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CONSUMER FINANCIAL PROTECTION EFFORTS: ANSWERS NEEDED

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

JULY 14, 2011

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CONSUMER FINANCIAL PROTECTION EFFORTS: ANSWERS NEEDED

THURSDAY, JULY 14, 2011

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m., in room 2154, Rayburn House Office Building, Hon. Darrell E. Issa (chairman of the committee) presiding.

Present: Representatives Issa, Mica, Platts, McHenry, Jordan, Chaffetz, Mack, Walberg, Lankford, Amash, Buerkle, Gosar, Labrador, Meehan, DesJarlais, Walsh, Gowdy, Ross, Guinta, Farenthold, Kelly, Cummings, Towns, Maloney, Norton, Kucinich, Tierney, Clay, Lynch, Cooper, Connolly, Quigley, Davis, Braley, Welch, Yarmuth, Murphy, and Speier.

Staff present: Thomas A. Alexander, senior counsel; Robert Borden, general counsel; Lawrence J. Brady, staff director; Katelyn E. Christ and Tegan Millspaw, research analysts; Benjamin Stroud Cole, policy advisor and investigative analyst; Drew Colliatie, staff assistant; John Cuaderes, deputy staff director; Gwen D'Luzansky, assistant clerk; Adam P. Fromm, director of Member services and committee operations; Linda Good, chief clerk; Ryan M. Hambleton, professional staff member; Frederick Hill, director of communications and senior policy advisor; Christopher Hixon, deputy chief counsel, oversight; Hudson T. Hollister and Christine Martin, counsels; Justin LoFranco, deputy director of digital strategy; Mark D. Marin, senior professional staff member; Laura L. Rush, deputy chief clerk; Rebecca Watkins, press secretary; Peter Warren, legislative policy director; Michael Whatley, professional staff member; Beverly Britton Fraser and Davida Walsh, minority counsels; Lisa Cody, minority investigator; Kevin Corbin, minority staff assistant; Ashley Etienne, minority director of communications; Jennifer Hoffman, minority press secretary; Carla Hultberg, minority chief clerk; Lucinda Lessley, minority policy director; Leah Perry, minority chief oversight counsel; Jason Powell, minority senior counsel; Dave Rapallo, minority staff director; Susanne Sachsman Grooms, minority chief counsel; and Mark Stephenson, minority senior policy advisor/legislative director.

Chairman ISSA. Good morning. The hearing will come to order.

We exist for two fundamental principles: First, Americans have a right to know that the money Washington takes from them is well-spent. And, second, Americans deserve an efficient, effective government that works for them.

Our duty on the Oversight and Government Reform Committee is to protect these rights. Our solemn responsibility is to hold government accountable to taxpayers, because taxpayers have a right to know what they get from their government. We will work tirelessly in partnership with citizen watchdogs to deliver the facts to the American people and bring genuine reform to the Federal bureaucracy. This is our mission.

Today's hearing is an important one because the Consumer Financial Protection Bureau is intended to bring protections to the American people in and around financial products. We are here not to micromanage every aspect of that. The Financial Services Committee has a responsibility to look at the details of that. What we are here to do is our oversight role as to government organization: whether or not this agency is properly designed and prepared; whether the funding stream is appropriate and verifiable; whether it will be transparent; whether or not, as it is being organized from a 2,000-page document, whether the guidance has been sufficiently clear; and whether or not the American people can feel comfortable that what was envisioned in Dodd-Frank is, in fact, what they want.

We appreciate Professor Warren's willingness to clear her schedule, testifying for the second time before this committee, first time before the full committee. I know the American people want to know more about an agency that you have dedicated, in some ways your whole life, but certainly the last year to building up. The American people do not understand all the history that goes in to your preparation for this, and I believe today is an opportunity for us all to get a better understanding of that.

Additionally, the definition of consumer financial products protection is one that people don't understand. Quite frankly, it may apply to payday loans, but that wasn't the basis for Dodd-Frank. Dodd-Frank was about making sure that we never again have a meltdown because certain types of credit instruments were unsafe, unsound, poorly documented, and ultimately worth less than they were intended to.

But it is clear today that we will be dealing with an agency that will be far larger. The budget for next year is estimated to be larger than the two largest consumer protection agencies presently in existence combined. That is a lot of money.

Additionally, the authority of this agency is extremely broad. Today, we also will ask some important questions that this committee has been dedicated to, along with the Financial Services Committee, for some time. The Federal Reserve is not transparent. The Federal Reserve does resist any kind of congressional oversight and considers it unreasonable interference.

There have been limited—and I repeat, very limited ability—to get transparency in some cases related to the financial bailout from the Federal Reserve. It is likely that without the specific and documented ability to have guaranteed transparency and legitimate oversight, that this sub-agency, independent as it might be, but fully funded and accountable to the Federal Reserve, could well become an agency that, while well-intended, is not well-understood or transparent to Congress or to the American people.

These concerns and others will be voiced here today. We are delighted to have a witness who, more than anyone, absolutely understands the intention of her agency. Often, you have used the term, "cop on the beat." Oddly enough, we use it here, too. Today, we will ask the questions that will include: Does the cop on the beat have a district attorney overseeing the cop on the beat? Is there, in fact, a defense counsel available to check on the cop on the beat? Is there an independent judge of the cop on the beat? Is there, in fact, a court of appeals? And, by the way, if I am accused by the cop on the beat, can I get an attorney paid for by the State?

These and other questions are important, because we are not talking, in the case of your oversight, about only large, international banks. We may be talking about a small organization formed for the purpose of one financial instrument potentially finding that product in disfavor with the large banks, who complain that that product is in some way deceptive. I have no problem with the idea that that will be looked in to by your entity. I do have a question about whether or not that small company will have their day in court and their ability not to be in financial ruin if, in order to save their company, they must disagree with your determination. That and many other issues we will be concerned with.

Last, there is a concept of individual liberty. One of the concerns that the chair has and I believe many members of the committee have is, at what point do the American people have a right to say, "I want to be informed, I want to be protected by being informed, but, quite frankly, I want something which you may not want me to have?" In America, unless it is incredibly dangerous to others or may cause harm to society, generally we let people have what they want, even if we don't want them to have it. We could use many examples; I will simply quit with adult beverages.

Under Dodd-Frank, the CFPB will have the power to regulate all consumer financial products and to prohibit the ones it deems unfair or abusive. Today, I hope we will be able to understand what, under Dodd-Frank, is the scope created by that language and others.

I appreciate, again, your being here.

And I yield to the ranking member for his opening statement.

[The prepared statement of Chairman Darrell E. Issa follows:]

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Chairman Darrell Issa Hearing Preview Statement
"Consumer Financial Protection Efforts: Answers Needed"
July 14, 2011

Thursday's hearing of the House Committee on Oversight and Government Reform, entitled "Consumer Financial Protection Efforts: Answers Needed," will give Professor Elizabeth Warren an opportunity to explain the administration's goals for the Consumer Financial Protection Bureau (CFPB), which was established last year under the Dodd-Frank Act. On July 21, 2011, the CFBP will assume its broad powers to regulate all consumer financial products and services and prohibit the ones it deems "unfair" or "abusive." The American people have a right to know how the bureau will advance and enforce its regulatory assignment.

Indeed, the public deserves every assurance that the array of financial products available to them will be legitimate and fair. Meanwhile, consumers deserve opportunities to choose between lending alternatives and other financial tools that establish credit and give buyers the chance for affordable enhancements to their standards of living.

The Committee seeks to understand how the regulatory authority granted to the CFPB will protect consumers, guard against rate and fee spikes, and promote private sector job growth. Now one full year into the creation of the CFPB, numerous questions remain unanswered regarding the implementation of this key element of the Dodd-Frank Act.

As a key component of the Committee's mission to deliver an efficient, effective government that works for the American people, this hearing constitutes another attempt by the Congress to oversee the creation of the CFPB. At the core of our mandate is the prevention of waste, fraud, and abuse in the federal bureaucracy, and there is no question that improved efforts to combat deceptive practices in the financial sector are needed.

Neither is there a reason why the administration should avoid a candid, transparent account to Congress about its policy and practices in this regard. Since Professor Warren has been charged by the White House with the primary responsibility to organize the bureau, her straightforward testimony is particularly relevant to the Committee's work.

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Mr. CUMMINGS. Thank you very much, Mr. Chairman.

And thank you, Professor Warren, for being here today.

And at today's hearing we have a fundamental difference of opinion about what we believe is important and who we are here to serve. The difference can be distilled into one simple question: Whose side are we on?

On one hand, a homeowner who has been illegally evicted, foreclosed on, and charged inflated fees. They include thousands of U.S. military service members and their families who lost their homes, were charged millions of dollars illegally, and were subjected to other abuses in violation of Federal law.

The chairman asked a question about someone having a day in court and facing financial ruin. They did not necessarily have their day in court, and they have faced financial ruin. Many of these service members are deployed overseas. Their credit has been impaired, and their security clearances have been suspended. While they are fighting to defend our Nation abroad, they are also fighting their banks back home.

Professor Warren is on the side of these service members, these homeowners, and their families. Holly Petraeus, the wife of General David Petraeus, is now working at the Bureau as the head of the Office of Service Member Affairs to educate service members and banks about their legal rights and obligations. They have joined with our Nation's top uniformed lawyers, the Judge Advocate General, to protect service members from the predatory practices of these banks.

I, too, am on the side of service members and other homeowners across the country who have been the victims of these illegal—and I emphasize, illegal—actions. In my opinion, none of our troops fighting overseas in Iraq or Afghanistan or anywhere else should also have to fight illegal actions by their banks back home just to keep a roof over the heads of their loved ones. And, by the way, a number of these illegal actions have already been admitted to by the banks.

Over the past 6 months, I have urged this committee to conduct a thorough—thorough—bipartisan investigation of these systemic abuses. Initially, we had positive signs. On February 11th, we formally adopted the committee's oversight plan, the blueprint for our committee's investigative priorities. As part of that plan, we voted unanimously to investigate, "wrongful foreclosures and other abuses by mortgage servicing companies." We also held a bipartisan field hearing in Baltimore, where we heard heart-wrenching testimony from a disabled veteran who suffered abuses at the hands of a mortgage servicing company, including an illegal eviction.

But since hearing that testimony, the committee has done nothing. I asked the chairman to join me in sending document requests to the top 10 mortgage servicers, but he declined. So I sent them myself. I asked the chairman to invite JPMorgan to testify about their illegal foreclosures against service members, but he declined. When some mortgage servicers refused to provide even a single responsive document, not a single syllable, I asked the chairman to issue subpoenas, but he declined.

Instead of conducting a bipartisan investigation to help service members and other homeowners, this committee has now trained its eyes and sights on Professor Warren, who is trying to protect these very same families so that they may have, in his words, their day in court so that they might not face financial ruin.

Ironically, it appears that the majority's single biggest criticism of Professor Warren is that she is somehow being too hard on these mortgage banks. Professor Warren has now been summoned to testify before the committee not once but twice, and the committee has demanded that she produce a massive range of documents, all while the mortgage banks are given a pass.

So let me end with my original question: Whose side are we on? The side of service members risking their lives and their safety and their health, and the side of other homeowners and their families? Or on the side of the banks that are committing violations against these folks? And these are violations that they have admitted to.

I hope we can come together and work with a common purpose to do what this committee has the opportunity to do best: to help millions of American families improve their lives by demanding accountability and compliance with the law.

I have often said to my constituents, we have one life to live. This is no dress rehearsal. And guess what? This is that life. I do believe that Professor Warren is doing her very best to make sure that every American lives the very, very best life that they can.

And, with that, Mr. Chairman, I yield back.

[The prepared statement of Hon. Elijah E. Cummings follows:]

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Opening Statement

Ranking Member Elijah E. Cummings
Hearing on "Consumer Financial Protection Efforts: Answers Needed"

July 14, 2011

At today's hearing, we have a fundamental difference of opinion about what we believe is important, and who we are here to serve. This difference can be distilled into one simple question: Whose side are we on?

On one hand are homeowners who have been illegally evicted, foreclosed on, and charged inflated fees. They include thousands of U.S. military servicemembers and their families who lost their homes, were charged millions of dollars illegally, and were subjected to other abuses in violation of federal law. Many of these servicemembers are deployed overseas. Their credit has been impaired, and their security clearances have been suspended. While they are fighting to defend our nation abroad, they are also fighting their banks back home.

Professor Warren is on the side of these servicemembers, these homeowners, and their families. Holly Petraeus, the wife of General David Petraeus, is now working at the Bureau, as the head of the Office of Servicemember Affairs, to educate servicemembers and banks about their legal rights and obligations. They have joined with our nation's top uniformed lawyers, the Judge Advocates General, to protect servicemembers from the predatory practices of these banks.

I too am on the side of servicemembers and other homeowners across the country who have been the victims of these illegal actions. In my opinion, none of our troops fighting overseas, in Iraq or Afghanistan or anywhere else, should also have to fight illegal actions by their banks back home just to keep a roof over the heads of their loved ones.

Over the past six months, I have urged this Committee to conduct a thorough, bipartisan investigation of these systemic abuses.

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But since hearing that testimony, the Committee has done nothing. I asked the Chairman to join me in sending document requests to the top ten mortgage servicers, but he declined. So I sent them myself. I asked the Chairman to invite JPMorgan to testify about their illegal foreclosures against servicemembers, but he declined. When some mortgage servicers refused to provide even a single responsive document, I asked the Chairman to issue subpoenas, but he declined.

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Professor Warren has now been summoned to testify before the Committee not once, but twice. And the Committee has demanded that she produce a massive range of documents, all while the mortgage banks are given a pass.

Mr. Chairman, let me end with my original question. Whose side are we on? The side of servicemembers, other homeowners, and their families, or the side of the banks that are committing violations against them?

I hope today that we can come together and work with common purpose to do what this Committee has the opportunity to do best: help millions of Americans families improve their lives by demanding accountability and compliance with the law.

Chairman ISSA. The gentleman yields back.

We now recognize the chairman of the Subcommittee on TARP, Financial Services and Bailouts of Public and Private Programs, Mr. McHenry, for his opening statement.

And by previous agreement, any unused time you may yield on our side, and they will do the same.

I recognize the gentleman.

Mr. MCHENRY. Thank you, Mr. Chairman.

As we sit here today, the economic health of the United States remains fragile. Unemployment numbers continue to be unacceptably high, while small businesses struggle to access credit and families struggle to simply pay their bills. With that in mind, this committee remains committed to examine the economic tradeoffs of current and proposed regulations and to define the limits of regulators in an effort to put this country back on the path to growth and prosperity.

In the spirit of this process, the House Oversight Committee again welcomes Professor Warren, who has led the formation of the Consumer Financial Protection Bureau, set to launch on July 21st. Although the CFPB is not directly subject to congressional appropriations, I hope that our witness will be forthcoming to Congress and the American public about its processes, decisions, and budget today and for years to come.

It is not a secret that the activity and formation of the CFPB has been controversial. Numerous questions regarding the scope of the CFPB's activity in the mortgage settlement case and the Bureau's regulatory limits remain unanswered. With the CFPB's inauguration next week, it is imperative that Professor Warren explain to this committee and to the American people the specifics regarding activities of the Consumer Protection Agency as of today and its broadly defined authority to regulate access to credit.

We all agree that protections are needed. In fact, one of the CFPB's first initiatives is nearly identical to the Mortgage Disclosure Simplification Act that I introduced along with Democratic Congressman Green of Texas. It was a bipartisan piece of legislation. So that is a positive.

With that said, the majority of rules and regulations coming from the CFPB will not be based on bipartisan ideas and will never require a vote. That is a concern. It will be conducted by a single regulator, single director, who will be given authority to author the terms for access to credit for the American consumers and small businesses. With meager oversight, they will be left outside the window of congressional appropriations.

To make matters worse, Professor Warren has continued to evade questions about the types of financial products that the CFPB would ban or restrict. Businesses and investors are sitting on the sidelines due to regulatory and economic uncertainty. There are many questions left unanswered: What will the CFPB do? How will it proceed? And what are the costs incurred by the American consumers through these regulations? Because there will be costs. Professor Warren's evasive non-answers only further contribute to this climate of tepid investment and slow job growth. I fear that actions by the CFPB that limit access to credit and increase its costs will only further damage a struggling economy.

The only clear thing about the CFPB in its current form is that it will have extraordinary reach and control over individual consumer decisions, while having an unparalleled lack of oversight and accountability by the American people. As Professor Warren continues to work to stand up the CFPB by next week, it is the Oversight Committee's obligation to continue to ask the questions of the Bureau to be clear about its regulatory limits and proposals to restrict access to credit.

I look forward to addressing these issues and many others today with Ms. Warren. And I thank Ms. Warren for returning and being here today and answering Members' questions.

And, with that, Mr. Chairman, I would yield the balance of my time back to you.

Chairman ISSA. Thank you.

And I won't use it for a further opening statement, but I would like to answer the ranking member's inquiry.

As you know, we held a field hearing in Baltimore on the mortgage crisis. And I hope that hearings held here are not somehow weighted greater than those held in your own district with your mayor and your Governor there for the same fact-finding. The time of the committee is limited. We are trying to do things which, in this case, Financial Services should be the lead. If they are not, we certainly want to make sure that we fill in any of the gap.

Originally I said we were not going to let this go. We are not going to let this go. We are going to continue to look at those abuses, whether there is a government nexus or whether we believe this committee can make a difference. And I want to reiterate, nothing has changed from February until now. And I would hope the gentleman would realize that I am happy to continue working on specific opportunities.

In the case of the mortgage industry, in your opening statement, you did say "illegal," "admitted," etc. If we already know something is illegal, if, in fact, it is already known and prosecution or corrections are being made, then it is appropriate for this committee to say, what more do we need to do? And if the answer is nothing more there compared to other areas where people are not admitting or not, in fact, known to have done wrong, we are going to choose to go to those who are still hiding behind a veil of "We didn't do it. We are not wrong." And I would hope that both of us would always put our investigations first on those who are saying there is nothing wrong or on government agencies.

And I, again, will join with the ranking member. At any time, if we see a wrong that is not being righted that we can help make right, I look forward to working with him.

I would recognize Mr. Tierney for his opening statement.

Mr. TIERNEY. Thank you, Mr. Chairman.

Professor Warren, let me welcome you and thank you for your dedication to the interests of the American consumer. I think you are doing an excellent job on that.

You know, the costs for lack of regulation certainly are pretty clear to all of us, and it culminated in the recession that we have been suffering through for some time. It is amazing that some people in both branches of this legislature seem to be flacking for Wall

Street banks, attacking an entity that has been set up to be the champion of the American consumer and the taxpayer.

Some seem bent on sabotaging Dodd-Frank's consumer taxpayer protections in order to cover for the Wall Street banks, who most of America believe wrecked our economy, got a taxpayer bailout, sometimes two, who built nothing of value for America except for financial products that ended up bilking the American public. And since then there has been too little legal, moral, or financial reckoning by these wrongdoers. And, frankly, the lack of accountability for this greed and misdeeds is stunning on that.

So I want to add some comments and reiterate what the ranking member talked about, in terms of foreclosure abuses that hit service members particularly hard. And this is one thing that this committee can continue to do because it is an ongoing matter.

As the ranking member of the National Security Subcommittee, I understand that readiness can certainly be affected by troops who struggle to deal with issues back home, whether that includes negative credit reports, security clearances that are suspended, and, worst of all, losing their homes due to the illegal actions by banks.

Mr. Chairman, I would like to enter in to the record a report compiled by the Democratic staff entitled, "Fighting on the Home Front: The Growing Problem of Illegal Foreclosures Against U.S. Servicemembers."

Chairman ISSA. I look forward to it.

Mr. TIERNEY. Thank you.

[The information referred to follows:]

FIGHTING ON THE HOME FRONT:

THE GROWING PROBLEM OF ILLEGAL FORECLOSURES AGAINST U.S. SERVICEMEMBERS

Democratic Staff Report
Prepared for:

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Chairman
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EXECUTIVE SUMMARY

In the midst of World War II, Congress enacted the Soldiers' and Sailors' Civil Relief Act "to protect those who have been obliged to drop their own affairs to take up the burdens of the nation." In 2003, Congress passed the Servicemembers Civil Relief Act (SCRA) to update the law and provide additional protections for servicemembers. In 2010, Congress enacted amendments to the SCRA specifically relating to mortgages and foreclosures.

The SCRA prohibits foreclosures against servicemembers without court orders and restricts mortgage banks from charging interest fees above 6% during active duty service.

When isolated reports of illegal foreclosures and inflated fees against servicemembers first arose, mortgage servicing companies downplayed the extent of these problems. As thousands of servicemembers began coming forward, however, the widespread scope of these problems became more evident.

Multiple mortgage servicing companies have now conceded that they violated the SCRA by illegally foreclosing on servicemembers and by charging fees in excess of the maximum amounts allowed under the SCRA. Three banks have been forced to pay multi-million dollar settlements relating to these abuses. The largest to date was JPMorgan, which initially announced that it would pay $2 million, but later agreed to pay $56 million to settle claims that it overcharged military personnel and illegally seized the homes of active-duty military personnel protected by the SCRA.

Similarly, in announcing a $20 million settlement against Bank of America, Justice Department officials condemned the bank's actions, stating that it "failed to protect and respect the rights of our servicemembers, failed to comply with clearly mandated procedures, and foreclosed against homeowners who are valiantly serving our nation."

The scale of these problems continued to expand, however, as federal regulators dug deeper. On April 13, four federal agencies that regulate mortgage servicing companies issued a report finding "critical weaknesses in servicers' foreclosure governance processes, foreclosure document preparation processes, and oversight and monitoring of third-party vendors, including foreclosure attorneys." The report raised "escalated" concerns about the systemic deficiencies of 14 mortgage banks, including multiple SCRA violations.

This interagency review was cursory, however, and was based on only a sampling of a "relatively small number of files." As a result, the agencies initiated enforcement action against all 14 banks, directing a more comprehensive review to identify additional borrowers and servicemembers "that have been financially harmed."

In addition, the Dodd-Frank Wall Street Reform and Consumer Protection Act established the Consumer Financial Protection Bureau (CFPB) to protect consumers from unfair, deceptive, and abusive financial practices. Under the leadership of Elizabeth Warren, the CFPB organized an Enforcement Division and an Office of Servicemember Affairs led by Holly Petraeus, the wife of Gen. David H. Petraeus, the former top U.S. commander in Afghanistan.

Mrs. Petraeus focused quickly on the issue of SCRA violations, making public statements to increase awareness and issuing warning letters to the nation's largest 25 mortgage banks. In addition, on July 6, 2011, she announced that the CFPB and the Judge Advocates General of the United States Army, Marine Corps, Navy, Air Force, and Coast Guard agreed to a number of steps "to provide stronger protections for servicemembers and their families." In particular, they established "a formal working group with the goal of achieving a coordinated response to unlawful conduct targeted at servicemembers and their families."

Although it is now clear that illegal actions against servicemembers are much more widespread than originally believed, their full scope is not yet known. Violations of the SCRA have taken a significant toll on servicemembers who have had to wage battles on two fronts—risking their lives in service of their country abroad while fighting illegal foreclosures and inflated fees at home.

I. OVERVIEW OF SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

In 1940, Congress enacted the Soldiers' and Sailors' Civil Relief Act "to protect those who have been obliged to drop their own affairs to take up the burdens of the nation." In 2003, Congress passed the Servicemembers Civil Relief Act (SCRA) to update the law and provide additional protections for servicemembers.[1] In 2010, Congress enacted additional provisions creating a private right of action and extending certain protections regarding mortgages and foreclosures.[2]

When the SCRA was passed in 2003 with broad bipartisan support, a report by the House Committee on Veterans' Affairs stated:

> Congress has long recognized that the men and women of our military services should have civil legal protections so they can "devote their entire energy to the defense needs of the Nation." With hundreds of thousands of servicemembers fighting in the war on terrorism and the war in Iraq, many of them mobilized from the reserve components, the Committee believes the Soldiers' and Sailors' Civil Relief Act (SSCRA) should be restated and strengthened to ensure that its protections meet their needs in the 21st century.[3]

The purpose of the SCRA is to "provide for, strengthen, and expedite the national defense" through the "temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service." The Act addresses a host of proceedings, including those affecting motor vehicle leases, life insurance, and mortgages.[4]

The SCRA protects active duty servicemembers against foreclosures during their period of military service. It states:

> A sale, foreclosure, or seizure of property for a breach of an obligation ... shall not be valid if made during, or within 9 months after, the period of the servicemember's military service except ... upon a court order granted before such sale, foreclosure, or seizure with a return made and approved by the court.[5]

The SCRA also provides courts with broad authority to "stay the proceedings for a period of time as justice and equity require" and to "adjust the obligation to preserve the interests of all

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[1] Pub. L. No. 108-189 (2003).

[2] *See* Pub. L. No. 111-346 (2010); Pub. L. No. 111-275 (2010).

[3] House Committee on Veterans' Affairs, *Servicemembers Civil Relief Act*, 108th Cong. (2003) (H. Rept. 108-81).

[4] *See* Pub. L. No. 108-189 (2003).

[5] 50 U.S.C. app. § 533(c).

parties."[6] Finally, the SCRA provides that mortgage interest rates for servicemembers may not exceed 6% for pre-service debt during the period of military service and for one year after termination of service.[7]

II. WIDESPREAD AND INCREASING VIOLATIONS OF THE SCRA

Multiple mortgage servicing companies have now conceded that they violated the SCRA by illegally foreclosing on servicemembers and by charging fees in excess of the maximum amounts allowed under the SCRA. Although initially downplaying the extent of the problem, several banks have been forced to pay multi-million dollar settlements relating to these violations.

A. JPMorgan Chase

In January 2011, JPMorgan admitted publicly that it overcharged thousands of military families in violation of the SCRA. One of these servicemembers was Marine Captain Jonathon Rowles, a fighter pilot who sued the bank for overcharging his family and illegally attempting to seize his home. Captain Rowles' case identified systematic failures in JPMorgan's SCRA procedures, resulting in illegal foreclosures, improper fees, and negative credit actions against servicemembers.[8]

Initially, JPMorgan announced that it would pay $2 million to approximately 4,500 servicemembers.[9] But within three months—by April 2011—JPMorgan conceded that its abuses were much worse. Instead of paying only $2 million, the company agreed to pay $56 million to settle claims that it overcharged military personnel and illegally seized the homes of active-duty military personnel protected by the SCRA.[10]

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[6] *Id.* at § 533(b).

[7] *Id.* at § 527.

[8] *JP Morgan Overcharged Troops on Mortgages,* NBC News (Jan. 17, 2011) (online at www.nbcnewyork.com/news/breaking/No__2_bank_overcharged_troops_on_mortgages-113875324.html). *See also Overcharges on Soldiers' Mortgages Investigated,* NBC News (Jan. 26, 2011) (online at today.msnbc.msn.com/id/41043127/ns/today-money/t/overcharges-soldiers-mortgages-investigated/).

[9] *JPMorgan Mails $2 Million to Military Families for Overcharges, Lost Homes,* Bloomberg (Jan. 18, 2011) (online at www.bloomberg.com/news/2011-01-18/jpmorgan-mails-2-million-to-military-families-for-overcharges-lost-homes.html).

[10] *JPMorgan Settles Military Mortgage Suits for $56 Million,* Bloomberg (Apr. 21, 2011) (online at www.businessweek.com/news/2011-04-21/jpmorgan-settles-military-mortgage-suits-for-56-million.html).

Last month, JPMorgan ousted David Lowman, the mortgage chief who ran the company's home-lending unit since 2006.[11] JPMorgan CEO Jamie Dimon stated that this was the worst mistake the bank has ever made. At the company's May 17 annual shareholder meeting, he stated: "We deeply apologize to the military, the veterans, anyone who's ever served this country. ... We're sorry."[12]

B. Bank of America (Countrywide)

In May 2011, the Department of Justice announced that Bank of America Home Loan Servicing, formerly known as Countrywide Home Loans Servicing, would pay $20 million for hundreds of SCRA violations. The Department determined that the bank "foreclosed on approximately 160 servicemembers between January 2006 and May 2009 without court orders." In addition to paying $20 million for violations during this time period, the bank must also compensate servicemembers wrongfully foreclosed on from June 2009 through 2010.[13]

In announcing the settlement, André Birotte, the U.S. Attorney for the Central District of California, condemned the bank's violations:

> Countrywide Home Loans failed to protect and respect the rights of our servicemembers, failed to comply with clearly mandated procedures and foreclosed against homeowners who are valiantly serving our nation. Military families lost their homes when Countrywide violated the law, causing undue stress to wartime personnel.[14]

James Jacks, the U.S. Attorney for the Northern District of Texas, was also critical:

> With the numerous sacrifices our servicemembers make while they are serving our country, the last thing they need to worry about is whether or not their families will be forced from their homes. These lenders' callous disregard for the SCRA, a law which was designed to insulate these patriots from unlawful foreclosures and other civil and financial obligations while they are on active duty, is deplorable.[15]

According to the Department, the bank foreclosed on servicemembers in many instances

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[11] *JPMorgan Ousts Home-Lending Chief After Foreclosure Lapses,* Bloomberg (June 14, 2011) (online at www.businessweek.com/news/2011-06-14/jpmorgan-ousts-home-lending-chief-after-foreclosure-lapses.html).

[12] *Id.*

[13] Department of Justice, *Justice Department Settles with Bank of America and Saxon Mortgage for Illegally Foreclosing on Servicemembers* (May 26, 2011) (online at www.justice.gov/opa/pr/2011/May/11-crt-683.html).

[14] *Id.*

[15] *Id.*

"where it knew, or should have known, about their military status," and the "victims include individuals who have served honorably in Iraq and Afghanistan." The settlement requires SCRA training for bank employees and agents, referrals of future SCRA complaints to the Justice Department, and repairs to negative credit reports related to wrongful foreclosures.[16]

Bank of America Executive Vice President Terry Laughlin stated: "While most cases involve loans originated by Countrywide and the improper foreclosures were taken or started by Countrywide prior to our acquisition, it is our responsibility to make things right. These errors are not acceptable, and we certainly regret them."[17]

C. Morgan Stanley (Saxon Mortgage Services, Deutsche Bank)

In March 2009, a federal judge ruled that National Guard Sergeant James Hurley, who was called to active duty in Iraq in 2004, was illegally foreclosed on in violation of the SCRA by a Morgan Stanley subsidiary, Saxon Mortgage Services, and Deutsche Bank Trust Company. The foreclosure forced Sergeant Hurley's wife and two young children to find shelter elsewhere while he was deployed overseas.[18]

Despite the court ruling, it took Sergeant Hurley two years in continued litigation to settle his claims because the banks refused to pay any damages other than the sale value of the home, which was less than the mortgage Sergeant Hurley owed. The banks completed the foreclosure without the court hearing required by the SCRA, claiming there was no evidence Sergeant Hurley was on military duty. Yet the banks admitted in a court filing that one of their foreclosure attorneys "learned in April 2005 that Sergeant Hurley had been on active duty since the previous October."[19]

In March 2011, the Department of Justice announced that it was investigating these and other illegal activities by Morgan Stanley and its subsidiary. The bank's attorneys attempted to downplay the investigation, stating that it was "merely a preliminary investigation based on unproven allegations, for which no liability or wrongdoing has been found."[20]

Nevertheless, two months later, the Department of Justice announced that the bank would pay $2.35 million to settle multiple claims of violations of the SCRA. The Department stated that, in addition to Sergeant Hurley's illegal foreclosure, the banks foreclosed on other

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[16] *Id.*

[17] *Mortgage Servicing Means Occasionally Having to Say You're Sorry*, American Banker (May 27, 2011) (online at www.americanbanker.com/bankthink/mortgage-servicing-1038149-1.html).

[18] *A Reservist in a New War, Against Foreclosure,* New York Times (Jan. 26, 2011) (online at www.nytimes.com/2011/01/27/business/27foreclose.html).

[19] *Id.*

[20] *U.S. Inquiry on Military Family Foreclosures,* New York Times (Mar. 11, 2011) (online at www.nytimes.com/2011/03/12/business/12military.html).

servicemembers when they "knew or should have known about their military status," including "men and women who have served honorably in Iraq, some of whom were severely injured in the line of duty."[21]

Following the settlement, Morgan Stanley issued the following statement: "We want to apologize to those military families that were affected by any mistakes made in the foreclosure process."[22]

III. INTERAGENCY FINDINGS OF ILLEGAL ACTIONS AND "ELEVATED" CONCERN

In addition to reports about specific servicemembers and banks described above, an analysis by federal regulators raises a host of new concerns about the full scope of these abuses. On April 13, 2011, four agencies that regulate mortgage servicing companies—the Office of the Comptroller of the Currency, the Federal Reserve System, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation—issued a report finding widespread foreclosure abuses by 14 mortgage servicing companies, including multiple SCRA violations.

The report found "critical weaknesses in servicers' foreclosure governance processes, foreclosure document preparation processes, and oversight and monitoring of third-party vendors, including foreclosure attorneys."[23]

The report also found violations of law that elevated the agencies' level of concern across the board. The report stated:

> [T]he weaknesses at each servicer, individually or collectively, resulted in unsafe and unsound practices and violations of applicable federal and state law and requirements. The results elevated the agencies' concern that widespread risks may be presented—to consumers, communities, various market participants, and the overall mortgage market. The servicers included in this review represent more than two-thirds of the servicing market. Thus, the agencies consider problems cited within this report to have widespread consequences for the national housing market and borrowers.[24]

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[21] Department of Justice, *Justice Department Settles with Bank of America and Saxon Mortgage for Illegally Foreclosing on Servicemembers* (May 26, 2011) (online at www.justice.gov/opa/pr/2011/May/11-crt-683.html).

[22] *Mortgage Servicing Means Occasionally Having to Say You're Sorry*, American Banker (May 27, 2011) (online at www.americanbanker.com/bankthink/mortgage-servicing-1038149-1.html).

[23] Federal Reserve System, Office of the Comptroller of the Currency, and Office of Thrift Supervision, *Interagency Review of Foreclosure Policies and Practices* (Apr. 13, 2011) (online at www.occ.treas.gov/news-issuances/news-releases/2011/nr-occ-2011-47a.pdf).

[24] *Id.*

With respect to servicemembers in particular, the report found "cases in which foreclosures should not have proceeded," including against borrowers who were "covered by the Servicemembers Civil Relief Act."[25]

This review was based on only a sampling of a "relatively small number of files." To address the widespread abuses identified in this cursory review, the agencies initiated enforcement action against all 14 banks, directing a comprehensive review of all files of affected homeowners "to identify borrowers that have been financially harmed and provide remediation."[26]

IV. ACTIONS BY CFPB AND MILITARY JAGs

The Dodd-Frank Wall Street Reform and Consumer Protection Act established the Consumer Financial Protection Bureau (CFPB) to protect consumers from unfair, deceptive, and abusive financial practices.[27] Under the leadership of Elizabeth Warren, the CFPB organized an Enforcement Division and an Office of Servicemember Affairs dedicated to protecting the rights of servicemembers and their families.

On January 4, 2011, Ms. Warren announced that Holly Petraeus would lead the Office of Servicemember Affairs. As the wife of General David H. Petraeus, the former top U.S. commander in Afghanistan, and the daughter of a career Army officer, Mrs. Petraeus previously served as the Director of BBB Military Line, a program that assisted military families on consumer issues.[28]

After she was appointed, Mrs. Petraeus focused quickly on the issue of SCRA violations. In one of her first public statements in her new role, she spoke directly about the severe repercussions these violations have on servicemembers and their families. She stated:

> It can be devastating. It is a terrible situation for the family at home and for the service member abroad, who feels helpless. I would hope that the recent problems will be a wake-up call for all banks to review their policies and be sure they comply with the act.[29]

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[25] *Id.*

[26] *Id.*

[27] Pub. L. No. 11-203 (2010).

[28] *Holly Petraeus Will Lead Consumer Financial Protection Bureau's Office for Service Member Affairs,* Washington Post (Jan. 4, 2011) (online at www.washingtonpost.com/wp-dyn/content/article/2011/01/04/AR2011010405627.html).

[29] *A Reservist in a New War, Against Foreclosure,* New York Times (Jan. 26, 2011) (online at www.nytimes.com/2011/01/27/business/27foreclose.html).

Within days, Mrs. Petraeus sent warning letters to the nation's 25 top mortgage servicing companies, directing them "to take steps to educate all your employees about the financial protections that the SCRA provides and to review your loan files to ensure compliance."[30]

In addition, last week, on July 6, 2011, Mrs. Petraeus announced that the CFPB and the Judge Advocates General of the United States Army, Marine Corps, Navy, Air Force, and Coast Guard agreed to a number of steps "to provide stronger protections for servicemembers and their families."[31]

Holly Petraeus adds her signature to an agreement between the CFPB and the Judge Advocates General.

Source: Consumer Financial Protection Bureau

For example, they agreed to establish "a single point of contact within the CFPB's Enforcement Division that will allow members of the Judge Advocate Generals' Corps to share information on consumer complaints from servicemembers and military families." They also agreed to establish "a formal working group with the goal of achieving a coordinated response to unlawful conduct targeted at servicemembers and their families."[32]

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[30] *See, e.g.,* Letter from Holly Petraeus, Team Lead, Office of Servicemember Affairs, Consumer Financial Protection Bureau, to Brian T. Moynihan, CEO and President, Bank of America Corporation (Feb. 1, 2011).

[31] Consumer Financial Protection Bureau, *Consumer Financial Protection Bureau and Military's Top Uniformed Lawyers Release Joint Statement of Principles* (July 6, 2011) (online at www.consumerfinance.gov/pressrelease/consumer-financial-protection-bureau-and-militarys-top-uniformed-lawyers-release-joint-statement-of-principles/).

[32] *Id.*

The top goal of this joint effort by CFPB and the nation's top uniformed lawyers is to protect servicemembers and their families "from unlawful acts or practices by providers of consumer financial products or services, including through enforcement actions where necessary."[33] In her statement announcing these steps, Mrs. Petraeus warned about the predatory practices of mortgage servicing companies:

> I have worked for years trying to protect military families from predatory practices and to help raise awareness of the unique financial challenges they face—and I know the Judge Advocate Generals have been on the front lines in each of those fights. Servicemembers and their families sacrifice a great deal for our country and they deserve advocates who will use every available resource to protect them from financial threats.[34]

A joint statement issued by the Judge Advocates General also warned about the predatory abuses by mortgage servicing companies:

> Too often our Soldiers, Marines, Sailors, Airmen, and Coast Guardsmen are targeted by predatory lenders and they become victims of unfair financial practices. This agreement recognizes the crucial role financial readiness plays in mission readiness and we look forward to partnering with the Consumer Financial Protection Bureau to vigorously protect servicemembers and their families from unlawful acts or practices by providers of consumer financial products or services.[35]

V. SERVICEMEMBER CASE STUDIES

A. Army National Guard Warrant Officer Charles Pickett

Chief Warrant Officer 3 Charles L. Pickett is a helicopter pilot in the Army National Guard who lives in Anthem, Arizona, with his two daughters. From 2009 to 2011, while he was on active duty, Bank of America attempted to foreclose on his home on three separate occasions in violation of the Servicemembers Civil Relief Act (SCRA). Attempting to prevent the foreclosure in the midst of his deployment to Iraq, Warrant Officer Pickett hired an attorney, Colonel John Odom. Although they were ultimately successful in halting the foreclosures, Bank of America's actions resulted in damage to Warrant Officer Pickett's credit, a cancelation of his credit line with USAA, and unnecessary stress while he was serving his country on the battlefield.

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[33] *Id.*

[34] *Id.*

[35] *Id.*

Timeline

August 6, 2003: Mr. Pickett purchased a home with a mortgage from Countrywide Mortgage Loans (Bank of America acquired Countrywide in July 2008).

November 2003–October 2008: Mr. Pickett joined the Arizona National Guard as a Warrant Officer and helicopter pilot.

March 2009: Warrant Officer Pickett joined the Army National Guard.

May 5, 2009: Warrant Officer Pickett received orders to deploy to Iraq under Operation Iraqi Freedom. Although not required, Warrant Officer Pickett notified Bank of America that he had been ordered to active duty in Iraq. He served there until January 14, 2010, when he returned home with spinal injuries incurred while piloting his helicopter during operations.

July 2009: Bank of America offered Warrant Officer Pickett an unsolicited modification to his mortgage with lower monthly payments. He began making reduced payments in accordance with the modification agreement.

September 2009: Warrant Officer Pickett's daughter called him in Iraq to tell him that a notice had been posted on their front door stating that a foreclosure sale had been scheduled for December 7, 2009. When Warrant Officer Pickett called Bank of America, he was told that the modified payments he had been making for three months were insufficient under the terms of his original loan.

October 2009: Bank of America reported Warrant Officer Pickett as delinquent to at least one credit bureau. As a result, USAA canceled Warrant Officer Pickett's credit card.

November 2009: Warrant Officer Pickett retained Colonel John Odom, an attorney with Jones, Odom, Davis & Politz. Colonel Odom sent letters by certified mail to Bank of America and its foreclosure attorneys advising them that he was representing Warrant Officer Pickett and that his mortgage was protected under the SCRA. Bank of America never responded.

December 2, 2009: With the foreclosure sale scheduled for December 7, Colonel Odom sent a second letter requesting that Bank of America contact him immediately, and he included a written authorization from Warrant Officer Pickett for Colonel Odom to act on his behalf. Bank of America never responded.

December 3, 2009: Colonel Odom sent a third letter requesting that Bank of America's SCRA Department immediately halt the foreclosure sale. An employee from Bank of America's Home Loan Servicing Center informed Colonel Odom that his department could not stop the foreclosure. Colonel Odom then spoke with a second employee, then a third, and then left a voicemail with the bank's SCRA manager.

December 4, 2009: Colonel Odom spoke with an official in Bank of America's SCRA Department who stated that the foreclosure had been canceled and that he would provide written

confirmation of the cancellation to Colonel Odom. Bank of America never provided the confirmation.

December 7 and 11, 2009: Colonel Odom faxed letters to Bank of America's SCRA Department seeking confirmation that the foreclosure had been canceled. Bank of America did not respond.

January 2010: Warrant Officer Pickett decided to list his home for sale.

April 6, 2010: Several months later, on April 6, Warrant Officer Pickett called Colonel Odom to tell him that his real estate agent discovered a second foreclosure sale on his home while performing a title search. This foreclosure sale was scheduled for the next day, April 7. Colonel Odom immediately called Bank of America, who was unable to verify the foreclosure sale. According to a realtor Colonel Odom spoke with, tax records indicated that a foreclosure sale had indeed been set for April 7, 2010. The foreclosure sale did not go forward.

June 1, 2010: Two months later, on June 1, Warrant Officer Pickett sent an e-mail to Colonel Odom stating that his realtor had discovered a third foreclosure sale scheduled for two days later, on June 3, 2010. Colonel Odom immediately called Bank of America, who claimed that Warrant Officer Pickett's account was not being reviewed for foreclosure. Colonel Odom spoke with Bank of America's foreclosure attorneys, who informed him that Bank of America had indeed scheduled the foreclosure sale for June 3, 2010, and that the loan had been in foreclosure since September 1, 2009. The foreclosure sale did not go forward.

June 7, 2011: In response to a suit filed against Bank of America on behalf of Warrant Officer Pickett for violations of the SCRA, Bank of America settled the case for an undisclosed amount.

B. Army Captain Kenneth Gonzales

Kenneth R. Gonzales currently serves as a Captain and Medical Service Corps Officer in the U.S. Army in San Antonio, Texas, where he lives with his wife and four children. From December 2009 to December 2010, then-Lieutenant Gonzales was deployed to Iraq. During his deployment, his mortgage bank, Chase, attempted to foreclose on his home in violation of the Servicemembers Civil Relief Act (SCRA). Chase also made negative reports to credit bureaus regarding Lieutenant Gonzales' mortgage payments, causing his security clearance to be suspended. While he was in Iraq, Lieutenant Gonzales contacted the Federal Trade Commission and his Senator, Kay Bailey Hutchison. These officials reported Chase's actions to the American Bar Association and the Office of the Comptroller of the Currency. A year and a half later, the foreclosure has been halted and Captain Gonzales' security clearance has been reinstated, but the Gonzales family lost several months worth of mortgage payments as a result of Chase's actions.

Timeline

July 2005: Mr. Gonzales enlisted in the Army and later received his commission as Lieutenant.

November 2008: Lieutenant Gonzales obtained a home mortgage that was purchased by Chase.

November 2009: Lieutenant Gonzales informed Chase that he was being deployed to Iraq and began using online access to pay his mortgage.

December 2009: Lieutenant Gonzales attempted to pay his mortgage online from Iraq. Back in Texas, his wife also attempted to pay cash by phone. As a result, Chase locked out Lieutenant Gonzales from its online payment system for six months. Chase requested that Lieutenant Gonzales's wife instead mail money orders, and the bank provided an address to submit them.

January–May 2010: Each month, Lieutenant Gonzales's wife complied with Chase's request, went to her bank to obtain money orders, and mailed the money orders on time to the address Chase provided.

February 2010: Chase began reporting late mortgage payments by the Gonzales family to credit bureaus. Chase also scheduled a foreclosure sale of the Gonzales' home on April 10, 2010. Neither Lieutenant Gonzales nor his wife was aware that foreclosure had been initiated or that a sale date had been set.

April 2010: Chase sent a letter to the Gonzales' home asking them to call regarding their mortgage. When Mrs. Gonzales called, she was told that Chase was unsure why the letter was sent. During this discussion, there was no mention of late payments or foreclosure proceedings.

June 2010: When Lieutenant Gonzales was repeatedly denied access to Chase's online mortgage payment system, he inquired and soon after discovered that Chase had been reporting late mortgage payments to credit bureaus. He was also informed that his security clearance had been suspended as a result. His mission as one of ten soldiers responsible for delivering blood products in Iraq was compromised, and his access to information was restricted.

Lieutenant Gonzales contacted Chase repeatedly from Iraq, but its representatives were unwilling to consider that the bank was in error. Chase refused to correct the late payment reports to his credit and told Lieutenant Gonzales to expect a lawyer's letter demanding the repayment of fees associated with the foreclosure. By the end of June, Lieutenant Gonzales had not received any letter, and a number given to him by Chase for the bank's foreclosure attorney was out of service.

Lieutenant Gonzales took a number of affirmative steps from Iraq to address the situation. He filed a complaint with the Federal Trade Commission regarding Chase's mortgage practices, and he contacted his Senator, Kay Bailey Hutchison.

July 2010: Senator Hutchison sent a letter to the Department of Defense requesting assistance with Lieutenant Gonzales's case. She also contacted the Office of the Comptroller of the Currency regarding Chase's actions.

August–November 2010: An officer with the Legal Assistance Policy Division of the Army's Judge Advocate General (JAG) repeatedly faxed an authorization to Chase from Lieutenant Gonzales indicating that she was acting on his behalf. Chase officials told her it would take 48

to 72 hours to confirm receipt of the authorization, but they claimed repeatedly that they never received her faxes and would not accept e-mail.

The JAG officer reported Chase to the American Bar Association, which contacted a Senior Vice President at Chase. This official immediately arranged to remove the erroneous late payments on Lieutenant Gonzales's credit report. A Chase official admitted to the JAG officer that the original authorization she faxed on Lieutenant Gonzales's behalf indeed had been received on the first day she sent it.

May 2011: Lieutenant Gonzales was promoted to Captain, and his security clearance was reinstated. However, Chase claimed that it "misplaced" the five money orders sent in by Mrs. Gonzales from January through May 2010. Mrs. Gonzales was able to recover three of the five receipts for the money orders, but the remaining two receipts were never located. Due to Chase's actions, the Gonzales family had to pay two months worth of mortgage payments twice.

VI. EFFORTS BY RANKING MEMBER CUMMINGS TO INVESTIGATE

From the outset of the 112th Congress, Representative Elijah E. Cummings, the Ranking Member of the House Committee on Oversight and Government Reform, has sought a comprehensive investigation into abuses by mortgage servicing companies, including an examination of illegal foreclosures against servicemembers. To date, he has sent four letters to Representative Darrell E. Issa, the Chairman of the Committee, but Chairman Issa has declined to seek any information from mortgage servicing companies relating to these abuses.

On December 21, 2010, Ranking Member Cummings sent his first letter to Representative Issa in his new role as Chairman. Ranking Member Cummings requested that Chairman Issa make investigating foreclosure abuses one of the Committee's top priorities in the 112th Congress.[36]

On February 25, 2011, Ranking Member Cummings sent a second, more detailed letter to Chairman Issa setting forth specific evidence of widespread abuses by mortgage servicing companies and outlining steps the Committee should take to investigate. This letter included specific information about illegal foreclosures against servicemembers and asked Chairman Issa to issue document requests to the nation's top ten mortgage servicing companies.[37]

When Chairman Issa declined to send these document requests, Ranking Member Cummings sent them himself, requesting that the ten mortgage servicing companies produce

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[36] Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (Dec. 21, 2010) (online at democrats.oversight.house.gov/index.php?option=com_content &task=view&id=5175&Itemid=49).

[37] Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (Feb. 25, 2011) (online at democrats.oversight.house.gov/images/stories/Correspondence/ Foreclosure%20Letters/Cummings%20Letter%20to%20Issa.pdf)

documents relating to allegations of wrongful foreclosures, inflated fees, and other abusive practices.[38]

On May 24, 2011, Ranking Member Cummings wrote a third letter to Chairman Issa, reporting that several mortgage servicing companies refused to provide documents in response to his previous requests. As a result, Ranking Member Cummings requested that Chairman Issa issue subpoenas to those mortgage servicing companies.[39]

On June 21, 2011, Ranking Member Cummings wrote a fourth letter to Chairman Issa, marking the six-month anniversary of his first letter requesting the investigation. He provided additional information regarding abuses by mortgage servicers and reiterated his request for subpoenas for documents relating to illegal foreclosures, inflated fees, and other abuses. He wrote:

> If mortgage servicing companies are allowed to disregard requests for documents that are integral to this investigation, the Committee's integrity will be called into question and, more importantly, abuses may continue.[40]

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[38] *See, e.g.,* Letter from Ranking Member Elijah E. Cummings to Raymond D. Fortin, General Counsel, SunTrust Banks Inc. (Feb. 25, 2011) (online at democrats.oversight.house.gov/index.php?option=com_content&task=view&id=5229&Itemid=49).

[39] Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (May 24, 2011) (online at democrats.oversight.house.gov/index.php?option=com_content&task=view&id=5315&Itemid=49).

[40] Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (June 21, 2011) (online at democrats.oversight.house.gov/index.php?option=com_content&task=view&id=5350&Itemid=49).

Mr. TIERNEY. The report describes in detail the systemic nature of these problems.

Particularly troubling is that these abuses are already illegal. Congress enacted the Servicemembers Civil Relief Act to protect our men and women in uniform against foreclosures without court orders and against inflated fees.

This report finds that when initial accounts of illegal foreclosures began surfacing, the banks downplayed these problems. But as thousands of affected service members were identified, it became clear the problems were more widespread. This year, three banks were forced to pay multimillion-dollar settlements related to these abuses. The largest was JPMorgan. At first, it announced it would pay $2 million, but it ended up paying $56 million to settle claims by Active Duty military personnel.

Justice Department officials also condemned the actions of the Bank of America. This is what they said, "The bank failed to protect and respect the rights of our service members, failed to comply with clearly mandated procedures, and foreclosed against homeowners who are valiantly serving our Nation."

I want to thank Professor Warren and Holly Petraeus, who have been working hard on this issue at the Bureau. Since these illegal actions are so much more widespread, Mr. Chairman, than originally thought, however, I believe a comprehensive investigation by this committee is urgently needed.

And, with that, I yield to Mr. Quigley for the balance of my time.

[The prepared statement of Hon. John F. Tierney follows:]

PRESS RELEASE
FROM THE OFFICE OF JOHN F. TIERNEY

For Immediate Release **Contact: Kathryn Prael**
July 14, 2011 **(202) 225-8020**

Tierney Fights to Protect Servicemembers from Illegal Foreclosures

Washington, D.C. – During this morning's Oversight and Government Reform Committee hearing, Congressman John Tierney, Ranking Member of the Subcommittee on National Security, called on Chairman Darrell Issa to refocus his attention on efforts to protect our servicemembers from illegal foreclosures, rather than standing up for the big banks responsible for these egregious actions. He also entered into the record a report compiled by the Democratic staff entitled "Fighting on the Home Front: The Growing Problem of Illegal Foreclosures Against U.S. Servicemembers." The report describes in detail the systemic nature of these problems.

A copy of Congressman Tierney's opening statement is below:

Statement of John Tierney
Committee on Oversight and Government Reform
U.S. House of Representatives

Hearing on "Consumer Financial Protection Efforts: Answers Needed"
As Prepared for Delivery
July 14, 2011

Professor Warren, let me welcome you and thank you for your dedication to the interests of American consumers. You are doing a terrific job, and you have our thanks.

The cost of lack of regulation is pretty clear to all of us - it culminated in the recession that we have been suffering through. It is amazing that some people in Congress seems to be flacking for Wall Street banks, attacking the Consumer Financial Protection Bureau, an entity that has been set up to be the champion of the American consumer and taxpayer. Some seem bent on sabotaging consumer taxpayer protections in order to cover for the Wall Street banks who most of America believes wrecked our economy, got a taxpayer bailout, sometimes two, who built nothing of value for America except for financial products that ended up bilking the American public, and since then there has been too little legal, moral, or financial reckoning by these wrongdoers and frankly the lack of accountability for this greed and these misdeeds is stunning.

I would like to reiterate what the Ranking Member said about foreclosure abuses hitting servicemembers particularly hard. As the Ranking Member of the National Security Subcommittee, I understand that readiness can be affected by troops struggling to deal with issues back home, including negative credits reports, security clearances being suspended, and worst of all, losing their homes due to the illegal actions of banks.

Mr. Chairman, I would like to enter into the record a report compiled by the Democratic staff entitled "Fighting on the Home Front: The Growing Problem of Illegal Foreclosures Against U.S. Servicemembers." The report describes in detail the systemic nature of these problems.

Particularly troubling is that these abuses are already illegal. Congress enacted the Servicemembers Civil Relief Act to protect our men and women in uniform against foreclosures without court orders and against inflated fees.

This report finds that when initial accounts of illegal foreclosures began surfacing, the banks downplayed these problems. But as thousands of affected servicemembers were identified, it became clear the problems were more widespread.

This year, three banks were forced to pay multi-million dollar settlements relating to these abuses. The largest was JPMorgan. At first, it announced it would pay $2 million, but it ended up paying $56 million to settle claims by active duty military personnel.

Justice Department officials also condemned the actions of Bank of America. They said the bank "failed to protect and respect the rights of our servicemembers, failed to comply with clearly mandated procedures, and foreclosed against homeowners who are valiantly serving our nation."

I want to thank Professor Warren and Holly Petraeus who have been working hard on this issue at the Bureau. Since these illegal actions are so much more widespread than originally thought, however, I believe a comprehensive investigation by this Committee is urgently needed.

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Mr. QUIGLEY. Thank you.

Thank you, Mr. Chairman and Professor Warren.

With due respect, I fear that this hearing is focused on issues which distract from the obvious task at hand: helping Professor Warren and others in our attempts to avoid another economic catastrophe caused in large part by unregulated greed.

On one hand, we are trying to balance things here, or balance a known entity, the greatest economic downturn since the Depression caused by this lack of regulation; versus the concerns about what an agency is going to do, whose full effect doesn't go in to place until later this month.

So if we balance this, I think the American public recognizes the real concern out there is what we have gone through, what we are still experiencing because of those problems, and how to face them, rather than some extraordinary concerns about an agency which really hasn't done anything yet to challenge those concerns that we have faced so far.

And, like any agency, the CFPB needs vigilant oversight from Congress, but we should not obstruct the agency from carrying out the intent of Dodd-Frank. As I said, millions of Americans are still suffering the consequences of the housing and financial crisis, which was caused by weak or nonexistent regulation.

We all here have the beauty of hindsight about what took place, but let's remember what Professor Elizabeth Warren said in 2007: "Nearly every product sold in America has passed basic safety regulations well in advance of reaching store shelves. But credit products, by comparison, are regulated by a tattered patchwork of State and Federal laws that have failed to adapt to changing markets."

The CFPB was explicitly designed to address these regulatory shortcomings. Just like the Consumer Product Safety Commission protects consumers against exploding toasters, this agency will protect consumers against faulty mortgages.

One key strength of the CFPB is to focus on the shadow financial services sector, and that should be a focus today instead of concerns about what we might do. These unregulated lenders will, for the first time, be held to the same standards as banks and credit unions. This should be our number-one priority. And I thank Ms. Warren for her efforts so far and in the future.

Chairman ISSA. I thank the gentleman.

Mr. CUMMINGS. Mr. Chairman.

Chairman ISSA. Just a moment.

Members will have 7 days to submit opening statements and extraneous material for the record.

For what purpose does the ranking member——

Mr. CUMMINGS. Mr. Chairman, I have a motion.

Chairman ISSA. The gentleman will state his motion.

Mr. CUMMINGS. Mr. Chairman, since listening to your statement a few moment ago, and since a key focus of today's hearing is the abuses by mortgage servicers, I move, pursuant to House Rule XI, clause 2(k)(6), that the committee authorize subpoenas for documents from the five mortgage servicing companies that have not been responsive.

By the way, Mr. Chairman, you said that there were some—you were right—that there are some that have admitted wrongdoing.

The five that we are talking about have not admitted wrongdoing. And I think that it would be appropriate, based upon what we have done in other cases—just like you said, we want to make certain things are priority those things that we need to continue to look in to. I think this is an appropriate situation for us to look in to.

Chairman ISSA. I thank the gentleman.

At a hearing, only motions for subpoenas related to that hearing can be considered in order for witnesses. However, we will take the motion and work with the ranking member on a business meeting where it could be in order.

Mr. CUMMINGS. Well, we have consulted carefully with the House Parliamentarian, and they tell us that, under Rule XI, clause 2(k)(6), this motion is in order and must be recognized.

Chairman ISSA. Under committee and House rules, we notice business of the committee differently than hearings. Today we have not noticed any business of the committee. So, although Members would be advised that if a witness had not shown up a subpoena could be in order to compel that witness, no other business would be appropriate.

I will work with the ranking member to notice a business meeting so that it would be. At the next business meeting, including the markup of a post office, it would be ordinarily in order for that.

Mr. CUMMINGS. Very well.

Chairman ISSA. I thank the gentleman.

Mr. TIERNEY. Mr. Chairman.

Chairman ISSA. Yes?

Mr. TIERNEY. I would like to appeal the ruling of the chair.

Chairman ISSA. If the gentleman insists on his motion, we will take a 5-minute recess.

Mr. CUMMINGS. I insist.

Chairman ISSA. We stand in recess.

[Recess.]

Chairman ISSA. The hearing will come back to order.

Mr. Tierney, I have consulted with the House Parliamentarian. And he informs me that, under "Hearing Procedures," which is throughout the "800" pages, at page 802 and beyond, of the House Rule XI, which you have referenced, if you will look at "Hearing Procedures," what it says is—it goes through paragraph five of what is in order, which is not included in what you have asked. And then paragraph six says, "Except as provided in paragraph 5, the chair shall receive and the committee shall dispose of request to subpoena additional witnesses."

Do you have an additional witness?

Mr. TIERNEY. Yes, sir. If you look at the subpoenas, we are moving the subpoena to custodians of the record for the five banks to produce the list of documents.

Chairman ISSA. And what would that have to do with today's hearing? It is additional witnesses for the hearing that has been noticed.

Mr. TIERNEY. Right. So the ranking member's motion here is relevant and germane in the following way. The title of today's hearing——

Chairman ISSA. But no, no. Just before you——

Mr. TIERNEY. I will answer your question.

Chairman ISSA. But let's get to the first question. It says "witnesses."

Mr. TIERNEY. Yes.

Chairman ISSA. Your subpoena is for documents.

Mr. TIERNEY. Is for the custodian of the records to bring the documents.

Chairman ISSA. It is for documents.

Mr. TIERNEY. It is for the custodian of the records to bring them in.

Chairman ISSA. It is for documents, not witnesses.

Mr. CUMMINGS. If the chairman would yield?

Mr. TIERNEY. I have been through this a few thousand times in my life, all right? And I don't know about you. But the subpoena is to the custodian of the records for the documents. But the custodian is the one we are subpoenaing in here to produce the documents.

Chairman ISSA. So I want to understand your subpoena. So what you want is for 10 bank executives to be here with documents?

Mr. TIERNEY. I don't know if they are executives or not. I want the custodian of the records.

Chairman ISSA. So you don't want documents. You just want the custodian.

Mr. TIERNEY. What part of the English language, sir, don't you understand? We want the custodian of the records to bring the documents here. That person will be the custodian of those records and is the appropriate person to produce them as a witness under oath in front of this committee. That is what the subpoenas are for.

Chairman ISSA. I appreciate that.

I have been additionally——

Mr. CUMMINGS. Mr. Chairman.

Chairman ISSA. Yeah, go ahead.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. Chairman, since there is some question as to what our motion is all about, Mr. Tierney is absolutely correct, we are talking about the custodian of the records. And we are not talking about 10 or 12 banks. We are talking about five banks. And we are talking about the five banks where the minority requested information and these banks did not provide us, Mr. Chairman, with one syllable of information.

And the relevance is, Mr. Chairman, we have before us Professor Elizabeth Warren. And her bureau, the bureau that she is putting together and is working so hard on, part of their task is to look at mortgage issues. And you said a little bit earlier that, with regard to Financial Services, they are doing the same thing. They have basically been tasked with looking at things prospectively, Mr. Chairman. We are looking at them from a historical standpoint.

And so, that is what it is all about.

Chairman ISSA. And I appreciate the gentleman's comments.

Additionally, the Parliamentarian informed me that an appeal of the ruling of the chair, although in order, is not immediately votable under the rules. So we will continue this hearing, and it is my intention before the end of the hearing to hold a vote on your appeal of the ruling of the chair.

And, with that——

Mr. CUMMINGS. Parliamentary inquiry? Parliamentary inquiry, Mr. Chair.

Chairman ISSA. I recognize the ranking member for——

Mr. CUMMINGS. Thank you very much.

Just one quick question: At what time—based upon your understanding of the parliamentary rules, is that where we have an opportunity to debate our motion? Do you follow me? In order words, you are talking about——

Chairman ISSA. An appeal is not debatable.

Mr. CUMMINGS. Okay. And so, basically, we will not have an opportunity—it is my understanding——

Mr. TIERNEY. Point of order, Mr. Chairman.

That certainly is debatable. An appeal of the ruling of the chair is debatable. And we get to discuss the germaneness of that motion that was made by the ranking member. And I am happy to do it now, if you like, or if you want to set it aside for later, we could do it later. But it is debatable.

Chairman ISSA. I have set it aside for later. The parliamentary office of the House is available to all Members. We will have plenty of time——

Mr. TIERNEY. We consulted them fully.

Chairman ISSA. We will have plenty of time for you to check on what they just told me.

And, with that——

Mr. CUMMINGS. Mr. Chairman, just one quick question.

Chairman ISSA. Yes, sir.

Mr. CUMMINGS. Mr. Chairman, Rule V requires that if a vote is postponed, as you are doing, you shall take reasonable steps to notify Members as to when that vote will be held. Pursuant to this rule, I ask that you provide all Members with at least half-an-hour notice before holding a vote on the pending motion.

Chairman ISSA. It will not happen before 10:40.

Mr. CUMMINGS. Very well.

Chairman ISSA. At this point, Professor Warren, I appreciate your being here.

Pursuant to committee rules, all witnesses will be sworn before testifying. Please rise and raise your right hands.

Thank you.

[Witnesses sworn.]

Mr. CUMMNGS. Please have the record reflect that the witness answered in the affirmative.

Professor Warren, we have a number of items which are obviously pending. I want to and will allow you to go through your full opening statement before we deal with this that is unrelated to today.

So, the ordinary rule of the committee is 5 minutes. Your opening statement is in the record in its totality. And what we will do is not look at the clock very carefully. Obviously, if you are summarizing or have additional items, we want to hear them. Today is about hearing what you have to say, your vision for this bureau.

And, with that, the gentlelady is recognized.

STATEMENT OF ELIZABETH WARREN, ASSISTANT TO THE PRESIDENT AND SPECIAL ADVISOR TO THE SECRETARY OF THE TREASURY, CONSUMER FINANCIAL PROTECTION BUREAU

Ms. WARREN. Thank you, Chairman Issa, Ranking Member Cummings, and members of the committee, for inviting me to testify about the work of the Consumer Financial Protection Bureau. We appreciate the committee's important oversight role and welcome the opportunity to respond to your interest in how the Bureau is being organized and operating.

Let me begin by assuring the committee that at the CFPB we are working nonstop to build an effective organization, with the goal of making consumer financial markets work better for consumers and work better for financial services providers. We want to make prices clear, and we want to make risks clear. And we want consumers to be able to compare two or three credit cards or two or three mortgages head-to-head.

We are opposed to complicated forms and fine print. We believe they do not help consumers, and they do not work for responsible lenders, who are happy to have their products compared head-to-head in a competitive market.

Attend of the day, we think every consumer should have the basic information they need to answer two basic questions: Can I afford this? And is this the best deal I can get? That is how markets are supposed to work, and that is where this new agency is headed.

We have all seen the consequences of a regulatory system in which no single regulator has the authority and the comprehensive tools necessary to ensure that consumer financial markets work for American families. For years, we have seen the growth of fine print that hides important and complex terms, fine print that makes it almost impossible for consumers to know what they are really getting into before they sign on the dotted line.

We have also witnessed an explosion of high-risk credit consumer lending among largely unregulated companies, such as payday and car title lenders. And we have seen the economy driven to the brink of collapse by sub-prime lenders peddling high-risk mortgages to people who couldn't possibly repay them. As a country, we are all paying a high price for a broken consumer credit system.

The CFPB will increase accountability in government. Under the old system, seven different Federal agencies had bits and pieces of consumer financial protection, but no one had the authority and the comprehensive tools necessary to monitor whether prices and risks were clear and to ensure that consumer financial markets work for American families.

In the wake of the worst financial disaster since the Great Depression, the Dodd-Frank Act reformed this flawed regulatory structure by placing consumer financial protection responsibility squarely on the CFPB so it can be directly accountable, both to Congress and to the American people, for getting the job done.

In my written testimony, I describe in detail our achievements to date in standing up the new Consumer Financial Bureau. We have made significant progress in our efforts to combine two complicated mortgage disclosure documents into a single short form.

We are laying the groundwork to supervise nonbank lenders, which will give better protection for all families and help level the playing field between banks and other kinds of lenders.

We are setting up of our Office of Servicemember Affairs, under the very strong leadership of Holly Petraeus. We have put the basic building blocks in place for a functioning agency, hiring approximately 400 employees from diverse backgrounds. We have people who are coming to us from financial services, consumer advocacy, community banking, government service, private legal practice, and regulatory compliance.

And we have kept stakeholders informed every step along the way. I have talked directly with community bankers in all 50 States. I have spoken with literally dozens and dozens of credit unions and credit union officials. I have also spoken with big bank executives, with trade associations, with government watchdog groups, and with consumer advocates across the country.

I am pleased to report that our various initiatives on improving mortgage forms, supervising nonbank credit businesses, and setting up a strong military service office have received widespread support from both individuals and groups across this country.

In my written testimony, I also describe in detail the steps Congress has taken to provide meaningful oversight over the CFPB and to make sure that it remains accountable both to Congress and to the American people. I appreciate the opportunity to discuss that oversight today.

So, with that, Chairman Issa, Ranking Member Cummings, members of the committee, thank you again for inviting me to testify about the Consumer Financial Protection Bureau. As we prepare this agency to begin its various responsibilities, we appreciate the important oversight role of the committee, and we thank you for your interest.

[The prepared statement of Ms. Warren follows:]

Testimony of Elizabeth Warren
Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau
Before the Committee on Oversight and Government Reform
United States House of Representatives
Thursday, July 14, 2011

I. Introduction

Thank you Chairman Issa, Ranking Member Cummings, and members of the Committee for inviting me to testify about the work of the Consumer Financial Protection Bureau (CFPB).

This will be the third time I have testified before Congress since joining the Treasury Department as Special Advisor to the Secretary for the CFPB. In March, I appeared before the House Financial Services Committee's Subcommittee on Financial Institutions and Consumer Credit, and in May, I testified before this Committee's Subcommittee on TARP, Financial Services, and Bailouts of Public and Private Programs. In addition, the Director of our Office of Servicemember Affairs, Holly Petraeus, has testified twice, once before the House Veterans Affairs Committee and once before the Senate Committee on Homeland Security's Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia. Last week, Associate Director Raj Date testified before a joint hearing of the House Financial Services Committee's Subcommittee on Financial Institutions and Consumer Credit and Subcommittee on Oversight and Investigations. At each of those appearances, we provided detailed written testimony on our efforts to establish the CFPB. Today, I welcome this opportunity to testify before the full Committee on Oversight and Government Reform and to provide additional written testimony.

On July 21, 2010 – nearly a year ago – President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which established the CFPB. In the time since, the Treasury Department has been hard at work standing up the new CFPB so that it can fulfill the responsibilities vested in it under the Act. Some of the highlights of our work to date include:

- *Know Before You Owe Mortgage Disclosure Project* – The CFPB has begun implementing a process for combining the complex and duplicative federal Truth in Lending Act and Good Faith Estimate disclosure forms into a single, useable form. By sharing early drafts of the new form with the public and integrating comments and insights into subsequent versions, we will begin the formal rulewriting process with the most effective form possible.

- *Larger Participant Definition* – Before the CFPB can supervise certain types of nonbank providers of consumer financial products or services, it is required by law to define who is a "larger participant" in certain markets. Once again, by engaging the public early in the process, we intend to begin formal rulewriting from a strong foundation that takes into account a broad spectrum of viewpoints.

- *February Conference on the Credit Card Accountability Responsibility and Disclosure Act of 2009* – In February, the CFPB hosted a conference on the one-year anniversary of the implementation of key provisions of the CARD Act. The conference was held to develop data about the impact of the new law and to initiate a candid conversation with industry participants and others about credit card markets.

- *Establishment of the Office of Servicemember Affairs* – Under the leadership of Holly Petraeus, a longtime advocate for military families and a member of a multi-generational military family herself, we have worked hard to get an early start on helping servicemembers and their families navigate the unique circumstances that affect their financial lives.

- *Hiring* – The CFPB has developed an organizational chart and has hired approximately 400 employees. In past testimony, I have provided lists of our Associate and Assistant Directors – a talented group that brings a variety of perspectives and viewpoints into our work.

- *Engagement and Outreach* – Since last September, we have spoken directly with community bankers in all 50 states and with credit unions across the country. We have also met with dozens of banking executives, trade associations, consumer advocates, state banking officials, and other stakeholders to provide clarity about the CFPB's goals and mission and to take in as much input as possible on our early priorities.

- *Launch of CFPB Website* – In February, the Bureau launched a website (ConsumerFinance.gov) to provide greater transparency in our efforts. We regularly post information about our work to keep the public informed about how we are trying to make consumer financial markets work for all Americans.

- *Large Bank Supervision* – The CFPB has taken the first steps toward supervision of the country's largest depository institutions by entering into information-sharing memoranda of understanding with other bank regulators. The Bureau is familiarizing itself with the operations, risks, and issues associated with these institutions, and it will work closely with the other bank regulators to coordinate our supervisory and examination activities.

- *Congressional Engagement* – I have had the benefit of more than 100 one-on-one conversations with Members of Congress to keep them apprised of our efforts and to seek feedback. Staff-to-staff discussions and briefings have also been extensive.

In addition, over the next few weeks as we pass the designated transfer date, we will move forward on a number of projects and reports that I look forward to discussing in greater detail during today's hearing.

II. The CFPB's Pending Activities — Highlights

A. Background

The CFPB will increase accountability in government. Under the old system, seven different federal agencies had some responsibility for consumer financial protection, but none of them had the authority and comprehensive tools necessary to ensure that prices and risks were clear and that consumer financial markets worked for American families. In the wake of the worst financial disaster since the Great Depression, the Dodd-Frank Act reformed this flawed regulatory structure by placing consumer financial protection responsibility squarely on the CFPB. The CFPB will be directly accountable to Congress and the public for getting this job done.

The Dodd-Frank Act established the CFPB and defined the scope of its authority with respect to consumer financial products and services. Under the Act, the CFPB is charged with ensuring that: 1) consumers have timely and understandable information to make responsible decisions about financial transactions; 2) consumers are protected from unfair, deceptive, or abusive acts or practices, and from discrimination; 3) outdated, unnecessary, or overly burdensome regulations are identified and addressed in order to reduce unwarranted regulatory burdens; 4) federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and 5) markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

A fair, transparent, and competitive market is based on the premise that consumers can easily see the costs and risks of the products they are about to purchase and that they are able to compare the costs and benefits of different products effectively before making their choices. From our first day of work, promoting transparency in the credit market and reducing what is buried in the fine print has been a core goal of the agency. The CFPB is focused on making markets work, and this principle animates the Bureau's activities.

B. Mortgage Disclosure Simplification

I have previously testified about the Bureau's efforts to simplify federal mortgage disclosures. In May, the CFPB launched its *Know Before You Owe* project, an effort to combine two federally required mortgage disclosures – the Truth in Lending Act disclosure form and the Good Faith Estimate – into a single, simpler form. This project aims to provide consumers with upfront, easy-to-understand information that helps them compare different mortgage offers and find the one that's best for them. It also aims to reduce regulatory burden by giving mortgage originators a clearer, less complicated form to work with.

We undertook this project after extended discussions with borrowers and lenders, many of whom identified the current paperwork as incomprehensible and a waste of time. With their support, we spent months studying the existing disclosures and legal requirements, reviewing research, consulting with stakeholders, and designing draft prototypes. In May, the CFPB began

conducting one-on-one interviews with consumers, lenders, and brokers to test their reaction to two different draft forms, each a two-page application-stage disclosure form. At the same time, the Bureau posted the draft forms on its website, ConsumerFinance.gov, to seek public views about the design and content of the forms.

The reception has been extremely positive.[1] In the first few days, the *Know Before You Owe* page on the CFPB website was viewed approximately 118,000 times. More than 14,000 people chose their preferred version of two alternative prototype forms. And more than 6,000 of those people took the time to provide more than 14,000 detailed suggestions and comments online.

After reviewing these comments and the results of our interview testing, we revised our prototypes and posted an updated version of the forms two weeks ago, again with a request for public input. Over the next few months, we will continue with additional rounds of testing as we work toward a single draft disclosure form. All of our work with consumers, community banks, credit unions, mortgage brokers, other industry representatives, consumer advocates, and others will help us better understand good disclosures prior to beginning the rulemaking process.

After the interview testing of the prototype forms concludes in September, and after further consultation with other agencies and small businesses, the Bureau will publish proposed regulations and its draft model forms for formal notice and comment. Once the Bureau has taken those comments into account, the final versions of the forms will be subjected to quantitative testing before any rule is finalized.

C. Larger Participant Definition

Under the Dodd-Frank Act, many financial companies that are not banks will be subject to federal supervision for the very first time. This is a significant change in the oversight of providers of consumer financial products and services. Banks, thrifts, and credit unions have been subject to supervision and examination by various federal regulators for decades. In contrast, nonbank institutions – for example, payday lenders, mortgage brokers, prepaid card providers, remittance providers, and credit reporting agencies – provide consumer financial products or services without any significant federal review of their business practices to ensure compliance with the federal consumer financial laws. One of the goals of the Dodd-Frank Act is to better protect consumers by helping to ensure that all providers of consumer financial services – banks and nonbanks alike – are treated similarly.

In addition to strengthening consumer protection, the CFPB's supervision of nonbank financial service providers will serve to level the playing field between banks and non-banks. For too long, the uneven regulatory burdens between banks and nonbanks have distorted the competition for customers' business, often placing banks and credit unions at a substantial disadvantage. When the CFPB is able to supervise both banks and nonbanks for compliance with consumer

[1] Kate Davidson, "New CFPB Mortgage Disclosures Win Praise for Content and Process," *American Banker*, May 19, 2011, available at http://www.americanbanker.com/issues/176_96/cfpb-offers-two-new-mortgage-disclosure-forms-1037690-1.html?zkPrintable=1&nopagination=1.

financial protection laws, those differences should subside. The supervision of nonbank companies will be a crucial piece of the CFPB's work.

Before it can supervise certain nonbank financial institutions, the Bureau must determine which institutions are "larger participants" in certain markets. Under the Dodd-Frank Act, the CFPB automatically has the authority to examine companies of all sizes in the mortgage, payday lending, and private student lending markets. But for all other markets – such as other types of consumer credit and debt collection – the Dodd-Frank Act, as a general matter, authorizes the CFPB to supervise only larger nonbank participants. Before the Bureau can do that, however, it must define through a rule, no later than July 21, 2012, who is a "larger participant" in these markets.

To prepare for this eventual rulemaking, which will serve as an important building block in the CFPB's nonbank supervision program, the Bureau is seeking public comment through a Notice and Request for Comment. The Notice discusses several issues that arise when attempting to define "larger participant." These issues include, among others, how to set thresholds and criteria for defining larger participants and what markets to include in the initial rule. Each of these issues raises a host of questions that the initial rule will need to answer.

By issuing a Notice and Request for Comment, the CFPB is calling for interested persons to provide comments prior to the rulemaking process. The CFPB intends to develop a strong foundation that takes into account a broad spectrum of viewpoints by engaging industry, consumer advocates, and community groups.

D. The Equal Credit Opportunity Act

Section 1071 of the Dodd-Frank Act amends the Equal Credit Opportunity Act to require that financial institutions collect and report information concerning credit applications made by women- or minority-owned businesses and small businesses.

The data collection requirement in Section 1071 is an important tool that will significantly bolster both fair lending oversight and a broader understanding of the credit needs of small businesses. Developing effective implementing regulations will be critical to achieving Congress's objectives. Under an analogous regime established by the Home Mortgage Disclosure Act, the Board of Governors of the Federal Reserve System has issued detailed regulations and supporting materials that establish consistent definitions of terms; procedures for requesting information regarding race, ethnicity, and gender; information data fields to be collected; data coding protocols; and procedures for report formatting and transmittal.

The CFPB is working to implement Section 1071 so it can achieve Congress's objectives. Congress intended section 1071 to produce reliable and consistent data that can be analyzed by the Bureau, other government agencies, and members of the public to facilitate enforcement of fair lending laws and to identify business and community development needs. As part of that effort, the Bureau is in the process of gathering input from a variety of stakeholders, including nonprofit organizations, small business groups, and financial institutions, and we will ensure that

the public has a full opportunity to comment on the Bureau's proposed regulations. Earlier this year, the CFPB issued guidance to financial institutions clarifying that their obligations under Section 1071 do not take effect until the Bureau issues necessary implementing regulations.

E. Report on Study of Credit Scores

Section 1078(b) of the Dodd-Frank Act requires the CFPB to conduct a study and submit a report to Congress on variations between the credit scores sold to creditors and those sold to consumers by certain consumer reporting agencies. Congress also has directed the Bureau to address whether those variations disadvantage consumers.

The final version of the report will cover a range of subjects, including: the process of developing credit scoring models, and why different scoring models may produce different scores for the same consumer; how different scoring models are used by creditors in the marketplace; and ways that differences between the scores provided to creditors and those provided to consumers could disadvantage consumers. The report will also describe a substantial data collection and analysis project being carried out by the CFPB that will allow us to understand more fully and to assess the significance of the credit score variations.

The report is due on July 21, 2011. We anticipate producing the credit score report on time and supplementing the report with additional data and analysis in the future.

F. Study on Using Remittance History for Credit Scores

Each year, U.S. consumers send tens of billions of dollars to family members, friends, and other recipients abroad. For both the U.S. senders and the foreign recipients, these transfers can be significant. The Dodd-Frank Act has defined many of these transfers as "remittance transfers." Section 1073(e) of the Dodd-Frank Act requires the CFPB to prepare a report regarding how a consumer's remittance history could be used to enhance her credit score, the impediments to using a consumer's remittance history in this way, and recommendations on ways to maximize transparency and disclosure to consumers of exchange rates used for remittance transfers.

The report will be based on the CFPB's review of existing data and research, as well as interviews of market participants, researchers, and other industry experts. The report is due on July 21, 2011. We anticipate producing the remittance history report on time and supplementing the report with additional data and analysis in the future.

G. Section 1063(i) List of Regulations

Section 1063(i) of the Dodd-Frank Act requires the Bureau to publish by the designated transfer date a list of rules and orders that the Bureau will enforce. To increase public awareness, the Bureau published a draft list for public comment and intends to publish a final list by July 21.

This process should help to ensure that all parties affected by the Bureau's work are able to see clearly and upfront the rules that the CFPB will enforce.

H. Training and Workforce Development Plans

Section 1067(b) of the Dodd-Frank Act requires the CFPB to prepare a report on three plans pertaining to the Bureau's staff: a training and workforce development plan, including identification of skill and technical expertise needs, a description of the steps taken to foster innovation and creativity, and a leadership development and succession plan; a workplace flexibilities plan, covering items such as telework, flexible work schedules, and parental leave benefits; and a recruitment and retention plan that includes provisions relating to targeting highly qualified and diverse applicants, streamlined employment application processes, and the collection of information to measure indicators of hiring effectiveness. This report also will provide overarching information on the vision for the CFPB, the unique "start-up" context of the Bureau, the challenges we have faced, and the current make-up of the CFPB's staff.

The report is due on July 21, 2011. We anticipate producing this workforce report on time.

III. The CFPB's Stand-up Period

A. Organizational Structure and Personnel

With the help of advice from many outside stakeholders, last fall we began the process of designing an organizational structure. This structure will provide a solid, long-term foundation for the consumer bureau. The current organizational chart is available on the Bureau's website. The CFPB's six divisions under that organizational chart are: Consumer Engagement and Education; Supervision, Enforcement, and Fair Lending; Research, Markets, and Regulations; the Office of the General Counsel; External Affairs; and the Chief Operating Officer.

At the consumer bureau, we know that people are our most valuable resource. In keeping with that knowledge, we have worked hard to hire a staff with a wealth of experience and a diversity of backgrounds. We have hired approximately 400 employees, with more coming all the time as we build out our various teams. The largest number of employees will be in our Supervision, Fair Lending, and Enforcement division, where we expect to have more than half of our total positions when we are fully staffed. We are also working hard to build our other functions, including research, rulewriting, consumer complaints, and consumer education, along with all the support functions, including the general counsel, information technology, procurement, and human resources. Building a team of dedicated, experienced, and top-notch personnel who bring a variety of perspectives and viewpoints into our work – including people with significant business backgrounds who understand what it is like to be on the receiving end of regulations and the costs and challenges associated with compliance – is a critical priority.

B. Engagement and Outreach

We recognize the importance of communicating substantively and frequently with those who will be affected by the Bureau. A critically important part of public engagement is to listen. To appreciate the full implications of this new agency and to build it to best serve our nation, we are working to understand the expectations and concerns of individuals and groups from the full range of perspectives. Stories we have learned in our travels across the country have been extremely helpful in informing our work. I have talked directly with community bankers from all 50 states, and I have spoken frequently with credit union officials across the country. I visit with bankers, other financial service providers, and trade associations regularly, not just in D.C. but also by telephone and during my travels outside Washington. I also have had many meetings with consumers and with consumer advocates. In addition to my own meetings, the CFPB staff has held dozens of roundtables, one-on-one meetings, and telephone calls with various stakeholders to solicit feedback on our work. We have also visited some of the communities that have been hardest-hit by financial problems. Members of the CFPB team and I sat in on foreclosure court in Miami, met with victims of predatory lending in San Antonio and the Mission District of San Francisco, and held a roundtable in Columbus, Ohio. We have listened to the diverse voices of the Chicago community at Lakeview Lutheran Church and the concerns of consumer advocates in Little Rock, Arkansas. The stories we have heard from so many people across the country have only deepened our conviction that better consumer financial protection is urgently needed.

Earlier this year, Holly Petraeus, the head of the CFPB's Office of Servicemember Affairs, and I traveled to Joint Base San Antonio, Texas. There, we held our first town hall with servicemembers and their families to deepen our understanding of how the Bureau and its Office of Servicemember Affairs can empower military families with tools to make better financial decisions and protect them from the latest scams. Holly and I also visited Joint Base Myer–Henderson Hall in Virginia, and Holly has visited four other bases since January as well, with more trips on our schedule.[2] Our outreach to the military community has provided valuable insights to our Office of Servicemember Affairs on the unique challenges faced by military families, such as deployment and frequent moves.

Because we are building a 21st-century agency, not all of our outreach and engagement is conducted in person. The CFPB's website, ConsumerFinance.gov, launched in February. The website's "Open for Suggestions" feature encouraged direct communication with the CFPB through YouTube videos, Twitter, e-mail, and other media. The CFPB blog launched, as did multiple social media outposts on Twitter, Facebook, Flickr, and YouTube. These outlets have been providing a steady stream of information about how the CFPB can make consumer financial markets more fair, competitive, and transparent.

In its early efforts, the CFPB also has worked collaboratively with state regulators to try to provide the most efficient, effective network of consumer protection possible. In January 2011, the CFPB signed a memorandum of understanding with the Conference of State Bank

[2] In addition to Joint Base San Antonio and Joint Base Myer–Henderson Hall, Holly has visited Fort Bragg, Naval Station Great Lakes, Joint Expeditionary Base, Little Creek, and the Marine Corps Recruit Depot in San Diego. She has also visited with the Illinois, Ohio, and Oklahoma National Guard.

Supervisors, and, since that time, regulators from 31 states have joined that agreement to share information, to coordinate on examination procedures and examiner training, and to cooperate on enforcement and supervision matters. This agreement is important to both our bank and our nonbank supervision programs and is an important step in the process of ensuring that all lenders comply with the rules.

In April, the CFPB and the National Association of Attorneys General announced agreement on a joint statement of principles to advance shared goals relating to the protection of consumers of financial products and services from unlawful acts and practices. State attorneys general work hard to enforce consumer protection laws and can serve as an early warning system – the first responders to activities that harm American families. They are committed to protecting their citizens, and that commitment directly engages them in consumer protection issues. As a result, they are also natural partners for the consumer bureau.

IV. The CFPB's Commitment to Accountability and Transparency

Accountability is a core principle of the CFPB. I came to Washington in the fall of 2008 during the height of the financial crisis. My job was to chair the Congressional Oversight Panel on the Troubled Asset Relief Program, and my experience there helped make me a firm believer in the importance of oversight. In my current capacity, I have done my best to set a tone of openness and accountability for the Bureau. We have taken several concrete steps to strengthen this tenor of transparency:

- We began to post my calendar to the Treasury website proactively on November 24, 2010, even before we launched our own website. We have now posted my calendar online once each month and will continue to do so as a commitment to our openness. We update the calendar retrospectively; we do not post current or future calendars. In order to make the calendars as useful as possible, we have provided each month's calendar in multiple formats.

- I have had more than 100 one-on-one conversations with Members of Congress from both sides of the aisle, and our staff has provided additional information and briefings.

- I have met with a variety of open government organizations, and our staff has had additional meetings and conversations with these groups on an ongoing basis. The groups provided valuable input on how to build transparency into the makeup of the agency.

- We have posted our draft organizational chart online. We began this public posting in early February, although we had been providing the draft chart to Members of Congress and the media for a couple months before that. In developing the CFPB's organizational structure, we have asked for comments and critiques from individuals in the private sector, community groups, and academia, as well as from Members of Congress.

- We have provided updates online and in testimony on our hiring, including listing the names and experience of our senior leadership.

- We have shared publicly through our website our analysis and raw data about the impact of the CARD Act. In February, the consumer bureau held a conference on the first anniversary of when key provisions of the CARD Act took effect. The CFPB undertook a voluntary survey of the nine largest card issuers (representing approximately 90 percent of the market), and other studies also were conducted in connection with the conference. These studies revealed that late fees, interest rate hikes, and over-limit fees had been significantly curtailed since the CARD Act took effect.

- We have publicly posted budget updates to provide a snapshot of how we are spending funds and a broader perspective on how we are using our resources to fulfill our mission. We provided a description of major purchases and financial commitments.

- We have used our website to provide a steady flow of information and to solicit – in a highly transparent way – input from the public. We have maintained a blog, posting frequent updates on many facets of the Bureau's work – and we have offered an outlet to comment on those blog entries.

- We have welcomed the many opportunities to testify before Congress.

V. The CFPB Is Subject to Significant Oversight

In past testimony, I have explained in detail the substantial oversight that exists over the CFPB and the substantial limitations on its activities and authorities. For today's hearing, I would like to provide a summary of existing oversight and limitations.

First, if the CFPB issues a rule, like any other administrative agency, we are subject to the requirements and limitations of the Administrative Procedure Act. These requirements are enforceable through judicial review, ensuring that the CFPB operates within the constraints set by Congress and the U.S. Constitution. And, of course, as in the case of any federal agency, Congress can always overturn the Bureau's rules by passing legislation if it disagrees with our judgments.

Second, the Bureau faces special constraints enacted as part of the Dodd-Frank Act. For example, we are the only banking regulator (and one of only three agencies anywhere in government) that is required to conduct small business impact panels in connection with rulemaking proceedings to gather input from small businesses about the potential impact of proposed rules.[3] We are also subject to general requirements to consider the benefits and costs of proposed rules to consumers and providers,[4] as well as impacts on small depository institutions and rural consumers,[5] and to consult with the appropriate prudential regulators and other agencies in our rulemaking.[6]

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[3] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, Section 1100G.
[4] *Id.* at Section 1022(b)(2)(A)(i).
[5] *Id.* at Section 1022(b)(2)(A)(ii).
[6] *Id.* at Section 1022(b)(2)(B).

Third, the checks on the CFPB's rulemaking are more stringent than the checks on other banking regulators. In addition to the unique requirements noted above, the Bureau is the only banking regulator whose rules can be overruled by a council made up of other federal agencies. In the Dodd-Frank Act, Congress provided that a two-thirds majority of the banking regulators and other members of the Financial Stability Oversight Council can veto any rule issued by the consumer bureau if the council determines that it would put the safety and soundness of the banking system or the stability of the financial system at risk. No similar restriction has been placed on the activities of any other financial regulator.

Fourth, the CFPB's funding structure is a significant source of accountability. If the Office of the Comptroller of the Currency believes it needs more funds to hire more examiners, it can raise more funds through assessments on the industry. Similarly, if other banking regulators determine that they need more funds to expand the scope of their work, they are the sole judges of how much money they will have. But the Bureau's independent funding is statutorily capped at a portion of the Federal Reserve System's 2009 operating expenses, with certain adjustments for inflation. If the CFPB concludes that it needs additional funding, it must persuade Congress to provide that funding. The CFPB is the only bank regulator that faces such constraints in determining its own funding levels.

Fifth, the Bureau must submit a variety of reports and undergo a variety of audits, including annual financial reports to Congress, budget justifications to Congress, reports on the consumer agency's activities, annual GAO audits on the Bureau's expenditures, quarterly financial reports for the OMB, and reviews by the Inspector General of the Federal Reserve Board.

At the Bureau, we are working nonstop to build an effective operation, with the goal of making consumer financial markets work better for consumers and better for financial services providers alike. We want to make prices and risks clear, and we want consumers to be able to compare two or three credit cards or two or three mortgages head to head. We think every consumer should have the information they need to answer two basic questions: "Can I afford this?" and "Is this the best deal I can get?" That's how markets are supposed to work, and that's where this new agency is headed. A transparent and efficient market serves both consumers and businesses, and a healthy consumer financial market benefits our entire economy.

We have all seen the consequences of a regulatory system in which no single regulator has the authority and the comprehensive tools necessary to ensure that the consumer financial markets work for American families. For years, we have seen the growth of fine print that hides important and complex terms, fine print that makes it almost impossible for consumers to know what they are really getting into when they sign on the dotted line. We have also witnessed an explosion of high-risk consumer lending among largely unregulated lenders such as payday and car title outfits. And we have seen the economy driven to the brink of collapse by subprime lenders and brokers pedaling high-risk mortgages to people who couldn't possibly repay them. As a country, we are all paying the price for a consumer credit system that was broken.

VI. Conclusion

Chairman Issa, Ranking Member Cummings, and members of the Committee, thank you again for inviting me to testify today about the CFPB. As we prepare this agency to begin its various responsibilities, we appreciate the important oversight role of this Committee, and we thank you for your interest.

Chairman ISSA. I thank the gentlelady.

With that, I will recognize myself for 5 minutes for a first round of questioning.

As you know, I am not on Financial Services and never have been, so I am going to try and just do some business of the committee that I am particularly interested in.

Although both you and I use the term, you know, "cop on the beat," I received from Kim Wallace in your Legislative Affairs Department, I received a rather interesting response to our document request, which you had—or, actually, 1 second—okay. And we are going to leave you with a copy of it. We are a little—I think he works sort of for you through Treasury.

Ms. WARREN. No, sir. I am sorry. He doesn't work for me.

Chairman ISSA. Okay.

Ms. WARREN. He works for the Secretary of the Treasury——

Chairman ISSA. Okay, then——

Ms. WARREN [continuing]. And is part of the Treasury. We have a——

Chairman ISSA. Okay. Well, the documents, though, that we requested we requested from you.

And what we will do is we will give you a copy of this to take back, because what—we don't mind that we need to work through document requests. We have gotten about 300 pages from what we asked for. The gentleman said that it was voluminous, but we actually only received about 300 pages, most of it public. But Justice said that some of the document we requested—Department of Justice has concerns about responsive records that may implicate the Department's equities. The Department has advised us that disclosing some of these records would adversely impact ongoing law enforcement efforts.

Now, just for you, Professor Warren, you are not in law enforcement, you are not involved—you wouldn't be involved in things which are criminal investigations at this time by your agency, would you?

Ms. WARREN. No, Congressman, Mr. Chairman, I am sorry, but I am afraid that there may just be a little bit of confusion here, and I want to make sure we don't get down the wrong path here.

I believe there are requests for the Department of Treasury. It is not to us——

Chairman ISSA. Okay. Well, the problem is, you are not stood up yet, so we put to it the agency that is custodian of your records.

Let me go through a couple more. And, again, we are going to have you take these with you, because, come July, the 21st——

Ms. WARREN. It is a week from today?

Chairman ISSA. A week from today, you are going to inherit these things. During this intervening period, FOIA requests have come in from Thomson West and from Judicial Watch. And they have been, apparently, pretty inadequate, so inadequate that Judicial Watch is appealing the CFPB's search for production of records, stating that it was an abuse of disclosure.

The problem is, they received, Professor, they received these documents—actually, that is not—yeah, that is their letter. And, Professor Warren, they received documents that looked like this. And when you take over and have a FOIA department, I guess, under

your control, what I would like to let you know is that, when someone redacts something so that you don't know what was redacted, you don't even know what page it is from, from what request, that is considered excess under FOIA.

You have to find a way to make sure that, when you deliver a paper with nothing on it, that you are able to tell those who asked what that is responsive to. And, literally, in the case of Judicial Watch, what they received were countless—they received not as many pages as they should have, but they received countless pages like this.

In the case of Judicial Watch, the State AGs have given them the information that Justice, on your behalf, wouldn't give them. So they have two pieces of paper. They have the one that is responsive and they can see why they have a right to it, and they have a black page.

So, a week from today, you are going to inherit an agency where you are going to have a claim by a number of, you know, transparency groups who are saying, "Hey, we have the document unredacted. You redacted it over at Treasury, so much so that you violated the law." That is going to be one of the first things on your table. And, like I say, I am going to give them to you today.

My question to you is, will you please address them immediately and report back to us on how you have resolved the inconsistencies between what State AGs under their FOIA laws thought they had to give and what Justice on your behalf didn't give?

Ms. WARREN. I——

Chairman ISSA. Please.

Ms. WARREN. Yes, Mr. Chairman, I have never seen this. But I do want to say, Mr. Chairman, we will do our best here, but I am not sure I can explain or would be in a position to speak for the Justice Department.

Chairman ISSA. Actually, what I am asking you to do is, you are going to inherit those requests and those appeals.

Ms. WARREN. Yes, sir.

Chairman ISSA. You can resolve those appeals by having your own FOIA people go back through the document request and fully comply, or you will inherit the appeal. I am sure Justice is not going to continue defending on your behalf their bad decisions.

So what I would like to know is, will you look at them immediately? Because these FOIA requests, I think, are going to speak pretty loudly to whether or not the transparency that you speak of, that we speak of, is actually occurring. And sometimes the best example of transparency is, do you give all you can give when FOIA requests come in asking for it, or do you hide behind every possible redaction?

And FOIA officials have a considerable amount between what the law absolutely requires they put out—which, in this case, Judicial Watch, having unredacted forms, is saying Treasury violated the law—and what is full and complete and transparent and you could give out by saying, "We are going to give all we can." Your agency, not being a law enforcement agency, not dealing with current criminal activities as a general rule, hopefully will be able to give more, not less.

Please.

Ms. WARREN. My only—I am afraid I am just a little lost in the conversation because I am not sure what the FOIA request was for and I had not seen——

Chairman ISSA. For documents related to your activities during the lead-up to the formation.

Ms. WARREN. But I am not sure which documents you would be talking about or what the subject matter is or whether it is subject matter in which the Justice Department has indicated it has some interest.

We have many activities, and I will say, sir, we have had a lot of FOIA requests, and I believe we have answered FOIA requests. We have had a—we have hired people who understand FOIA. And it is my understanding we have been putting out a lot of documents on FOIA, most of which the Justice Department has no interest in one way or another because they do not involve an ongoing law enforcement matter. And so——

Chairman ISSA. Well, thank you. My——

Ms. WARREN. I am sorry.

Chairman ISSA. Please.

Ms. WARREN. No, no. I am sorry.

Chairman ISSA. I just want to be respectful of the time.

The ranking member is——

Mr. CUMMINGS. Your name is not Geithner, is it?

Ms. WARREN. No, sir.

Mr. CUMMINGS. Well, the request that he is talking about, the chairman is talking about, it is dated June 20, 2011, and it is addressed to Timothy Geithner.

And I don't want the press to get confused and to get the—there is an implication that you were trying to hold back documents. You didn't try to hold back anything from this committee, did you?

Ms. WARREN. No, sir.

Mr. CUMMINGS. Very well.

Professor Warren, you recently came to Baltimore for a town hall meeting, where many of my constituents were able to learn about the Bureau and share with you their issues. And we heard from a veteran who was illegally foreclosed on and a retired steelworker who was tricked by a phony debt-consolidation company. These are real people who work hard, play by the rules, and expect others to do the same. And, by the way, they are the constituents of Chairman Issa and every single member of this committee. They are the same kind of people that I guess you have seen all over the country.

What struck me most about the town hall meeting, however, was the overwhelming excitement. And I don't know if you know it, but they literally had to turn people away. One local—several of our local papers said that you were treated like a rock star. I don't know about that, but they said it.

How often do you see our constituents, and how have you been moving around to gather information? Can you tell us about that very briefly? Because I have a number of questions I want to ask you.

Ms. WARREN. I can, Congressman Cummings. And I appreciate just even the brief opportunity to do this.

One of the most exciting parts about setting up the new Consumer Financial Bureau has been to be able to spend time talking to Americans around the country. And these are Americans of all political persuasions, Americans of all ages, Americans of all races, who say, "This is a real chance to see government work for me. This is chance to have somebody on my side. This is a chance to have a voice in a world in which it is all run by big companies who want to drown me in fine print and tricks and traps and surprises that always keep me down."

I think we have a real chance with this agency, and it is a chance not only to help markets work better but a chance really to restore hope for many Americans who are starting over.

Mr. CUMMINGS. Well, what I heard from folks is that they said basically what you just said, they are just glad that they have somebody looking out for them. They said, the banks are doing okay; they are making record profits. But they want to do okay. And, sadly, so many of them are drowning.

Now, let me ask you about the mortgage abuse issue. On April 13, 2011, the Office of the Comptroller of the Currency, the Federal Reserve, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation issued a report finding widespread problems at 14 mortgage servicing companies.

Let me read the major finding, "The weaknesses at each servicer, individually or collectively, resulted in unsafe and unsound practices and violations and violations of Federal and State law and requirements. The results elevated the agencies' concern that widespread risk may be presented to consumers, communities, various market participants, and the overall mortgage market. The servicers included in this review represent more than two-thirds of the servicing market. Thus, the agencies consider problems cited within this report to have widespread consequences for the national housing market and borrowers."

Professor Warren, these are massive and systemic weaknesses. When the Bureau is up and running, what role will it play in addressing them?

Ms. WARREN. Well, I think the best way to understand it is that we will be on the front line. And the question is, what kind of mortgages get fed in to the system on the very front end? Is it possible to use mortgages to surprise people, to trick people, to drown them in terms that no one understands so that consumers are neither able to ask the question, "Can I afford this, and is this the best deal I can get?"

Our job is to be there on the front end, and we are taking enormous strides in that direction right now to make sure that, in the first instance, mortgages are clear, people can tell what they can afford, they can shop in a competitive marketplace.

It is also our job to be there throughout the process, including at the end, in mortgage servicing, if there are problems, all the way through default and potentially foreclosure, to make sure that the large financial institutions that handle these transactions are complying with the law. That will be our job, sir.

Mr. CUMMINGS. Now, with respect to service members, the report found cases in which foreclosures should not have been proceeded, including against borrowers who were covered by the

Servicemembers Civil Relief Act. However, this review was based on only a sampling of a relatively small number of files. To address these widespread abuses, the agency has initiated enforcement action against all 14 banks. They directed a comprehensive review of all files of affected owners to identify borrowers that have been financially harmed and provide remediation.

Professor Warren, when will we know the full extent of this problem, this year or next year? Do you know?

Ms. WARREN. Congressman, I do not. I rely on Sheila Bair and her most recent testimony, who pointed out, even with this, we really do not yet know the full extent of the problem.

Mr. CUMMINGS. And it is pretty bad, huh?

Ms. WARREN. Yes, sir.

Mr. CUMMINGS. Thank you very much.

Mr. MCHENRY [presiding]. The gentleman's time has expired.

I now recognize myself for 5 minutes.

Investor's Business Daily reported on July 8th that the Justice Department has an investigation ongoing about biased banks, about lending in minority communities. And I was wondering, you know, you have been an advisor to Justice before, under your testimony, regarding the mortgage issue, the mortgage servicer issue. So I wanted to know if you are serving as an advisor for this investigation.

Ms. WARREN. The Secretary of the Treasury asked us to get involved in the mortgage servicing issue——

Mr. MCHENRY. I am asking—you have already testified about that. But I was wondering about this biased bank investigation that has been reported in the New York Times and Investor's Business Daily.

Ms. WARREN. He has not asked us to be involved in that, I don't believe.

Mr. MCHENRY. Okay. Thank you.

Now, in terms of—in my opinion, financial terms need to be accurately and correctly disclosed to individuals, and individuals can make their decisions based on whether or not they would like to purchase the product. For instance, the one-page mortgage disclosure issue you mentioned in your testimony that you have mentioned before, that I mentioned in my opening statement, I think that is positive.

Ms. WARREN. Good.

Mr. MCHENRY. I think it gives individuals the terms that they need. And it is very similar to legislation that I put forward a couple years ago.

So, disclosure, I think, is an important piece in all of this.

Ms. WARREN. Uh-huh.

Mr. MCHENRY. Do you agree?

Ms. WARREN. Yes, sir, I do.

Mr. MCHENRY. Okay. Now, in terms of what you see for the CFPB, do you think your actions mainly pertain to enhancing disclosures? Do you think that is going to be the core work of the CFPB?

Ms. WARREN. Well, I think the best way to understand it is that there are multiple tools available in order to try to promote a functioning market. And there is no doubt that no market functions if

people don't have meaningful and adequate disclosure. But I never want to back away from the part that a significant part of what we will do will be supervision and enforcement. More than half of our resources will go to supervision and enforcement over financial institutions to make sure that there is a cop on the beat making sure everyone is following the rules. And that includes both banks and nonbanks.

And if you will forgive me, I would also add to that, just because I think of this in terms of the central areas where we work, we also will have a significant responsibility on consumer financial education. We are required by Dodd-Frank to do that, and so, sir, will be doing that, as well.

Mr. MCHENRY. Okay. Now, do you think—in terms of financial products now, do you see a financial product that is so complex that disclosure wouldn't be a remedy?

Ms. WARREN. It is a good and interesting question, Congressman McHenry. I recall sitting in the House Financial Services during long testimony and the question came up about banning products. And I remember that Ed Yingling, the then-president of the American Bankers Association, said, "Yes, there are certain products that should be banned."

I am less certain if that is true. I am a big believer in disclosure, meaningful disclosure. And I would at least like to start with the concept of, let's get out there and try some real disclosure, put some real power in to the hands of consumers, and see if we can't get these markets working. I believe in markets.

Mr. MCHENRY. Do you see a financial product out there today that needs to be eliminated?

Ms. WARREN. I don't know of one, sir.

Mr. MCHENRY. Okay.

Ms. WARREN. But if you had a particular suggestion you would like me to take a look at or others to take a look at——

Mr. MCHENRY. Well, I don't——

Ms. WARREN. And there may be others.

Mr. MCHENRY [continuing]. I don't have a half-billion-dollar budget, so I would leave it to you and the 400 people working for you.

Ms. WARREN. Oh, we——

Mr. MCHENRY. That is why I thought you would have some ideas on this.

Now, in terms of enforcement mechanisms with the CFPB, beyond disclosure, do you think those enforcement mechanisms would prescribe terms going forward—meaning, setting interest rates and fee structures?

Ms. WARREN. Sir, I think what enforcement mechanisms are about are making sure that the laws are properly enforced. And it is done, as I understand it, both through supervision and through direct enforcement—that is, if it can't be worked out otherwise, suing banks if they don't follow the law or suing nonbank institutions if they don't follow the law.

Mr. MCHENRY. But wouldn't part of the remedy be that they change their practices going forward in a way that you described? For instance, in the mortgage disclosure issue that we are talking

about, the mortgage settlement issue, that is a significant piece of this, prescribing terms going forward?

Ms. WARREN. Yes, sir. That would be new regulations that would replace the older, complicated, more complex regulations that required higher regulatory costs for the financial institutions and probably produced a whole lot less value for consumers.

And what we are going to do now and I think what we have is something that is both cheaper for mortgage originators, for banks, particularly for community banks and credit unions, to issue and produces more value for consumers. And it is a form, and they will be required to follow the form, just like under current law, only it would be an easier and, we think, more effective form.

Mr. MCHENRY. Ms. Maloney is recognized for 5 minutes.

The minority presented the list, and I am reading the list. If the gentlelady wants to——

Mr. TOWNS. Thank you for considering me, but I think it is based on arrival.

Mrs. MALONEY. Thank you very much.

And welcome, Professor Warren.

Ms. WARREN. Thank you.

Mrs. MALONEY. I would like to ask you that, after we went through the great recession and almost had the great depression, in which $18 trillion in personal wealth in this country was lost, would you say there was an overwhelming consensus that reforms were needed to prevent another crisis and that the CFPB and, I would say, the credit card bill of rights, which I authored, were and are important protections for consumers?

Ms. WARREN. Yes, ma'am, I would.

Mrs. MALONEY. And do you think that the CFPB, as already carefully constructed, urgently needed, and should be free to protect consumers as intended and go into effect on July 21st?

Ms. WARREN. Yes, ma'am, I do.

Mrs. MALONEY. Well, what has concerned me deeply, not only in this committee but in the Financial Services Committee on which I serve, is the number of questions against you, because people have asked you for advice. Now, I thought freedom of speech was in our Constitution and a fundamental right of our country.

You have been described as a leading consumer specialist, advisor. Is it unusual for—well, you are an advisor to the President now, and to Secretary Geithner. But is it unusual for other members of government, Congress Members, AGs, States, city council members, other professors, other leaders and captains of industry or managers in industry, is it unusual for them to call you and ask you for advice?

Ms. WARREN. Congresswoman, I have been giving advice for a very long time. I hope it has been valuable, but I have always been willing to answer the phone and always been willing to talk to people.

Mrs. MALONEY. And you don't have a vote on anything right now. You are just basically putting in place an agency that the President has asked you to put this agency in place. So you basically don't have any power to force anyone to do anything.

Ms. WARREN. Yes, ma'am, that is right.

Mrs. MALONEY. But you can answer the phone, and you can give advice. Well, I would say that is a basic American fundamental principle and one that should be protected for every person, and especially professors and academics that are leading specialists in areas.

If you talk about oversight, if you talk about transparency, the last thing we want to do is say people can't give advice. Would you say that is a fair statement?

Ms. WARREN. Well, I like to think that it is good to get advice. I should state, Congresswoman, I believe in advice, and I believe in it in both directions. We have been the beneficiaries at the Consumer Financial Protection Bureau of a great deal of advice from many, many people outside government and many people inside government. And I am glad we have been able to do that.

Mrs. MALONEY. Okay. I would like unanimous consent to place in the record an article that was in the American Banker, entitled, "A Leaderless CFPB Is Not a Blessing for America's Bankers."

Mr. MCHENRY. Without objection.

Mrs. MALONEY. And it talks about, banks will likely pay a price for a leaderless CFPB. And it talks about what the CFPB on July—what they can do on July 21st, but what they can't do if they don't have a confirmed leader.

Now, what they can do is write and enforce the rules that are already in place from the FTC and HUD and other banking agencies. But what is interesting to me is what they cannot do, which I believe would be very beneficial to placing American banking on a level playing field. And they cannot define which nonbanks should be supervised by the agency. They cannot examine or enforce laws against the nonbanks. And we know it was the unregulated nonbank activities, with the sub-prime mortgages and with the credit default swaps, of higher leveraged derivatives, that led us to this crisis.

So not allowing the leader to come in and do this, according to the American Banker, would be harmful to the financial institutions of our country, particularly the regulated banks.

Could you elaborate on that, Professor Warren?

Ms. WARREN. Well, Congresswoman, I will just say that I think when the consumer agency has its director and has its powers ready to go, fully operational, will be a very good day.

Mrs. MALONEY. I would like to also comment on the ranking member's first statement. I have 3 seconds to go. I have——

Mr. MCHENRY. The gentlelady's time has expired.

Mrs. MALONEY [continuing]. Four seconds. Oh, my time has expired? Oh, my goodness.

Mr. MCHENRY. All right. Thank you.

Mrs. MALONEY. I just want to say, 160 service members were foreclosed on unfairly, according to the Department of Justice. And I feel that his subpoena is rightly in order and should—on the merits, we should look at this information on the abuse to the American military service men and -women.

Mr. MCHENRY. The gentlelady's time has expired.

Mr. Chaffetz is recognized for 5 minutes.

Mr. CHAFFETZ. Thank you, Mr. Chairman.

The House Appropriations Committee was quoted in their report as saying, "disappointed that an agency dedicated to transparency and accountability was not more forthcoming about how it plans to spend the taxpayer money." It also went on in there to say, "In the absence of this fine print, the committee cannot discern what the Consumer Financial Protection Board plans to do, how it will do it, or how much it will cost."

Given that your agency is about to open up here in about a week, how do the taxpayers, how do we see what you are going to do and how you are going to do it?

Ms. WARREN. Well, Congressman, we started 5 months before the date that we are supposed to go live building a Web site, trying to put as much information out there as possible——

Mr. CHAFFETZ. Okay. Now, on the Web site——

Ms. WARREN [continuing]. About our operations——

Mr. CHAFFETZ. My time is so limited. My apologies. What I want to get is very specific about the budget that you put forward.

In this document, which is just seven pages, it has just 10 line items. The two biggest line items are full-time permanent positions, followed by personnel benefits. That accounts for about $225 million in expenses. The third item is contractual services, which has a very specific number of $48,907,000.

Where is the detail about what you are going to do and how you are going to do it? So how do we find the breakdown of that number and how you are going to organize this agency? Because you have obviously gotten some specificity in the numbers. We are looking for the documents, the transparency in how you are actually going to do that.

Ms. WARREN. Congressman, let me try this at two levels, and you tell me if this is helpful. And if it is not, I will try——

Mr. CHAFFETZ. Please.

Ms. WARREN [continuing]. A different way.

The first level is to describe in a big sense where we will be spending money in the Consumer Financial Protection Bureau. And if you just think of it like a pie, half——

Mr. CHAFFETZ. No, I am worried about the fine print, the details. The Appropriations Committee, this Oversight Committee, we don't have the details of how you are actually going to organize and put this forward.

Let me read, for instance—go ahead. Go ahead.

Ms. WARREN. Also, Congressman, the—and I am afraid I am blocking on the name, but every contract issued by the Consumer Financial Protection Bureau is done, as you would know, through the ordinary competitive process, when appropriate through procurement, but is posted——

Mr. CHAFFETZ. But in advance of those contracts. For instance, this is directly from the House Appropriations Committee: "Unlike other agencies, the Consumer Financial Protection Board does not describe or explain the relationship between its policy objectives and the budgetary resources, performance measures or goals, significant proposals that affect obligations in the 5- to 10-year period, and their relationship to the current year and budget year, or the budgetary effect of workload, strategic planning, capital planning, or investment in information technology."

How do we get the details of all of this information? You obviously have a top-line number and that was based on something. But you seem to be hiding the details of how you came up with those numbers.

Ms. WARREN. Congressman, no one is hiding anything. We publish all contracts in—it is not called a Federal Register. There is a special place these are published. But I just want to say——

Mr. CHAFFETZ. I am not talking about the contract. You have only—on your Web site, for a consumer—I am worried about the person who is out, you know, in Albuquerque or in Provo, Utah. How do they find out the makeup of all these numbers and the details? As the Appropriations Committee suggested they can't see that information, I doubt the public can see it either.

Ms. WARREN. Then they may want to go to www.usaspending.gov. It will list the type of contract, the awardee, and the amount of the contract. They may also want to——

Mr. CHAFFETZ. What about all these other items? For instance—not just the contracts—performance measures and goals, budgetary resources, what are these people going to be—where do we find all that information? Because it is not on the Web site, compared to other agencies.

Ms. WARREN. Congressman, we are in the process, for example, of developing our performance metrics. And we are not yet standing up as an agency, but as soon as we are stood up, we are putting as much of this as possible——

Mr. CHAFFETZ. So are you saying by next week——

Ms. WARREN [continuing]. On the Web site.

Mr. CHAFFETZ [continuing]. You are going to have this?

Ms. WARREN. Let me say it this way, Congressman.

Mr. CHAFFETZ. You just said you would have it when you stand up, and that is next week. So are you telling me that this will be available next week?

Ms. WARREN. Congressman, I don't want to overpromise, because I am not sure how many things you have read. I am not familiar with the document you are reading from.

Mr. CHAFFETZ. You are not familiar with the Appropriations report?

Ms. WARREN. Of course I try to stay up with the Appropriations work. I am just trying—I am not sure what particular paragraphs and lines——

Mr. CHAFFETZ. He is going to hand that to you right here. It is the budget justification, which is dramatically different than any other agency moving forward.

Ms. WARREN. I am sorry, Congressman, is this——

Mr. CHAFFETZ. Your document.

Ms. WARREN. This is our document?

Mr. CHAFFETZ. Yes.

Ms. WARREN. I think you were reading from something else.

Mr. CHAFFETZ. Based on your giving that document to the Appropriations Committee, the Appropriations Committee said, "Unlike other agencies"—and it listed out all the other things that they normally see, that we normally see as members of the Oversight Committee. And all of that is absent.

Ms. WARREN. Congressman, we——

Mrs. MALONEY. Point of information? Mr. Chairman, could we get a copy of this document to also look at it so we could understand the questioning?

Mr. MCHENRY. Sure, sure.

Mrs. MALONEY. Yeah.

Mr. MCHENRY. We will do that.

Ms. WARREN. And could I also ask, is there a request outstanding from the Appropriations Committee——

Mr. CHAFFETZ. That is my understanding, yes.

Ms. WARREN [continuing]. For more information?

Mr. CHAFFETZ. Yes. And I think this committee is also asking for that same sort of transparency.

Ms. WARREN. Congressman, if that is the case, we would be glad to come back, we would be glad to brief you, we would be glad to work with you in order to find something that is adequately transparent, both to Congress and to the American people.

Mr. CHAFFETZ. I have to yield back.

Mr. MCHENRY. The gentleman's time——

Mr. CHAFFETZ. My time has expired. But I would hope that that information would be on Web site for the public, as well.

Thank you.

Ms. WARREN. Thank you, Congressman.

Mr. MCHENRY. Ms. Norton for 5 minutes.

Mr. Tierney for 5 minutes.

Mr. TIERNEY. Thanks, Mr. Chairman.

Mr. Chairman, this is stunning, I really have to say, this whole display of being concerned about a consumer group that somebody might actually be standing up to protect the consumer and the taxpayer here, as opposed to flacking for the banks. This is a not-too-transparent attempt here to sabotage the——

Mr. CHAFFETZ. Will the gentleman yield? Will the gentleman yield for 15 seconds?

Mr. TIERNEY. No, I won't, sir. I won't. I only have 5 minutes, all right? And I probably won't get to go over, as you did.

But the fact of the matter is, this is absolutely incredible. We have no concern here about responding to subpoenas to the banks asking them to show us documents related to their foreclosing on service men and women acting in Afghanistan or Iraq on behalf of the American people. But we are——

Mr. CHAFFETZ. Will the gentleman yield?

Mr. TIERNEY [continuing]. Going around and around and around here about——

Mr. CHAFFETZ. With the gentleman yield?

Mr. TIERNEY [continuing]. An agency that is in the process of standing up.

Professor Warren, you know, I think the abysmal record of these mortgage servicers is pretty well-chronicled. I have over 100 cases at any given time in my office alone. You know, they lose documents, they are unresponsive, they give conflicting guidance, they refuse to process payments, they have false negative credit reporting. All of that is going on. And it is terrible for the people generally, but it is even more terrible when they do it with respect to our service members who are deployed overseas.

And so I want to ask you about a particular case, the case of Captain Kenneth Gonzales in the U.S. Army.

Would you put that up, please?

I think you may be familiar with this case, and I want to ask you about it.

He was deployed to Iraq as a lieutenant from December 2009 to December 2010. His bank, Chase, told Captain Gonzales' wife to submit their mortgage payments by using money orders, so she did it. But Chase then failed to process the payments. Then they submitted inaccurate and negative reports to the credit bureaus, which then affected and badly impacted Captain Gonzales' security clearance while he was still deployed.

The military JAG officer tried to help him, but she described the uphill battle that she had when she wrote an email to the American Bar Association. I would like to quote a few. She said, "To be honest, I have not been able to do anything for this client. I am just talking to clerks at the customer service section who refuse to talk to me without a letter of authorization, which I have sent in four separate times to four separate fax numbers. I am given a different one every time and told processing takes 48 to 72 hours. I have left voice messages with two supervisors, and no one calls me back. Basically, I just need to talk with a human being that will listen to the facts of this case and who will understand the need to make it right."

Professor Warren, if this JAG officer can't get any reaction, you know, from a mortgage servicer, how do we expect that our members in the service who are overseas in Iraq and Afghanistan are going to get some response?

Ms. WARREN. I think you have put your finger on the problem, Congressman. These systems are not designed to be responsive.

Mr. TIERNEY. Well, you know, Chase had clear errors and clear abusive practices. They then tried to charge Captain Gonzales fees—fees—when they finally admitted they were wrong on the whole process and tried to help him unwind all the damage that had been done to him.

So how often are mortgage servicers initiating these types of unlawful foreclosures and fee collections or whatever and then charging them more fees at the back end, how often does that go on?

Ms. WARREN. Congressman, we do not know. There have not been full investigations of this, and there is no public information on this.

Mr. TIERNEY. Well, as I said at the outset, you know, this is far from unique, the situation. I think everybody on both sides of this dais have had these kinds of complaints coming in from their constituents; some, no doubt, from people that are in the service. And that is why it is critical that we get the documents the ranking member has subpoenaed and asked this committee to subpoena and that we go through and we thoroughly investigate all these illegalities and these abuses.

No service member—no service member—should spend his or her personal time while they are in Iraq or Afghanistan trying to unwind customer service mistakes from a bank that just isn't doing the job they should do, nor should their family be evicted from their home being foreclosed upon.

Thank you. I yield back. Or I will yield to Ms. Maloney, if she likes.

Mrs. MALONEY. There have been a number of settlements—I want to applaud the gentleman's work on this, but there were a number of settlements with Countrywide, particularly with service members, where they were fined, I believe, well over $20 million for foreclosing and throwing the service members' families out on the street while they were serving in Iraq.

I have read those documents, and I ask permission to put them in the record to support the fine work of Mr. Tierney and also to say that we can talk about substance, process, appropriations, but we are the investigative committee. And I believe that we should follow, with a subpoena or with voluntary actions, the leadership the ranking member has put forward to look at the bottom of this.

Recently, Holly Petraeus, who is heading up a very special division for the military, testified in the Senate and also—on the very extreme problems.

I yield back. Thank you.

Mr. MCHENRY. Ms. Buerkle is recognized for 5 minutes.

Ms. BUERKLE. Thank you, Mr. Chair.

And thank you, Ms. Warren, being here today.

We had the opportunity to question you in a subcommittee hearing, where we called attention to the salaries of many that will be working in your new department, and the concern that those salaries were anywhere from 10 to 40 percent higher than Federal salaries, and that the salaries you set for your employees are not subject to and not consistent with the Federal salaries and that you have the autonomy to set your own salaries, and the concern that, in this economy, that may be a little more liberty than we would like with the American taxpayers' dollars.

But I just want to talk about a couple of issues here. First of all, we heard about the service men and women and the particular issue with Chase Bank. That issue was already declared illegal.

So I am trying to understand—we all agree in this body—and this is a bipartisan issue—that our men and women should be protected and no home should be foreclosed on when they are overseas serving this Nation. But this action by Chase was already deemed illegal. We heard that Countrywide has already had a settlement.

How do we justify this $500 million department if that is the gist of what we are taking about here?

Ms. WARREN. Well, Congresswoman, I would put it this way: We know about specific abuses that have come to light. They were brought to light by the press, not by government investigation. And we know of three specific mortgage servicers who have publicly admitted to wrongdoing and engaged in a voluntary settlement——

Ms. BUERKLE. Excuse me. And, again, we have such a short period of time.

Ms. WARREN. I am sorry.

Ms. BUERKLE. But, again, that wasn't your department—you are not up and running yet——

Ms. WARREN. No, ma'am.

Ms. BUERKLE [continuing]. That shed light on those abuses to the military.

Ms. WARREN. That is right.

Ms. BUERKLE. Okay.

Ms. WARREN. But the question I thought you asked is how the consumer agency may be helpful. We are there to be an ongoing monitor. We have only talked with three mortgage servicers here so far.

Let me put it this way: We set up our Office of Servicemember Affairs back in January. It was one of the first groups we organized. Shortly after that, press reports came out about illegal foreclosures against service members. Just to give you an idea of what we do, Holly Petraeus wrote a letter immediately to 25 servicers asking them to review their practices. And we have heard back from about half of those servicers and engaged in some discussion——

Ms. BUERKLE. Thank you. I don't wish to cut you off, but I know in Veterans' Affairs we have handled this issue up front, close, and so——

Ms. WARREN. Yes, ma'am.

Ms. BUERKLE. I do want to talk to you about a couple of issues. Number one, this past week, the jobs numbers came out, and they were horrific. As you know, only 18,000 jobs were added in June.

My concern is what you are going to do will continue to hurt job growth in this country. So I would like to know from you specifically, do you intend to raise compliance costs or raise the cost of credit for consumers?

Ms. WARREN. Congresswoman, I should say we are trying to make prices clear, risks clear, and we are trying to make it easy for families to compare products. I don't think that that is going to cost people jobs. I think it likely makes them a little more secure.

In the case specifically of compliance costs, our first initiative is the one that Congressman McHenry also talked about. Congress and the regulatory agencies have been working for 15 years to try——

Ms. BUERKLE. Well, excuse me. Again, our time—I watch my time clicking away.

Do you intend to raise compliance costs on companies, which will further add to the unemployment and the difficulties that our companies and small-businesses owners are facing in this economy?

Ms. WARREN. Congresswoman, I am sorry. I was——

Ms. BUERKLE. That is a "yes" or a "no."

Ms. WARREN. It is a "no." We already have our first example of what we are doing lowers compliance costs. That is why it has been embraced by the American Bankers Association, by the Independent Community Bankers Association, by the Consumer Bankers Association, by the credit unions. It has been embraced by bankers and mortgage originators across the country because it will reduce their——

Ms. BUERKLE. So that is a "no." You don't intend to raise compliance costs for companies——

Ms. WARREN. No, ma'am. We are trying to lower costs for them.

Ms. BUERKLE. Never, ever?

Ms. WARREN. Well, right now what we are trying to do—we have lined up what we are trying to do, and we hope it is the prototype

for all of our work. We are working closely with community banks; we are working closely with credit unions——

Ms. BUERKLE. Thank you.

One last question. You talked in your testimony about—and it concerns me—that you have this conception that the mortgage and the credit consumer world is fraught with tricks and traps—I think that was your word.

If that is the case and you are sitting here saying that this world is fraught with all of these issues—and this goes back to the chairman's question—what is it that you intend to ban? What is it that you intend to change? If you are saying this world is filled with tricks and traps, what is it that you intend to change and to——

Ms. WARREN. Congresswoman, I don't think banning is the right way. This is what we were talking about. It is make the prices clear, make the risks clear, mow down the fine print so it is possible for consumers to compare one product to two or three others.

Ms. BUERKLE. But then why do you need the power and a $500 million budget? That is my concern.

Mr. MCHENRY. The gentlelady's time has expired.

Ms. BUERKLE. That is my concern.

I yield back. Thank you, Mr. Chairman.

Mr. MCHENRY. The witness may answer.

Ms. WARREN. I am sorry?

Mr. MCHENRY. The witness may answer the question.

Ms. WARREN. Oh, I just didn't hear you. Thank you.

Congresswoman, we need a budget because these are very large and powerful financial institutions who hire armies of lawyers to design financial products that can't be read by ordinary American families. We need some pushback. We are the voice on behalf of the customer, the American family.

Mr. MCHENRY. Ms. Norton is recognized for 5 minutes.

Ms. NORTON. Thank you, Mr. Chairman.

I do want to welcome Professor Warren, and to indicate that I have asked staff to look, and they informed me that the salaries are in line with all banking regulatory agencies.

I want to go back to this report and to the bicameral forum and to some of what was said at that forum, because this committee should be trying to find out whether what we found from law enforcement amounts to a systematic problem that needs further investigation.

Holly Petraeus, the head of the Office of Servicemember Affairs, appeared at this bicameral forum. And she was asked whether the cases of the kind she had heard were isolated or more typical, and let me read you what she said. She recalled a National Guard wife saying to me that every time her husband was activated—and he had been activated three times—she had to go through an extended fight with her bank to get the interest rate reduction. And it was the same sort of thing: send the paperwork; oh, we don't have the record on that; send it again; send it again; send it again.

Have you heard similar accounts?

Ms. WARREN. Yes, ma'am, I have.

Ms. NORTON. I want to ask you about what you think the CFPB could do, because we know it is not charged with enforcing the service act. So I think it is fair to ask, what would be the role of

the CFPB in uncovering and doing something about these kinds of abuses and ensuring that what our service members are encountering does not happen again and again with bank after bank?

Ms. WARREN. Thank you. If I can, I will give a two-part answer.

The first part is that, last week, the Consumer Financial Protection Bureau, led by Holly Petraeus, signed an understanding with the Judge Advocates General of all of the services, and it was for how we can cooperate and, between the two of us, use our resources more effectively to protect service members. We had already been well into the process of working with the Department of Defense, and this was just a more formal acknowledgment of that process and, I think, building a strong relationship going forward.

But I also want to say a second thing about it within the consumer agency, and that is what it means to have a strong leader like Holly Petraeus, what it means to make an Office of Servicemember Affairs front and central in this organization. And that is, we have started reaching out. Holly Petraeus and I went together to a joint base in San Antonio. We have been to other places; she has been on her own. She has opened up a Web site. We have hired more people——

Ms. NORTON. Well, Professor Warren, this is just the kind of thing we had hoped you would be doing.

I would like to ask you, though, about the kinds of complaints that you expect to receive first when you come on line on July 21st. Have you anticipated what kind of complaints are likely to come to the forefront? Do you expect these servicemember complaints to be among them?

Ms. WARREN. We have reason to believe, because we have already been reaching out to service members and service-member families and, actually, are already in active communication with many families and with many of those who serve service-member families—we anticipate that this will be a significant part, over time, of our workload at the Consumer Financial Protection Bureau.

Ms. NORTON. Thank you, Mr. Chairman.

Ms. WARREN. Yes, ma'am.

Mr. TIERNEY. Mr. Chairman, a point of order? Is there any recent update on the disposition of the subpoena motion that was going to be addressed at 10:40?

Mr. MCHENRY. Well, the chair announced that it would not happen before 10:40. There is no update.

The gentleman——

Mr. TIERNEY. So midnight might be a good time, is that the idea? Or could we have a little closer approximation? Some Members have other business to attend to, as well. And in fairness to the Members on both sides, it would be nice to have some idea of roughly when you think that might occur.

Mr. MCHENRY. The chair will give a 30-minute notice, which was the ranking member's request. And the chair has—will now announce that you will have a 30-minute heads-up before the vote happens.

With that, Dr. DesJarlais is recognized for 5 minutes.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

And, Professor Warren, thank you for being here today.

I have a pretty simple question. I represent Tennessee and also sit on the Agriculture Committee. And I was just curious to know your take on an issue central to ensuring credit for Tennesseeans and farmers in general.

Title X in the Dodd-Frank Act, of the act which creates your agency, the CFPB, states that the Farm Credit Administration will retain all of its enforcement authorities over persons regulated by the Farm Credit Administration and that the CFPB will have no authority to exercise any enforcement powers under the Dodd-Frank Act with respect to persons regulated by the FCA.

So is it your interpretation that the CFPB has any enforcement authority over institutions regulated by the FCA?

Ms. WARREN. Dr. DesJarlais, this is evidently a question that is what lawyers are all about. The language you have read, as I have been briefed on this, I think you used the word "persons," and then there is a question about whether that covers institutions, covered entities, which are different from persons in this. And so, as I understand it, the lawyers are out just trying to work this through to make sure there aren't any gaps and there aren't any overlaps. That is my understanding at this point, sir.

Mr. DESJARLAIS. Okay. I am not sure that I fully understood your answer. So is it your interpretation that the CFPB has any enforcement authority over institutions regulated by the FCA?

Ms. WARREN. So, Congressman, I am just going to have to back up. The statutory language you used referred to persons, and your question referred to institutions. And what the lawyers are trying to figure out, from multiple authorities here, how is it that we get appropriate coverage, which is what we all want, and to carry out Congress' will.

So all I am saying, sir, is I think there is a little bit of a statutory interpretation question, and we are just trying to work through it in a reasonable way. We just want to make sure we carry out the intent of Congress.

Mr. DESJARLAIS. Okay. So what do I tell my farmers?

Ms. WARREN. Well, you tell your farmers that, because of the language in this particular part of the statute, the lawyers are working on it right now.

Mr. DESJARLAIS. Well, I don't know if that would be very comforting to them.

Ms. WARREN. I certainly understand that, sir.

Mr. DESJARLAIS. I do have a second question.

Ms. WARREN. Sure.

Mr. DESJARLAIS. As you know, nearly half of small businesses use personal credit cards when they are first founded. Can you commit that none of CFPB's regulations will remove financing possibilities for these businesses?

Ms. WARREN. Oh, Congressman, you hit on a very important question. As you rightly know, it is consumer credit that we do at the Consumer Financial Protection Bureau. And, as you also know because I have said it probably every chance I get, that we are about trying to make prices clear and risks clear and trying to mow down fine print so people can make real comparisons.

I have actually had small-business groups reach out to me, and small-business individuals, who would like to know that they are going to have coverage and that they will have the same kind of protection about clarity in pricing and clarity in risks and not face fine print if they are using a credit card to try to start a small business. And I think this is going to be a real challenge, because we have a constrained authority at the Consumer Financial Protection Bureau, sir.

Mr. DESJARLAIS. Okay. So it is going to be a struggle, you are saying, to determine whether credit is being used for personal use or business use?

Ms. WARREN. Well, what I am saying is, the way Dodd-Frank was established, it is clear that we can help beat down the fine print in the case of consumer credit cards, but in the case of business credit cards, our authority is limited.

Mr. DESJARLAIS. Okay. Would there be a situation where there is a credit card that has a 20 percent interest rate and you step in and say, "No, you can't have that?"

Ms. WARREN. No. Congressman, the statute is quite clear that we are not in the business of establishing usury laws. Congress spoke unambiguously. I know there are some parts of the statute that ambiguous, but I think that part is pretty unambiguous, sir, pretty clear.

Mr. DESJARLAIS. Okay. So small businesses can breathe comfortably that they are going to have access to credit?

Ms. WARREN. I want to say it this way: Small businesses are struggling, I understand that. And access to credit is about a whole lot of issues. But in terms of what we are doing here at the Consumer Financial Protection Bureau, we are hoping we are going to make things a little better for all those good people out there who are trying to start businesses and that it will be good for them if they know prices, if they know risk, if there is not so much fine print in their contracts.

Mr. DESJARLAIS. Thank you, Professor Warren.

My time has expired. I yield back.

Ms. WARREN. Thank you, sir.

Chairman ISSA [presiding]. I thank the gentleman.

We now recognize the gentleman from Missouri, Mr. Clay, for 5 minutes.

Mr. CLAY. Thank you, Mr. Chairman.

And thank you, Professor Warren, for being here.

And before I go into the questions, let me state that this is one of the most incredible committee hearings that I have ever attended in this committee, because the two sides are so far apart.

I just can't help but give you two examples of abuses that cry for an agency like this bureau. One is the area that I represent in north St. Louis County, where homeowners, middle-class, African-American homeowners, were steered into high-cost, predatory loans. And if you look at a map of the foreclosures in my community, it is evident that they were steered and that these predators took advantage of them.

In the second example—and let me say, you know, to my colleague, patriotism also means standing up for the men and women who wear our uniform, who bravely—who bravely defend this coun-

try. And if you don't think this is an abuse, then I have a bridge to sell you.

You know, illegal foreclosures against U.S. service members is a growing problem. Multiple mortgage servicing companies have conceded that they violated the Servicemembers Civil Relief Act. They illegally foreclosed on service members and charged fees in excess of the maximum amounts allowed under the law.

And we have only begun to understand the scope of these problems. In April, four Federal agencies that regulate mortgage servicers issued a report finding critical weaknesses. They initiated enforcement actions against 14 banks, and they directed a comprehensive review to identify borrowers who have been financially harmed and to provide remediation.

And it is good that these agencies are on the job, but this highlights just one of the many reasons why we need the Consumer Financial Protection Bureau: to protect consumers from unfair, deceptive, and abusive financial practices. And if people here don't understand that, then I don't know what we can do about that.

But it is good that the agencies work to enforce the law after the fact. But consumers, and especially Active Duty service members, shouldn't have to go through an illegal foreclosure in the first place. Think about it: A service member stationed overseas, fighting for their country, risking their life, while back here their family is losing their home—illegally. That is devastating, and no one should have to endure that.

Professor Warren, I understand that you organized an Office of Servicemember Affairs with CFPB. Can you please explain the role of the CFPB in protecting the rights of service members and their families?

Ms. WARREN. Yes, sir.

When we set up the Consumer Financial Protection Bureau, one of the first pieces that we tried to put in place and make active was the Office of Servicemember Affairs. I first met with Holly Petraeus—I believe it was October, although my calendar is public, so it would be possible to find that. And she had come to see me about what she thought were terrible abuses that were going on with military families. And she said to me, "You now have this new consumer agency, and you can do something about this."

I must say, for a small woman, she is very forceful. And I listened to her and took lots of notes. And she had lots of very specific instances of what she was concerned about and very specific recommendations for what we could do.

So about a week went by, and I invited her to come back. And we talked a second time, and she had even more ideas. And that is when I realized we had found our leader for the Office of Servicemember Affairs. And I made her an offer, and she came to work for us.

And that is really how I want to describe this. This office started with someone who fully, on-the-ground understands what is happening to military families. She, herself, comes from a military family, from generations of military service people, and she has seen it firsthand. She often describes that she has even lived parts of this.

She was there from the beginning to build an Office of Servicemember Affairs that said, "We at this agency will be responsible for identifying what is going wrong, for dealing with service members' families who get caught in traps, and for helping change, putting a cop on the beat, to make sure that these who are dealing with military service members are following the law." That is our job.

Mr. CLAY. Thank you so much.

Chairman ISSA. The chair now recognizes the gentleman from South Carolina, Mr. Gowdy, for 5 minutes.

Mr. GOWDY. Thank you, Mr. Chairman.

"Free of legislative micromanaging, the Financial Product Safety Commission could develop nuanced regulatory responses. Some terms might banned altogether, while others might be permitted only with clearer disclosure."

So you don't support legislative micromanaging? What about legislative macromanaging?

Ms. WARREN. I am sorry, Congressman. I don't——

Mr. GOWDY. It is a quote from an article you wrote, "free of legislative micromanaging." So my question to you is, what is legislative micromanaging? Because, to me, it is a euphemism for "oversight."

Ms. WARREN. I am sorry, Congressman. I may have written it, but I am not sure what the context is. Was it an article?

Mr. GOWDY. The context is it is in the Democracy Journal——

Ms. WARREN. All right.

Mr. GOWDY [continuing]. And it is the first public notion that we have of an agency similar to the one that you are going to head in a week. And you wrote an article about——

Ms. WARREN. Yes?

Mr. GOWDY. And you said, "Free of legislative micromanaging, the Financial Product Safety Commission could develop nuanced regulatory responses. Some terms might be banned"—my question to you is, to some of us "legislative micromanaging" is a euphemism for "oversight."

Ms. WARREN. Actually, I think this goes to the point that Congressman McHenry raised. And that was the question, you may recall, we are trying to figure out how to combine the TILA and RESPA forms—complicated, hard to read, high regulatory compliance costs for the bank, or at least higher, very little value for the consumers. For more than 15 years, the various regulatory agencies have been negotiating to try to bring those together. And, as Congressman McHenry said, there have been multiple attempts from Congress trying to do it. The problem——

Mr. GOWDY. Ms. Warren, my question is actually more general than that. My question is, what is the role for congressional oversight? You don't like legislative micromanaging; you wrote that.

Ms. WARREN. No.

Mr. GOWDY. Some of us think that that is oversight. So do you concede that Congress has the authority and should have the authority to, for instance, hypothetically, set the budget for your agency? Is that legislative micromanaging, or is that oversight?

Ms. WARREN. Congressman, I was trying to respond to your question, and what I was trying to point out is that it was an example of how difficult it is for Congress to get an appropriate

nuanced response to a specific problem. And, in this case, it was combining two forms.

But what we have been able to do as a consumer agency, because agencies operate differently, is that we have had banks in, community banks, credit unions; we have been able to put out multiple iterations of the forms. We have been able to adjust, we have been able to consult with groups in ways that is not possible in the legislative process.

Mr. GOWDY. Well——

Chairman ISSA. Would the gentleman yield for a moment?

Mr. GOWDY. Yes.

Chairman ISSA. I think Mr. Gowdy is very happy, you doing what you are doing. I think what he is really asking is, does Congress have a right to look over your shoulder? And did that statement indicate that you think that Congress not—looking over your shoulder, second-guessing your funding or, in fact, your actions? That is, I think, the question, and I haven't heard an answer.

Ms. WARREN. I am sorry, Congressman. Let me give as straightforward an answer as I could.

My direct testimony this morning is, of course we need to be responsible to the Congress. The Congress should look over our shoulder 24 hours a day, 7 days a week. And I was trying to explain, once I understood where the passage came from, I was just trying to explain what I thought that passage meant. But——

Mr. GOWDY. Well, may the record reflect that your article did not go in to the detail that your answer this morning went in to on that nuanced point. And so I will ask a less nuanced question.

Ms. WARREN. Yes, sir?

Mr. GOWDY. What about congressional involvement in your budget? Is that micromanaging, or is that oversight?

Ms. WARREN. Congressman, I think it is neither. I think that is a big policy and political decision. As you know, sir, not one banking regulator in the history of the United States has ever had its funding through the political process.

Mr. GOWDY. So you agree that Congress should not be responsible for setting the budget for your agency?

Ms. WARREN. I believe that Congress should treat all of the banking regulators alike and not say that the one that tries to watch out for consumers is going to be put through the political process and subject to lobbying by trillion-dollar financial institutions.

Mr. GOWDY. You did mention oversight in your opening statement. And the distinguished gentleman from Maryland, for whom I have great regard, used the term "illegal" seven times. It has been used an additional five times since Mr. Cummings used it.

Criminal and civil engagement with companies is also another form of oversight. If these practices are illegal, then why isn't Eric Holder sitting here with you explaining what he has done? Why do we need your agency if they are already illegal?

Ms. WARREN. Well, Congressman, I think there is a real question about whether there has been adequate investigation in to what financial——

Mr. GOWDY. What have you done with respect to Attorney General Holder and the 90-plus U.S. attorneys, most of whom have

been appointed by this administration, what have you done to cajole them to do their jobs? Because I have heard the word "illegal," and that has a very specific meaning to me. If it is illegal, what have you done to cajole the prosecutors to do something about it?

Ms. WARREN. Congressman, that is what we did when we got involved in mortgage settlement and were so sharply criticized for having advised the Department of Justice and our sister agencies as they are trying to work through holding responsible the parties that violated the law.

Mr. GOWDY. You were criticized for referring people for criminal prosecution?

Ms. WARREN. Congressman, we were criticized for trying to help——

Mr. GOWDY. By whom?

Ms. WARREN. Congressman——

Mr. GOWDY. Not me.

Ms. WARREN. Congressman McHenry, Congressman——

Mr. GOWDY. Well, I am going to let Congressman McHenry speak for himself. But as a former prosecutor, when I hear the term "illegal," which I have heard 12 times this morning, I want to know why there aren't criminal prosecutions, why we need an agency and the Department of Justice can't do it.

Chairman ISSA. The gentleman's time has expired.

The gentleman from Tennessee, Mr. Cooper.

Mr. COOPER. Thank you, Mr. Chairman.

I don't have a question for the witness. I do have a comment, primarily aimed at the junior members of the committee on both sides of the aisle.

I think all of us realize that this Congress is viewed as dysfunctional. And I would submit that this committee is also viewed as dysfunctional. And this alleged hearing is one of the reasons why. It too easily degenerates into a partisan food fight, and it doesn't have to be this way. In fact, just a few years ago in Congress, it was not this way.

So I would urge the junior members of the committee to resist the partisan talking points that enable people on both sides of the aisle to walk in here, read a question, make a partisan hit, look like we are smart, and then leave. That is not good governance regardless of which party is in charge.

I didn't vote for Dodd-Frank. It had many good features; it had some less good features. But I do not want to be part of a committee, at least at the subcommittee level, that treated Ms. Warren with more rudeness and disrespect than I have ever seen a committee witness treated. That is not the American way.

Now, some of us come here and we get so used to the food fight that we want it to continue. And you will probably score brownie points if you make your partisan hit. You might even get on a better committee. Well, congratulations. You will not have solved a problem.

I would suggest to the chairman and the ranking member that oftentimes a seminar format is much more instructive, is much more educational than the sort of partisan charade we seem to continue to engage in with hearings like this.

I would urge Members to read Ms. Warren's—one of her books. I have only read the "The Two-Income Trap." It is outstanding. Your constituents back home should read this book. Your bankers back home should read this book. Then there would be a lot less hatred and a lot less discord and a lot less anger. Because this lady is trying to do the right thing.

And we all recognize that consumers oftentimes get the short end of the stick. I have tried to refinance my home mortgage several times to take advance of today's record-low interest rates, and the paperwork is a blizzard. I went to a very good law school, and it is almost impossible for lawyers to understand this stuff.

Ms. Warren has pointed out that the existing regulatory agencies have taken over a decade to try to simplify a couple of the forms, and they have failed. What has this committee done to simply some of the forms? Nothing. So isn't it time for a new approach? Isn't it time for fresh thinking to give the consumers a break?

And let us also acknowledge that Congress is sometimes captured by vested interests. Sometimes that happens. And we need to resist that.

So I would urge the members of the committee, particularly the junior members who are not so entrenched in bad habits, to consider new and fresher approaches to solve some of these problems so that we can protect consumers and also give legitimate industries a fair shake, because all bankers aren't bad people.

But I am afraid that we are falling into a rut here that is going to be the detriment not only of this committee and this Congress but of the Nation. It doesn't have to be this way. We can be civil to each other. We can be informed. We can resist the partisan talking points. But I am not seeing that sort of behavior, at least so far.

So let's try to do better, and let's try to be civil to witnesses like Ms. Warren. Let's try to focus on the substance, because I have actually heard very little substance here today. And there are better ways to solve our problems, and I hope that this committee will be part of those.

So I thank the chairman. I see that my time is about expired.

Chairman ISSA. Would the gentleman yield?

Mr. COOPER. I would be delighted.

Chairman ISSA. We have worked together for a long time, and I join with you in wanting this hearing and any talking points in front of any Member, junior or senior, to be about our oversight.

I do agree with you on the simplification. Patrick McHenry offered a bill like that a number of years ago and continues to support it.

I hope that all of us understand that our jurisdiction here is limited. We are here to discuss whether Dodd-Frank got it right for the organization, whether Professor Warren is now finding things which are poorly defined within the statute that she is working and her 400 employees are working to try to resolve, whether some committee, probably Financial Services primarily, needs to revisit to give her guidelines, additional authority, and so on.

If we do our job right—and the gentleman is absolutely right—we will, in fact, be talking about an organization that Professor Warren may head as the first head, she may not, but she is cer-

tainly the most knowledgeable witness. And I have said, this hearing will be about civil behavior for Professor Warren and about a dialog about the agency that she has put a year of her life in to standing up.

So I join with the gentleman in full agreement.

Mr. COOPER. Well, Mr. Chairman, a civil discussion would be a marked improvement over the subcommittee's behavior.

You are right that the Financial Services Committee does have substantive jurisdiction, but here we have had two hearings with Ms. Warren before her agency is even stood up. A lot of people are rushing to conclusions here. And sometimes that is the only exercise they get.

It is unfortunate that this——

Chairman ISSA. It is one of the things we really do well here, isn't it, is make conclusions?

Mr. COOPER [continuing]. Nice lady has been treated as a partisan punching bag before she has even had a chance to really serve. So let's give all American citizens the benefit of the doubt.

Thank you, Mr. Chairman.

Chairman ISSA. Thank you.

We now go to the gentleman from Pennsylvania, Mr. Kelly, for 5 minutes.

Mr. KELLY. Thank you, Mr. Chairman, and Ms. Warren, thanks for being here today.

In my previous life, I was in the automobile business, and I know how critical it is——

Ms. WARREN. Sorry, sir?

Mr. KELLY. I said, in my previous life, I was in the automobile business, and the availability of credit is so critical and I know that. And I have looked at your background. You really have an impressive background and you—by so many people and so many things.

The availability of credit is one of those things, and I know that automobile loans come up quite often, and sometimes they are regarded as predatory lending. Tell me, how would your agency work toward that end, because we already are governed by the FTC. So is there going to be some overlap there, and how is that going to work, and how are we going to be able to sift through that?

Ms. WARREN. Just to make sure I am being responsive, and you help me if I am not in the right place.

On automobile loans in particular, you do know that dealer-initiated automobile loans, that automobile dealers are not within the jurisdiction of the consumer agency, that Congress made that distinction in Dodd-Frank. And so the place where we are focused—and I just want to be clear about this—it is really about saying, consumers just need to know—they need to know what the price is. They need to kind of know generally what the risk is, the difference between, say, a fixed rate mortgage and a variable rate mortgage. And they need there to be less fine print so they really have a shot at comparing straight-up three mortgages, three credit card agreements, three checking accounts. They can actually look at those.

That is really the thrust of what we want to do. My own view of that is that that actually makes credit, if anything, more avail-

able to consumers. Consumers can trust that when they sign on the bottom line, I get it, I know what is happening here.

Mr. KELLY. And that is true, and I think that oftentimes when we are dealing with retail customers, and they go to a lender, and we try to guide them through that process, and it can be very difficult, and I think there is lot of good advice, and over the years, you have given a lot of good advice to people. And one of the things we caution people about is, you know, the amount of money that you are borrowing, the length of time that you are going to have it, and the percentage that you are going to pay on it, and these are all critical aspects of it. I think we both agree on that.

And so I guess what I am coming to you for, and I want to hear from you, because this is critical—this is critical. I am looking at, the American taxpayer is actually a cosigner to loans that are being asked for right now by a body that governs these folks, like to buy them, who governs them, borrows money on their behalf, and they actually sign up as the cosigner, the coborrower.

And I guess I'm a little bit intrigued. The emphasis is on credit availability, how much money you can borrow, and rightfully so, the banks actually put a limit on what you can borrow, a ceiling as it were. And we're looking now at increasing the debt ceiling again, and I find that kind of amusing that we use the word "ceiling" because, in my world, a ceiling means that's something that's actually established and you can't go beyond. And all the lending institutions I've ever gone to, they put a ceiling on what you can borrow and what you can't go beyond.

And so now we're involved in this measure, and we're going to tell these cosigners who are responsible for making all the payments on these loans, that don't worry about that ceiling, this doesn't really matter; we're going to continue the raise it because we've been so reckless and so irresponsible, and you know what, you put us here and you put us in the position to actually borrow money for you that you're cosigning us.

So as your past history and the way you have advised people, and I know, right now, the consumers are the most important part of what we're talking about. We want to protect these people because I noticed in your testimony, you did say, an economy being driven to the brink of collapse, and we use terms about companies that are predatory companies and what we're doing to the economy.

I think that maybe we should be expanding your role to taking a look at what this body is doing to not only the future of our children and grandchildren but also the present, and I would like to—you have a big experience in this—this amount of money that we pay is interest, that's kind of artificially low right now, if we think this debt limit now or this deficit is great now, wait until we get the real interest rates out there. Then people, instead of holding their heads, they're really going to be holding their stomachs because they will be sick. So I know you only have a couple of seconds left, but how would you advise these consumers on buying the product that they're being asked right now to buy into and cosign for?

Ms. WARREN. Well, Congressman, I think the one distinction I would make is I am very familiar with creditors putting limits on how much you can spend in the future. That's a—that's a world I

live in, but I do want to say people expect you to meet your obligations that you have already incurred and they expect you to meet those a 100 cents on the dollar.

Mr. KELLY. That's why in the automobile industry, you actually have a beacon score that tracks your past history and watches actually what your revenues are. That's a big part of what you're allowed to borrow. So I think that's maybe part of the equation we're looking beyond. Thank you, though, for your time.

Chairman ISSA. Thank you. The gentleman's time has expired.

The gentleman from Kentucky, Mr. Yarmuth.

Mr. YARMUTH. Thank you, Mr. Chairman.

Professor Warren, it's great to see you here again, and I had the opportunity during the subcommittee hearing some weeks ago to ask many of the questions I would ask. So I'm not going to repeat them.

One of the things that I was curious about is in the Republican budget that passed the House, the so-called Ryan plan for Medicare was part of that, and under that plan, for those people under 55-years old, Medicare would no longer exist. Instead, citizens who then reached 65 would be given some kind of payment in some form to go out and shop for insurance in the private insurance market. Would you envision that that might be a role at some point for CFPB, that insurance contracts would be subjected to the same scrutiny in terms of clarity and transparency that other financial documents would be?

Ms. WARREN. Congressman, I would say I think there are some very real concerns about the difficulty that consumers have reading insurance contracts and that it raises some of the very same issues we'll be dealing with in the Consumer Financial Protection Bureau over other kinds of contracts that are unreadable.

But right now, Congress has put a very clear curb in place. We have a lane we are supposed to swim in—I think I just explained that—about consumer credit, consumer credit products, the issuing of consumer credit, credit reporting, and we are not to stray into insurance. And we are not to stray into investment products, and right now, sir, that's exactly what we'll be doing.

Mr. YARMUTH. Certainly I would think, though, that whatever progress you've made in making sure that financial documents were understandable and transparent might serve as a good model for other areas of the economy.

Ms. WARREN. I certainly hope that's the case, and I also want to say, it's a little piece of the consumer agency, since we're here doing oversight, and you give me a chance to talk about the agency and the things it's going to do.

We have a research division in our agency. In fact, it's called research markets and rule writing. We've combined it all together, and we are building a robust research team; I mean, smart and very diversified in terms of approaches to how to think about research. And a significant part of what we will do, we will look at what it takes to take complicated ideas and get them into something that really works on the ground day in and day out for American families. That research will be available to everyone, and I hope it will be useful in places beyond its implications in consumer credit.

Mr. YARMUTH. I'm sure it will be. In the remainder of my time, I had the privilege the other day of sitting in on a forum that Senator Rockefeller conducted with Holly Petraeus and a couple of the servicemen who had been subject to these incredibly unscrupulous practices.

And one of them was Chief Warrant Officer Charles Pickett, and he was an Apache helicopter pilot serving in the Army National Guard, was flying missions in Operation Iraqi Freedom. And while he was on duty, Bank of America attempted to foreclose on his home, or actually, they ended up trying to foreclose four times. One of those times, his daughter came home from school and found the eviction notice, foreclosure notice, I'm sorry, posted on the door. And so he is here trying to—also, he was current on his mortgage, which was—I guess adds insult to injury, and here he is flying missions in Iraq, trying to spend his spare time on the phone with banks trying to clear this up, was unable to do so.

Finally, he hired a lawyer who was familiar with the Servicemen's Civil Relief Act, and that lawyer took seven—I think seven different times trying to find somebody, four different people before he could finally stop this foreclosure procedure, which was totally unjustified.

So in terms of what we had been discussing earlier and the incredibly good, positive effort that Holly Petraeus is making from the CFPB and trying to deal with this, I certainly think it would be appropriate if this committee would use its subpoena power and its oversight responsibilities to make sure that we have all the information possible to make sure that people like Chief Warrant Officer Pickett are not abused in this way in the future.

Do you have any comment on that? I have 20 seconds left.

Ms. WARREN. I would just say in that very short period of time, you know, I think it's easy to put out of sight what the real implications are of these financial misdeeds on military readiness. The number one reason for losing a security clearance in the United States now is a problem over credit. Servicemembers who are deployed abroad have talked to us multiple times about what it means to try to fight a war on two fronts, one in a foreign location and one back at home, to take care of their families. This is wrong.

Chairman ISSA. I thank the gentleman.

The gentleman from New Hampshire, Mr. Guinta.

Mr. GUINTA. Thank you, Mr. Chairman.

Thank you very much, Professor Warren, for being here today.

I was listening to the questions and the testimony, and part of the responsibility we have in this committee relative to this particular hearing is stated in the paperwork that we all received today, and I just want to read from the conclusion what it says so we're all clear about what we should be doing: During this hearing, the committee will examine what oversight mechanisms are in place to ensure that this new government bureaucracy properly carries out its mission to protect consumers. The committee will also examine the potential uses and consequences of the CFPB's powers.

And in keeping with a responsible line of questioning, I think we all have an obligation to ensure that the country trusts what this new entity is going to do and that there's transparency with this

new entity and this new agency, and that we are charged with that responsibility.

In the last time we met back in March, I had wanted to talk to you a little bit about the—excuse me, on May 24—I wanted to you talk to you a little bit about the structure and what I think is somewhat unprecedented. You had stated that there's no banking regulator who is subject to the political process or to the appropriations. All banking regulators are funded independently, and indeed, all of the other banking regulators, not the consumer agency, but all of the other banking regulators are able to set their own funding levels.

I don't disagree with your comment in regards to the Fed, the FDIC, the OCC, but I do think that there are distinctions and differences between those entities and this one. So could you clarify for me if you think that there's any difference in terms of oversight relative to the appropriations process?

Ms. WARREN. I'm sorry, Congressman, I just don't know what you're driving at. I don't mean to be unhelpful. I just don't know what you're driving at.

Mr. GUINTA. Okay. Well, let me read your comment again. On May 24th, in the hearing that we had, you had stated that there is no banking regulator who is subject to the political process or to appropriations. And I was making the point that there is a distinction between this agency and others relative to power and authority. Can you comment on that and whether you think you are treated as every other banking regulator or if there are differences between you and other agencies?

Ms. WARREN. Well, I hope this is responsive, but please if it's not, stop me. In terms of funding, yes, we are different. We have capped funding. Other banking regulators, for example, the OCC, determines funding levels and assesses financial institutions for them. The FDIC follows a similar structure. The Fed, of course, gets its money in yet a different way.

So, as I said in my statement, there are—there are limits on our funding. If we want funding above the cap provided in the statute, we must come back to Congress and ask Congress for an additional appropriation. That's what's provided in Dodd-Frank, and we would be permitted to do that, but it means we have to come back into the appropriations process, and as I understand it, the other bank regulators do not go into the appropriations process in order to get their funding.

Mr. GUINTA. Would it be fair to say that the CFPB is different in the sense that, with respect to the director position, it is subject to removal only for cause and is, therefore, exempted from Presidential control?

Ms. WARREN. I would have to go back and look at the statute again, Congressman.

Mr. GUINTA. My concern is this: It appears as though there is some unintended power or powers that are vested in this particular position, and that's what I would like to clarify, because the concern I would have, as an individual—I'm not talking about you personally—just the individual who would oversee this agency would appear to have greater powers and authority simply by the fact

that it is treated differently than other banking regulators or agencies.

Ms. WARREN. I see. I think I understand the question. Yes, there are differences. The consumer agency is the only agency that is subject to a veto by other agencies. There is no other agency subject to that kind of oversight. There's no other agency—banking agency, at least as far as I know agency anywhere, whose rules or regulations can be thrown out by a vote of other agencies. So, yes, there is a difference. The consumer agency operates under a unique constraint that is not there for others.

Mr. GUINTA. Okay. Thank you. I see my time has expired.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Illinois, Mr. Quigley.

And Mr. Quigley, I apologize, I did not see you on the last round. So I'm taking you late.

Mr. QUIGLEY. No problem. Thank you, Mr. Chairman.

Good morning, Ms. Warren.

Ms. WARREN. Good morning.

Mr. QUIGLEY. Mr. Chairman, as to Mr. Cooper's comments, I think it's appropriate occasionally to catch ourselves at these hearings and ask ourselves if we're maintaining the proper decorum and respect.

I'm reminded as a veteran of about 200 criminal trials that cross-examination can be contentious, but there's a respect due to the court, as there is a respect due here and our witnesses. And now, it is incumbent upon our witnesses to answer questions succinctly and forthrightly, and when they're not doing that, it's fair for the member to push them along.

I would respectfully suggest that both sides have on occasion pushed the envelope on that and appeared to be disrespectful to the process and to our witnesses. So I think Mr. Cooper's point is well taken and if we could all move in that direction, it would be a better body overall.

Ms. Warren, salaries of your employees have been discussed, and I recognize they don't necessarily come straight from the taxpayers, but they're still important. The concern I have is really toward the other end, and that is, your ability to attract qualified employees because you are really looking for folks who have the same knowledge set of people you're regulating.

I understand that in 2009, the average salary, even for the back office folks at hedge funds, is about $300,000. Just the sheer volume of workers on the banking side and the salaries, my concern isn't so much how much your folks are making; it's your ability to track qualified workers and keep them to get the experience they need to do the work you're supposed to do. Is this a challenge that you see as a real problem at this point?

Ms. WARREN. Yes, Congressman, it is a serious challenge.

You know, I just want to be sure that we're clear on the record since this question came up earlier. We don't set our own salaries. They're set by Federal statute, and we have exactly the same salary base as the Fed, as the OCC, as the other banking regulators. We're just—we're in a system. That's what Dodd-Frank requires, and we're following the law in terms of the salaries we set.

But there is a serious problem right now in the regulation of financial services, and that is—I want to put it this way: We have been genuinely blessed at the Consumer Financial Protection Bureau with people who have come to this agency who are incredibly smart and who have the opportunity to make lots more money somewhere else, but they truly hear the call of public service. They see an opportunity to make a real difference in a marketplace that they know, sometimes from firsthand experience, is badly broken.

I worry how long we will be able to keep those people when the siren song of money from elsewhere continues to play. But it is where we are, and I say today, as much I worry about this as a long-term problem, I'm proud of every single person who has come to work for the Consumer Financial Protection Bureau.

Mr. QUIGLEY. How much of this is the institutional memory, given the complexities of the new world of finance and learning how systems operate? By the time people are experienced enough to really do this competitively, they're really worth a lot more because of their experience with you.

Ms. WARREN. That is a very fair point, Congressman. We're doing a lot of training. I want to put it this way, we invest in our people. We spend a lot of time with them on education in a formal sense. We spend a lot of time in education in an informal sense; that is working across groups, running lots and lots of—we call it lunch and learns—around different topics. We think that every time we make an employee of the Consumer Financial Protection Bureau smarter, it's good for the bureau and ultimately inures to the benefit of the American people. But I recognize, it also makes them a lot more attractive to people with more money.

Mr. QUIGLEY. Again, for the record, I have no problem with someone who's smart enough to go out in the financial world and make a good living, but given that this is a new, complex world, I'm concerned that there isn't a balance here of equal experience and knowledge and understanding so that the American public isn't cheated. But I appreciate what your workers do and what you do. Thank you.

I yield back.

Ms. WARREN. Thank you, sir.

Chairman ISSA. We now recognize the gentleman from Florida, Mr. Ross, for 5 minutes.

Mr. ROSS. Thank you, Mr. Chairman.

Let me preface my comments, Professor, on first of all acknowledging that in your position, where a lot of it is administrative, you also have the responsibility to testify before Congress, and I'm very grateful to you for doing this. I know that it is not always the most enjoyable part of your day, but I also understand that it's necessary, and I do realize that while we may not always be philosophically aligned, I'm grateful for your continued participation today.

And to that end, I would like to ask you some questions, specifically with regard to what I think is one of the most important powers of the Dodd-Frank Act, and that's found in Section 1031, which gives the CFPB the authority to ban any product, any consumer financial product, service, or practice that it deems unfair, deceptive, or abusive. Would you agree?

Ms. WARREN. Yes, sir.

Mr. ROSS. And to that end, back in May, May 24th, when we had the hearing here, Mr. Gowdy asked you a question as to how you would distinguish between abusive practice and nonabusive practices of these financial institutions. And the reason for that, of course, is because now that it has been in effect for a year, we're looking to make sure that consumers as well as companies know what to look for when they're going to be deemed to either be an abusive or nonabusive product or service to the market.

And now that we've had a year, I want to ask you again, because I believe your response in May was that we will go through the process of interpreting the language that Congress has given us. And I don't think that was quite where we want to be, what we need to know. So I want to ask you again specifically, can you name any product, service, or transaction, not already illegal, that is unfair, deceptive, or abusive within the meaning of the Dodd-Frank Act?

Ms. WARREN. Congressman, can I just start by saying we have not been in effect for a year?

Mr. ROSS. You've got 1 week to go.

Ms. WARREN. We've only been—we will be in effect next Thursday.

Mr. ROSS. Yes, ma'am, that's pretty darn close. I'll give you 51 weeks, you've been in effect.

Ms. WARREN. No, we have not been in effect.

Mr. ROSS. But you have had an opportunity for 51 weeks to interpret and understand the Dodd-Frank Act, and getting back to my question, please answer this: Do you know of any product that is not already illegal that is unfair, deceptive, or abusive within the meaning of the act?

Ms. WARREN. Congressman, I can recall no product——

Mr. ROSS. Have you had any discussion with your team as to any such products, or how you would go about identifying such products?

Ms. WARREN. I have not had a discussion with my team about a particular product, no, sir.

Mr. ROSS. Don't you think that's probably one of the most important things, though? I mean, that's the power to ban, to ban, to stop the marketing of a certain product. Don't you think, though, that that would be something that you and your team should be addressing as you go into your first year next year?

Ms. WARREN. Congressman, I appreciate the advice, but actually, no. I think that what we should be doing is concentrating on the places where we can best make changes in the marketplace, and that's, for example, in our TILA RESPA form.

Mr. ROSS. So would it be okay then if we just revoke the power?

Ms. WARREN. Congressman——

Mr. ROSS. Believe me, I'm being very respectful, ma'am. I'm from the South.

Ms. WARREN. Well, I think the point is that we are starting our work in the places that, for example, Congressman McHenry suggested was an important place to start, and that is where we can reduce——

Mr. ROSS. You have the power through the Dodd-Frank Act to ban any such products, and you're telling me now that you've not even given them any consideration. Would it be safe to say then that there are no such products that you are aware of that are either unfair, deceptive, or abusive within the meaning of the act?

Ms. WARREN. Congressman, what I'm trying to describe is that we have priorities, and our first priority in terms of rulemaking is around the TILA RESPA forms. We are trying to reduce regulatory burdens at the same time that we're trying to increase the understanding for consumers so they can make good product choices.

Mr. ROSS. Professor, with respect to my time and yours, I will yield the rest of my time to Mr. Gowdy so that you may adequately answer his questions.

Ms. WARREN. Thank you, sir.

Mr. GOWDY. Payday lenders have a bad reputation for taking advantage of people. No one should expect to be treated well by them. Do you know who said that?

Ms. WARREN. Probably me.

Mr. GOWDY. So that would be one group that should be banned?

Ms. WARREN. Congressman, there's a lot of space between banning a product and making a product clearer to consumers.

Mr. GOWDY. But not including capping the interest rate; you don't have the power to do that.

Ms. WARREN. The statute is unambiguous.

Mr. GOWDY. So you do not think payday lending should be banned?

Ms. WARREN. The statute is unambiguous that we have no authority to engage in usury caps.

Mr. GOWDY. That wasn't my question. My question was, do you think payday lending should be banned?

Ms. WARREN. Congressman, payday lending is one of the areas that will be under our jurisdiction.

Mr. GOWDY. Do you think it should be banned, Professor Warren? You just said no one should expect to be treated well by them. You also said, subprime lending, payday loans, and a host of predatory high-interest loan products that target minority neighborhoods should be called by their true names, legally sanctioned corporate plans to steal from minorities. That sounds like a wonderful thing to ban. Should they be banned?

Ms. WARREN. Or to make better. We have a whole agency, and we have a whole process to work on this. We have a lot of different tools available at the Consumer Financial Protection Bureau. One of the advantages we have is that it is possible to work on multiple fronts at once.

Mr. GOWDY. So with respect to——

Mr. CONNOLLY. Mr. Chairman, I call for regular order.

Chairman ISSA. Excuse me, Mr. Gowdy, I apologize, but Mr. Ross' time has expired, which is why I was already gaveling.

We now go to the gentlelady from California, Ms. Speier.

Ms. SPEIER. Thank you, Mr. Chairman.

And thank you, Professor Warren.

I was at that hearing on May 24th and was shocked by the way you were treated. A number of us members wrote to the sub-

committee chairman and asked him to apologize to you, and I was curious whether or not he has extended an apology to you.

Ms. WARREN. No, ma'am.

Ms. SPEIER. Well, on behalf of the members that found that conduct absolutely beyond the pale in terms of professional conduct for Members of Congress, please accept my apology for that behavior.

We have spent a great deal of time today on a number of issues that are probably premature because you are yet not operational, but this committee just recently had a hearing on the Department of Education's regulations that they are going to impose on for-profit schools, universities, and colleges that, you know, provide not only an education but also do have financing through the Federal Government, through Pell grants and the like.

One of these for-profit colleges, Kaplan University's training manual entitled, "military e-learning modules," tells recruiters how to utilize fear, uncertainty, and doubt in the sales process with regard to competitors' offerings and teaches them how to overcome objections that potential students may raise to signing an enrollment agreement. The document states this technique was originally created within the computer hardware industry and uses these emotions to attempt to influence perception or a belief. The technique is especially effective when prospects introduce the need to examine other online schools.

Now, this is particularly targeted, again, at our military. That, coupled with the fact that not only are we talking about a few incidents of military members, typically abroad, who have been foreclosed on, we're talking about JPMorgan, who has foreclosed on 4,000 active duty members of the military, has made $2 million in refunds, and has paid a $56 million fine; Wells Fargo that has admitted to 55,000.

Now, back in January, I joined—asked a number of colleagues to join in a letter to Mr. Bernanke and also to John Walsh, the Acting Comptroller of the Currency, asking them to audit these very banks. I have not yet heard from any of them, and yet, to my surprise and delight, you've already undertaken to do this within the Consumer Financial Protection Bureau.

So my question to you is, will you also look at this issue as it relates to military servicemembers?

Ms. WARREN. Yes, ma'am, we will. Starting next week, on Thursday, July 21st, we will receive transferred authorities from the other agencies that have been responsible before for the consumer financial protection laws. It will come to the new consumer agency, and we will be in the largest financial institutions engaging in on-the-ground supervision of whether or not they are following the law as regards different consumer financial products.

Remember, I want to be clear about our approach. We are not safety and soundness supervisors. We are there to examine consumer products and examine to see whether or not the financial institutions have put appropriate procedures in place to assure that they are following the law and that they are, in fact, carrying out those procedures and are in compliance with the law. That would be our job. We will be there. We will be cops on the beat to do that starting next week.

Ms. SPEIER. Now, as I understand it, not only can these financial institutions not foreclose on military servicemembers, but they cannot charge more than a 6 percent interest rate. Will you be looking at that issue as well?

Ms. WARREN. Congresswoman, I should make a caveat here. It is the Department of Defense and not the Consumer Financial Protection Bureau that is specifically responsible for the enforcement of the Servicemembers Civil Relief Act, and so what we are—our statutory part will be around truth in lending and other parts of the statute for consumer financial protection, but we will be working closely over a long period of time with the Department of Defense to gather appropriate information through different channels and to be able to work with them in a way that makes us understand the problems better and makes sure there is more diverse enforcement of current laws.

Ms. SPEIER. Thank you. My time has expired.

Chairman ISSA. I thank the gentlelady.

We now recognize the gentleman from Oklahoma, Mr. Lankford, for 5 minutes.

Mr. LANKFORD. Ms. Warren, honored for you to be able to be here. You are a fellow Oklahoman from the Fifth District of Oklahoma, and so let me say welcome to you for being here as well.

Ms. WARREN. Thank you.

Mr. LANKFORD. Let me ask a couple of questions off of you on just some of the structure as it's coming up. You've mentioned several times that the authority is coming over July 21st to the agency from the other agencies, Comptroller of the Currency, FDIC, wherever it may be, for some of these. Do you happen to know or have you heard if, as that authority is transferring over from that agency, that agency has been downsizing as you are ramping up? I know that's not your agency that you're dealing with, but have you heard that they're downsizing to accommodate for the transfer of authority?

Ms. WARREN. Yes, sir, we have. Indeed, there's been—if you will permit me, there's been a lot of trying to coordinate with these agencies. We've done some recruiting from these agencies. You know, there are some good on-the-ground people who currently work at the Fed.

Mr. LANKFORD. There are some people that are—those agencies are downsizing as you are ramping up?

Ms. WARREN. Yes, sir.

Mr. LANKFORD. Okay. Let me follow through on a couple of things. You had great emphasis on the unregulated businesses. Payday lenders you mentioned that a couple of times as well. Do you see a difference between engaging with a payday lender and a community bank, specifically? I know the big banks get tagged all the time on things. I'm just talking about community banks today when I'm talking about banking. Do you see a difference between payday lenders and community banks as far as regulating them?

Ms. WARREN. Yes, sir, I do.

Mr. LANKFORD. Will there be a difference in the way the two are handled, in the way that your agency will interact with payday lenders or community banks?

Ms. WARREN. Yes, sir, there will be.

Mr. LANKFORD. Dodd-Frank has about a hundred rules this year that will be added to community banks. Between now and December 31st, they have a hundred rules to be able to implement on that. Do you anticipate another series of rules on top of those coming down on community banks from the new Consumer Financial Protection Bureau?

Ms. WARREN. I just want to say, on the hundred, it's not a hundred for the consumer agency.

Mr. LANKFORD. That's what I'm saying. They're already getting hundred from Dodd-Frank, not from you. That's what I'm trying to say. If they're getting a hundred already, they're coming down from Dodd-Frank. When y'all stand up, will there be more that will be coming through?

Ms. WARREN. The one that we have teed up right now is this TILA RESPA combination, trying to reduce the paperwork around mortgage origination, something—and I will say to you, sir, because I think it might be relevant. When we first started this process, the idea for us to put that first came from the community banks. And I asked them at many points along the line, I know there have been other changes—I know it costs every time forms are changed—is this something you want us to go forward with? And they have said yes.

We also have as one of our very early rulemaking obligations will be around payday lenders, but of course, I should say, not payday lenders—other nonbank lenders, other than payday, because payday is automatically covered, the large participants, but of course, that's not going to affect the community banks other than how it affects their competitive environment.

Mr. LANKFORD. The concern is, is that right now, they have a lot of rules that they're trying to put into place, and you know well community banking. That is not some large bank with a New York headquarters. This is 12 people in a small town in Oklahoma that they're trying to go implement a hundred rules and figure out how to do it, and it's very overwhelming.

So while the rules come down and say that's not a big rule. It's not the size of each rule; it's the stack of all the rules that are coming down on them.

What I'm asking of you is, in the days ahead, will you please make sure that's coordinated, that there's not just saying, oh, we just added 20 new rules to them, at the same time, OCC added 20 and FDIC added a hundred, and then suddenly, they're getting overwhelmed in a small community bank. If you'd make sure those things are coordinated, that would be very helpful to them to able to continue to have the free flow of credit going on.

Let me ask you as well on the way you will interact with the banks also. You made a statement that one of my community bankers notified me on, in forms of business, that there may be an exam every 2 years on the banks from the—from your bureau. Do you anticipate also engaging as a bank examiner role, not for safety and soundness, but for consumer protection, there will also be an audit of each bank from your agency?

Ms. WARREN. I'm sorry, sir, that's for the 111 largest financial institutions, not for the community banks.

Mr. LANKFORD. So community banks should not be concerned on that?

Ms. WARREN. We are not the supervisor for the community banks.

Mr. LANKFORD. But as far as engaging and doing auditing and stepping in and being another person that's on the ground for them, will not be?

Ms. WARREN. As explained to me, they've run out of chairs for that kind of——

Mr. LANKFORD. They actually have. They have just about every week they have another auditor that's sitting there, so they might as well leave an office set aside for the Federal Government because there's going to be somebody there the next time.

Do you have a concern with the authority that's been given to the specific director to kind of determine products and services that are unfair, that the next director has that same authority to come undo what you do on that?

Ms. WARREN. I think you may overstate the power of the director. There's a whole process in place for this, that starts with research, that starts with community outreach, that goes into analysis of markets, that has cost and benefit. There's a big process in an agency before we get to a place where any rule, whatever it's on, can be issued.

I started to say earlier, just to get an idea about how this agency functions, half of our entire budget and our FTE will be about supervision and enforcement, supervision of the largest financial institutions and supervision of the nonbank financial institutions, and straightforward enforcing the law. About a quarter will be around consumer education, which we haven't talked about much today, and consumer complaint.

And the last quarter has to cover everything else. Writing rules is just one piece of how we can help make this market work better for American families. I've given you our first priority. That's where we intend to go, and we want to do that in conjunction with community banks all around the country.

Mr. LANKFORD. Thank you.

Chairman ISSA. The gentleman's time has expired. Thank you.

I want to announce that when we've completed with Professor Warren we'll take a recess of between 10 and 15 minutes. I estimate that that will occur within about 20 minutes based on the number of members here, and I don't think I can accurately give everyone a half an hour notice, but my intention is to, in fact, allow us to work through Professor Warren's completion, dismiss our witness, and we'll take a recess of not more than 15 minutes and then reconvene for the vote related to the earlier motion.

So I hope everyone's comfortable with that. If people feel they need a half hour notice, they have it, but depending upon people coming back, they may choose to then ask questions so they actually could make it longer, but I want to make sure that—you have been very kind with your time and answers; hopefully, we've been kind back—that we get through it and allow you to get on with your day and we'll get on with our procedures.

So, with that, I recognize the gentleman from Virginia for 5 minutes, Mr. Connolly.

Mr. CONNOLLY. Thank you, Mr. Chairman.

And welcome, Professor Warren. It's good to see you again.

And let me ask you a question. The agency you are representing here today, the Consumer Financial Protection Bureau, was created how?

Ms. WARREN. By Congress.

Mr. CONNOLLY. No, but I mean in a piece of legislation?

Ms. WARREN. Yes, the Dodd-Frank Act, sorry, sir.

Mr. CONNOLLY. And was that act passed with overwhelming bipartisan support?

Ms. WARREN. No, sir, it passed, and I believe there were—there was some bipartisan support, but I don't think it was overwhelming.

Mr. CONNOLLY. How is—tell us about the governance of the Consumer Financial Protection Bureau.

Ms. WARREN. Well, it's set up to have oversight in terms of its money. Its budget is set up outside the political process, like other banking regulators, so that it receives a capped amount of money from the Fed.

Mr. CONNOLLY. But actually, I am asking more about the actual governance. For example, are you appointed by the President?

Ms. WARREN. Oh, I apologize. I currently am the Special Advisor to the Secretary of the Treasury for standing up the consumer agency. There will be a nominee from the President of the United States, and there will be advice and consent, presumably, from the Senate on that nominee.

Mr. CONNOLLY. Are there other members of the board who are also appointed and subject to confirmation?

Ms. WARREN. That's the only Senate confirmable or, I should say, Presidential appointment in the Consumer Financial Protection Bureau.

Mr. CONNOLLY. And on a bipartisan basis in the other body, has there been indication that they're willing and receptive to the idea of such an appointment and they're ready to act on it?

Ms. WARREN. I have seen a letter that says 44 Senators will block any nominee to head up the Consumer Financial Protection Bureau unless the bureau is substantially changed.

Mr. CONNOLLY. From the Dodd-Frank legislation?

Ms. WARREN. Yes, sir.

Mr. CONNOLLY. Which passed into law but not with much of a bipartisan vote, as you indicated?

Ms. WARREN. Yes, sir.

Mr. CONNOLLY. Mr. Chairman, I just want to say, I listened carefully with rapt attention to our colleague, my friend from Tennessee, admonishing this committee, especially the junior members of this committee, for lack of civility and for partisanship.

With all respect, the tone of partisanship and civility is not set by the junior members of this committee; it's set by the senior members of this committee. They're the ones, at the end of the day, who make the rules, enforce the rules, and engage in certain practices or not.

And frankly, while I also regret how you were treated before the subcommittee of this committee, Professor Warren, I think the issue of civility toward you begs the question because what we're

really up against is a relentless attack on the creation of your bureau, of the legislation that created that bureau, even to the point of blocking any nominee.

Every single Republican in the Senate signed that letter you referenced saying they will move to block any nominee of the President's; so if we can't win legislatively, we're going to use other mechanisms to make sure that your mandate is not enforced and that you can't really do your job.

And so while I wish the problem were just one of civility, it goes far deeper than that. It is, in fact, a political attempt to prevent the protection of consumers the legislation foresaw and tried to create a framework for. I deeply regret that because I think you could provide enormous visionary leadership in protecting the consumers of America, and I deeply regret that one party decided to make that a partisan issue rather than try to come together and find a common ground.

With that, I yield back.

Mr. CUMMINGS. Would the gentleman yield?

Mr. CONNOLLY. Yes, I will happily yield to the ranking member.

[The prepared statement of Hon. Gerald E. Connolly follows:]

Statement of Congressman Gerald E. Connolly
Oversight and Government Reform Committee
July 14th, 2011

Chairman Issa, first I would like to apologize to Ms. Warren for how she was treated during her last appearance before an Oversight and Government Reform Subcommittee, since the Chairman of that Subcommittee didn't have the decency to apologize to her himself.

We are fortunate to have Ms. Warren as a witness today because she is America's foremost expert on consumer protection. The fact that she is deeply committed to and knowledgeable of consumer protection is, of course, the reason that Republicans have opposed her nomination to head the Consumer Financial Protection Bureau so vociferously. The same Republicans who conspired with 100 Wall Street lobbyists in an attempt to kill the Wall Street reform bill passed last session have shrilly criticized the proposed appointment of Ms. Warren to head the Consumer Financial Protection Bureau. That isn't surprising, since Ms. Warren's leadership of this critical agency would help hold Wall Street accountable and protect consumers. Surely Wall Street's sycophants have never been so unapologetic in their opposition to consumer protections.

The irony of Republican opposition to oversight of Wall St is that an unregulated, opaque financial market weakens America's economy as a whole, including for investors. The financial crisis was an apt reminder of how financial market deregulation can cause economic crises, as the worst recession in 80 years followed passage of the Financial Services Modernization Act and anti-regulation leadership of the SEC under Christopher Cox and Federal Reserve under Alan Greenspan. Over the last fifty years the financial sector has grown relative to the size of the economy, from 4% of GDP in the 1960s to 8% of GDP today. Over that same time period productivity growth has fallen while real wages have stagnated or declined (on an hourly basis) for most Americans. Financial deregulation has enriched a few investment bankers at the expense of countless wage earners on Main Street.

Servicemen and women are among the victims of a poorly regulated, unaccountable financial market. Ranking Member Cummings and Senator Rockefeller hosted a forum earlier this week to focus on mortgage company abuses of service members. The same mortgage companies that recklessly entrapped consumers with toxic mortgages have all too often foreclosed improperly on military families. The tragic stories that we heard from military families earlier this week is just the latest reminder of why we need a strong regulatory agency to protect consumers—in this case homebuyers—from rapacious mortgage companies.

In fact, *deregulation* probably contributed to market failure by incentivizing high return activities that shifted resources away from investments in small to medium size companies looking for capital. The landmark Gramm-Leach-Bliley Financial Modernization Act contributed to the casino culture on Wall Street and perhaps contributed to a shift in resources from tangible investments to arbitrage and other activities which produce little value for society at large. As former NASDAQ Vice Chairman David Weild noted in testimony before this committee earlier this year, Wall Street's casino culture—enabled by deregulation-- negatively impacts job growth: "In addition to negatively impacting the number of publicly listed companies in the United States, our current market structure is having a deleterious effect on job creation." There is nothing inherently wrong with a large or profitable financial sector. The problem is that the modern financial sector's profits are unrelated or inversely correlated to the health of our economy as a whole, whether that is measured by worker productivity, median wages, or GDP growth.

The Consumer Financial Protection Bureau represents a positive step to restore transparency and oversight to Wall Street after a decade of economically destructive deregulation. By illuminating Wall Street activity, the CFPB actually can increase confidence and markets and contribute to more sustainable growth in capital. Ms. Warren should head this agency because of her outstanding qualifications as a consumer advocate. To resist her nomination on behalf of Wall Street firms which would prefer to remain unregulated would harm not only consumers but also the economy as a whole. We cannot allow Wall Street to destroy our economy as it did in 2008, particularly as we are still struggling to emerge from that financial industry-induced recession.

Mr. CUMMINGS. Thank you very much. I just wanted to add on to what the gentleman just said, and I want to associate myself with his words.

Ms. Warren, there's absolutely no doubt that you bring to this agency something that is so very, very important, and that is passion, and I say to my children, I say to them, if you can take what you believe to be your purpose in life and then match it up with a job, then you are truly blessed. And you bring that passion, competence, and integrity and we really do appreciate you. Just in case I don't have a chance to say that again on the record, I want to make that very, very clear.

Mr. MCHENRY. Gentleman's time has expired.

Dr. Gosar is recognized for 5 minutes.

Mr. GOSAR. Hi, Ms. Warren.

I'm one of the junior members, too, and I'm from the private sector. I'm a dentist, so some of this makes a lot of sense to me, but I also come with a different set of eyesights, too. Is that when you're at the dance, it always takes two parties to dance, and that there's problems not just from the private sector in wrongdoing but also from government. And that's why I come with a different eyesight. I'm also from Arizona, so just to give you some perspective.

So the way I look at things and the way I've seen things is that legislation, when it comes into new existence, isn't always perfect, and so what we're straining here with, and me as one of them, is was that legislation crafted right, did it have the proper checks and balances, and I think, I hope and I extend that's what the tenor is there is that question. And when you don't get an answer to a question, it just creates more questions. I hope you understand. Okay.

So, with that being said, I heard you talk to Mr. Gowdy that no product should be banned, okay. I thought I heard that you didn't say any product should be banned.

Ms. WARREN. No, Congressman, I hope what I said is that I've been in hearings before. The President of the American Bankers Association has been asked, are there products that should be banned. He said, yes. I've said I think the way we should go is I think we should start with much clearer disclosure. I don't think it's appropriate to take any tool off the table. It depends on what happens.

Mr. GOSAR. I love where you're going with this.

Ms. WARREN. Good.

Mr. GOSAR. What I'd like to do is see us kind of work in, this is a new agency; it's got some breadth of powers. So, with that being said, I mean so would you endorse repealing the specific power of Dodd-Frank to that degree, that you could not ban any specific item.

Ms. WARREN. No, Congressman.

Mr. GOSAR. You wouldn't?

Ms. WARREN. No.

Mr. GOSAR. And you say that power, that law is perfect?

Ms. WARREN. Congressman, repeal the—giving the agency the powers that Dodd-Frank has given it, you know I think what we ought to do is we ought to get out there and get started on behalf of the American people.

Mr. GOSAR. But I'm a businessman, too, and the last job numbers I saw are just plummeting, and part of that is, is the uncertainty we're creating in here, and to have one individual truly heading an agency, dictating that there won't be a product, creates some uncertainty into the markets. So you can understand why me as a businessman don't like that, right?

Ms. WARREN. Actually, I do have a little problem with why you wouldn't like that because when we're starting and we've made clear our initial regulatory actions, with the help of the consumer—with the community banks is that we're actually going to change the law in a way that reduces the regulatory burden for these community banks and at the same time increases the ability of customers to read and understand a mortgage. You've seen that——

Mr. GOSAR. Well, I love where you're going here. I'm sorry, again, I'm going to interrupt. I'm not being rude, but I've got so little time here. Okay. I also told you I'm from Arizona, and Ms. Buerkle talked to you and you gave her some answers that you had a lot of outreach, a lot of support from a lot of different perspectives, big banks, community banks. Can you tell me specifically which banks those are, the community banks?

Ms. WARREN. Sure, Roger Beverage at the Oklahoma Bankers Association. I met with Roger and probably 25 bankers on the very first day I was in office. They were here visiting from Oklahoma.

Mr. GOSAR. You have letters of support from all of those?

Ms. WARREN. Well, Roger's their leader. I don't know how every single one of them feels.

Mr. GOSAR. Let me ask you a question. I know we talked about the housing market. Could you agree that Arizona is one of the epicenters for a problem with mortgages and home crisis, would you say?

Ms. WARREN. There's some terrible problems in mortgage foreclosures in Arizona.

Mr. GOSAR. Give me some examples of some groups that you've reached out into Arizona because it seems to me if we've got a problem of the magnitude like this, that you'd reach out and have some support in Arizona. Could you tell me specifically and throw a couple of community banks in if you could?

Ms. WARREN. Congressman, I've talked with community bankers in all 50 States, including community bankers in Arizona, but I'm afraid I'm not good enough to remember the names of everyone.

Mr. GOSAR. I'd love to know who they are, and why I ask is that we've had to have outreach—I'm from one of the poorest districts in the country. I have a lots of Native Americans, have a lot of veterans, have a lot of senior citizens, a lot of folks that—this agency is really easy in my district because there are no choices. You cannot refinance your house. Right now, most of the people are living not paying their mortgages, and the banks aren't even putting it on their list because they can't take it as another hit.

And I'm not finding, from my standpoint in District One, any banks that have been contacted in my district from you, and I'd love to know who they are so that we would find out and get a list from you if we could. Thank you.

Mr. MCHENRY [presiding]. The former chairman, Mr. Towns, is recognized for 5 minutes.

Mr. TOWNS. Thank you very much.

Let me begin by saying that I've heard some of my colleagues' concern about the salary of the workers. Let me say to you that I applaud you for really paying wages that you can keep people, to be able to do the kind of job that needs to be done.

I think that if we look back and if we're honest that I think some of our problems have been is because we did not pay people that had oversight responsibility the way we should have paid them, and that led to some of the problems. I do believe that. I've not done any research on it, but I do think that that's an issue, but at least you have the insight and understanding to pay people so you will be able to hold on to them to be able to do the job that needs to be done to bring about the confidence that needs to happen in order for us to be able to move forward from this point on. So I want to go on record saying I salute you, you know, for doing that.

And of course, I was in Afghanistan not too long ago, and I had an opportunity to talk to many of the soldiers and their real concern was about the fact that they were having difficulty maintaining their homes, and they gave me stories like, for instance, they were stationed in one place, transferred them out and then, of course, they had a house there, and now they're moving again, and what can we do? How could you be a helpful to us? So that was the outcry that was coming from many, many of the soldiers as we talked and walked in Afghanistan, and to me, I think that we have an obligation and responsibility to do something about it.

What suggestions do you have?

Ms. WARREN. Well, Congressman, I will start by saying you're really showing how we are all paying a price for a broken consumer credit system, that letting things get as far out of control as they got in 2005, 2006, 2007, 2008, and now we pay. At a minimum, what we can work on at the Consumer Financial Protection Bureau is giving servicemembers and veterans a place to come, a place that we can at least get a better understanding of what's wrong, to work with the Department of Defense to make sure that the Servicemembers Relief Act is fully and fairly enforced, that other tools that are available to us, like truth in lending, are also fully and fairly enforced and to make this issue a national priority for America.

You know, we've done a lot to heal other segments in the economy, but we have not focused on the impact on our servicemembers of a broken credit market, and we must do better.

Mr. TOWNS. I really appreciate you focusing on it, and let me again thank you, of course, Professor Warren, and Mrs. Petraeus for your effort to bring accountability to the banks that unlawfully foreclosed on servicemembers, especially during the course of deployment. I want to do that.

And on July 6, 2011, Mrs. Petraeus announced that the Consumer Financial Protection Bureau and the Judge Advocate General of the U.S. Army, Marine Corps, Navy, Air Force and Coast Guard agreed to a number of steps to provide stronger protections for servicemembers and their families; is that right?

Ms. WARREN. Yes, sir.

Mr. TOWNS. One important aspect of this has to be education, but another aspect has to be enforcement. When Mrs. Petraeus appeared at the forum on Tuesday, she emphasized this. Here is what she said. Let me go repeat, "You could have the laws in place, but if the people on the other end of the phone are not aware of them or are not applying them properly, then it is not going to work." What is your reaction?

Ms. WARREN. I think that is absolutely certain, Congressman. She speaks truth on this. You know, one of the things I want to say about the consumer bureau and I'll just say it again quickly, half of all of our money, our employees, eventually will be in supervision and enforcement, not in trying to change rules but in making sure that the law is enforced. A quarter of our people will be in financial education and consumer complaint, dealing right on the ground with families, and the remaining quarter will be about research, will be about rule writing, will be about the other things it takes to keep an agency functioning. We believe in enforcement at the consumer agency, yes, sir.

Mr. TOWNS. Let me say this before I yield back, Mr. Chairman. You know, I'm excited about this agency, and of course, you are launching on my birthday.

Ms. WARREN. I'm delighted to hear that. Happy birthday, sir.

Mr. MCHENRY. The subcommittee chair on government management, Mr. Platts, is recognized for 5 minutes.

Mr. PLATTS. Thank you, Mr. Chairman, appreciate you and Chairman Issa holding this hearing.

Ms. Warren, appreciate your being here and your patience as all of us have an opportunity to interact with you and your past and current service to our fellow citizens.

I don't want to be repetitive, and so I'll try not to be, and I also plan to try to focus specifically in areas that deal with the subcommittee I chair, which is Government Organization, Efficiency, and Financial Management, and I chaired it 4 years past with Mr. Towns, who was ranking member, and I was chair. Then he was chair, and I was ranking member. And so I'm going to get into some structure of the bureau and in the area of financial management.

In reading through your testimony, I know you're standing up a new bureau, a lot of hard decisions, and part of your testimony is the commitment to accountability and transparency and seeking comments and critiques, whether this falls under the area of comment or critique, it's meant to be helpful. And that is, in your testimony, you talk about how you're hiring. You talk about general counsel, information technology, procurement, human resources. An area that's not mentioned specifically, there is financial management and a chief financial officer, and I guess if you could give me an update, first. I know that you had a request for, you know, resumes in essence for a CFO. I think it closed maybe in late June. Where do we stand on getting a CFO in place, given how I see the importance of that position?

Ms. WARREN. Right. And I'm glad you asked about this because this is very important, and in the startup phase, we've also had to lean on Treasury to make sure that we were following every letter of the law and the spirit of the law and doing this appropriately.

Would you permit me the tiniest little diversion? You stop me obviously at any second.

I actually want to start with COO because in the way I understand this, this becomes even more important. What we did for the chief operating officer at the bureau, who is the person who is responsible for the——

Mr. PLATTS. The director——

Ms. WARREN. We hired someone who has been the head of a very large financial institution. She has been responsible for a budget, has been the person who has had to sign off on a budget, and I may get my numbers wrong, I believe it's over a billion dollars. She has been responsible for the management of tens of thousands of people. We hired her. She had not had government experience. What she had had was private sector experience and private sector experience in keeping up with every nickel and making sure it was well spent.

We have an acting chief financial officer who has really been terrific and who has worked, not only to make sure we have the appropriate internal procedures but with Treasury and their existing officers and I should say has worked with the Inspector General for Treasury and the Inspector General with the Fed so that we were getting external review of how we were setting our procedures up.

Mr. PLATTS. Your mentioning COO was kind of in line with what I wanted to follow up in. Glad to hear the quality of the person in that position, and hopefully someone of equal caliber will be in the CFO permanent position. The one concern I guess is, one, on the alignment, emphasizing that direct access in a major corporation, any CFO has to be directly tied to the CEO, you know, to the director of the whole bureau. Is delineating within the organization, great you have a good COO, but structurally make it clear that that CFO is directly, you know, reporting, you know, to the director because of the importance of financial management. We're talking hundreds of millions of tax dollars or fees and dollars ultimately that your bureau is going to be handling.

Ms. WARREN. The organization chart, as it is set up right now, is that the CFO reports directly to the COO, who in turn reports directly to the director so——

Mr. PLATTS. I would encourage and when we sit—it is because you are a new organization, when we set up the Department of Homeland Security Under Secretary of Management, we had a dual report where there was a CFO reporting there, we also had it set up going directly so that it sent a message to the whole agency that CFO has direct access to the director, you know, does go to the COO, but we want to make sure it's sending a message, and it does relate to the issue that I know—I don't want to be a part of the budget justification issues.

Another way you send a priority is how much is being allocated to the CFO's operation and internal control, and here at the base level, you know, at the ground level, setting up really strong internal controls so that when you get into the audits by GAO, you know, your financial reports, you're not playing catch up because you didn't have good systems in place. I talk about internal controls over and over and over. So some suggestions in that area of

financial management, I hope you'll take to heart as you move forward.

Thank you, Mr. Chairman. I yield back.

Ms. WARREN. And I just want to—could I say, thank you very much, Congressman.

Mr. PLATTS. Yep.

Ms. WARREN. Thank you.

Mr. MCHENRY. Mr. Davis of Illinois for 5 minutes.

Mr. DAVIS. Thank you very much, Mr. Chairman.

And thank you, Professor Warren, for your service to the country, for your patience, and for being here with us this morning.

When you appeared the last time—and let me just say that I believe that consumer protection, consumer education, is one of the most valuable functions that our government can perform for its citizenry. And when you appeared before us the last time, on May 24th, the title of hearing was, "Who's Watching the Watchmen?" But I think a better question is, who is watching the banks? We certainly aren't. I wonder if the committee as a whole is ever going to watch the entities that have admitted that they need watching.

This committee has now summoned you twice to appear before us. We have sent a massive document request seeking all manner of emails, reports, and other items. At the same time, we have not brought the mortgage servicers in even one time to answer for their conduct. We have asked JPMorgan, that they be invited to testify, but the chairman did not agree to that request. Nor has the committee made a single document request to a mortgage servicer the entire year.

I want to ask you to weigh in on this, but it seems pretty obvious that our priorities are somewhat backward.

Here is what I will ask you about. On July the 11th, Newsweek published an article entitled, "The Billion-Dollar Bank Heist." It notes that the same financial institutions are spending vast amounts of time and money to impede the Dodd-Frank Act and the Consumer Bureau from becoming fully operational and effective.

As a matter of fact, I will read from that article. It states that, "JPMorgan Chase is on track to spend $7 million this year on lobbying. Wells Fargo, which spent $5 million last year, spent $1.9 million on lobbying in just the first quarter of this year. None of that includes the millions in campaign contributions the banks and trade associations have poured into the coffers of those Members of Congress who sit on the relevant committees responsible for financial reform, especially those willing to take on Dodd-Frank," end of the article.

Professor Warren, these are the same two institutions that publicly admitted to wrongdoing in State and Federal mortgage servicer investigations, is that not correct?

Ms. WARREN. Yes, sir.

Mr. DAVIS. As I understand it, JPMorgan admitted to overcharging thousands of Active Duty military personnel millions of dollars in fees and interest charges, in violation of the Servicemembers Civil Relief Act. Is that correct?

Ms. WARREN. Yes, sir.

Mr. DAVIS. And Wells Fargo admitted to flaws in 55,000 foreclosure proceedings.

And I guess my question is, do you think this kind of action and activity has anything to do with what has been their opposition to your agency becoming fully operational and carrying out its duties and functions?

Ms. WARREN. Congressman, it was a hard fight to get this agency passed into law, but I thought, once it had passed and it had become the law, that this kind of fighting would be over, at least for a while, and we would have a chance to get on with protecting families. Obviously, I did not fully understand the politics of the situation.

Mr. DAVIS. Well, let me just thank you again for your service, because I believe that this agency is designed to function in the public interest and that you have demonstrated throughout your career that you are a public-interest-oriented individual, and that is exactly what you will do. I thank you very much and appreciate your service.

Thank you, Mr. Chairman. And I yield back the balance of my time.

Ms. WARREN. Thank you, sir.

Chairman ISSA [presiding]. I thank the gentleman.

Professor, you have been very kind with your time. Would you like a short break before we do the last few or——

Ms. WARREN. If we have a few more to go, could I just be excused for about 3 minutes?

Chairman ISSA. Absolutely. We will take a 5-minute recess.

Ms. WARREN. Thank you.

[Recess.]

Chairman ISSA. The hearing will come back to order.

Professor Warren, we are down to just the last few. The ranking member and I have agreed that we will conclude by approximately 1 o'clock. You will be dismissed, and then we will talk about other matters. And I want to thank—that may be a very short, quick "thank you, goodbye," so I want to thank you in advance for your participation.

I have tried to let the clock run so that you get full answers. Hopefully I have never cut you off. This has been the kind of hearing, at least as to your participation, that we strive for, and we appreciate your being here.

And, with that, we recognize the gentleman from Florida, Mr. Mack, for his round of questioning.

Mr. MACK. Thank you, Mr. Chairman.

And I also want to thank you for being here and, your testimony, not once, not twice, but a third time. And so I appreciate that very much.

And I want to move in to another area a little bit, and maybe you can help me understand a few things. And just to be clear, I oppose the legislation. I don't support the legislation. If my comments appear to some to be political in nature, it is because I don't trust what it is that we are doing. So, just wanted to put that on the table at the outset.

Let me ask you—start with this. Are you still actively campaigning for your preferred settlement?

Ms. WARREN. Congressman, you mean in the mortgage servicer, where the mortgage servicers——

Mr. MACK. Yes.

Ms. WARREN. This is an effort that is led by the Department of Justice——

Mr. MACK. No, but—all right. But are you still actively campaigning for your preferred settlement?

Ms. WARREN. Am I still—no, Congressman, but I am not—I just want to be careful about the premise here. I am not sure what kind of campaign I have ever had, but——

Mr. MACK. Well, haven't you been—I mean, isn't there a preferred settlement option that you think is right, and haven't you been out kind of campaigning around the country for that?

Ms. WARREN. Around the country?

Mr. MACK. Yeah, the country.

Ms. WARREN. On a settlement for mortgage servicers? No, sir, I don't think so.

Mr. MACK. Okay, so you haven't been campaigning for a preferred settlement? Have you or haven't you?

Ms. WARREN. Congressman, I don't think I understand what you mean.

Mr. MACK. Okay. Have you been engaged in trying to convince people that your point of view is right in a settlement?

Ms. WARREN. Congressman, I am always engaged in trying to persuade people that my point of view is right.

Mr. MACK. Okay. But have you been doing that with attorney generals around the country or private industries, banks?

Ms. WARREN. I don't think I have had a conversation with anybody in private industry about mortgage settlement for months. And I——

Mr. MACK. But you have stated that——

Ms. WARREN. I don't think.

Mr. MACK [continuing]. These are in negotiations with the private parties, are entirely directed by the Department of Justice, by the States' attorney generals, and by other Federal agencies.

Ms. WARREN. Congressman, I think, if I am following the same thing you are reading, the negotiations over settling the wrongdoing——

Mr. MACK. All right. Let me—wait, I am sorry, because my time is going to go by, and I want to get to some specific things.

So you have been saying that you are only giving advice. Does that advice mean to seek out meetings with States, attorney generals in different States?

Ms. WARREN. If it is helpful, I have been glad to talk with attorneys general, sir.

Mr. MACK. Does that mean you give advice to private parties to the settlement?

Ms. WARREN. To private parties?

Mr. MACK. All right, maybe this will——

Ms. WARREN. No, sir.

Mr. MACK [continuing]. Help you. I would like to put an email document up on the screen, if we could.

Number one, please?

This is a copy of an email from Iowa's assistant attorney general to someone with CFPB on February 24, 2011, where he states that, "It is my understanding that you," Ms. Warren, "would like to

make a loan mod presentation to the executive committee," which is referring to the National Association of Attorneys General. "We would like to do this."

Did your presentation give advice on the mortgage settlement?

Ms. WARREN. Congressman, I think you might want to look at the email that preceded this. Because, as I recall, there is an email that precedes this that——

Mr. MACK. Did you give advice on your preferred settlement?

Ms. WARREN. Congressman——

Mr. MACK. All right.

Ms. WARREN [continuing]. I gave advice——

Mr. MACK. Let's go to the——

Chairman ISSA. You know, I would ask unanimous consent that the gentleman have 2 more minutes. In return, please, Ms. Warren, go ahead and finish your answer. I want it to be the time necessary to get a full answer and the additional followup questions. Additional 2 minutes.

Ms. WARREN. I will try to be as right to the point.

The first point is, I think this email says that I was trying—I was soliciting to make a loan presentation. And since you had started your question there, I simply wanted to say, I think if you look at the earlier emails, there may have been some misunderstanding. I was asked by the attorney general of Illinois, I think it was, to make this presentation. It was their idea.

The second question about did I talk with the attorneys general and give them advice, yes, I certainly did. Yes, sir.

Mr. MACK. That you gave advice on your preferred settlement?

Ms. WARREN. Sir, I said things I thought were right, yes.

Mr. MACK. Okay. But haven't you been saying that you haven't been participating in these things? Hasn't your quote been that you have been giving advice to the Secretary of Treasury and other Federal agencies? But you have been avoiding answering this pretty simple question. I mean, the question we want to know is, are you out there trying to—part of the negotiations on this settlement?

Ms. WARREN. Congressman, on April 4th, I said, "We have provided advice to Federal and State officials regarding a potential servicing settlement. In doing so, we have been an active participant in interagency discussions, sharing our analysis and recommendations in support of a resolution that would hold accountable any servicers who violated the law."

It also says in this letter, "The consumer agency is not conducting settlement negotiations with mortgage servicers."

Mr. MACK. Okay. Have you talked to private—have you talked to any private servicers, private industry, about the settlement?

Ms. WARREN. We have not engaged in negotiations with any private—with any of those who are alleged to have violated the law.

Mr. MACK. Okay. Let me ask you this.

If we can put up Document 4?

Here is an email from the chief executive officer at Wells Fargo to you on February 25, 2011, with the subject, "Mortgage." And he wrote to you, "Would you be interested in discussing what the press is reporting on speculated terms and conditions to settle the mortgage servicing issues?"

You replied later that day, "I apologize for not getting back to you earlier," and then you gave him your cell phone number to call over the weekend.

What did you and the CEO of Wells Fargo discuss about mortgage servicing issues?

Ms. WARREN. I started that conversation by saying that "I am not able to negotiate or discuss the settlement negotiations with you in any way, shape, or form. I am sorry"——

Mr. MACK. And was that the end of conversation?

Ms. WARREN. "I am sorry, but I am not able to do that."

Mr. MACK. And that was the end of the conversation?

Ms. WARREN. Yes, sir, it was.

Mr. MACK. And then the last document, if we can put up Document 5——

Chairman ISSA. If the gentleman would make this his last question.

Mr. MACK. This is my last question.

Document 5, in an email to—I believe it is Mr. Date, the associate director of CFPB, to the executive vice president of JPMorgan Chase on February 24, 2011, with the subject, "Monday agenda." And he wrote, "Given persistent rumors and headlines, I do not want this meeting to be construed as relating to any potential settlement discussions or regulatory enforcement actions. And I think that the meeting really has to be off the record."

Why was Mr. Date so worried about the meeting being construed as relating to any potential settlement?

Ms. WARREN. Well, he wanted to make clear, as we have with all of the mortgage servicers whom we have spoken with them, that we are not engaged in any kind of settlement negotiations.

As Mr. Date explained in his testimony and I am glad to explain, we have been receiving information and requests from people throughout the industry. We are standing up an agency, and we are trying to understand how this industry works. But we have been completely unambiguous in telling participants, "We are not part of the settlement negotiations."

Mr. MACK. So you still stand by the fact that you are not actively campaigning for your preferred settlement?

Ms. WARREN. Congressman——

Mr. MACK. It is a "yes" or "no." Yes, you are, or no, you are not.

Ms. WARREN. I just don't know what you mean by the word "campaigning." If it means I think my ideas are good and I would rather have people follow my——

Mr. MACK. And are you actively campaigning with the participants?

Ms. WARREN. I am not—we are not talking to the participants about mortgage servicing.

Mr. MACK. Is there a potential——

Mr. MILLER. Mr. Chairman, regular order.

Mr. MACK. Is there a resolution——

Chairman ISSA. Wait. No. The gentleman, I apologize, but your time really has expired.

Mr. MACK. Thank you.

Chairman ISSA. With that, we go to the gentleman from Ohio, Mr. Kucinich.

Mr. KUCINICH. Thank you for being here, and thank you for your service to the country.

Ms. WARREN. Thank you.

Mr. KUCINICH. I would like to go back to the way that you see your responsibilities. What do you believe is the major purpose of your job today in terms of protecting consumers?

Ms. WARREN. The purpose of the consumer protection agency, as I see it, is to give consumers a fighting chance in the credit marketplace, to get enough basic information that they can make their decisions about what products they want to use.

Mr. KUCINICH. And is it your belief that, prior to the creation of this agency, that consumers really didn't have a fighting chance?

Ms. WARREN. Congressman, I just think there is a lot of evidence that they have not had a fighting chance in the credit markets over the last decade and, in some cases, longer.

Mr. KUCINICH. Would the proliferation in the past of no-document and low-document loans come within that observation?

Ms. WARREN. In my view, yes, sir.

Mr. KUCINICH. What is the area that you intend to focus on with respect to banking today? What are some of the most important consumer services you would like to perform, A? And B, what do you say to the public about, if they have a complaint, how do they get it to you?

Ms. WARREN. Yes, thank you, sir.

The first one is really about enforcement of current laws. One part of the agency that I am enormously excited about is that we will have bank supervision officers who will be in the banks, the 111 largest financial institutions in the country, very big financial institutions, checking to see if they are complying with current laws.

This isn't about expanding the law. This is about taking the 19 Federal statutes that are out there, that are currently—7 different agencies, bits and pieces scattered around—it is to bring it to one place. We will have people who will be in those banks, looking at their books, looking at their records, determining whether or not——

Mr. KUCINICH. So you are functioning both proactively by looking at the records but you are also functioning by reference, people referring complaints to you?

Ms. WARREN. Yes, sir.

Mr. KUCINICH. And when you are in the banks looking at their records, what are their statutory obligations with respect to their compliance with you? And are you finding any resistance?

Ms. WARREN. Congressman, we are not there yet. We will go for the first time—next Thursday is the first day that we will be statutorily authorized to show up at the banks. Now, I don't want to overpromise; we can't go to every bank on the first day. But we are putting in place our plan for how to get out there——

Mr. KUCINICH. So walk me through that. Do you knock on the door of the bank president? Do you call ahead of time? Do you send them a letter? What do you do?

Ms. WARREN. We send a letter. First, we have to do a lot of internal work, partly because we have to do a serious risk assessment.

Mr. KUCINICH. Right. How many letters do you think you will be sending out?

Ms. WARREN. At the beginning, I anticipate we will probably be sending—I am worried that Steve Antonakes, my head of bank supervision, may fuss at me when I get back, but I am anticipating it would be in the range of about 20 letters.

Mr. KUCINICH. And would they go to banks based on their annual revenue? Or how would you determine who you send it to?

Ms. WARREN. Bank supervision actually takes in to account a lot of factors about how much risk you think any individual bank poses and how to assess those risks. As you know, the risks could sometimes be that it affects a lot of people but only few dollars; it could be that it affects only a few people but really big dollars. Some banks have——

Mr. KUCINICH. When you start—that you sent out the letters, it is essentially a private process?

Ms. WARREN. Yes, sir.

Mr. KUCINICH. So that no one gets smeared because they get a letter, but they are warned that they are expected to cooperate.

Ms. WARREN. Yes, sir.

Mr. KUCINICH. So then, how many people arrive at a bank, let's say?

Ms. WARREN. Well, it depends. These are—as you know, we are dealing with the largest financial——

Mr. KUCINICH. Right.

Ms. WARREN [continuing]. Institutions. But a team could be anyplace from 4 or 5 people maybe up to 20, 30. It depends on the kind of product we are trying to supervise at any given moment.

Mr. KUCINICH. One last question.

Ms. WARREN. Yes, sir.

Mr. KUCINICH. As you get the agency up and running, is there a number or—and maybe you already said this—an address that people can communicate to, an email or a Web address they can contact to file a complaint?

Ms. WARREN. So let me say two things very quickly on that. We have a Web site that is up and running right now, www.consumerfinance.gov. Anyone——

Mr. KUCINICH. Www.consumerfinance.gov.

Ms. WARREN. Right. One word, consumerfinance.gov. Not very catchy, but—people can email us now.

We will have a formal complaint process in place starting on July 21st starting with credit cards. We are going to do this by product. We are trying something very innovative here. We will roll out the first one on July 21st, and the others will follow, product by product.

Mr. KUCINICH. Thank you very much, Ms. Warren.

Ms. WARREN. Thank you.

Mr. KUCINICH. Thank you, Mr. Chairman.

Chairman ISSA. I thank the gentleman.

The gentleman from Michigan, Mr. Walberg, is recognized for 5 minutes. And you are estimated to be the last one.

Mr. WALBERG. Well, better last than not at all, right? Thank you, Mr. Chairman.

And thank you for your endurance, Professor.

In a press release, it has been noted that the CFPB has determined that it will consider supervising such things as debt collection, consumer reporting, consumer credit and related activities, money transmitting, check cashing and related services. Is this list now complete?

Ms. WARREN. So, Congressman, I appreciate your asking about this. As you recall, the way Dodd-Frank was set up is that in the nonbank financial institution space we will automatically be required to supervise three types of institutions, no matter their size: private student lending, payday lending, and mortgages.

For the rest of consumer financial services that are not handled by banks, we are required as an agency to supervise the largest—I think it is called "large"—the large institutions. We are required, again by Dodd-Frank, to set up a rule to determine what that is and what areas it goes in to.

What we have started doing is—we are not in the formal rulemaking process yet. We are bringing in people——

Mr. WALBERG. When will that be?

Ms. WARREN. The formal rulemaking process?

Mr. WALBERG. Yes.

Ms. WARREN. I am sorry. First, we have to get better information before we are ready to do a formal rule. So we have started the process by bringing in industry participants, community banks, credit unions, large financial institutions, trade associations, consumer groups——

Mr. WALBERG. Any specific criteria that you use in determining these, other than largeness?

Ms. WARREN. Well, this is the interesting question, given the open texture of Dodd-Frank on this point. We have actually been talking with all of the stakeholders about what is the right approach here, and we have gotten some very creative ideas. We are trying to work with them, we are trying to work with industry to find the right way to do this out of the box.

Mr. WALBERG. Well, the statement of the openness of Dodd-Frank doesn't give me a lot of comfort about the—not simply the consumer protection, but the protection of liberty——

Ms. WARREN. Fair enough, sir, but I——

Mr. WALBERG [continuing]. Choice, individual freedom, and self-determination as well. So I guess that is why I asked the criteria. But you indicated that it is fairly broad.

Ms. WARREN. I want to say that, as best I can, we have gotten enormous support from the industry, from consumer groups, from banking groups for the process we are using to try to embrace everyone's participation in this and to give them all an opportunity to help us hammer out a rule that works best for everyone. That is what we are working on right now, sir.

Mr. WALBERG. I appreciate that.

Let me continue that. How will the Bureau undertake the analysis required under Dodd-Frank, such as the impact that a rule or regulation will have on consumers? And what legal protection may already be in place for consumers before the Bureau can promulgate a rule or regulation?

Ms. WARREN. Well, I think the best way to say this is we are building a strong research function. We have—it is our view that

it is our responsibility to study and understand how markets are working, what consumers actually face, what community banks actually face in terms of their regulatory hurdles, how markets operate.

We will be a data-driven agency. I think we proved that starting back in February, before we were even formally launched, when we started a process to do an analysis of the CARD Act that had passed Congress. And we brought in stakeholders from across the industry, we developed data, we asked for their data so that we could evaluate——

Mr. WALBERG. Let me ask just in the remaining 43 seconds I have, how much weight—on another area—how much weight will be given to the fact that many products and services that the Bureau could potentially regulate are already well-regulated by the States, bringing the States into the whole equation here?

Ms. WARREN. It is certainly a part of our consideration how much regulation already exists. And if there are no problems, then there are no——

Mr. WALBERG. How much weight does that play, though, in making that determination?

Ms. WARREN. Well, it is—big. I mean, it is important, it is heavy, it is very relevant, how much regulation, how effective the regulation is, how well-enforced the regulation is, how consistent the regulation is throughout the country. Those are enormously important to us as we go forward.

And I should say, in our early meetings with the industry, with consumer groups, this is exactly an issue that has been raised. And there were some differences of opinion between, for example, the community banks and the non-regulated financial services industry about how much effective regulation was occurring at this point.

Mr. WALBERG. I appreciate that. I know my time has ended. I would just encourage you to put heavy weight on the States, being that the original intention was not for the Federal but for the States to have that type of control.

Ms. WARREN. I understand——

Mr. WALBERG. Thank you.

Ms. WARREN [continuing]. And I appreciate that.

Chairman ISSA. I thank the gentleman.

Professor Warren, as I predicted, additional Members have returned from their other committee assignments. Could you be kind enough to give us up to another 15 minutes?

Ms. WARREN. Of course, Congressman. I have cleared my schedule, and I am here for as long as you need me.

Chairman ISSA. It has still been a long day for you.

What I would like to dispense with during this intervening period is an announcement that the ranking member and chair have agreed to a series of joint letters related to, specifically—and this is germane to the area you will be involved in a week from now—related to the members of the military and some of the loan activities.

We are going to inquire in different ways to all 10 entities, financial entities, some of which are banks, some of whom have given responses, some of whom haven't. Additionally, we are going to make a request to the Veterans' Affairs Committee, who apparently

has done a quite a bit of discovery, which is why we thought much of this was already done—bring that together, and then see where we go from there.

I now recognize the gentleman from Maryland.

Mr. CUMMINGS. Mr. Chairman, I want to thank you for your cooperation. We are just merely trying to make sure we zero in on this problem. And I know you share my concerns and all of our concerns. And so I really appreciate this.

And, with that, I will—I guess we are—I withdraw my motion.

Chairman ISSA. I thank the gentleman.

And, Professor Warren, this is an area that the committee, although it doesn't have exclusive jurisdiction, does want to make sure that this historical event is never to be repeated when it comes to our military overseas.

With that, I recognize Mr. Braley for his round of questioning.

Mr. BRALEY. Professor Warren, I heard you calling my name when you raised concerns about financial products that cannot be read by average customers. And the reason I say that is because, on October 13th of last year, President Obama signed into law my Plain Writing Act that I fought 4 years to get through both the House and the Senate. And that means that on October 13th of this year, every Federal agency is going to be required to use plain language in covered documents, using writing practices that are clear, concise, well-organized, and written for the intended audience.

And this is something that has broad, bipartisan support but is part of what is endemically wrong with the way we write regulations and the way that financial products are written. And I would give you strong incentive to take a look at plain language and plain writing standards as a way of looking at how consumers can be protected in a much more powerful way and hope that that is something that you would consider.

Ms. WARREN. Congressman, could I just add, I have already looked, and I am a huge advocate of the notion, not only that financial services companies ought to be required to write in plain language, but that the government itself should be, as well.

And I want to say, it is an uphill battle. It is hard to push—even within our agency. We have well-intentioned folks, but we have all learned a different way of thinking about regulations, of reading regulations, of writing them.

I have talked to community banks around the country who say, "I want to comply with the law. I can't read it. And I can't afford to hire an army of lawyers to come in and read it for me and then tell me what I am supposed to do."

I can tell you, the direction we want to go is exactly where you are on this. I can also tell you, it is a battle to get there. It is hard. But it is something I am very committed to. I am committed to it on behalf of the American people, on behalf of community banks and credit unions and others who really suffer under the notion of, you are legally obligated to do something and you can't figure out what it is.

Mr. BRALEY. As the ranking member of the Veterans' Affairs Economic Opportunity Subcommittee, I have participated in hearings dealing with this underlying problem of these loan complica-

tions to our service men and women, and I attended the forum that we have been talking about here today.

But I have a concern, and my concern is, we hear a lot about "too big to fail," but as it comes to providing some level of responsibility for these lenders, I fear we have gotten too big to punish. Because when you look at the magnitude of this problem and you look at the existing sanctions to punish it, it is obvious that it is not achieving its desired effect.

And I want to give you an example. I went back to Dubuque, Iowa, about 2 months ago for a welcome-home ceremony for a young Marine who lost both of his legs above the knee. And thousands of people turned out that day to line the route from the airport in Dubuque to his home. And we passed by many community banks and credit unions that had signs out front welcoming him home.

And this gets down to the problem of who holds the paper in our increasingly complex mortgage industry. Because I guarantee you, if one of those local banks that we passed had engaged in the types of practices we talk about at these hearings, they would have been run out of town by the people lining that parade route.

And I am concerned because the American people are not as outraged about this practice as you and I are and members of this committee are. And it is an insult to the people who put their lives on the line every day that we allow this to continue while these institutions continue to profit.

And I will yield back.

Mr. MCHENRY [presiding]. Mr. Farenthold of Texas is recognized for 5 minutes.

Mr. FARENTHOLD. Thank you very much.

I would like to yield my time back to you, Mr. McHenry.

Mr. MCHENRY. Thank you. I thank my colleague for yielding.

Ms. Warren, you have previously written, "Big corporate interests, led by the consumer finance industry, are devouring families and spitting out the bones."

Ms. WARREN. Yes, sir, I sure have.

Mr. MCHENRY. Now, previously, this committee had a number of questions about whether or not you would ban products. Now, has your opinion changed in this time? Because it seems like what your rhetoric was previously was that there are products that should be banned.

Ms. WARREN. No, Congressman. Let me see if I can say this more clearly.

There are a lot of tools available to make markets work better for American families. It does not require—banning is not the only tool. In fact, it is probably not nearly the most effective tool.

I think the best place to start in changing a world in which big corporate interests chew up American families and spit out the bones is to make prices clear, to make risks clear, to mow down fine print so people can make head-to-head comparisons, looking at three or four credit cards, three or four mortgages.

I believe in the power of individual Americans to be able to make good decisions, and I believe in the power of markets, but they don't work if people don't have good information.

Mr. MCHENRY. Well, okay. And, actually, I think you sound very similar to what I have said in Financial Services over and over and over again. And so I like what you just said.

Is it your intention that the CFPB would not ban products? Or can you say—can you make some statement about intention? Because we have a lot of folks in the consumer finance industry and those that are accessing those products that have that concern about your bureau. And so, if you can make some statement to that, I think that would be a positive in terms of certainty, that that is not an intention you have.

Ms. WARREN. We have made all of our priorities clear, and we have no present intention to ban a product. But we are still learning about what is out there. And the world keeps changing and new things keep developing out there. It is a tool in the toolbox, and that is where it should stay.

Mr. MCHENRY. Okay. So you still think that the ability to ban a product should be—it should continue for the CFPB, that that rule should—that power should still reside with the CFPB?

Ms. WARREN. I think that Congress was smart when they put a lot of tools in the toolbox. And I think, with the help of industry, with the help of consumer groups, with the help of good research, we are using those tools—or we are prepared to use those tools in very effective ways.

Mr. MCHENRY. So the shorter way to say that is, yes, that you think that that power should continue to reside——

Ms. WARREN. I am sorry, sir. Yes.

Mr. MCHENRY. Okay. Thank you. Thank you for your testimony.

With that, Mr. Farenthold, I would yield my time back to you. And I think Mr. Guinta has——

Mr. FARENTHOLD. I will yield the remainder of my time to Mr. Guinta.

Mr. GUINTA. Thank you very much.

Thank you, Mr. Chairman.

I want to follow up on two specific items, number one an item that Ms. Buerkle had been focusing on. I just want to make sure we were clear.

She had talked about possible concerns about raising compliance costs. And I think you had said that your goal is it to reduce compliance costs. Can you just affirm that the stated goal and the expectation is it to reduce costs for credit to consumers?

Ms. WARREN. Our first item that we are working on out of the box is to reduce the costs for the credit issuers, yes, sir.

Mr. GUINTA. Okay. So if in the next year they come to Congress and say, "Look, that hasn't happened, the cost is going up," you would like to hear from us.

Ms. WARREN. Congressman, I suspect we will hear from them even before you do.

Mr. GUINTA. And then, second, you talked about greater disclosure rather than—and this is an important point—greater disclosure rather than banning, I think you said earlier in your testimony today.

Ms. WARREN. Yes, sir.

Mr. GUINTA. You just said you believe in the power of markets, we need good information. I, too, share that belief with you and

with the chair. But you also said banning should be a tool in the toolbox. Can you give me an idea of when you plan to take that tool out of the toolbox?

Ms. WARREN. Congressman, we don't have any present plans. I don't—I can't identify a specific product. But remember, this is an agency we are building over a very long arc. And it is an agency that is built in the aftermath of a consumer credit industry that went wild. We could sit here—they invented new products, new approaches, new ways to surprise people, to sell people products that the issuer knew was going to explode, and never make that clear to the customer.

Whether or not there will be a day when a creditor will figure out, I can make a fast buck with something that is so lousy that the answer is it should actually be banned, that day could come.

Mr. GUINTA. Okay. I thank you.

And I see the time has expired.

Chairman ISSA [presiding]. Professor Warren, we are going to wrap this up. And if it is okay, I would like the ranking member and I to have a few minutes with you afterwards.

Additionally, I would ask at this time, would you be willing for those who kindly said they will submit their questions for the record, would you be kind enough to answer them for the record?

Ms. WARREN. Of course, Mr. Chairman. We would be delighted.

[The information referred to follows:]

Questions for Mr. Raj Date and Mr. Richard Cordray
Special Advisor to the Secretary of the Treasury and Assistant Director for Enforcement
Consumer Financial Protection Bureau (CFPB)

Rep. Darrell Issa
Committee on Oversight and Government Reform

Hearing on "Consumer Financial Protection Efforts: Answers Needed"

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1. **Does the CFPB intend to establish – by rule or otherwise – any criteria, standards, or procedure to define or determine whether a consumer financial product or service, or an act or practice in connection with such a transaction, is "unfair," "deceptive," or "abusive" within the meaning of Section 1031?**

   Section 1031 authorizes the CFPB to issue rules identifying particular "acts or practices" in connection with consumer financial products and services as unfair, deceptive, or abusive.

   In evaluating particular acts or practices, the CFPB will apply the statutory definitions of "unfairness" and "abusive" within Section 1031 and, where relevant, look to case law and other sources defining "deception" and "unfairness" under similar statutes, such as the Federal Trade Commission Act. All three terms require a careful analysis of the full facts and circumstances surrounding the particular act or practice in question. The Bureau expects that any rulemaking using Section 1031 authority would provide extensive opportunity for notice and public comment.

2. **Does the CFPB intend to promulgate rules that provide safe harbors to allow financial firms and their customers to avoid uncertainty about whether particular products, services, or transactions might be prohibited in the future?**

   Where appropriate, the Bureau will consider safe harbor provisions in any of its future rulemakings, including any rulemakings related to unfair, deceptive, or abusive acts or practices.

3. **On July 14, 2011, Prof. Warren testified that the CFPB has "no present intention to ban a product." Does the CFPB intend to use its authority under Section 1031 as a means of persuading financial companies to change their products voluntarily? Does the CFPB intend to use its authority under Section 1031 for any other specific purpose or objective?**

   In general, the Bureau intends to use the authority for the purposes spelled out in the statute: to "ensur[e] that, with respect to consumer financial products and services … consumers are protected from unfair, deceptive or abusive acts and practices." Towards that end, Section 1031 authorizes the Bureau to write rules to prohibit unfair, deceptive, or abusive acts and practices in connection with transactions with consumers for consumer financial products and services

4. **The productions to both Judicial Watch and Whitaker described one meeting between Prof. Warren and a state attorney general regarding the mortgage servicing settlement – in particular, a February 24, 2011, meeting between Prof. Warren and Illinois Attorney General Lisa Madigan. However, according to other documents later made public, Prof. Warren conducted several meetings and calls with state attorneys general or their staffs about the mortgage servicing settlement. Why did the CFPB fail to produce records of any other communication?**

At the time when the CFPB received the Judicial Watch and Whitaker requests, the CFPB had limited capabilities to respond to FOIA requests. It did not have a fully-staffed FOIA office or electronic discovery tools available to facilitate its searches for responsive records. Notwithstanding these limitations, the CFPB made a good faith effort to respond to the Judicial Watch and Whitaker FOIA requests.

CFPB staff interviewed senior officials and manually searched for responsive records. With respect to the Judicial Watch request, CFPB staff contacted Judicial Watch for clarification and understood from their conversation that, as to Judicial Watch's request for Professor Warren's communications with the State attorneys general, Judicial Watch sought only records relating to Professor Warren's November 30, 2010 speech to the National Association of the State Attorneys General. As such, the CFPB produced only that category of records to Judicial Watch.

Judicial Watch subsequently filed an administrative appeal which claimed that the CFPB had misunderstood Judicial Watch's intention to narrow the scope of its request. Mr. Whitaker filed an administrative appeal alleging that the CFPB's search for responsive records had been inadequate.

The CFPB granted both of these appeals to the extent that they sought supplemental searches of the CFPB's files for records relating to certain of its communications with the State attorneys general. The CFPB conducted expanded searches of the records of its senior staff using more than 100 electronic search terms. In both cases, the CFPB identified hundreds of additional documents for release. On August 18, 2011, the CFPB produced 465 pages of additional responsive records to Judicial Watch. On October 7, 2011 the CFPB produced 182 pages of additional responsive records to Mr. Whitaker.

The CFPB's efforts to respond to these appeals reflected enhancements in its capabilities to respond to FOIA requests. In the months since the CFPB received the Judicial Watch and Whitaker requests, the CFPB has hired additional FOIA staff, established and refined its FOIA policies and procedures, published FOIA regulations, and acquired a state-of-the-art electronic discovery tool that allows the CFPB to perform centralized and comprehensive searches of its electronic files. Although the CFPB's FOIA office is not fully staffed and centralized FOIA request processing software is not yet fully operational, the CFPB is in a better position today than it was several months ago to respond to requests like those of Judicial Watch and Mr. Whitaker.

5. **Please identify each state attorney general with whom Prof. Warren met, corresponded, or spoke regarding the mortgage settlement, and state when each such communication occurred.**

   As is apparent from Elizabeth Warren's publicly available calendar, a copy of which is attached, Professor Warren met with state Attorneys General on many issues relevant to the CFPB's scope of work. The foreclosure crisis and mortgage servicing settlement, given their importance, were often discussed in these meetings. As a result, it is not possible to identify every particular meeting in which the mortgage settlement was discussed.

6. **The CFPB provided Whitaker with a copy of a briefing memo from the February 24, 2011, Madigan meeting. Treasury's production to Judicial Watch included the same memo, except that three paragraphs were redacted. Why was the document produced to Judicial Watch redacted and the document produced to Matthew Whitaker left unredacted?**

   In reviewing this briefing memorandum in response to Judicial Watch's request, the CFPB's FOIA staff determined that portions of it were subject to the deliberative process privilege and were exempt from disclosure pursuant to 5 U.S.C. § 552(b)(5). Courts often hold that Exemption 5 protects briefing memoranda of this type from public disclosure. *See, e.g., Judicial Watch, Inc. v. DOE*, 310 F. Supp. 2d 271, 317 (D.D.C. 2004) (protecting briefing materials prepared for cabinet secretary), *aff'd in part, rev'd in part on other grounds & remanded*, 412 F.3d 125, 133 (D.C. Cir. 2005). While its initial decision was consistent with the FOIA, upon reviewing this memorandum a second time in response to Mr. Whitaker's later FOIA request, the CFPB determined that the redacted information could be released as a matter of discretion in accordance with President Obama's January 21, 2009 transparency memorandum.

   As part of the CFPB's August 18 supplemental record production to Judicial Watch, the CFPB produced an unredacted version of the briefing memorandum.

7. **Will the CFPB commit to producing all responsive documents in response to requests under FOIA?**

   The CFPB has and will continue to make discretionary disclosures of otherwise exempt information when the Bureau does not reasonably foresee that such discretionary disclosures will cause harms that the otherwise applicable FOIA exemptions are designed to allay.

8. **Will the CFPB commit to treating requests under FOIA equitabl, regardless of the identity of the requester?**

   Yes. The CFPB has and will continue to treat all FOIA requests and requesters equitably. It is the policy of the CFPB that, whenever it receives a FOIA request that seeks information that the CFPB previously withheld from other FOIA requesters, it will evaluate anew whether such information should have been and should continue to be withheld from disclosure. To the extent that the Bureau determines that the requested information was

improperly withheld from prior requesters, or that the information is withholdable but should be disclosed as a matter of discretion, then the Bureau will release the information to the present requester as well as to all prior requesters to ensure equal treatment.

The Bureau followed this policy when it received a FOIA request from Mr. Whitaker that sought, among other things, a copy of a memorandum previously requested by, and withheld from, Judicial Watch. The CFPB determined that although it could properly withhold the memorandum pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5), it should exercise its discretion to disclose that document because it anticipated no harm from such a disclosure. Upon releasing this memorandum to Mr. Whitaker, the Bureau provided a copy of it to Judicial Watch.

9. Has the CFPB completed its productions of responsive records to both Judicial Watch and Whitaker?

Yes. The CFPB provided an interim response to the referenced Judicial Watch request on May 2, 2011 and a final response on May 23, 2011. After granting portions of Judicial Watch's appeal that sought additional searches for records of Professor Warren's communications with Members of Congress and with the State attorneys general, the CFPB produced an additional 465 pages of records on August 18, 2011. The CFPB's response to this request is now complete.

The CFPB provided an interim response to the referenced Whitaker request on May 31, 2011 consisting of 189 pages. After granting portions of Mr. Whitaker's appeal that sought additional searches for communications between Professor Warren, Richard Cordray, and Patricia McCoy and the State attorneys general, the CFPB produced an additional 182 pages of records on October 7, 2011. The CFPB's response to this request is now complete.

10. Please provide a privilege log listing each document withheld as a result of the advice of the Department of Justice, including, where applicable, the author, sender, recipient(s), date, file type, and the nature of the document.

In connection with the July 5, 2011 document production, the Department of Justice requested that we not disclose certain documents that would adversely impact its ongoing law enforcement efforts relating to mortgage servicing practices. Specifically, 12 emails were withheld that, with attachments, total 39 pages. The date of the documents ranges from February 9, 2011, to February 28, 2011. The documents include sensitive communications with state Attorneys General offices regarding the Department of Justice's enforcement action, including details regarding the potential terms of a settlement agreement.

11. Since the production by Treasury on July 5, 2011, has the CFPB gathered any additional documents responsive to the Committee's request that will not be withheld as a result of the advice of the Department of Justice? If so, please produce these documents.

The CFPB has gathered additional documents responsive to the Committee's request. Pursuant to established third-agency practice, the CFPB is consulting with the Department of Justice and other federal agencies about certain records that may implicate the other agencies' equities, such as by adversely impacting the ongoing law enforcement efforts relating to mortgage servicing practices. The CFPB anticipates making an additional production within the next several weeks, once these consultations are complete.

12. Please confirm the total number of employees the CFPB expects to hire through the end of fiscal year 2012, note the expected breakdown by division and office location, and state how many employees the CFPB expects to accept as transfers from the following agencies:

Office of the Comptroller of the Currency (OCC)
Board of Governors of the Federal Reserve System (the Fed)
Federal Deposit Insurance Corporation (FDIC)
National Credit Union Administration (NCUA)
U.S. Department of Housing and Urban Development (HUD)
Federal Trade Commission (FTC)

The CFPB's FY2012 budget submission projects approximately 1,225 FTE (full time equivalent) employees by September 30, 2012. With nearly 50 percent of these allocations belonging to the functions of bank and non-bank supervision and enforcement, we expect to dedicate approximately 600 of the 1,225 FTE to these areas.

By the end of the FY2012, the CFPB expects to have approximately one-third of its 1,225 FTE dispersed among the four regional locations. At this time there are no hiring target numbers available per office or satellite location for the end of FY12.

Employees from the following agencies transferred to the CFPB under Dodd-Frank's transfer process, which has now been completed:

Office of the Comptroller of the Currency (OCC): 28
Board of Governors of the Federal Reserve and Federal Reserve Banks (Fed): 65
Federal Deposit Insurance Corporation (FDIC): 41
National Credit Union Administration (NCUA): 0
Department of Housing and Urban Development (HUD): 25
Federal Trade Commission (FTC): 0 (the Federal Trade Commission was not a 'transferring' agency)
Office of Thrift Supervision (OTS): 73
Total: 232

Chairman ISSA. With that, I recognize the ranking member.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I will be very brief.

Professor Warren, I want to simply thank you. My mother used to say, "Thank you for all that you are, but also thank you for all that you are not."

When you were in Baltimore, you told a story about how you came up and that it wasn't easy and that you have never forgotten your own struggles. And, in part, you were very fortunate to get a good education and to end up at Harvard. And I just want to thank you for never forgetting what you have been through, so that you might use it as a passport to help other people.

I have met a lot of people in my life with a lot of passion. One of them was the President of Colombia, South America, Uribe—so much passion. And your passion is just phenomenal.

But I also thank you for doing something else; I thank you for synchronizing your conscience with your conduct. And so, I don't know, you know, what your future may bring, but if it were to end today, the fact is that you have already had a tremendous impact on families and generations yet unborn.

And I just want you, when you walk out of here, to know that there are a whole lot of people who really, really appreciate you and what you stand for. And they are inspired by you. And that is why, you know, in Baltimore people were—literally, we had to turn people away. Because they just wanted somebody—somebody—to stand up for them. That is all they wanted. And you have taken on that role. I know it has not always been easy. I know there have been some difficult moments, but we thank you.

And I am so glad that we were able to have this hearing, because, like the chairman said, this is the kind of hearing that, you know, we should have, where you actually get a chance to answer the questions, to lay out your goals, where you are, what you are trying to do.

But anyway, as I said before, we thank you.

Chairman ISSA. With that, the hearing stands adjourned.

[Whereupon, at 1:16 p.m., the committee was adjourned.]

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