and their families.

The Bureau is also working to bring greater transparency to the private student loan market – one of the least understood consumer credit markets. We are asking the public, the higher education community, students, families, and the student loan industry – both lenders and servicers – to provide us with information about this market voluntarily. What terms do these student loan products offer? Are students able to repay them? What rules apply to who is approved and who is denied a private loan? With this information, and as required by the Dodd-Frank Act, the CFPB and the Department of Education will draw up a detailed report to give to Congress next summer.

And, finally, part of the Bureau's commitment to transparency means taking stakeholders' views into account. As I mentioned earlier, we have reached out to market participants and the public for feedback on our *Know Before You Owe* projects, and we anticipate that their input will be important in our work to improve clarity for consumers and reduce regulatory burden for industry. We have taken a similar approach in our development of a "larger participant" rule to help define the scope of our nonbank supervision. This is part of our broad efforts to seek industry and public feedback to complement the requirements under the Dodd-Frank Act and other laws, including the Small Business Regulatory Enforcement Fairness Act (SBREFA).

Following the rules

In the lead-up to the worst financial crisis since the Great Depression, we saw a dramatic growth in lending. From 1999 to 2007, household debt almost tripled to more than \$12 trillion. But the regulatory system prior to Dodd-Frank failed to protect consumers from harmful practices in this gigantic lending market.

Perhaps the worst example of that was, once again, seen in the mortgage market. Because federal and state rules created a fragmented system of mortgage regulation, supervision, and enforcement, the mortgage market became an un-level playing field that encouraged irresponsible lenders to shop for the most permissive – or least monitored – legal regime. The opportunity for regulatory arbitrage accelerated a race to the bottom in lending standards.

The Dodd-Frank Act charges the Bureau with making mortgage markets work better for all consumers, regardless of what charter the business falls under. When we have a Director in place, brokers, originators, and servicers who are not part of a bank or bank affiliate will – for the first time – be subject to a regime of examination and supervision by federal regulators. Our mission is to ensure that brokers, originators, and servicers play by the rules, regardless of their charter. It doesn't matter if you're a thrift, bank, finance company, industrial loan company, or investment bank. If you want to be in the business of consumer finance, then you've got to play by the rules like everyone else.

To this end, the Bureau has published its Supervision and Examination Manual, the guide for our examiners to use in overseeing companies that provide consumer financial products and services. We have also released our examination procedures for mortgage servicing. Both provide direction to our examiners on how to determine if providers of financial products and services are complying with Federal consumer financial laws – and how to determine if the providers have adequate policies and procedures in place to ensure continued compliance.

We consider both the servicing procedures and the broader Supervision and Examination Manual to be evolving documents. We welcome feedback from all stakeholders. Over the coming months, we will release more guides that explain specific examination procedures for particular products and lines of business.

While the CFPB will examine large banks and their affiliates first, when the CFPB has a Director in place, these guides will be used across the markets we supervise. Our goal is to help promote fair, transparent, and competitive consumer financial markets where consumers can have access to credit and other products and services, and where providers can compete for their business on a level playing field where everyone has to play by the rules.

One of the Bureau's central responsibilities is to identify and address outdated, unnecessary, or unduly burdensome regulations. The Bureau has a unique opportunity to streamline and simplify rules to ensure that they are truly making consumer financial markets work better. The Bureau has inherited from other agencies numerous regulations, many of which have been on the books for years. Changes in technology, market practices, and the legal landscape may have caused some of these rules to be obsolete, unnecessary, redundant, or counterproductive.

Later this month, the Bureau will initiate a targeted review of these rules in search of ways to update and streamline the regulations. Consistent with the Bureau's philosophy, we will ask the public to participate in this process from the beginning. The Bureau will invite public input to identify specific rules that should be priority candidates for review, to provide a fact base to help the Bureau evaluate the costs, benefits, and impacts of those rules, and to suggest alternatives that may achieve the goals of the underlying statute at a lower cost. This input will be vital to the Bureau as we seek to determine how we can make regulations more effective at achieving intended benefits for consumers while lowering costs for lenders.

Empowering Consumers

We have been hard at work building up the Bureau's capability to empower consumers.

Dodd-Frank directs the CFPB to create offices and positions within the agency to address the needs of specific populations, including servicemembers, seniors, and students. These units will

focus on improving the financial decision-making of these groups. This includes providing educational materials tailored to these groups' particular needs and situations and addressing unfair, deceptive, and abusive practices targeted against them.

Last month, we brought on Hubert "Skip" Humphrey III to head up our newly established Office of Financial Protection for Older Americans. This follows our hiring of Holly Petraeus to lead our Office of Servicemember Affairs. Mrs. Petraeus is doing a superb job. She is bringing important attention to the unique financial needs of our men and women in uniform.

CFPB's Office of Servicemember Affairs addresses financial issues faced by members of the military. Among other duties, the Office is charged with educating and empowering servicemembers and their families to make better informed decisions regarding financial products and services. Servicemembers face special circumstances such as deployments, relocations, and overseas assignments – and these present unique challenges to the military members and their lenders. Under Mrs. Petraeus's leadership, the Bureau has been collecting data and other information from servicemembers, their advocates and counselors, and industry participants. The Office has hosted town hall meetings with military families and roundtable discussions with financial readiness program managers and counselors, legal assistance lawyers, chaplains, and other professionals servicing the military community.

With Mr. Humphrey's leadership of CFPB's Office of Older Americans, seniors have someone looking out for them when it comes to financial products and services. Seniors have been hard hit by the economic crisis. Even if they planned well, too many saw their retirement savings and home equity shrink. The Office of Older Americans will, among many of its plans, help seniors navigate financial challenges by educating and engaging them about their financial choices in areas such as long-term savings and planning for retirement and long-term care. The Bureau will coordinate with senior groups, financial institutions, law enforcement offices, and other Federal and state agencies to identify and take action against scams targeting seniors. And we will use data from the field to identify trends and bad practices in a timely and effective way.

With students, we are also making strong progress. In addition to our *Know Before You Owe* initiative, we now have a "Private Education Loan Ombudsman." The Secretary of the Treasury recently designated Rohit Chopra to this position, which was created by the Dodd-Frank Act. The ombudsman will work with the Department of Education to receive, review, and attempt to resolve complaints from borrowers of private student loans. In this capacity, he will also work with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education loan programs. In the Dodd-Frank Act, Congress directs the ombudsman to enter into a memorandum of understanding with the Department of Education's student loan ombudsman; this will enable both agencies to coordinate closely and

share information. This memorandum of understanding is complete, allowing us to begin planning how to intake these complaints. Last week, we began helping student loan borrowers by launching the Student Debt Repayment Assistant. Already, consumers have viewed the repayment tool over 28,000 times.

In July, the ombudsman will provide a report to Congress on the CFPB's efforts to assist borrowers of private education loans.

Conclusion

I will conclude by explaining how we will approach every issue that we work on. First, we are committed to basing our judgments on research and data analysis. We will not shoot from the hip. We will not reason from ideology. We will not press a political agenda. Instead, we are going to be fact-based, pragmatic, and deliberative. And I am proud to say that we are building a team that is eminently capable of making good on that promise. We have hired top-notch regulators, researchers, lawyers, and market practitioners.

Second, once we understand a problem and its causes, we will be careful to use the right policy levers to address it. As I mentioned earlier, we have a wide range of tools at our disposal. We will strive to use each of them in the smartest way possible, matching policy solutions to policy problems.

Finally, and perhaps most importantly, we will tackle our mission knowing that we are singularly accountable for it. Consumer protection in financial services is a hard job. And by enacting Dodd-Frank, Congress recognized that if you do not make someone singularly accountable for doing a hard job, you shouldn't expect it to get done well. You can count on us to make sure consumer financial markets actually work – for families, for the honest firms that serve them, and for the economy as a whole.

Bloomberg

Obama Shouldn't Bow to Republican Plan on Consumer Protection Bureau: View

By the Editors - Jul 19, 2011

President [Barack Obama](#) finally made official what everyone in [Washington](#) had assumed for months: [Elizabeth Warren](#), the Harvard law professor who first had the idea for a consumer financial protection agency, will not get to oversee her creation. Instead, the president has nominated [Richard Cordray](#), the former Ohio attorney general who's now running enforcement at the Consumer Financial Protection Bureau, to fill the job.

Warren, a major irritant to the big banks, was never going to get the 60 Senate votes needed for confirmation. Cordray, a smart, aggressive prosecutor, is unlikely to fare much better. By going with Cordray to run the bureau -- created to oversee the sale of consumer financial products, from the fine print in mortgages and credit cards to the [interest rates](#) charged by payday lenders to the overdraft fees on checking accounts -- Obama seems prepared to have a gloves-off fight with the financial industry and its Senate allies.

This battle is likely to be waged over obscure accountability and structural issues. In a May 5 letter to Obama, 44 Republicans pledged not to confirm any nominee unless the bureau director is replaced by a board of directors, the agency is subject to the congressional appropriations process, and new checks and balances are in place to prevent excessive bank regulation. The president should resist all three demands.

The Republican senators would do away with the idea of an agency director and recast the consumer bureau in the mold of the Securities and Exchange Commission, with five commissioners split between Democrats and Republicans (and the party controlling the White House naming the chairman, and thus exercising control, in theory).

This would be a mistake. The consumer bureau, which inherits supervision duties from seven federal agencies, was designed to move quickly (like the Federal Deposit Insurance Corp.) and not ploddingly (like the SEC, where three commissioners must pre-approve nearly everything the agency does).

Subjecting the bureau to the congressional appropriations process would also be a mistake. The bureau was meant to be insulated from the partisan funding fights that have hamstrung the

SEC, the Commodity Futures Trading Commission and other regulators. Financing the new bureau through the Federal Reserve -- which in turn is funded through its open-market operations and by the institutions it supervises -- is the surest way to stop lawmakers from starving the bureau of resources.

No question, the consumer bureau should not be able to issue new rules willy-nilly. Concerns in this realm are most always justified. But the Dodd-Frank law has safeguards that prevent the bureau from harming the overall economy or threatening the safety of the banking system. For example, anyone on the so-called council of regulators -- it includes the heads of the FDIC, Federal Reserve and SEC, along with the comptroller of the currency and six others -- may temporarily stop any bureau rule simply by asking the Treasury secretary, who chairs the council, to do so.

In addition, the council can permanently halt an objectionable rule with a two-thirds vote. And if another regulator objects in writing to a bureau proposal, the CFPB must publicly explain why it's going ahead anyway. The act of having to justify itself will be a powerful deterrent against blunderbuss moves.

The consumer bureau, to be effective, needs all the agility and muscle that the Dodd-Frank law meant it to have. Although it's bigger than any one person, the bureau by law must have a confirmed director to issue new rules and oversee non-bank firms such as payday lenders. The Senate should move ahead on the Cordray nomination with all speed. After all, it's in the industry's best interest if consumers can understand what they're buying.

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EDITORIAL | GLOBE EDITORIAL

After Obama yields on Warren, new appointee deserves a vote

July 21, 2011

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IT'S DISAPPOINTING that President Obama decided against naming Elizabeth Warren to head the new Consumer Financial Protection Bureau, which officially opens today. The Harvard Law School professor, the brains behind the agency's creation, would have been an excellent choice. Still, the man Obama chose instead, former Ohio attorney general Richard Cordray, is well qualified. Now Senate Republicans must allow Cordray an up-or-down confirmation vote.

Financial-services firms and their allies, briding at the prospect of tighter regulation of products like mortgages and credit cards, have relentlessly attacked both Warren and the fledgling bureau since it was created as part of last year's Dodd-Frank reforms. This spring, 44 Senate Republicans said they would block a vote on a nominee - no matter whom Obama named - until the agency's powers were weakened.

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The GOP lawmakers, lead by Senator Richard Shelby of Alabama, couch their demands as accountability measures. But the clear intent is to scuttle the agency. First, the Republican group - which doesn't include Massachusetts' Scott Brown - wants to make the agency's budget subject to congressional appropriation, which would give opponents the ability to starve the agency of funds. Most regulatory bodies have guaranteed funding streams.

Another proposal would restructure the bureau's leadership into a five-person board, instead of a single chief. It's unusual for GOP lawmakers to advocate such bureaucratic bloat - and in this case, they should've heeded their small-government instincts. If anything, such an unwieldy structure would make the agency less accountable, not more, without a single leader at the helm.

But the most troubling Republican demand is to grant the other federal financial regulators greater veto power over rules issued by the new bureau. Indifference to consumer protection by the financial regulators was the main reason for establishing the bureau in the first place. As written, the Dodd-Frank legislation already gives an unusual amount of power to the banking regulators - the Federal Reserve, Office of the Comptroller of the Currency, and FDIC - to override consumer-protection regulations they deem a threat to the nation's overall financial system. Giving those agencies even more authority risks defanging the consumer watchdog completely, and would defeat the purpose of an agency to protect consumers.

By abandoning Warren, Obama has already made a significant concession to opponents of the bureau. There's no reason to give any more. If Republicans won't hold a vote, he should put Cordray into office with a recess appointment. That's not the preferred way of doing business in Washington - but neither is a blanket refusal to even hold a vote on a presidential nominee.

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Roundtable Supports CFPB's Know Before You Owe Student Loan Program

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WASHINGTON, Nov. 1 -- The Financial Services Roundtable issued the following news release:

The Financial Services Roundtable strongly supports the Consumer Financial Protection Bureau's (CFPB) student loan program Know Before You Owe: Student Loans. This initiative will help strengthen student's knowledge about student loans.

"This initiative will help students know the cost of their education before borrowing by increasing transparency" said Steve Bartlett, President and CEO, The Financial Services Roundtable. "This is an important step in securing students' financial future."

CFPB's initiative focuses on following key areas:

A "financial aid shopping sheet" - a model disclosure form that colleges and universities could use to make the costs and risks of student loans clear upfront, before students have enrolled.

Transparency to the private student loan market

An online tool that provides borrowers with information on their repayment options.

The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO.

Roundtable member companies provide fuel for America's economic engine, accounting directly for \$92.7 trillion in managed assets, \$1.2 trillion in revenue, and 2.3 million jobs.

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Editorial

Shaky start for Consumer Financial Protection Bureau*Beyond the political fight over approving its director, the new, sorely needed Consumer Financial Protection Bureau will be impeded by unusual restrictions.*

July 19, 2011

Rahm Emanuel, President Obama's first chief of staff, famously opined that crises presented opportunities for government "to do big things" even in a sharply divided Congress. But when those "big things" aren't backed by a broad political coalition, they may shrink when the crisis goes away.

That's the challenge faced by the Consumer Financial Protection Bureau, a centerpiece of the law passed in the wake of the financial meltdown to tighten oversight of complex financial products and banks. The bureau was designed to take over consumer protection duties that had been parceled out among half a dozen financial industry regulators, which have been more concerned about companies' solvency than their treatment of consumers. It also was empowered to create rules against unfair and deceptive practices by mortgage firms, payday lenders and other "non-bank" financial companies that weren't covered by existing federal regulations.

The absurdly risky subprime mortgages that helped inflate the housing bubble should have made the need for a consumer-focused regulator abundantly clear. But the proposed bureau drew stiff opposition from the financial industry and its allies in Washington, who argued that the added layer of regulation was unnecessary and too costly. The compromise struck by lawmakers placed some unusual constraints on the new bureau: for example, it is the only agency whose rules can be vetoed by another regulatory body (in this case, a panel of financial industry regulators).

The law also barred the bureau from using some of its powers until after its first director was confirmed by the Senate, including its ability to ban the most abusive practices and adopt new rules for financial companies that aren't banks. But some GOP senators now say they won't allow a vote on Obama's nominee (former Ohio Atty. Gen. Richard Cordray) until the law is changed to reduce the bureau's independence and replace its director with a commission.

The impasse won't stop the new bureau from enforcing existing law after it officially launches Thursday. It will, however, prevent the bureau from closing regulatory gaps that leave consumers vulnerable to predation by lenders that aren't banks. It was easy to predict that a fight would ensue over whomever Obama nominated, so it would have been better had supporters of the bureau not left it so vulnerable to obstruction.

On the other hand, the extra "checks and balances" demanded by GOP critics could stop the bureau from adopting any rules that run counter to a financial company's interests, making it as ineffective at protecting consumers as other regulators have been. Obama may wind up appointing the bureau's first director while the Senate is in recess, a stopgap move that would prevent that person from being properly vetted by lawmakers but would at least allow the agency to start work on all of its assignments.

The Miami Herald

Posted on Thu, Jul. 21, 2011

Wall Street needs strong sheriff

The Miami Herald Editorial
HeraldEd@MiamiHerald.com

More than three years after the collapse of the housing market and the onset of the Great Recession, a government agency designed to protect consumers from fraud, abusive practices and deception in the financial arena has finally come into being.

That's the good news. The bad news is that Wall Street and its allies in Congress are waging a determined rearguard action to keep the agency from functioning effectively, to the detriment of every American who needs a mortgage, wants to secure a loan or carries out any other kind of financial transaction. Wall Street may have lost round one, but the fight isn't over yet and consumers could still wind up losing big.

The new agency was the main feature of the Dodd-Frank bill approved by Congress last year with strong backing from the Obama administration. The law overhauled the nation's financial regulatory system by placing authority for enforcing nearly 20 consumer financial laws under one regulatory roof. Previously, these were handled by seven separate agencies — some of which were practically captives of the financial industry. It is the most beneficial and most tangible reform to grow out of the Great Recession and should lead to more effective regulation.

For that reason, creation of the Consumer Financial Protection Bureau has been strongly opposed by those who made out like bandits before the collapse.

They're adamantly opposed to changes that would empower regulators to make consumer-friendly rule changes, and they appear to be winning the battle. The main issue is whether the agency will have one director — as foreseen in the law — or a panel of commissioners, as opponents like Sen. Richard Shelby, R-Ala., an unabashed ally of Wall Street, would prefer. Critics fear this will undermine the agency's leadership, make it more susceptible to lobbying by financial interests, and tie it up in political infighting.

A few days ago, President Obama bypassed Elizabeth Warren, the driving force behind the new agency, and nominated former Ohio Attorney General Richard Cordray to head the bureau, reckoning it might be easier to get approval in the Senate for someone who was deemed less of a lightning rod. Fat chance.

Mr. Cordray had a reputation in Ohio as the Midwestern sheriff of Wall Street. He sued the likes of Merrill Lynch, the insurance behemoth A.I.G. and credit rating agencies, among others, for actions that he said contributed to the collapse of the economy. Clearly, Mr. Cordray takes the role of watchdog seriously, and that's what worries Wall Street.

In May, 44 Senate Republicans vowed to block any nominee unless President Obama

agreed to major structural changes, including replacing the single director with a five-member panel.

This will stymie the agency's operations, which suits Wall Street just fine. Without a confirmed director in place, it can enforce consumer financial protection laws already on the books, but it cannot implement new rules to ban products or practices deemed "unfair, abusive or deceptive."

Republicans have enough votes to block Mr. Cordray. But Mr. Obama should stick to his guns. His effort to conciliate opponents by overlooking Ms. Warren got him nowhere, and Mr. Cordray is the right kind of leader to head the nation's first consumer protection agency in the realm of finance.

With the consequences of the Great Recession still evident all around us, it should be painfully clear that Wall Street needs a strong sheriff now more than ever.

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July 24, 2011

Consumers vs. the Banks

The Consumer Financial Protection Bureau officially opened its doors last week a year after it was established under the financial reform law. Score one for consumers. But the fight to create a bureau strong enough and independent enough to really take on the banks isn't over.

Federal watchdogs have given the bureau stellar marks for getting up and running in a timely, professional manner. The bureau has already begun to tackle crucial issues, like simplifying mortgage disclosure requirements and handling credit card complaints.

Banks and their Congressional allies are pushing back hard, determined to weaken the bureau. It is not clear how much political capital President Obama is willing to spend to stop that from happening.

It is important to recall why the bureau is so necessary. The financial crisis had its roots in dangerous, unregulated loans that inflated a credit bubble. When that burst, tens of millions of Americans lost their jobs, savings and home equity; millions lost their homes; and everyone lost trust in financial and government institutions.

The new bureau concentrates consumer protection in one agency, with the sole purpose of shielding Americans, and the financial system, from abusive and deceptive lending in mortgages, credit cards and other borrowing.

The banks — big campaign contributors — don't want robust consumer protection because complex and obscure products are lucrative. House Republicans have begun to pass bills that would severely constrain the bureau's power to write and enforce rules and reduce and imperil its budget. Mr. Obama has pledged to veto the bills if they reach his desk, but that won't stop the assaults. Under the law, the bureau cannot exercise its full regulatory powers without a director. In May, 44 Republican senators vowed to block any nominee unless Democrats agreed to weaken the agency as called for in the House bills.

Last week, when President Obama nominated Richard Cordray, the former attorney general of Ohio and currently chief of enforcement at the bureau, Senator Richard Shelby of Alabama, the top Republican on the banking committee, wrote in *The Wall Street Journal*

that the nomination was “dead on arrival.” Acting as if Dodd-Frank is not already the law of the land, he called on President Obama to “come to the negotiating table.”

Mr. Obama erred in passing over Elizabeth Warren — the Harvard law professor and consumer advocate who set up the bureau — for the director’s job. Mr. Cordray is a good choice, with a notable pro-consumer track record. Ms. Warren, who pioneered the idea for the bureau and helped push it through Congress, has drawn particular fire from banks and Republicans, who had turned their opposition to consumer protection into opposition to her.

In deciding not to fight for Ms. Warren, the president has forfeited the opportunity to stand up to the banks and to highlight their relentless efforts to undermine reform. It is hard not to think that Mr. Obama was worried that choosing Ms. Warren would have cost him and Democratic senators campaign contributions from the banks.

Mr. Cordray has the credentials and skills for the job. To win confirmation and, from there, to take on the banks and fully defend consumers, he will also need strong support from the White House. President Obama’s decision to jettison Ms. Warren is not a reassuring sign.



Our view: GOP prepares to gut new consumer protection bureau

Updated 5/1/2011 8:00 PM

In Washington, when you can't kill an idea you hate, you can always go back and maim it.

That's what's happening this week in Congress, as House Republicans move to defang, declaw and de-energize a new agency created last year — over their unanimous opposition — to protect consumers.

OPPOSING VIEW: Stop excessive regulation

For decades before the creation of the Consumer Financial Protection Bureau, consumers were the orphans in a federal regime set up to regulate financial institutions. Anyone with a credit card might remember the consequences.

Banks were allowed to raise credit card interest rates on *existing* balances at any time for any reason. Regulators did nothing to stop it until 2008. Charging sky-high fees when a consumer missed a payment deadline even by a few minutes? Also fine with regulators. Explaining the rules in language so incomprehensible that a financial wizard would be hard-pressed to figure them out? Ditto.

The full list is much longer, including a major contribution to the ruinous financial

crisis of 2008, which was triggered by outrageous mortgage lending practices that never should have been permitted. You might remember the lenders' TV commercials: No income? No assets? No problem.

A splintered collection of regulators just stood by and watched.

The Office of the Comptroller of the Currency, charged with regulating commercial banks, was more a cheerleader than a regulator, impeding state efforts to crack down on predatory lending. The Federal Reserve, with some power over mortgage lending, didn't move against abusive practices until 2007, far too late. Others were just as blind.

Finally last year, amidst the resulting carnage, Congress created the consumer bureau. To understand what a feat that was, consider the campaign contributions that commercial banks lavished on members of the House Financial Services Committee, the gatekeeper for banking laws. Committee members — Republicans and Democrats —

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received \$2.5 million from banks in the last election cycle. Among the top 10 recipients were then-chairman Barney Frank, D-Mass., who championed the new bureau, and the current chairman, Spencer Bachus, R-Ala., who is pushing a measure to weaken it by trading its director for a five-member commission.

The bureau was the brainchild of Harvard law professor Elizabeth Warren, who wrote in 2007 that consumers got better federal protection when they bought a toaster than when they took out a mortgage. Now, as an adviser to the Treasury secretary, she is setting up the bureau for its July 21 opening. Republicans who gained control of the House this year are pushing changes to rein in what they claim are unprecedented powers. But that's just spin.

The 2010 law already places an unprecedented check on the bureau. A 10-member council of financial regulators can veto many bureau actions by a two-thirds vote — a power not granted over any other financial regulator. Republicans, who will vote in committee on the changes Wednesday, want to strengthen that veto power so much that a single council member could delay and threaten just about any bureau action — turning the bureau into an expensive, ineffective pawn of the lenders it would oversee.

On *The Daily Show with Jon Stewart* last week, Warren likened the proposed changes to "a knife in the ribs."

It's an apt description, one Republicans should think about before weakening the first real financial watchdog consumers have ever had.

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OCTOBER 18, 2011, 3:08 P.M. ET

UPDATE:Attorneys General Urge Senate To Approve Consumer Bureau Pick

--Utah Republican AG backs Cordray; plans to discuss consumer bureau nominee with GOP senators

--37 attorneys general urge Senate to approve Richard Cordray as Consumer Agency's first director

--Obama administration optimistic Senate will act

(Updates to include comment from Sen. Richard Shelby in the 8th paragraph.)

By Maya Jackson Randall
OF DOW JONES NEWSWIRES

WASHINGTON (Dow Jones)--Dozens of state attorneys general Tuesday declared their support for Richard Cordray, the president's nominee to lead the U.S. Consumer Financial Protection Bureau.

Cordray, the former attorney general of Ohio, enjoys broad backing outside of Washington, but on Capitol Hill he has found himself caught in the middle of an intense partisan battle over the structure of the regulatory agency.

The declaration of support from his former state official colleagues is part of an effort to put some heat on Senate Republicans, who vowed to block the nomination, regardless of the nominee's qualifications or party, until the agency's structure is overhauled.

Many congressional Republicans believe the consumer bureau, created by the 2010 Dodd-Frank financial overhaul to root out abusive financial practices related to mortgages, credit cards and other products, has powers that are much too broad. Without changes, the bureau's director would be able to wield significant power over banks and consumers in a way that could deal a blow to the already-fragile economy, Republican lawmakers have argued.

The group of attorneys general that support Cordray includes Republicans and Democrats. In a letter Tuesday, they described Cordray as a brilliant, "well-qualified" leader who has defended consumers while also working to find fair and reasonable solutions for the financial industry.

"We are Attorneys General from across the country who represent a wide range of political interests," said the 37 members of the National Association of Attorneys General that signed the letter sent to the U.S. Senate. "Some of us may disagree with aspects of the Dodd-Frank legislation. But we are united in our belief that Mr. Cordray is very well-qualified to carry out the responsibilities of this position."

Speaking to reporters Tuesday afternoon, Utah Attorney General Mark Shurtleff said he plans to urge Utah's Republican senators, Orrin Hatch and Michael Lee, to support Cordray's nomination despite GOP concerns about the consumer bureau's structure. Most of the Senate's Republicans in May vowed to block any nominee to lead the consumer bureau until the White House agreed to overhaul the structure of the new agency so that it's run by a board as opposed to a single director.

UPDATE:Attorneys General Urge Senate To Approve Consumer Bure... <http://online.wsj.com/article/BT-CO-20111018-712248.html#printMode>

They also want other financial regulators to have greater input in the bureau's actions.

"Discussion of any nominee's qualifications to run this bureaucracy are premature until President Obama stops ignoring Republicans' calls to make it accountable to their elected representatives," said Sen. Richard Shelby (R., Ala.) in a statement by email. Shelby is the top Republican on a key Senate banking policy panel and has been a vocal critic of the bureau's current structure.

Shurtleff said he has discussed the Cordray nomination with the two Utah senators, and he plans to follow up with additional talks. He said that as a Republican, he shares concerns about the bureau's structure. But he said he also wants to see the bureau move forward to address mortgage issues and other problems facing consumers. He added that he believes Richard Cordray would take a balanced and fair approach in addressing those issues.

"Right now, where we are at, it's the law," he said of the Consumer Financial Protection Bureau's current governance structure. "I know members of my party disagree with the way it is. As time goes by...maybe changes could be made. But right now we're dealing with crisis situations."

Meanwhile, Brian Deese, deputy director of the National Economic Council, touted the consumer agency as a critical component of Congress' sweeping changes to the nation's financial laws. The White House and consumer groups have steadily defended the consumer bureau's existing structure and fought hard last year to include the new bureau in the Dodd-Frank law despite objections from Republicans and banks.

Deese said he hopes the attorneys general's letter shows that leaders from across the country are going to be putting pressure on the Senate, forcing lawmakers to explain why they aren't taking action.

"The creation of a single agency that could look out for consumers was unique and significant but in order to make good on the promise of that legislation and that idea, we need to put a confirmed director in place," he said. "We're still waiting on the full Senate to act. We hope and expect that they will."

-By Maya Jackson Randall, Dow Jones Newswires; 202-862-6687, maya.jackson-randall@dowjones.com



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October 18, 2011

The Honorable Harry Reid
Senate Majority Leader
United States Senate
522 Hart Senate Office Bldg
Washington, DC 20510

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

Sent via fax

Dear Majority Leader Reid and Minority Leader McConnell:

The undersigned state attorneys general write to express our support for the nomination of former Ohio Attorney General Richard Cordray to head the Consumer Financial Protection Bureau (CFPB). We believe he has the knowledge, experience and leadership skills to serve in this important position. He is both brilliant and balanced.

Mr. Cordray is particularly well qualified to serve in this position. For the past several months he has served as the CFPB's director of enforcement. Immediately before taking that position, Mr. Cordray served two years as Ohio Attorney General. In both roles, he earned a reputation as a strong advocate for the interests of consumers. As Attorney General of Ohio, he took a national leadership role in dealing with the Wall Street crisis. Mr. Cordray dealt with all the leading players, including Wall Street firms, banks, credit rating agencies and subprime mortgage lenders. In these actions he not only defended consumers but also worked to find fair and reasonable solutions for the financial industry. Using his good judgment and inherent sense of fairness, Mr. Cordray worked to create a better and more vibrant marketplace going forward.

The CFPB is intended to make basic financial practices such as taking out a mortgage or a loan more clear and transparent. It is also charged with ferreting out unfair lending practices. Mr. Cordray knows that such actions will not only protect consumers but will also assist community bankers and other financial companies that are committed to honest dealing and quality customer service. He is determined to use a balanced approach to the financial services industry. As head of the CFPB, Mr. Cordray will be an honest broker and strong advocate for both businesses and consumers that are committed to following the rules.

Mr. Cordray has a superior knowledge of the financial services marketplace. That knowledge combined with his keen intellect and experience as a lawyer

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<http://www.naag.org/>


and a prosecutor make him well qualified for this position. He is also a fair-minded man with sound judgment and great personal integrity.


Mr. Cordray graduated with a Bachelor of Arts degree and earned Phi Beta Kappa honors from Michigan State University. He earned a Master's Degree from Oxford University in England. He then earned his Juris Doctor with honors from the University of Chicago Law School where he served as editor-in-chief of the *University of Chicago Law Review*. After law school, Mr. Cordray clerked for U.S. Supreme Court Justices Byron White and Anthony Kennedy.

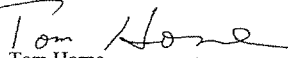
In addition to his service as Attorney General of Ohio, Mr. Cordray served as well in the Ohio State House of Representatives and as both a county and state treasurer. He also served as the first Ohio State Solicitor where he conducted and supervised Ohio's toughest cases in the United States Supreme Court and the Ohio Supreme Court.

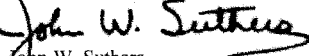
We are Attorneys General from across the country who represent a wide range of political interests. Some of us may disagree with aspects of the Dodd-Frank legislation. But we are united in our belief that Mr. Cordray is very well qualified to carry out the responsibilities of this position. Thank you for your consideration of this letter.

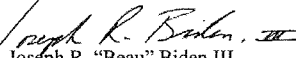
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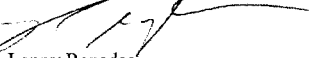

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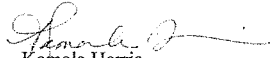

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Joseph R. "Beau" Biden III
Delaware Attorney General

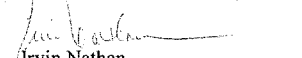

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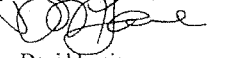

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Utah Attorney General

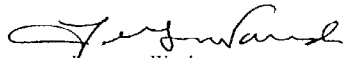

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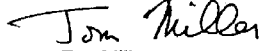

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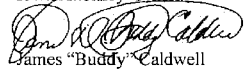

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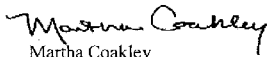
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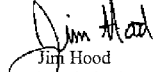
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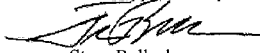
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Louisiana Attorney General



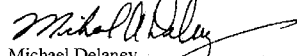
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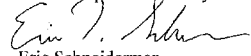
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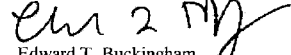
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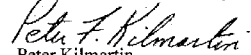
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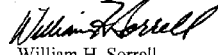
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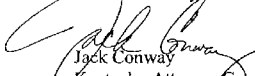
Peter Kilmartin
Rhode Island Attorney General



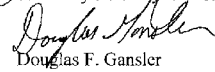
William H. Sorrell
Vermont Attorney General



Lisa Madigan
Illinois Attorney General



Jack Conway
Kentucky Attorney General



Douglas F. Gansler
Maryland Attorney General



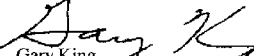
Lori Swanson
Minnesota Attorney General



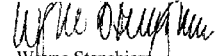
Chris Koster
Missouri Attorney General



Catherine Cortez Masto
Nevada Attorney General



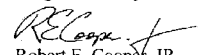
Gary King
New Mexico Attorney General



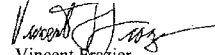
Wayne Stenehjem
North Dakota Attorney General



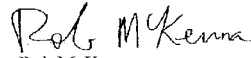
John Kroger
Oregon Attorney General

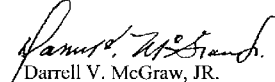



Robert E. Cooper, JR.
Tennessee Attorney General



Vincent Frazier
U.S. Virgin Islands Attorney General


Rob McKenna
Washington Attorney General


Darrell V. McGraw, JR.
West Virginia Attorney General


Greg Phillips
Wyoming Attorney General

cc: All Members of The United States Senate

**COMPLIANCE DOCUMENTATION CHECKLIST FOR PURCHASE CONSUMER PRIMARY
RESIDENCE**

- _____ **Uniform Residential Loan Application Fully Completed - NEED TO PUT BANK AND LOAN ORIGINATOR # ON APPLICATION – IT WILL DEFAULT BY KEYING IN ON PURPOSE SCREEN YOUR NAME FROM DROPDOWN BOX, CLICK ONTO YOUR NAME & # WILL DEFAULT ON THE APP.**
If joint application, have the applicants sign at the top of the application. If an applicant requires a co-signer, the application is not considered a joint application. **Complete the monitoring information for the applicant(s). If a co-signer is completing the app with the applicant but has no ownership in the residence or lives at the residence, do not complete the co-signer’s monitoring information. “X” this section.**
- _____ **Notice to Joint Applicant if they have not signed on the application that it is a joint app.**
- _____ **Verification of ID form– 2 copies - type of ID, i.e. drivers license, etc. for new customers**
- _____ **Buying Your Home Booklet–Copy of the front of booklet & have applicant sign or initial**
- _____ **Notice of Intent to Proceed – Provide with early disclosures**
- _____ **Servicing Disclosure – RESPA** - Give within 3 business days of application. If application denied within 3 business days, do not have to provide disclosure. Give each applicant a copy. Required only on first mortgage.**
- _____ **Insurance Anti-Coercion Disclosure – date same date as application.**
- _____ **Credit Report – OFAC report, ID advisor, Fraud Advisor is incorporated in credit report – Make copy of the 1st page of credit report for file on new customers.**
- _____ **Good Faith Estimate –RESPA**.-Give within 3 business days (don’t count Sat.) of application. Put estimated annual homeowner’s premium. Put owner’s title insurance on GFE only on a home purchase loan. (Judy has a chart with premiums) Put transfer tax on GFE only on purchase. (\$1 per thousand). Even though we do not charge for credit report and flood fees, put the fees on the GFE. If application denied within 3 business days of application, GFE is not required. Have customer initial all pages and sign acknowledgment. Cannot close loan until 7 business days (count Sat.)**
- _____ **Early Truth In lending disclosure - Cannot close loan until 7 business days (count Sat.) after early disclosures are given. If redisclosure is required due to APR lower or higher than 1/8 of 1% for 1st lien and ¼ of 1% for 2nd lien, cannot close loan until 3 business days (count Sat.) after redisclosure is provided. If application is denied within 3 business days of application, early TIL not required.**
- _____ **Itemization of Amount Financed with attorney name, appraiser name, pest inspection co, and any third party that will be paid**
- _____ **Flood Determination – Before loan closing**
- _____ **Notice to Borrower of Special Flood Hazards - Give if property is in flood zone – Require flood insurance prior to closing**
- _____ **Appraisal (outside or in-house evaluation)**
- _____ **Real Estate Evaluation Form -**
- _____ **Right of Appraisal Notice – REG B - If we have outside appraisal or in-house evaluation.**
- _____ **Risk Based Pricing Notice which includes the Notice to Home Loan Applicant – FCRA – Give with credit score, range of scores and factors affecting the score. Give each applicant a copy. If we do not run a credit report and we have a credit report in the file, put the scores and factors from the previous report. Have applicants initial.**
- _____ **Note and Security Agreement**
- _____ **Final Truth In Lending–This is a separate disclosure, not on the Note & Security Agreement**
- _____ **Hud-1 – RESPA**–The attorney prepares for loan closing. Tell attorney to list credit life premium in 904, terms & Cherokee & put exact (not estimated) homeowner’s premium with term of 1 year & the agent or company POC. Make sure the “POC by borrower” legend is on the bottom of the HUD-1. Even though we do not charge for credit report and flood fees, put the fees on the HUD-1. REVIEW THE HUD-1 24 HOURS PRIOR TO CLOSING.**
- _____ **Notice to Co-signer – REG AA – Give if guarantor or co-signer signs note**
- _____ **Negative Information Notice – FAIR CREDIT REPORTING ACT**
- _____ **Notice Regarding Inaccurate Information**
- _____ **Insurance Sales Disclosure - if credit life insurance is written.**
- _____ **Credit Insurance Addendum (form number CIA on Co-pilot) credit life insurance on home loans**
- _____ **Balloon Note Notice if balloon note**
- _____ **Copy of the APOR schedule used to determine APR threshold for HPML**
- _____ **Privacy Notice**

RESPA DOES NOT APPLY WHEN LOAN IS SECURED BY A 1-4 FAMILY DWELLING THAT IS ON A 25 ACRE OR MORE TRACT.TIL STILL APPLIES

COMPLIANCE DOCUMENTATION CHECKLIST FOR 4 - MORTGAGE ON PRIMARY RESIDENCE

- ___ **Regular credit application fully completed** – Check whether the application is unsecured or secured and have joint applicants initial at the top of the application that they are applying for joint credit. If an applicant applies and requires a co-signer, this is not considered a joint application. If a written application is not completed, give the joint applicants "THE NOTICE OF INTENT TO APPLY FOR JOINT CREDIT." If the loan is to be secured list the collateral on the secured section of the application. Put cell phone number on application even though no place to put it. **NEED TO PUT BANK AND LOAN ORIGINATOR # ON APP**
- ___ **Verification of ID form-2 copies on new applicants** – type of ID, i.e. drivers License, etc.
- ___ **Credit Report** – OFAC report, ID advisor, Fraud Advisor is incorporated in credit report – Make copy of the 1st page of credit report for file on new customers.
- ___ **Insurance Anti-Coercion Disclosure** – date same date as application.
- ___ **Notice of Intent to Proceed – Provide with early disclosures**
- ___ **Good Faith Estimate –RESPA****-Give within 3 business days (**don't count Sat.**) of application.
- ___ **Put estimated annual homeowner's premium. Even though we do not charge for credit report and flood fees, put the fees on the GFE. Have customer initial all pages and sign Acknowledgment.** If application denied within 3 business days of application, GFE is not required. **Cannot close loan until 7 business days (count Sat.)**
- ___ **Early Truth In lending disclosure - Cannot close loan until 7 business days (count Sat.) after early TIL is given.** If redisclosure is required due to APR lower or higher than 1/8 of 1% for 1st lien and ¼ of 1% for 2nd lien, cannot close loan until 3 business days (**count Sat.**) after redisclosure is provided. **If application is denied within 3 business days of application, GFE not required.**
- ___ **Flood Determination** – Before loan closing
- ___ **Notice to Borrower of Special Flood Hazards - Give if property is in flood zone – Require flood insurance prior to closing**
- ___ **Appraisal (outside or in-house evaluation)**
- ___ **Real Estate Evaluation Form -**
- ___ **Right of Appraisal Notice – REG B -** If we have outside appraisal or in-house evaluation.
- ___ **Risk Based Pricing Notice which includes the Notice to Home Loan Applicant – FCRA –** Give with credit score, range of scores and factors affecting the score. Give each applicant a copy. If we do not run a credit report and we have a credit report in the file, put the scores and factors from the previous report. Have applicants initial.
- ___ **Note and Security Agreement**
- ___ **Final Truth In Lending (separate disclosure).** It is not on the Note and Security Agreement.
- ___ **Hud 1A– RESPA - list credit life premium, terms & Cherokee in 904. Put exact (not estimated) homeowner's premium with term of 1 year & the agent or company POC if we do not already have homeowner's coverage and we are requiring that they purchase. Even though we do not charge for credit report and flood fees, put the fees on the HUD-1A.**
- ___ **Right of Rescission – New Money**
- ___ **Notice to Co-signer – REG AA –** Give if guarantor or co-signer signs note
- ___ **Negative Information Notice – FAIR CREDIT REPORTING ACT**
- ___ **Notice Regarding Inaccurate Information**
- ___ **Insurance Sales Disclosure -** if credit life insurance is written.
- ___ **Credit Insurance Addendum (form number CIA on Co-pilot) credit life insurance on home loans**
- ___ **Balloon Note Notice if balloon note**
- ___ **Copy of the APOR schedule used to determine APR threshold for HPML**
- ___ **Privacy Notice**

****RESPA DOES NOT APPLY WHEN LOAN IS SECURED BY A 1-4 FAMILY DWELLING THAT IS ON A 25 ACRE OR MORE TRACT. TIL STILL APPLIES**

**COMPLIANCE DOCUMENTATION CHECKLIST FOR 1ST RENEWAL OF
PURCHASE OF PRIMARY RESIDENCE (INCLUDES D/W MOBILE HOMES)**

- _____ **Regular credit application fully completed**– Check whether the application is unsecured or secured and have joint applicants initial at the top of the application that they are applying for joint credit. If an applicant applies and requires a co-signer, this is not considered a joint application. If a written application is not completed, give the joint applicants “THE NOTICE OF INTENT TO APPLY FOR JOINT CREDIT.” If the loan is to be secured list the collateral on the secured section of the application. . **NEED TO PUT BANK AND LOAN ORIGINATOR # ON APPLICATION.**
- _____ **Verification of ID form**– 2 copies - type of ID, i.e. drivers license, etc. for new customers
- _____ **Notice of Intent to Proceed – Provide with early disclosures**
- _____ **Servicing Disclosure – RESPA**** - Give within 3 business days of application. If application denied within 3 business days, do not have to provide disclosure. Give each applicant a copy. **Required only on first mortgage.**
- _____ **Insurance Anti-Coercion Disclosure** – date same date as application.
- _____ **Credit Report** – OFAC report, ID advisor, Fraud Advisor is incorporated in credit report – Make copy of the 1st page of credit report for file on new customers.
- _____ **Good Faith Estimate –RESPA****-Give within 3 business days (**don’t count Sat.**) of application. **Put estimated annual homeowner’s premium if they do not have insurance and we require them to purchase as POC. Even though we do not charge for credit report and flood fees, put the fees on the GFE. Have customer initial all pages and sign acknowledgment. Cannot close loan until 7 business days (count Sat.)** If application denied within 3 business days of application, GFE is not required.
- _____ **Early Truth In lending disclosure - Cannot close loan until 7 business days (count Sat.) after early TIL is given.** If redisclosure is required due to APR lower or higher than 1/8 of 1% for 1st lien and ¼ of 1% for 2nd lien, cannot close loan until 3 business days (**count Sat.**) after redisclosure is provided. If application is denied within 3 business days of application, GFE not required.
- _____ **Flood Determination** – Before loan closing
- _____ **Notice to Borrower of Special Flood Hazards - If property is in flood zone – Require flood insurance prior to closing.**
- _____ **Appraisal (outside or in-house evaluation)**
- _____ **Real Estate Evaluation Form -**
- _____ **Right of Appraisal Notice – REG B** - If we have outside appraisal or in-house evaluation.
- _____ **Risk Based Pricing Notice which includes the Notice to Home Loan Applicant – FCRA** – Give with credit score, range of scores and factors affecting the score. Give each applicant a copy. If we do not run a credit report and we have a credit report in the file, put the scores and factors from the previous report. Have applicants initial.
- _____ **Note and Security Agreement**
- _____ **Final Truth In Lending**–Separate disclosure, not on Note and Security Agreement
- _____ **Hud 1A – RESPA** - list credit life premium, terms & Cherokee in 904. **Put exact (not estimated) homeowner’s premium with term of 1 year & the agent or company POC if we do not already have a policy in the file. Even though we do not charge for credit report and flood fees, put the fees on the HUD-1A.**
- _____ **Right of Rescission** - If new money is advanced with renewal.
- _____ **Notice to Co-signer – REG AA** – Give if guarantor or co-signer signs note
- _____ **Negative Information Notice – FAIR CREDIT REPORTING ACT**
- _____ **Notice Regarding Inaccurate Information**
- _____ **Insurance Sales Disclosure** - if credit life insurance is written.
- _____ **Credit Insurance Addendum (form number CIA on Co-pilot) credit life insurance on home loans**
- _____ **Balloon Note Notice if balloon note**
- _____ **Copy of the APOR schedule used to determine APR threshold for HPML**
- _____ **Privacy Notice**

****RESPA DOES NOT APPLY WHEN LOAN IS SECURED BY A 1-4 FAMILY DWELLING THAT IS ON 25 ACRE OR MORE TRACT. TIL STILL APPLIES**

**COMPLIANCE DOCUMENTATION CHECKLIST FOR CONSUMER
PRIMARY RESIDENCE REFINANCE FROM ANOTHER LENDER**

- _____ **Uniform Residential Loan Application – NEED TO PUT BANK AND LOAN ORIGINATOR # ON APPLICATION. If joint application have the applicants sign at the top of the application. If an applicant requires a co-signer, the application is not considered a joint application. Complete the monitoring information for the applicant .**
- _____ **Notice to Joint Applicant – If the applicants did not sign on loan app stating joint application.**
- _____ **Credit Report – OFAC report, ID advisor, Fraud Advisor is incorporated in credit report – Make copy of the 1st page of credit report for file on new customers.**
- _____ **Verification of ID form– 2 copies - type of ID, i.e. drivers license, etc. for new customers**
- _____ **Buying Your Home Booklet – Make copy of the front of the booklet and have applicants sign**
- _____ **Notice of Intent to Proceed – Provide with early disclosures**
- _____ **Insurance Anti-Coercion Disclosure – date same date as application**
- _____ **Servicing Disclosure – RESPA** - Give within 3 business days of application. If application denied within 3 business days, do not have to provide disclosure. Give each applicant a copy. Required only on first mortgage.**
- _____ **Good Faith Estimate –RESPA**-Give within 3 business days (don't count Sat.) of application. Put estimated annual homeowner's premium if they do not have insurance and we require them to purchase as POC. Even though we do not charge for credit report and flood fees, put the fees on the GFE. Have customer initial all pages and sign acknowledgment. cannot close loan until 7 business days (count Sat.) If application denied within 3 business days of application, GFE is not required.**
- _____ **Early Truth In lending disclosure - Cannot close loan until 7 business days (count Sat.) after early TIL is given. If redisclosure is required due to APR lower or higher than 1/8 of 1% for 1st lien and ¼ of 1% for 2nd lien, cannot close loan until 3 business days (count Sat.) after redisclosure is provided. If application is denied within 3 business days of application, GFE not required.**
- _____ **Flood Determination – Before loan closing**
- _____ **Notice to Borrower of Special Flood Hazards -Give if property is in flood zone-Flood Insurance is required prior to closing.**
- _____ **Appraisal (outside or in-house evaluation)**
- _____ **Real Estate Evaluation Form -**
- _____ **Right of Appraisal Notice – REG B - If we have outside appraisal or in-house evaluation.**
- _____ **Risk Based Pricing Notice which includes the Notice to Home Loan Applicant – FCRA – Give with credit score, range of scores and factors affecting the score. Give each applicant a copy. If we do not run a credit report and we have a credit report in the file, put the scores and factors from the previous report. Have applicants initial.**
- _____ **Note and Security Agreement**
- _____ **Final Truth In Lending**
- _____ **Hud 1 – RESPA**- If an attorney prepares for loan closing, tell attorney to list credit life premium, terms & Cherokee on line 904 & put exact (not estimated) homeowner's premium with term of 1 year & the agent or company POC. Even though we do not charge for credit report and flood fees, put the fees on the HUD-1/HUD-1A.**
- _____ **Right of Rescission**
- _____ **Notice to Co-signer – REG AA – Give if guarantor or co-signer signs note**
- _____ **Negative Information Notice – FAIR CREDIT REPORTING ACT**
- _____ **Notice Regarding Inaccurate Information**
- _____ **Insurance Sales Disclosure - if credit life insurance is written.**
- _____ **Credit Insurance Addendum (form number CIA on Co-pilot) credit life insurance on home loans**
- _____ **Balloon Note Notice if balloon note**
- _____ **Copy of the APOR schedule used to determine APR threshold for HPML**
- _____ **Privacy Notice**

****RESPA DOES NOT APPLY WHEN LOAN IS SECURED BY A 1-4 FAMILY DWELLING THAT IS ON A 25 ACRE OR MORE TRACT.TIL STILL APPLIES**

**COMPLIANCE DOCUMENTATION CHECKLIST FOR CONSUMER LOANS
SECURED BY REAL PROPERTY WITH 1-4 FAMILY DWELLING THAT IS
NOT PRIMARY RESIDENCE**

- _____ **Regular credit application fully completed – NEED TO PUT BANK AND LOAN ORIGINATOR # ON APPLICATION.** Check whether the application is unsecured or secured and have joint applicants initial at the top of the application that they are applying for joint credit. If secured, list the collateral in the secured section. If an applicant applies and requires a co-signer, this is not considered a joint application.
- _____ **NOTICE OF INTENT TO APPLY FOR JOINT CREDIT if applicants have not initialed application**
- _____ **Verification of ID form (2 copies), type of ID, i.e. drivers license, etc. for new customers**
- _____ **Credit Report** - OFAC report, ID advisor, Fraud Advisor is incorporated in credit report – Make copy of the 1st page of credit report for file on new customer.
- _____ **Insurance Anti-Coercion Disclosure – date same as application**
- _____ **Servicing Disclosure – RESPA** – Give within 3 days of application.** Give copy to each applicant. **Required only on first mortgage.** Not required if denied within 3 days of application.
- _____ **Good Faith Estimate – RESPA -Give within 3 business days (**don't count Sat.**) of application. **Put estimated annual homeowner's premium if they do not have insurance and we require them to purchase as POC. Even though we do not charge for credit report and flood fees, put the fees on the GFE. Have customer initial all pages and sign acknowledgment. Cannot close loan until 7 business days (count Sat.)** If application denied within 3 business days of application, GFE is not required.**
- _____ **Notice of Intent to Proceed – Provide with early disclosures**
- _____ **Early Truth in Lending Disclosure – RESPA-Give within 3 business days (**Do not count Saturday**) of application. Required on all consumer 1-4 family dwelling loans. **Cannot close loan until 7 business days (count Sat.) after early TIL is given.** If redisclosure is required due to APR lower or higher than 1/8 of 1% for 1st lien and ¼ of 1% for 2nd lien, cannot close loan until 3 business days (**count Sat.**) after redisclosure is provided. **If denied within 3 business days, not required.****
- _____ **Flood Determination – Before loan closing**
- _____ **Notice to Borrower of Special Flood Hazards – if property is in flood zone, flood insurance required prior to closing.**
- _____ **Appraisal (outside or in-house evaluation)**
- _____ **Real Estate Evaluation Form-**
- _____ **Right of Appraisal Notice – REG B - If we have outside appraisal or in-house evaluation**
- _____ **Risk Based Pricing Notice** which includes the **Notice to Home Loan Applicant – FCRA** – Give with credit score, range of scores and factors affecting the score. If there is more than one applicant, give each a notice. If we do not run a credit report and we have a credit report in the file, put the scores and factors from the previous report. Have applicants initial.
- _____ **Note and Security Agreement**
- _____ **Final Truth In Lending–This is a separate disclosure, not on the Note & Security Agreement**
- _____ **HUD 1 or HUD 1A – RESPA–If purchase and attorney prepares HUD 1 tell attorney to list credit life premium, terms & Cherokee in 904 & put exact (not estimated) homeowner's premium with term of 1 year & the agent or company POC. **Even though we do not charge for credit report and flood fees, put the fees on the HUD-1/HUD-1A. Be sure if attorney prepares the HUD 1, the "POC by borrower" legend is on HUD 1. Review the HUD 24 hours prior to closing.****
- _____ **Notice to co-signer - REG AA - if guarantor or co-signer is required**
- _____ **Negative Information Notice – FCRA**
- _____ **Notice Regarding Inaccurate Information**
- _____ **Insurance Sales Disclosure – if credit life insurance is written.**
- _____ **Credit Insurance Addendum – Credit life insurance on home loans**
- _____ **Balloon Note Notice if balloon note**
- _____ **Privacy Notice**

****RESPA DOES NOT APPLY WHEN LOAN IS SECURED BY A 1-4 FAMILY DWELLING THAT IS ON A 25 ACRE OR MORE TRACT.TIL STILL APPLIES**

COMPLIANCE DOCUMENTATION CHECKLIST FOR LOANS SECURED BY MOBILE HOME – PRIMARY RESIDENCE WITHOUT REAL ESTATE

- _____ **Regular credit application** – Check whether the application is unsecured or secured and have joint applicants initial at the top of the application that they are applying for joint credit. If an applicant applies and requires a co-signer, this is not considered a joint application. If a written application is not completed, give the joint applicants “THE NOTICE OF INTENT TO APPLY FOR JOINT CREDIT.” If the loan is to be secured list the collateral on the secured section of the application.
- _____ **Verification of ID form – (2 copies)** type of ID, i.e. drivers license, etc. for new customers
- _____ **Credit Report** - OFAC report, ID advisor, Fraud Advisor is incorporated in credit report – Make copy of the 1st page of credit report for file.
- _____ **Insurance Anti-Coercion Disclosure** – attach to application and date same as application
- _____ **FDIC Home Loan Inquiry – REG B** - Monitoring information for **purchase primary residence only and for first renewal of purchase money.** Date same date as application.
- _____ **Appraisal (outside or in-house evaluation)**
- _____ **Real Estate Evaluation Form-**
- _____ **Right of Appraisal Notice** – If we have outside appraisal or in-house valuation
- _____ **Flood Determination** – Before loan closing
- _____ **Notice to Borrower of Special Flood Hazard – if property is in flood zone, flood insurance required prior to closing.**
- _____ **Insurance Sales Disclosure** – give if credit life insurance is written
- _____ **Right of Rescission – REG Z** - if new money is advanced on mobile home (not purchase money). Give each applicant 2 copies of the rescission and 1 copy each of the note. **(Count Saturday).**
- _____ **Notice to co-signer – REG AA** - if guarantor or co-signer is required
- _____ **Negative Information Notice – FCRA**
- _____ **Notice Regarding Inaccurate Information**
- _____ **Risk-Based Pricing Notice**
- _____ **Copy of the APOR schedule used to determine APR threshold for HPML**
- _____ **Privacy Notice**
- _____ **If mobile home, late charge should be 5% of payment and 15 days**
- _____ **Balloon Note Notice if balloon note**
- _____ **Privacy Notice**

DOCUMENTATION FOR HOME CONSTRUCTION LOANS

- _____ **Uniform Residential Loan Application** - If joint application, have the applicants sign at the top of the application. **Strike out monitoring information section so that it will not be completed by applicant or the loan officer. Cannot obtain monitoring information on a construction of primary residence, however if application is for both construction and long-term financing, the monitoring information is required. NEED TO PUT BANK AND LOAN ORIGINATOR # ON APPLICATION.**
- _____ **Verification of ID form – (2 copies)** type of ID, i.e. drivers license, etc. for new customers
- _____ **Credit Report** - OFAC report, ID advisor, Fraud Advisor is incorporated in credit report – Make copy of the 1st page of credit report for file.
- _____ **Servicing Disclosure – RESPA**** - Give within 3 days (**do not count Sat**) of application if the applicant is applying for construction and long-term financing or if proceeds will be used to purchase land and construction. Not required if denied within 3 business days. **If applicant is applying only for construction and not long term financing, we do not commit to long-term financing, we do not have to give this disclosure.**
- _____ **Insurance Anti-Coercion Disclosure** – give at application and date same date as app.
- _____ **Early Truth in Lending Disclosure – RESPA**** - Give disclosure within three business days (**do not count Saturday**) of application if the applicant is applying for construction and long-term financing or if proceeds will be used to purchase land and construction.
- _____ **Good Faith Estimate – RESPA**** - give within three business days (**do not count Saturday**) of application if the applicant is applying for construction and long-term financing or if proceeds will be used to purchase land and construction. . Put estimated yearly homeowner's insurance premium on GFE. Not required if application is denied within three business days. **If applicant is not applying for long term financing and we do not commit to finance long-term, we do not have to give this disclosure.**
- _____ **Flood Determination** – Before loan closing
- _____ **Notice to Borrower of Special Flood Hazards** – if property is in flood zone, flood insurance is required
- _____ **Appraisal and Review** – Loan policy states that if we do not have a turn-key price from contractor, we will require an appraisal. **SEE LOAN POLICY FOR ADDITIONAL APPRAISAL GUIDELINES**
- _____ **Right of Appraisal Notice** – if we have outside appraisal or have in-house evaluation.
- _____ **Risk Based Pricing Notice** which includes the **Notice to Home Loan Applicant – FCRA** – Give with credit score, range of scores and factors affecting the score. If there is more than one applicant, give each applicant a notice. If we do not run a credit report and we have a credit report in the file, put the scores and factors from the previous report. Have applicants initial.
- _____ **Note and Security Agreement**
- _____ **Final Truth in Lending** – Required to put the highest interest payment that they may have to pay during the construction period.
- _____ **Hud 1-A – RESPA**** - Give at closing. Put builder's risk insurance premium for term of one year and agent or company POC. **The Hud 1-A is not required if the application is only for construction but required if the application is for both construction and long-term or the proceeds will be used to purchase the land and construction.**
- _____ **Notice to co-signer** – if co-signer or guarantor is required
- _____ **Negative Information Notice**
- _____ **Notice Regarding Inaccurate Information**
- _____ **Statement of Purpose** - See construction section of loan policy for other doc.
- _____ **Builder's risk insurance at construction**
- _____ **Wood infestation report**
- _____ **UCC-1 on materials that have been delivered to property**

****RESPA DOES NOT APPLY WHEN LOAN IS SECURED BY A 1-4 FAMILY DWELLING THAT IS ON A 25 ACRE OR MORE TRACT TH. STILL APPLIES**

**CONSUMER LOAN WITH COLLATERAL OTHER THAN 1-4 FAMILY
DWELLING AND REAL ESTATE**

- _____ **Regular credit application** – If joint application, have applicants initial left-hand corner of application that they are applying for joint credit. If we do not require a credit application to be completed, give the **Notice to Apply for Joint Credit**. Check correct blocks for individual or joint credit and for secured and unsecured. If secured, list collateral offered in collateral section of application.
- _____ **Verification of ID form – (2 copies) – type of ID, i.e. drivers license, etc. for new customers**
- _____ **Credit report on new applicant and new credit report on existing customer annually** - OFAC report, ID advisor, Fraud Advisor is incorporated in credit report – Make copy of the 1st page of credit report for file on new customer.
- _____ **Insurance Anti-Coercion Disclosure** – Attach to application and date same as application.
- _____ **Insurance Sales Disclosure** if credit life insurance is written.
- _____ **Negative Information Notice** – FCRA
- _____ **Notice Regarding Inaccurate Information**
- _____ **Risk-based Pricing Notice**
- _____ **Purchase money** – be sure purchase money block is checked in two places on the note
- _____ **Any other applicable documentation, insurance, titles, UCC's, etc.**

When typing any type of consumer loan, be sure to review the FED box carefully. It includes the APR, finance charges; purchase money blocks, late charges for different types of loans. On any purchase money consumer loan whether it is real estate, mobile home, vehicles or other purchases, the purchase blocks need to be checked if the loan is being secured by what is being purchased. There is a block in the FED box and also one at the bottom of the note. Brief description block should be checked when not purchase money and brief description of collateral. When a loan is reviewed by a second person, be sure to review all blocks in the fed box and make sure the applicable blocks are checked. Consumer mobile home loans should have a late charge of 5% of the payment and 15 day grace period.

COMPLIANCE FOR BUSINESS LOANS

- _____ **Notice to Joint Applicants (Cannot require spouse to sign unless the spouse is an officer or principal of the business)**
- _____ **Flood Determination on improvements prior to closing**
- _____ **Notice to Borrower of Special Flood Hazards and flood insurance is required if in flood zone prior to closing**
- _____ **Appraisal or in-house evaluation**
- _____ **Right of appraisal notice if we have an appraisal in file**
- _____ **Verification of identity of individuals and all businesses (BSA)**

CHECKLIST FOR APPLICATIONS WHICH WERE GIVEN NOTICE OF
ADVERSE ACTION

REGULAR CREDIT APPLICATION

1. Be sure application is dated
2. Fully complete application
3. Date insurance anti-coercion disclosure the same date as application. If we receive an application and the disclosure has not been signed, document that it was brought in unsigned.
4. Always check the secured or unsecured block and check individual or joint – if joint have the applicants initial that they are applying jointly
5. Document the collateral offered when the secured block is checked
6. Make sure that a picture ID is not attached to the application. Complete ID information. If application by mail, we may not have access to ID.
7. Run credit report which includes OFAC and Fraud Report
8. Notice to Home Loan Applicant when 1-4 family dwelling, with real estate, is offered as collateral whether it is primary residence or other 1-4 family dwelling.
9. FDIC Home Loan Inquiry if for purchase of a mobile home only for primary residence
10. RESPA – Give Servicing Disclosure statement, Good Faith Estimate and Truth-in-lending disclosure if application is not denied within three business days.
11. Provide adverse action notice which includes credit score, range of scores and factors that make up the score.
12. Adverse action notice should have the bank's identifier number and the mortgage originator identifier number stamped on the notice.

URLA – Applying for construction, purchase money primary residence or refinance from another lender

1. Application should be fully completed and date application
2. Date insurance anti-coercion disclosure the same date as application
3. If joint application, have applicants sign the top of the application
4. Make sure a picture ID is not attached to the application
5. Credit report which includes OFAC and Fraud ID report
6. Notice to Home Loan Applicant.
7. Complete monitoring information section if applicable (applying for purchase money of primary residence, 1st renewal of purchase money, applying for **both** construction and permanent financing or **both** land purchase/construction, and refinance from another lender. **Do not complete monitoring info for construction only application. Strike through this section so applicant will not complete.**
8. If application is denied within three business days, RESPA disclosures do not apply.
9. Provide adverse action notice which includes credit score, range of scores and factors that make up the score.
10. Adverse action notice should have the bank's identifier number and the mortgage originator identifier number stamped on the notice.

Send a credit denial to each joint applicant with all the reasons checked for denying the application. If the applicants live in the same household, the credit denials can be put in one envelope but be sure to make a copy of the credit denial for each applicant.

Congressman Stephen Fincher Question to Mr. Raj Date, Special Advisor to the
Secretary of the Treasury, Consumer Financial Protection Bureau

House Financial Services Committee
Financial Institutions and Consumer Credit Subcommittee Hearing

"Consumer Financial Protection Bureau, the First 100 Days"

November 2, 2011, 10:00 A.M.

To Mr. Date:

"What does the CFPB perceive its role to be in the regulation of debt relief services for both non-profit and for-profit debt relief companies?"

The Dodd-Frank Wall Street Reform and Consumer Protection Act granted a number of authorities to the CFPB with regard to debt relief services. The CFPB views its role in the regulation of debt relief services similarly to its role in regulating other consumer financial products or services. Our mission is to help consumer financial markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives.

The CFPB does not have authority to write rules under the Telemarketing and Consumer Fraud and Abuse Prevention Act (TCFAPA, 15 U.S.C. § 6102), the act under which the FTC recently enacted an advance-fee ban for many debt settlement companies. Rule-writing authority under the TCFAPA remains the exclusive purview of the FTC. The Dodd-Frank Act, however, requires the FTC to consult with the CFPB when a proposed rule relates to the provision of a consumer financial product or service that is subject to the Consumer Financial Protection Act of 2010, including credit counseling, debt management, or debt settlement. *See* Dodd-Frank § 1002(15)(A)(viii).

The FTC and the CFPB share enforcement authority under the TCFAPA—the CFPB has enforcement authority whenever a violation is committed by a person subject to the Consumer Financial Protection Act. *See* Dodd-Frank § 1100C(a). The CFPB may also take action to prohibit unfair, deceptive, or abusive acts or practices committed in connection with a debt relief product or service. *See* Dodd-Frank § 1031(a).

Dodd-Frank also contemplates that, if the CFPB so provides by rule, the Bureau may supervise for-profit or non-profit debt relief entities deemed "larger participants" in the market. Such supervision may be undertaken to assess compliance with Federal consumer financial laws and for certain other purposes.

Subcommittee on Financial Institutions
November 2, 2011
Congressman Donald Manzullo

Question for the hearing record for Mr. Date:

Mr. Date testified that the CFPB hopes to streamline the mortgage process. However, Mr. Manzullo feels they are in fact more likely to expand the size and scope of the paperwork necessary. Additionally, in past years, officials at HUD were working on a project to streamline mortgage disclosure forms, and if the CFPB is taking over that role, Mr. Manzullo feels the officials at HUD should be reassigned or fired to avoid any duplication of the bureaucracy.

**Are there still employees at HUD working on streamlining RESPA disclosures?
Additionally, how many employees at the CFPB are working in this particular area?**

This is a question best directed to HUD. The statutory authority over streamlining RESPA disclosures transferred from the Secretary of HUD to the CFPB on July 21, 2011. Currently, there are approximately 10 CFPB staff members working on developing proposed rules and forms that integrate the mortgage loan disclosures in TILA and RESPA, as required by the Dodd-Frank Act.

