

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

October 22, 2021

Memorandum

To: Members, Committee on Financial Services
From: FSC Majority Staff
Subject: October 27, 2021, Full Committee Hearing entitled, “Bringing Consumer Protection Back: A Semi-Annual Review of the Consumer Financial Protection Bureau”

The full Committee will hold a hybrid hearing entitled, “Bringing Consumer Protection Back: A Semi-Annual Review of the Consumer Financial Protection Bureau” on Wednesday, October 27, 2021, at 10:00 a.m. ET in room 2128 of the Rayburn House Office Building and on the Cisco Webex platform. There will be one panel with the following witness:

- **The Honorable Rohit Chopra**, Director, Consumer Financial Protection Bureau

Overview

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), the Director of the Consumer Financial Protection Bureau (CFPB) is required to testify before the Committee on its semi-annual report.¹ The Dodd-Frank Act specifies nine items that must be included in CFPB’s semi-annual report to Congress: (1) a discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services; (2) a justification of the budget request of the previous year; (3) a list of the significant rules and orders adopted by the CFPB, as well as other significant initiatives conducted by the agency, during the preceding year and the plan of the agency for rules, orders, or other initiatives to be undertaken during the upcoming period; (4) an analysis of complaints about consumer financial products or services that the CFPB has received and collected in its central database on complaints during the preceding year; (5) a list, with a brief statement of the issues, of the public supervisory and enforcement actions to which the agency was a party during the preceding year; (6) the actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions; (7) an assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law; (8) an analysis of the efforts of the CFPB to fulfill the fair lending mission of the agency; and, (9) an analysis of the efforts of the CFPB to increase workforce and contracting diversity consistent with the procedures established by its Office of Minority and Women Inclusion.²

The most recent semi-annual report issued by CFPB was published on October 8, 2021, which covers agency activity from October 1, 2020 to March 31, 2021.³ This memo summarizes the CFPB’s most recent report and other activities since July 2020, when former CFPB Director Kathy Kraninger testified before the Committee.⁴ On September 30, 2021, the U.S. Senate confirmed Rohit Chopra to be the CFPB’s third permanent director.⁵ Prior to his confirmation, Mr. Chopra had served as a Commissioner

¹ Dodd-Frank Act § 1016.

² Dodd-Frank Act § 1016(c).

³ CFPB, [Semi-Annual Report Spring 2021](#) (Oct. 8, 2021).

⁴ FSC, [Protecting Consumers During the Pandemic? An Examination of the Consumer Financial Protection Bureau](#) (Jul. 20, 2020).

⁵ U.S. Senate, Roll Call Vote on Agreeing to PN116 - Rohit Chopra - Bureau of Consumer Financial Protection (Sep. 30, 2021).

on the Federal Trade Commission since 2018.⁶ Mr. Chopra previously served at the CFPB from 2010 to 2015, where he led the agency's efforts on student lending issues.⁷

Background

In response to the 2007-2009 financial crisis caused in part by a period of unchecked and rampant predatory lending, Congress created a strong and independent federal agency with the ability to better protect consumers from unfair, deceptive, or abusive acts or practices in the financial marketplace.⁸ Title X of the Dodd-Frank Act created the CFPB as an independent agency within the Federal Reserve System.⁹ In establishing the CFPB, Congress explicitly laid out in statute various mandates and outlined the agency's purpose, objectives, and functions.¹⁰

Since opening its doors in 2011, the CFPB has investigated and uncovered egregious and illegal conduct in the financial marketplace, including discriminatory and predatory products and services offered to consumers.¹¹ The agency has received over 3.3 million consumer complaints with a 98 percent timely response rate by financial firms to those complaints.¹² The CFPB has returned over \$13.4 billion to over 175 million consumers that were harmed by bad actors.¹³ The CFPB has also issued numerous rulemakings since its creation related to consumer protection.¹⁴ In addition, the CFPB performs research on various consumer financial products and services, and it provides free resources to the public to better understand these financial products and services, as well as their rights and protections afforded them under the law.¹⁵

Rulemaking Developments

Mortgage Servicing

On April 5, 2021 the CFPB announced a Notice of Proposed Rulemaking (NPRM) intended to help protect homeowners impacted by the COVID-19 pandemic crisis from avoidable foreclosures as the emergency federal foreclosure protections were set to expire on July 31, 2021.¹⁶ On June 28, 2021, the CFPB finalized this rule, and the rule went into effect on August 31, 2021.¹⁷ The rule requires mortgage servicers to offer streamlined loan modification options to homeowners with COVID-19-related hardships, and requires certain procedural safeguards be met before servicers can initiate foreclosure on loans secured by a borrower's principal residence until after December 31, 2021.

Debt Collection

On November 30, 2020, the CFPB finalized two rules to govern the activities of debt collectors under Fair Debt Collection Practices Act (FDCPA).¹⁸ The first rule addressed communications related to debt collection and prohibited harassment or abuse, false or misleading representations, and unfair practices in debt collection. The second rule clarified requirements of debt collectors when initiating

⁶ CFPB, [The Director](#) (Accessed Oct. 19, 2021).

⁷ Id.

⁸ FSC Democratic Staff Report, [The Consumer Financial Protection Bureau In Perspective](#) (Jul. 21, 2017).

⁹ For more information, see CRS, [Introduction to Financial Services: The Bureau of Consumer Financial Protection \(CFPB\)](#) (Jan. 4, 2021); CRS, [An Overview of Consumer Finance and Policy Issues](#) (Jan. 14, 2021); CRS, [Supreme Court Rules CFPB Structure Unconstitutional: Implications for Congress](#) (Jun. 30, 2020); and Constitutional Accountability Center, [Constitutional and Accountable: The Consumer Financial Protection Bureau](#) (Oct. 2016).

¹⁰ Dodd-Frank Act § 1021(a). Also see Dodd-Frank Act § 1021(b) and § 1022(c).

¹¹ CFPB, [The Bureau](#) (Accessed Oct. 19, 2021).

¹² See CFPB, [Search the Consumer Complaint Database](#), last accessed Oct. 21, 2021; see also CFPB, [Consumer complaints throughout credit life cycle, by demographic characteristics](#) (Sep. 2021).

¹³ See [List of CFPB Semi-Annual Reports to Congress](#), last accessed Oct. 21, 2021; see also CFPB [Financial Report of the Bureau of Consumer Financial Protection](#) (Nov. 16, 2020).

¹⁴ See CFPB, [Rulemaking](#) (accessed Oct. 19, 2021).

¹⁵ See CFPB, [Data and Research](#) (accessed Oct. 19, 2021).

¹⁶ CFPB, [CFPB Proposes Mortgage Servicing Changes to Prevent Wave of COVID-19 Foreclosures](#) (Apr. 5, 2021).

¹⁷ CFPB, [Executive Summary of the 2021 Mortgage Servicing Rule](#) (Jun. 28, 2021).

¹⁸ CFPB, [Debt Collection Practices \(Regulation F\)](#) (Nov. 30, 2020).

communication with a consumer, including the type of information that a debt collector must provide, put a ban on suing or threatening to sue a consumer to collect a time-barred debt, and required debt collectors to take certain steps before reporting a consumer's debt to a consumer reporting agency.

QM Rule/GSE Patch

In the fourth quarter of 2020, the CFPB finalized three rules relating to the Qualified Mortgage (QM) Rule and the QM Government Sponsored Enterprise (GSE) Patch.¹⁹ On October 26, 2020, the CFPB finalized a rule extending the use of the QM GSE Patch only to certain loans for which the creditor receives the consumer's application before the QM Rule compliance date and maintaining that the QM GSE Patch will expire for Fannie Mae or Freddie Mac upon their exit from conservatorship. On December 29, 2020, the CFPB finalized a rule that replaced the QM loan definition's 43 percent limit on debt-to-income (DTI) ratio with a priced-based approach that establishes new limits on the spread between a loan's annual percentage rate (APR) and the average prime offer rate (APOR). The CFPB finalized another rule creating a category of Seasoned QM loans for certain fixed-rate loans that meet certain product and underwriting conditions, including loans held on a lender's portfolio for at least three years. In March 2021, the CFPB noticed a rule to postpone the compliance date for the new QM Rule to October 1, 2022.²⁰

Small Business Loan Data Collection

On October 8, 2021, the CFPB released a NPRM to implement Section 1071 of the Dodd Frank Act, which establishes how financial institutions must collect and report demographic data on credit applications submitted by women-owned, minority-owned, and small businesses.²¹ The proposal would require lenders who made at least 25 loans in each of the two preceding calendar years to collect and report certain data about small business borrowers, the credit products and terms of the loan, as well as borrower demographic data. The CFPB defines additional data that lenders could collect voluntarily, how it will maintain consumers' data privacy, and how it will determine recordkeeping requirements and effective and compliance dates.²²

Other Rulemakings

The CFPB also noticed rules to facilitate lenders' transition away from using LIBOR as an index for consumer credit products and to determine how consumers could have access to their financial data.²³ Other guidance and rules noticed include, but are not limited to: a supplemental rule on the collection of time-barred debt, final and interim rules related to the COVID-19 pandemic on topics including consumer leasing and costs related to disclosures under the Fair Credit Reporting Act; interpretive rules regarding discrimination on the bases of sexual orientation and gender identity under ECOA and risks to consumers associated with violations of the Military Lending Act; and several final rules regarding civil penalties, mortgage lending data disclosures, and the pricing of mortgages and other consumer loan products.²⁴

Consumer Complaints

According to the Spring 2021 Semi-Annual Report,²⁵ the CFPB received 656,200 consumer complaints between April 1, 2020 and March 31, 2021, and since then it has received an additional

¹⁹ CFPB, [Qualified Mortgage Definition under the Truth in Lending Act \(Regulation Z\): Extension of Sunset Date](#) (Oct. 26, 2020); see also CFPB, [Qualified Mortgage Definition under the Truth in Lending Act \(Regulation Z\)](#) (Dec. 29, 2020) and CFPB, [Qualified Mortgage Definition under the Truth in Lending Act \(Regulation Z\): Seasoned QM Loan Definition](#) (Dec. 29, 2020).

²⁰ CFPB, [Qualified Mortgage Definition under the Truth in Lending Act \(Regulation Z\): General QM Loan Definition: Delay of Mandatory Compliance Date](#) (Mar. 3, 2021).

²¹ CFPB, [Small business lending data collection](#) (Accessed Oct. 6, 2021).

²² CFPB, [Summary of Proposed Rulemaking: September 2021 Proposal Regarding Small Business Lending Data Collection \(Sep. 1, 2021\)](#).

²³ CFPB, [Amendments to Facilitate the LIBOR Transition \(Regulation Z\)](#) (Accessed Oct. 7, 2021) and See CFPB, [Archive of Closed Notices](#) (Accessed Oct. 7, 2021).

²⁴ CFPB, [Final Rules](#), last accessed Oct. 6, 2021; see also CFPB [Semi-Annual Report Spring 2021](#) (Oct. 8, 2021).

²⁵ CFPB, [Semi-Annual Report Spring 2021](#), *supra* note 3 at 53.

261,624.²⁶ The CFPB estimated that about 99 percent of the complaints it sent to companies received a timely response. Overall in 2020, complaints about credit reporting, debt collection, credit card, checking or savings accounts, and mortgages comprised about 92 percent of all complaints received.²⁷ As reported in the most recent Semi-Annual Report, the most complained about consumer financial products and services were credit or consumer reporting (63 percent of all complaints), debt collection (14 percent), credit cards (6 percent), checking and savings (5 percent), and mortgages (5 percent).²⁸ The CFPB continued to receive complaints related to COVID-19. Between January 1, 2020 and March 31, 2021, 38,100 mortgage-related complaints were received, and since April 2020, between 11% and 14% of monthly mortgage complaints were related to forbearance issues.²⁹ The CFPB also reported receiving complaints related to the negative impact of an eviction on consumers' credit history, bank overdraft fees as a barrier to receiving full economic impact payments, and problems student loan borrowers encountered when seeking information and help from their loan servicer to access federal relief programs.³⁰

Enforcement Actions

Since July 1, 2020, the CFPB announced 56 public enforcement actions including complaints filed, consent orders, and settlements.³¹ Between 2017 and 2020, consumers received \$2.3 billion in relief as a result of CFPB enforcement actions.³² This compares to the \$10.2 billion in consumer relief as a result of enforcement actions between 2013 and 2016.³³ The 2020 Fair Lending Report noted that the CFPB referred four cases involving redlining in mortgage origination, discrimination based on public assistance income in mortgage origination, and pricing discrimination in mortgage origination to the Department of Justice.³⁴ According to the 2021 Spring Semi-Annual report, three fair lending public enforcement actions were filed.³⁵

Spending and Staffing

As of June 30, 2021, the CFPB spent \$502.3 million in FY 2021 funds, which includes \$272.8 million for 1,552 employees for both compensation and benefits.³⁶ According to the CFPB's CFO update for the third quarter of fiscal year 2021 report, the CFPB received \$488.8 million for FY 2021 from the Federal Reserve with a maximum allowable cap at \$717.5 million.³⁷ This compares with a request of \$458.1 million in transfers from the Federal Reserve as of June 30, 2020, with a maximum allowable funding cap of \$695.9 million as reported in the CFO update for the third quarter of fiscal year 2020.³⁸

As of March 2021, the CFPB's workforce was 50 percent female, which remained unchanged since March 2020, and people of color represented 42 percent of employees, which is a 2 percent increase from the last reporting period.³⁹ Between October 2020 and March 2021, the CFPB hired 86 new employees, half of whom were women and 39 who were people of color.⁴⁰ The CFPB also noted that

²⁶ CFPB, [Consumer Complaint Database](#), (Accessed Oct. 22, 2021).

²⁷ CFPB, [2020 Consumer Response Annual Report](#) (Mar. 2021).

²⁸ Id. at 54.

²⁹ CFPB, [Mortgage Forbearance Issues](#) (May 2021).

³⁰ CFPB, [CFPB Consumer Complaint Bulletin Highlights Consumers' Difficulties During Pandemic](#) (Jul.1, 2021).

³¹ CFPB, [Enforcement Action](#) (filtered), (Accessed Oct. 22, 2021).

³² CFPB, [Enforcement by the Numbers](#) (Accessed Oct. 22, 2021).

³³ Id.

³⁴ CFPB, [Fair Lending Report 2020](#) (Apr. 14, 2021).

³⁵ CFPB, [Semi-Annual Report Spring 2021](#), *supra* note 3 at 96.

³⁶ CFPB, [CFO Update for the Third Quarter of Fiscal Year 2021](#) (Aug. 30, 2021).

³⁷ Id. at 1.

³⁸ CFPB, [Financial report of the Bureau of Consumer Financial Protection: Fiscal year 2020](#) (Nov.16, 2020).

³⁹ CFPB, [Semi-Annual Report Spring 2021](#), at 106.

⁴⁰ Id. at 107.

while 15 percent of employees who identified as people with disabilities, 3 percent of permanent employees identified as having a “targeted disability”.⁴¹

Reports, Initiatives, and COVID-19 Response

Since July 2020, the CFPB has issued over 50 reports and publications on several topics, including those related to the COVID-19 pandemic. Pandemic-related topics included trends in homeowners’ delinquency rates and access to mortgage forbearance, consumer complaints about credit, coordination with other federal agencies to amplify community outreach on the availability of economic impact payments,⁴² and renters’ access to safety net programs.⁴³ The CFPB launched a web portal which provides resources for homeowners, renters, and landlords.⁴⁴ Other topics included college credit cards, auto loans, young veterans and debt, consumer complaints throughout the credit lifecycle, manufactured housing, mortgage trends, products and services for consumers with limited English proficiency, and children’s savings accounts.⁴⁵ In January 2021, Acting Director Dave Uejio launched the Racial and Economic Equity taskforce of CFPB leaders with experience, knowledge, and expertise in racial and economic equity and roles in which they have insight and influence on activities, initiatives, and programs.⁴⁶

Promoting Responsible Innovation

The CFPB has undertaken several efforts related to new technologies and emerging products and services in the consumer financial space. For instance, in March 2021, the Bureau joined the OCC, Federal Reserve, the FDIC, and the NCUA in issuing a request for information on the use of artificial intelligence, including machine learning, by financial institutions.⁴⁷ Additionally, in September 2020, the CFPB issued its Policy on the Compliance Assistance Sandbox, which allows innovators to apply for an approval that provides a safe harbor from liability for good faith compliance with the law under certain statutes within the Bureau’s jurisdiction.⁴⁸ The CFPB issued guidance under its No-Action Letter Policy in 2020 to certain financial institutions, providing that they will not be subject to CFPB enforcement activity under certain circumstances.⁴⁹

Moreover, in November 2020, the CFPB noticed a rulemaking to implement Section 1033 of the Dodd-Frank Act, which ensures consumer access to their financial data in the possession of a financial institution.⁵⁰ On July 19, 2021, President Biden signed Executive Order 14036, initiating a government-wide effort to promote competition across the economy, including the financial services sector.⁵¹ The Executive Order calls on the CFPB to finalize rules under Section 1033 of the Dodd–Frank Act “to facilitate the portability of consumer financial transaction data so consumers can more easily switch financial institutions and use new, innovative financial products.”⁵² On October 21, 2021, the CFPB issued orders to collect information from large tech companies operating payments systems in the U.S. to “better understand how these firms use personal payments data and manage data access to users so the Bureau can ensure adequate consumer protection.”⁵³

⁴¹ Id. at 106.

⁴² CFPB, [Semi-Annual Report Spring 2021](#), *supra* note 4 at 19.

⁴³ See CFPB, [List of CFPB Reports](#), last accessed Oct. 7, 2021; [Renters at Risk as COVID-19 Safety Net Ends](#) (Sep. 17, 2021).

⁴⁴ CFPB, [Help for homeowners and renters](#). (Accessed Oct. 7, 2021)

⁴⁵ See CFPB, [List of Consumer Financial Protection Bureau Reports](#), last accessed Oct. 7, 2021; CFPB, [Statement Regarding the Provision of Financial Products and Services to Consumers with Limited English Proficiency](#) (Jan. 13, 2021); and CFPB, [Consumer complaints throughout credit life cycle, by demographic characteristics](#) (Sep. 2021).

⁴⁶ CFPB, [Striving for equity](#) (Accessed Oct. 7, 2021).

⁴⁷ Fed, FDIC, CFPB, NCUA, OCC, [RFI and Comment on Financial Institutions' Use of AI, Including Machine Learning](#) (Mar. 31, 2021).

⁴⁸ CFPB, [Semi-Annual Report Spring 2021](#), *supra* note 3 at 33.

⁴⁹ CFPB, [Policy on No-Action Letters](#) (Sep. 10, 2019).

⁵⁰ Federal Register, [Consumer Access to Financial Records](#) (Nov. 6, 2020).

⁵¹ Executive Order 14036, Promoting Competition in the American Economy (Jul. 9, 2021).

⁵² Id.

⁵³ CFPB, [CFPB Orders Tech Giants to Turn Over Information on their Payment System Plans](#) (Oct. 21, 2021).

Appendix - Legislation

- **H.R. 4120, the Comprehensive Consumer Credit Reporting Reform Act (Pressley)** would make an extensive series of reforms to the Fair Credit Reporting Act (FCRA) by requiring credit reporting agencies (CRAs) like Equifax, TransUnion, and Experian to better ensure that the information on consumer credit reports is accurate and complete and increasing consumers' rights to report and appeal credit report disputes. The bill would assist consumers struggling with medical debt, abusive and predatory loan products, and private student debt and creates stronger CFPB oversight of how credit scoring models are formed to prevent disparate impact. This comprehensive bill includes H.R. 4113, the Improving Credit Reporting Disputes for All Consumers Act (Adams); H.R. 4078, the Free Credit Scores for Consumers Act (Beatty); H.R. 4119, the Student Borrower Credit Improvement Act (Pressley); H.R. 4115, the Restoring Unfairly Impaired Credit and Protecting Consumers Act (Tlaib); H.R. 4112, the Clarity in Credit Score Formation Act (Lynch); and H.R. 4144, Restricting Credit Checks for Employment Decisions Act (Lawson). This bill passed the House last year.⁵⁴
- **H.R. 4277, the Overdraft Protection Act of 2021 (Maloney)** would strengthen protections and disclosures for consumers with respect to overdraft fees, under the Truth In Lending Act (TILA). It would limit the number of overdraft fees a bank may charge on a monthly and annual basis, prevent financial institutions from re-ordering transactions to increase overdraft fees, and codify Federal Reserve requiring financial institutions to provide consumers with the opportunity to opt-in to overdraft coverage for all transactions.
- **H.R. 5484, the Financial Compensation for CFPB Whistleblowers Act (Green)** would establish a whistleblower program incentivizing the reporting of consumer fraud and abuse to the CFPB, while protecting the confidentiality of the whistleblower's identity.
- **H.R. _____, the Protecting Your Credit Score Act (Gottheimer)** would require the three largest CRAs, Equifax, Experian, and Transunion, to establish a single online consumer portal landing page that gives consumers free and unlimited access to their consumer reports and credit scores. This bill also provides consumers with the ability to initiate disputes about report accuracy and to place or remove a security freeze. This legislation passed the House last year.⁵⁵
- **H.R. _____, the Small Business Lending Disclosure Act (Velazquez)** would require small business loans to be covered by the Truth In Lending Act.
- **H.R. _____, the Ensuring Pay Equity Act** would amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to require certain pay equity audits, and for other purposes. It would require the Offices of Minority and Women Inclusion at the federal financial regulatory agencies to conduct internal pay equity audits every two years and to report those findings to Congress.
- **H.R. _____, the Holding Megabanks Accountable Act** would require federal regulators, including the CFPB, to design a strategic plan outlining how they would utilize the full extent of their authorities to hold megabanks accountable for a pattern of compliance failures that result in extensive consumer harm. The bill would require megabanks to promptly disclose and remediate extensive consumer harm. Among other provisions, the Consumer Compliance ratings for megabanks would be disclosed, and governance improvements would be required with respect to megabank board of directors. This bill is based on the Committee's investigation of Wells Fargo.⁵⁶

⁵⁴ Committee, [House Passes Pressley Bill to Reform Broken Credit Reporting System](#) (Jan. 29, 2020). The bill was supported by 85 consumer, civil rights, labor, and community organizations. See Americans for Financial Reform, [House Floor Credit Reporting Bill Support Letter](#) (Jan. 27, 2020).

⁵⁵ Rep. Gottheimer press release, [Gottheimer bill passes House to create new online portal to protect from fraud, increase transparency, strengthen Americans' financial futures](#) (June 29, 2020).

⁵⁶ Committee, [In Advance of Wells Fargo Hearings, Waters and Green Release Investigative Report Exposing Failures of Megabank's Management, Board, and Regulators](#) (Mar. 4, 2020). Also see Committee hearing, [Holding Megabanks Accountable: An Update on Banking Practices, Programs and Policies](#) (May 27, 2021).

- **H.R. _____, the Preventing Unfair Foreclosures Act** would codify CFPB’s Regulation X rule requiring 120 days of delinquency before the start of a foreclosure, improve written notices during the mortgage servicing process, establish data sharing requirements between CFPB and other federal agencies, and otherwise improve the mortgage servicing process for homeowners.
- **H.R. _____, the Private Student Loan Parity Act** would clarify and explicitly codify that the definition of private student loans covered by the Truth In Lending Act includes Income Share Agreements, while expanding the definition to encompass other forms of credit extended to students pursuing a postsecondary education, including coding bootcamps and other unaccredited educational programs.
- **H.R. _____, the Promoting Fair Lending to Small Businesses Act** would clarify that the CFPB has supervisory and fair lending enforcement authority of non-depository lenders to small businesses that collect and report data pursuant to Section 1071 of the Dodd-Frank Act.