

HOLDING THE CFPB ACCOUNTABLE: REVIEW OF SEMI-ANNUAL REPORT TO CONGRESS

HEARING

BEFORE THE

COMMITTEE ON

BANKING, HOUSING, AND URBAN AFFAIRS

UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

ON

A REVIEW OF THE CFPB SEMI-ANNUAL REPORT TO CONGRESS

SEPTEMBER 13, 2012

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THURSDAY, SEPTEMBER 13, 2012

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:05 a.m., in room 538, Dirksen Senate Office Building, Hon. Jeff Merkley, presiding.

OPENING STATEMENT OF SENATOR JEFF MERKLEY

Senator MERKLEY. The hearing of the Committee on Banking, Housing, and Urban Affairs will come to order.

I am delighted that we can have this chance to hear from Richard Cordray, the Director of the Consumer Financial Protection Bureau, and the occasion is his first, I believe, Semi-Annual Report to Congress, so a tradition that we will have ahead.

Chairman Johnson is unavailable to attend this morning's hearing. He wanted me to personally thank you, Mr. Cordray, for being here and to commend you and your team for all of their superb work. He also asked that I submit his statement for the record.

Today is September 13, two days short of the 4-year anniversary of the collapse of Lehman Brothers and the monumental efforts that started thereafter to prevent our financial system, and with it our entire economy, from collapsing, and I think it is appropriate to reflect on the many causes that contributed to that, issues of financial supervision, monetary policy failures, challenges with too big to fail banks, issues with the GSEs, issues with predatory mortgages with exploding interest rates, banks and nonbank financial companies making high-risk bets, interlocking chains of derivatives, regulatory shopping or regulatory arbitrage, credit rating agencies with conflicts of interest, securitization of products without adequate disclosure and in some cases with substantial conflicts of interest with sellers betting on the security or swap's failure. It is a long list.

But the point is short and simple. There were a large number of serious flaws in our financial architecture that came to light in 2008, serious flaws that the market by itself could not correct. We have taken steps to set our Nation's economy and regulatory system on a different path, but those steps require continuous monitoring and improvements along the way.

No matter how you slice it, consumer protection failures were at the heart of the last financial crisis. They were not the only cause, and consumer protection is not the only solution, but it is an essential part of the puzzle. And consumer protection is right, simply on

the grounds of treating a family fairly, the way any one of us would want to be treated when buying a home or car, paying our credit card bill, or engaging in any other financial transaction where real money for hard-working families is at stake.

The mission of the Consumer Financial Protection Bureau is to do that, to establish a marketplace where firms compete freely and fairly so that consumers can make intelligent decisions for themselves. The point is that consumers—students, families, older persons, veterans, servicemembers, minority communities, all of us—ought to have a shot at building a strong financial foundation for themselves and their families. When we do this, the benefits of our consuming and our saving multiply outwards to the economy, helping to build a vibrant, broad-based economy in the 21st century. And when we do not, the rest of the economy, built on the backs of the financial actions of millions of ordinary families, becomes unstable and unreliable, as we saw in 2008, outright hazardous.

I think your annual report suggests that we are well on our way to building an agency that can fulfill its mission, a mission that before its creation was too often ignored. I think Members of the Committee look forward to digging in more deeply on the points you will be making today and the important challenge of empowering consumers and creating a financial foundation on which families can thrive.

With that, I would like to turn over the microphone to Ranking Member Shelby for his statement.

STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Mr. Chairman. Good morning, Mr. Cordray.

Today, as the Chairman has pointed out, we will hear from Richard Cordray, the Director of the Bureau of Consumer Financial Protection. The majority has titled this hearing, “Holding the CFPB Accountable”. Nevertheless, Mr. Cordray appears before us, as always, completely immune from Congressional oversight, except, of course, we are permitted to ask him questions, like today. Such questions are especially important now because the Bureau’s activities in its first year likely overshadow its activities in the years to come.

Of particular interest here to me is how the Bureau has exercised its authority thus far. For example, recently, the Bureau issued a proposed rule on mortgage disclosures. Very deep within its 1,100 pages, the Bureau expressed concern over a particular disclosure required by Dodd-Frank. The Bureau said that it found that the new disclosure, and I will quote, “would be difficult to calculate and explain to consumers, would not likely be helpful to consumers, and may distract consumers from more important disclosures,” their words. In response to this finding, the Bureau is considering, as I understand it, exempting companies from complying with this requirement.

This problematic statute, however, raises a more fundamental question, I think, about how the Bureau will address statutes that it determines to be harmful to consumers. In this case, the Bureau could ask Congress to amend a statute. Instead, the Bureau has interpreted its exemptive authority, I believe, so broadly that it be-

believes it can just ignore the statute, ignore the law. Congress needs, I believe, to clearly understand the bounds of this authority as interpreted by Mr. Cordray here. After all, if the Bureau can easily ignore a statute, it raises the more serious question of whether Congress or the Bureau has the final say over what the law is.

Today, I would also like to know more about the limitations on the Bureau's spending authority. For example, Dodd-Frank granted the Bureau the power to set its own budget and spending priorities without any Congressional oversight. In addition to the funds that it receives from the Federal Reserve, the Bureau also controls the money in its Victims Relief Fund. Under Dodd-Frank, the Bureau is authorized to disburse any money paid into the fund that is not paid to the victims. Dodd-Frank only requires that such money be used, quote, "for the purposes of consumer education and financial literacy programs."

This is just another way that I believe that the Bureau is structured differently from any other banking regulators. The OCC, the FDIC, and the Federal Reserve do not have such a slush fund. Instead, they turn over the civil penalties that they collect to the United States Treasury. Accordingly, I would like to know how the Bureau will decide how the money in the fund will be allocated and whether such uses comply with the mandate of Dodd-Frank. Unfortunately, without significant reform, I believe there is little Congress can do, even if the Bureau misallocates or misuses these funds. Until that time comes, it appears that the most we can hope for is a hearing like today where we can merely ask questions.

Thank you, Mr. Chairman.

Senator MERKLEY. Are there any other Members of the Committee who wish to make a brief opening statement? Senator Menendez.

STATEMENT OF SENATOR ROBERT MENENDEZ

Senator MENENDEZ. Thank you, Mr. Chairman.

I want to take this opportunity to congratulate you, Director, and Elizabeth Warren and the hundreds of dedicated Consumer Financial Protection Bureau employees for the work of protecting consumers against big Wall Street banks, credit card companies, payday lenders, debt collectors. I think you and the CFPB have accomplished a remarkable amount in a little over a year of existence. You set up a whole agency, hired hundreds of people, not an easy task. You got a very clean audit from the Government Accountability Office, which is great for an agency in only its first year of existence. You set up an important process to take tens of thousands of complaints from the public about credit cards, mortgages, student loans, and other products. You created a simplified mortgage disclosure form so consumers understand what kind of loan they are getting into and whether it is good for them, and that was widely praised by both borrowers and banks. You listened carefully to the stakeholders, including Members of Congress, and have been evenhanded in taking their concerns into account. And you began enforcing consumer protection laws already with an enormous benefit for consumers in the tens of millions of dollars in the Capital One deceptive marketing practice.

So you have done that despite the fact that many Members have fought tooth and nail against the Consumer Financial Protection Bureau. They fought to ensure that the agency did not exist. They fought for big carve-outs from it. They fought to ensure that no one would even become a Director. Even now, there are those who are fighting to defund or come up with new ways to overrule the Bureau however they can.

But I know that the President and Congressional Democrats, including myself, fought hard to create this agency, and dismantling it or weakening it would be a terrible mistake. The devastating financial crisis we just went through would not have taken place if someone had been standing up for consumers instead of just Wall Street. Great consumer protections would have stopped the mortgage lending tricks and traps for consumers. We should hold Wall Street lenders and providers of financial services accountable for whether they treat consumers fairly, and the Consumer Financial Protection Bureau is doing exactly that by setting clear rules of the road in the future and enforcing them where you have the power to do so.

So I look forward to this hearing about the progress as well as about some issues that I want to raise and about you continuing your important mission.

Thank you, Mr. Chairman.

Senator MERKLEY. Is there anyone else who would like to make an opening statement?

Without it, then we have the chance to get directly—Senator Hagan, do you have an opening statement you would like to make?

Well, again, welcome, Mr. Cordray. We are delighted to have you here and it is your opportunity to make your statement.

Senator AKAKA. Mr. Chairman.

Senator MERKLEY. Yes? Oh, Senator Akaka, do you have a statement?

Senator AKAKA. Yes.

Senator MERKLEY. Excuse me.

STATEMENT OF SENATOR DANIEL K. AKAKA

Senator AKAKA. Thank you very much, Mr. Chairman. Thank you for holding this hearing on the Semi-Annual Report to the Congress.

I must say that in its first year, the CFPB, the Bureau, has made great, great strides in educating, empowering, and also protecting our consumers in the financial marketplace. There is still much work to do and this hearing will certainly give us an opportunity to know what you have done, what you have been doing, and maybe what can be done later on.

But I wanted to take the time here to tell you I truly appreciate what you are doing and your staff, as well, in helping the consumers from Hawaii as well as in the country. So I look forward to hearing your testimony.

Thank you, Mr. Chairman.

Senator MERKLEY. I would like to remind my colleagues that the record will be open for the next 7 days for opening statements and any other materials that you would like to submit for the record.

And with that, Mr. Cordray, you may proceed with your testimony.

STATEMENT OF RICHARD CORDRAY, DIRECTOR, CONSUMER FINANCIAL PROTECTION BUREAU

Mr. CORDRAY. Thank you, Mr. Chairman, Ranking Member Shelby, and Members of the Committee. Thank you for inviting me to testify today about the Semi-Annual Report of the Consumer Financial Protection Bureau.

As I have said before, I still feel this way every chance we have to come at your invitation and speak to you about our work. We are eager to do that and we appreciate and respect and understand the importance of the oversight.

Just over 1 year ago, the Consumer Bureau became the Nation's first Federal agency focused solely on protecting consumers in the financial marketplace. The Semi-Annual Report we are discussing today covers our activities from January 1 through June 30 of this year.

As the report shows, we have been using all the tools at our disposal to help protect consumers across this country. We pledge to continue our work to promote a fair, transparent, and competitive consumer financial marketplace.

Through our regulatory tools, we have proposed smarter rules that will help fix the broken mortgage market with common sense solutions. We are writing rules that simplify mortgage disclosure forms and rules that make sure consumers do not receive mortgages that they do not understand or cannot afford. Our rules will also bring greater transparency and accountability to mortgage servicing. And our careful process is that before we propose a rule, a team of attorneys, economists, and market experts evaluates its potential impacts, burdens, and benefits for consumers, providers, and the market.

Our push for accountability extends beyond mortgage servicing. We are holding both banks and nonbanks accountable for following the law. Prior to my appointment, nonbanks had never been federally supervised. The financial reform law specifically authorized us to supervise nonbanks in the markets of residential mortgages, payday loans, and private student loans. We also have the authority to supervise the "larger participants" among nonbanks in other consumer finance markets as defined by rule. So far, we have added credit reporting companies to this group.

It is important for us to exercise sensible oversight of the consumer finance markets, but it is also important that we empower consumers themselves to make responsible financial decisions. Our "Know Before You Owe" campaign involves us working to make mortgages, credit cards, and student loans easier to understand. We also developed "Ask CFPB," an interactive online data base with answers to consumers' most frequently asked questions. We also launched a first-ever data base of individual complaints about financial products, starting with credit cards. Consumers can use the Web site to review and analyze information and draw their own conclusions about the customer service provided with these financial products.

We also think it is important to engage directly with consumers so we know more about the struggles and frustrations they encounter in their daily lives. The Bureau has held numerous field hearings across the country so we can talk face to face with consumers on a variety of topics. Our Web site has a feature called “Tell Your Story”, which encourages consumers to share with us their personal stories to help inform our approach in addressing issues in the financial marketplace. And, perhaps most significantly, we help to resolve consumer disputes with lenders by taking complaints on our Web site at consumerfinance.gov, as well as by mail, fax, phone, and by referral from other agencies. As of September 3, we have received 72,297 consumer complaints about credit cards, mortgages, and other financial products and services, and the pace of complaints has been increasing over the past year.

All of these processes—rulemaking, supervision, enforcement, and consumer engagement—provide us with valuable information about consumer financial markets. We engage in extensive outreach to large and small institutions, including banks and nonbanks, to gather the best current information as we make policy decisions. We pride ourselves on being a 21st century agency whose work is evidence-based. So we also conduct our own in-depth studies on consumer financial products, such as reverse mortgages and private student loans. We have issued public requests for information that seek input from consumers, industry, and other stakeholders on issues such as overdraft fees, prepaid cards, and the financial exploitation of seniors.

The new Consumer Bureau has worked on all these projects while being fully engaged in startup activities to build a strong foundation for the future. The Bureau has worked to create an infrastructure that promotes transparency, accountability, fairness, and service to the public. Our first year has been busy and full, and this report reflects considerable hard work done by people whom I greatly admire and respect. They are of the highest caliber and they are deeply dedicated to public service. We look forward to continuing to fulfill Congress’ vision of an agency that helps all Americans by improving the ways and means of their financial lives.

Thank you. I will be glad to respond to all questions.

Senator MERKLEY. Thank you very much for your testimony, and as we begin questions, I will ask the Clerk to put 5 minutes on the clock for each Member and I will jump in quickly here.

You note that through those various ways that you solicit consumer feedback, I believe there have been 55,000 or so complaints. That is enough that I am sure you started to get a picture of what is happening across the country. And out of those complaints, if there were three or four issues that seem to rise above the rest in terms of citizen concern, what would those be?

Mr. CORDRAY. Thank you, Mr. Chairman, for the question. Part of this reflects the fact that we have been staging in our ability to receive consumer complaints on different types of products. So we started with credit cards. We have added mortgages. We have now added private student loans and deposit accounts and a few other items, and we will be adding more as we go.

In the areas of mortgages and credit cards and student loans, which perhaps stick out the most, we have received the most complaints about mortgages. Frankly, I think this probably reflects the same thing you and your staff are finding, that people who call and contact your offices in need of help, sometimes desperately in need of help, are the same types of people who contact us.

Lots of concerns about difficulties in paying their mortgage, what is happening when that occurs, whether there is any possibility of working out some sort of provision or plan to deal with the problem and the urgent crisis that creates for a family and a household. Various problems with mortgage servicers, which are the same kind—I know your staff and we experienced the frustration of dealing with some of the mortgage servicers who have, frankly, provided poor customer service. It is a mixed bag. Some of them actually do a decent job and some of them have not done a decent job. Those have been a lot of sources of complaints for us.

On credit cards, I actually think it is notable that, from my standpoint, we have received fewer complaints than I would have expected. I think some of this has to do with the effects of the CARD Act. I think some of it has to do with a greater emphasis on customer service by the credit card companies themselves. I have been to a few of the processing centers where they take consumer complaints and they are working them very hard. And I would also say that they have been quite responsive to the Bureau and to the consumers we have directed to them in terms of providing relief. So I want to note that for the record.

On student loans, it is similar to mortgages, where a lot of people are falling behind on student loans. A lot of people have crushing debt loads and they are finding it difficult to work with the party on the other side to try to understand what their payment options are, what their rights are, how they can try to manage the situation, and how they can try to reach an appropriate resolution.

Senator MERKLEY. Certainly, a piece of your work involves getting the fair playing field and eliminating deceptive or fraudulent practices. But another piece of it is on the front end, financial literacy, financial education. I want to note that my colleague, Senator Akaka, has been, I think, very visible and aggressively working to tackle this topic for a very long time and I thank you, Senator Akaka, for your leadership in this area.

So now with your organization and your mission, which includes financial education or literacy, do you have some insights on what we should be concerned about or ways we can proceed to help our consumers be better at judging the opportunities they see in the marketplace?

Mr. CORDRAY. Thank you, Senator. This has been a particular passion for me going back to when I was an official in Ohio and we worked on getting it incorporated into the high school curriculum in Ohio, that every student should have personal finance education before they graduate from high school. That is now law in Ohio, should be law across the country. It is important for that to be the case. This is so important for people being functioning citizens of our society, that they are able to cope with their financial affairs. It should be a passion of all of ours.

I have always been quick to say when I have been asked—sometimes people ask me, I am the head of the consumer agency—do you not think consumers bear responsibility for their own decisions? I absolutely do. I think we all have to bear responsibility for our own decisions. Having said that, there are things we can do to make it more feasible for consumers to cope with some of the complexity of this marketplace.

Our “Know Before You Owe” projects on mortgages, credit cards, and student loans are directed at reducing the gap between people’s capability and the difficulty of the decisions they are faced with. And I think that financial literacy efforts around the country are something that this Nation and the States and local school districts are going to have to pay more attention to. I think it is in the interest of employers to have employees who are not distracted by having various financial problems that make them risks in the marketplace. And I think we have the opportunity to work with churches and other institutions that, again, care deeply about the well being of their congregations and memberships and want to see them succeed, both materially and spiritually. I think this is quite important for this country.

Senator MERKLEY. Well, thank you very much, and with that, I am going to invite Senator Shelby to continue.

Senator SHELBY. Thank you.

Mr. Cordray, you used the word “complexity” just a second ago. We will get into some of this now. The Bureau has proposed eliminating the Dodd-Frank requirement that creditors disclose, quote, “total interest percentage” on mortgage disclosures. The Bureau states, as I understand it, that it is using its, quote, “exception and modification authority” under TILA Section 105(a) and (f) and Dodd-Frank Section 1032(a). Section 1032(a) does not, however, as I am sure you know this, contain the exception and modification language that appears in TILA Section 105(a) and (f). Do you believe that there is an exception and modification authority in Section 1032(a)?

Mr. CORDRAY. It is a very good question, Senator, and it is one that some of our lawyers have pored over, and I am sure there are lawyers outside the Bureau who have pored over it, as well. We do have exception authority under several different provisions of the statutes we administer, I believe including—

Senator SHELBY. No, my question was, do you have it under Section—

Mr. CORDRAY. Yes.

Senator SHELBY. —1032(a)—

Mr. CORDRAY. Including 1032(a), yes.

Senator SHELBY. And where is it in 1032(a)?

Mr. CORDRAY. In 1032(a)—

Senator SHELBY. Because I want my staff here to be listening to this, I know.

Mr. CORDRAY. That is fine. Ten-thirty-two (a)—I will just read from the statute and try to annotate it as I go—says that the Bureau—the title of the section is “Disclosures” and it states that the Bureau “may prescribe rules to ensure that the features of any consumer financial product or service, both initially and over its term, are fully, accurately, and effectively disclosed to consumers in a

manner that permits consumers to understand the costs, benefits, and risks associated with the product or service in light of facts and circumstances.”

It then goes on to describe model disclosures. It describes the basis for rulemaking. It describes safe harbor, that any covered person that uses a model form included with the rule issued under this section shall be deemed to be in compliance with respect to such model form. And then it talks about trial disclosure programs, which gives us some latitude to work up disclosure programs to test how consumers actually respond and address those issues.

Senator SHELBY. Mr. Cordray, let me ask you—

Mr. CORDRAY. Yes.

Senator SHELBY. —this further question in this area.

In other words, I assume you believe that the Bureau’s authority, from what you were just quoting, to write rules includes the authority to exempt and modify statutory requirements. That is troubling—

Mr. CORDRAY. I think that it states—

Senator SHELBY. —because if a statute is clear—

Mr. CORDRAY. Yes.

Senator SHELBY. —I do not believe you can change that by a rule.

Mr. CORDRAY. Yes. I think that—

Senator SHELBY. Do you disagree with me on that?

Mr. CORDRAY. I think that the verbs you just—

Senator SHELBY. No, I asked you a question.

Mr. CORDRAY. Yes.

Senator SHELBY. Do you disagree that if the statute is clear, unambiguous, that you cannot change that statute by rule, you or anybody else?

Mr. CORDRAY. OK—

Senator SHELBY. No, I asked you a question. Yes or no?

Mr. CORDRAY. May I answer and explain my answer?

Senator SHELBY. I hope so.

Mr. CORDRAY. All right.

Senator SHELBY. I first want you to answer it and then explain.

Mr. CORDRAY. Sure. So this is one provision of our statute. As you mentioned, the Truth In—

Senator SHELBY. Well, you are not answering the question.

Mr. CORDRAY. The Truth in Lending Act has other provisions. Some are more explicit than this. But what is clear is that Congress intends us here to write rules around disclosures and to clarify and interpret the laws that Congress has provided us with. I absolutely do not think we should ignore statutes, nor can we and we will be subject to judicial review—

Senator SHELBY. Ignore or override—

Mr. CORDRAY. —if we do that, so—

Senator SHELBY. —you cannot do that, can you?

Mr. CORDRAY. Well, I will say, interestingly enough, there are many requests for us to consider using our exemption authority or our modification authority to consider how provisions of law actually apply in a practical manner to different banks and other institutions, and part of our rule writing function is to take comment from individuals and stakeholders across the spectrum and to con-

sider how best to apply the law to the rules because we have that delegated rulemaking authority.

I would absolutely agree with the premise of your question, which is that the Consumer Bureau cannot ignore or rewrite the law.

Senator SHELBY. I hope you will not.

Mr. CORDRAY. We do not——

Senator SHELBY. I hope you will not——

Mr. CORDRAY. We do not believe we have that authority.

Senator SHELBY. It seems like that is what you are doing. I hope that is not what you are doing. If you do, we are going to hold you accountable.

Mr. CORDRAY. And you should do so and I fully welcome that, yes.

Senator SHELBY. I have got 9 seconds, I guess.

[Laughter.]

Senator SHELBY. In your testimony on mortgage rules, you state that the Bureau has proposed smarter rules that will help fix the broken mortgage market with common sense solutions, your words. The mortgage rules proposed by the Bureau will impose huge compliance costs. Many of the rules number in the hundreds of pages and one rule exceeds a thousand pages. These costly and very complex rules present greater compliance challenges for small banks than for large banks, which have, as we all know, large compliance, have more money to fight and to play.

Explain to us why these rules will not put small banks at a competitive disadvantage, because they provide so much for the American people, especially small business.

Mr. CORDRAY. I share your outlook on that, Senator, and I have talked repeatedly to community bank groups and credit union groups. And, in fact, we have just——

Senator SHELBY. How are you going to deal with it, then, if you share my concern?

Mr. CORDRAY. So, in a number of ways. First, we announced yesterday that we have created a Community Bank Advisory Council and a Credit Union Advisory Council to give them a direct pipeline to us to talk about the kinds of concerns and issues they have about any sort of burdensome regulations and also about regulatory uncertainty, which is another issue that they raise.

Second, we do have the authority, and this is the exemption authority that you questioned earlier, to potentially exempt smaller institutions from rules that do not necessarily make as much sense to apply to them, given the community bank business model, which is a very responsible, in my view, model of lending and of dealing with customers. We have and will exercise that authority where we hear from small providers that they have great concern about the impact of potential rules and they have a persuasive case to make about how their business model does not implicate the concerns of that rule. We have used that in our mortgage servicing rules. We have used it in our mortgage loan origination rules. And we will use it where that is appropriate, again, subject to oversight from the Congress and subject to oversight from the courts.

I think that this is appropriate because I have acknowledged and very much believe small providers did not create the problems that

led to the financial crisis. We should not solve the financial crisis by heaping unnecessary burdens upon them. Of course, the devil is always in the details of that, and we are working hard on those details as we go.

We just exempted thousands of small providers from our new remittance rule. They will not have to comply with it if they do fewer than 100 transactions per year. That was interpreting the “normal course of business” phrase that Congress used in the law. And we will continue to listen carefully to them and try to react and respond to them where we have authority to do so.

That is our outlook and perspective and I am happy to come and speak to you any time you and your colleagues have concerns in that regard because I regard that as an important issue for us.

Senator SHELBY. Thank you, Mr. Chairman.

Senator MERKLEY. Senator Reed.

Senator REED. Well, thank you very much, Mr. Chairman, and thank you, Mr. Cordray, for your excellent work.

By my rough count, either you or your colleagues have been before the Committee about 26 times. I mean, I know Holly Petraeus has been here a number of times leading the section with respect to military personnel, doing a superb job. So your interaction with Congress is quite frequent and, I think, represents your not only willingness, but understanding of the need to communicate with us and our understanding of the need to supervise your activities.

The second point I want to mention, that you mentioned, is the “Know Before You Owe” program. One of the great powers that you wield is the power of informing consumers about choices they can make. When you go to ECON 101, one of the assumptions is both buyers and sellers have, quote, “perfect knowledge” of what is going on. And, frankly, one of the observations that, obvious from the crisis of 2008, 2009, was that it was a one-sided operation. Consumers had very little knowledge of products. There was no real serious attempt to inform them, et cetera. But I think what you are doing there is actually going to make markets more efficient and more competitive, and as a result, benefit not only the consumers, but the markets in general. So with those points, let me get to a specific question.

You recently settled your first major enforcement action, which was with respect to the credit card operations of a bank, refunded \$140 million to potential victims. So consumers got a rebate, essentially, from this mispractice. You required additional penalties of \$25 million to your agency and also \$30 million to OCC. And you have also published a compliance bulletin that puts other institutions on notice about deceptive marketing practices.

Can you explain your approach to this enforcement action? And since this is the first one, I think it is appropriate for you to comment on it. And also, it appears to me and you might confirm that the individual entity essentially agreed that what they were doing was not consistent with the law. Is that fair?

Mr. CORDRAY. Thank you, Senator, for the question. Let me talk a little bit about our approach to enforcement, and I always have to be a little careful in this area because specific investigations are nonpublic and it would not be fair to companies that are being investigated to talk about those investigations when they may not

amount to anything in the end and they do not have a chance to speak for themselves.

First, among the things that I think this first resolution illustrates is our intention to give broad, but as specific as possible notice to all participants in the market about the concerns that we see that are potentially violations of law. And this particular occasion involved deceptive and misleading marketing of products, which is clearly in violation of longstanding law. But what that actually means in marketing particular products can be a little difficult or a gray area sometimes for people. I do not think it was here. But that is why we also issued a compliance bulletin to give people notice that they should think about their own programs and look at this in light of this. We also made the consent order very specific about particular problems that were identified here so that others would know whether they are running afoul of that or not.

Second, I think this illustrates that we are trying to be very cooperative with our fellow Federal agencies, the other prudential regulators. I think it is important for us to go hand in glove as we address institutions, and we do not want institutions to have to be confused or have to deal with a situation where somebody is saying one thing, somebody is saying another thing. It is not good for any of us. It is not good for them.

A third point I would make is that we attempted to shape the restitution to consumers so it would be as easy as possible for consumers to receive that restitution. There are many instances where consumers are entitled to some sort of relief but it is difficult for them to get to it. They are not aware of it. It is a hard process to get through. We want to make that easy.

The other thing I want to say, and I want to say this very clearly and publicly because it got lost in the shuffle because of the attention to our first enforcement action, the institution here, Capital One, responded, in my view, extremely responsibly to the problem when it was identified. When we spoke to their leading officials about what we had found, they were as distressed and concerned about it as we were and they stepped up immediately to take it head on, not to try to deny responsibility, not to try to minimize it, not to try to suggest somebody else was to blame, even though it involved third-party vendors. They addressed it. They resolved it. And they also then reviewed their other practices. If I were the head of such an institution, I would hope that is the way I would have handled the situation. I thought it was quite commendable. Some of that got lost in the shuffle. I wanted to have a chance to say that publicly.

Senator REED. So their responsible behavior has sort of set a standard, also, with respect to this enforcement action. And in addition, your hope, I presume, from what you said, is that by identifying, this will give the opportunity for other companies in the field to self-correct and to adopt the same level of responsibility and business practice as Capital One.

Mr. CORDRAY. We very much want and intend them to do that. They also are aware that we have supervisory authority and we will be looking closely at similar issues at other institutions, yes.

Senator REED. Thank you.

Senator MERKLEY. Senator Crapo.

Senator CRAPO. Thank you, Mr. Chairman, and Mr. Cordray.

I am hearing a lot of concern about how Dodd-Frank will reduce the credit availability in the housing market because of some of the proposed rules, particularly for a qualified mortgage, the increased liability, and for the qualified residential mortgage that requires the 20 percent downpayment. What kind of analysis and coordination is being undertaken to understand the impact of the cost and availability of mortgage credit between the interaction of the QM and the QRM proposed rules?

Mr. CORDRAY. OK. Thank you for asking the question. It is an important question right now. It is one of the issues that involves a lot of time and effort at the Bureau, but rightly so. We are required by law—Congress passed the law, we implement it—to write various mortgage rules that will attempt to improve some of the problems that were perceived in the mortgage market that helped lead to the financial meltdown and the resulting recession and crisis. There is no question that that was a problem, and part of the problem was you are regulating part of the mortgage market, but nonbanks who were very active in the market were not regulated. That was never going to work as a model.

The rule you are asking about in particular, the qualified mortgage rule, has to do with determining that there is an assessment made, a responsible assessment, of the ability to repay the mortgage before it is made. You would think that might not be necessary. Why should a lending institution have to be told to pay attention to whether the borrower who they are lending money to is going to repay the loan? But in the lead-up to the financial crisis, we saw many, many mortgage loans made with no documentation, no assessment of the financial situation, often falsification of that, in part because there was not sufficient oversight and there were not rules of the road in place that governed the whole market.

We are mindful of the fact that part of our charge in the law is that we are supposed to and we want to pay attention to access to credit for consumers. It does not do anybody any good for us to develop an elaborate set of protections if nobody is going to then lend money to consumers. That does not help consumers and it would be a failure on our part.

That is part of the reason why, on the Qualified Mortgage Rule, which we are due to finalize by January, we have slowed down a little bit. We put it out for further comment. We have sought more data upon which to make judgments. We absolutely do not want to make a judgment that is going to freeze up or further constrict credit in the mortgage market. We have gotten more data, collaborating with FHFA and others, and we are going to use that to make the assessment here.

The final thing I would say is we need to keep in mind that the biggest hit to access to credit for consumers and for small businesses and everybody in our economy has been the financial crisis of 2007–2008. It has caused many institutions to fold. It has dried up credit in our local communities. We need to make sure that that does not happen again, to the extent we can prevent it. And cleaning up the mortgage market, I think, is critical to making sure that we accomplish that. At the same time, we need to be mindful that people do not go overboard here. We need to be able to give con-

fidence to lenders that they are able to lend, and we need to have a market that can function. We still do not have a very good functioning market today, 4 years after the financial crisis, and it is the crisis that caused that. We need to remember that.

Senator CRAPO. Well, I appreciate your attention to trying to address these risks that we now understand were serious problems. But again, getting back to the core issue, we do not want to create a further problem in our effort to address the risks. You know, you indicated this. In another way, Secretary Geithner recently testified that as we move forward, we must take care not to undermine the housing market, which is showing signs of recovery but is still weak in many areas. So we do need to address these risks, but we need to do so in a way that does not restrict the availability of credit unduly.

I have asked you before to convene a Small Business Advocacy Review Panel. I am going to ask you again. It seems to me that to try to minimize the unintended consequences, that the CFPB should convene a Small Business Panel to discuss the impact of the proposed rule. And given the potentially significant impact of the qualified mortgage rule, in particular, on the housing market and the Bureau's recent notice that you are going to step back and take a little more time to look at this, it seems that this will be a perfect opportunity to move ahead and do, as I think the statute requires, and initiate a Small Business Advocacy Review Panel.

Mr. CORDRAY. That is a fair point. By the way, I very much agree with the statement you quoted from Secretary Geithner and I very much agree with your comments on the statement. In terms of the QM rule, the SBREFA Panel does not apply because it originated with the Fed, not with us. We did, though, hear the concern and we recently convened an opportunity for many small providers to give us direct input on the rule, especially for that purpose. We also have the notice and comment period where everybody can comment and many, many are doing so. So, again, it is our intent that we write this rule carefully, that we be mindful of the fragility of the mortgage market.

I also want to say, for the record, the 20 percent downpayment that you mentioned, that is not part of our proposal. It is nothing that we have proposed; that would not make sense as some sort of rule that would be imposed on the mortgage market. I am not supposed to speak too much about proposals before we finalize them, but that will not be part of our—

Senator CRAPO. Well, I understand that the Federal Reserve—because the Federal Reserve started the rule, that there is a technical argument that the Small Business Advocacy Review Panel requirement does not apply, but it just seems to me that you have got the time. You should take the time. And I do not understand why there is the resistance to going ahead and conducting a Small Business Review Panel.

Mr. CORDRAY. Yes. We are not at all sure that we had the time, given the January deadline, to engage in the entire process. However, we did convene a panel to get the small business community's input because we want to have the input, and we have done that and continue to do that. We are trying to meet the spirit of that without blowing past the January deadline, which I think would be

bad for the mortgage market because we are trying to resolve some of the regulatory uncertainty here. Congress has imposed the deadline. We take that seriously. We intend to meet it. We consider that is law that binds us. And I am happy to have our staff talk further with your staff about that concern, if you would like.

Senator CRAPO. Thank you.

Senator MERKLEY. Senator Akaka.

Senator AKAKA. Thank you very much, Mr. Chairman.

Mr. Cordray, thank you so much for what you are doing. I just wanted to talk about the unbanked and banked. What I have been trying to do is to reduce the numbers of unbanked and underbanked and have more of them work with the institutions. Yesterday, the FDIC released its national survey of unbanked and underbanked households. They reported that the percentage of unbanked households increased from 2009 to 2011. I was disappointed, of course, because of the increase, to learn the number of unbanked households increased by more than 800,000. Director Cordray, could you please discuss the Bureau's efforts to increase access to mainstream financial institutions for the Nation's nearly ten million unbanked and 24 million underbanked households.

Mr. CORDRAY. Thank you, Senator. This is a very urgent concern, I think, for anybody who is mindful of the real consumer experience in the financial marketplace. There are many millions of Americans who have no bank account or access to the banking system. Some of them are actually barred from the banking system because of previous difficulties. There are many others who have a bank account but find for a variety of reasons that they prefer to utilize many unbanked services in order to get cash, in order to pay bills, in order to meet the sort of necessities of life, and do not, therefore, have the same protections in doing so that they would have within the banking system.

I was present yesterday at the FDIC for the unveiling of that report. Chairman Gruenberg, who is unfailingly thoughtful in this regard, invited me and several of our staff who were there to hear their presentation of the report. Unfortunately, they only started doing the report in 2009. It would have been interesting to see what the numbers might have been prior to that. My sense is probably that the number of unbanked and underbanked has increased in a significant way over the past 6 years because of the financial crisis and the difficult situation that it put many people in.

But what is interesting here to me is the answer for many individuals will be to find ways to get them into the banking system and they will be better off in the sense that they are more protected and those are somewhat more regularized relationships, not one-off transactions. But there are going to be millions of Americans, tens of millions of Americans, for whom that is not likely to be the answer for any of a number of reasons. We are trying to understand those reasons, but we are also mindful at the Bureau that we do not only oversee banks.

We also oversee nonbanks, including some of those providers, so payday lenders and other nonbank providers of services to people that they are going to in large numbers, and we want to be careful about what we can do to extend more consumer protections to those many Americans, often low- and moderate-income, and in

what ways does the bank and nonbank system sort of work together. We are not only looking at the banking system. We are different from the other banking agencies in that regard. We are looking across the spectrum and we care about it all.

We have created an Office of Financial Empowerment at the Bureau. Cliff Rosenthal is now heading that and he is a veteran of the community development credit union movement, and is taking a strategic approach to these issues. But for us, it is going to involve cooperation, particularly with the FDIC, who has taken a notable interest in this area, and others both here in Washington and across the country.

It is a difficult problem. It will be a difficult problem to address and solve, but it is one that we very much are interested in making progress on.

Senator AKAKA. Thank you very much. I am glad to hear your efforts thus far on that.

Another area that I have been concerned about and very close to my heart has been the servicemembers of our country—

Mr. CORDRAY. Yes.

Senator AKAKA. and I want to say thank you so much for having Mrs. Holy—Holly Petraeus come to Hawaii—

Mr. CORDRAY. Maybe “holy.”

Senator AKAKA. Yes, and she did an excellent job. The first meeting we have had, we invited all the top officials of the military and they appeared and she conveyed what she thought needed to be done and my concerns for trying to protect the service personnel who have been targets for some of the institutions you mentioned. So I want to say thank you for permitting her to do that, and she has done a great job.

At the Joint Base Pearl Harbor-Hickam, concerns were raised about the impact of the Permanent Change of Station orders. My question to you is, could you please provide us with an update on the PCS—that is the Permanent Change of Station—issue and let us know whether you have started to see any effects from the inter-agency guidance released in June.

Mr. CORDRAY. Thank you, Senator, and thank you for your very kind but, I am sure, accurate remarks about Director Petraeus; everybody fights over her time within the Bureau and we also try to share her with all of you. She has been to dozens of military bases across the country since becoming the Director of our Office of Servicemember Affairs. She has brought back many concerns, not only to us, but to the Department of Defense, and the Department of Veterans Affairs. Many of these are being addressed, in part because of the respect people have for her and her work.

On the Permanent Change of Station orders, in particular, there has been some significant response to that. The problem for anybody less familiar with it is that, in the military, they face a particular problem at times. They get peremptory orders that they have to move. Their Permanent Change of Station moves from one place to another. They may or may not have an easy time of selling their home to be able to make that move. In this climate, it has been more difficult. Sometimes, they are having to make very hard decisions about leaving their family behind because the home is underwater and they cannot easily sell it, going off alone—sometimes

for years—or selling the home at a considerable loss, and they have not been able to qualify for some of the programs that are meant to try to minimize some of those struggles for people.

So because of Mrs. Petraeus's efforts, the HAMP program was recently modified to recognize the Permanent Change of Station as a hardship that could qualify servicemembers and their families for consideration in the modification programs. We recently issued guidance and all of the Federal regulators joined in that supervisory guidance to all institutions to be mindful of their responsibilities under the law, both to respect the Service Members Civil Relief Act, rights of servicemembers, and also to be forthcoming in considering how they can address this situation and that options are being presented, that they are being presented early, that they are working closely with the servicemembers, that they are clear that they understand what can be done, and that they make efforts to modify loans, as appropriate, in order to recognize this peculiar hardship that servicemembers have that regular civilians often do not have.

So she is a one-man gang on these issues. She has got a good team behind her. And she is getting good cooperation from other parts of the Government to address them.

Having said that, there is a lot of hard work going on every day. We are doing that work in consumer response. I know your offices are doing that work, where particular individuals have a problem and we are trying to do our best to help them deal with the problem.

Senator AKAKA. Thank you. I really appreciate that. My time has expired, Mr. Chairman.

Senator MERKLEY. Senator Corker.

Senator CORKER. Thank you, Mr. Chairman, and thank you, Director, for being here. I appreciate you answering our questions.

I am continuing to read stories about the underbanked in our country, and I know that we always have unintended consequences when we pass legislation and, quote, try to "help" folks. I know another story came out today, things like when we passed interchange rules here, it ended up increasing costs for especially lower-income consumers. They move out of banks into payday lenders and other kinds of institutions, and I know that you have jurisdiction over both.

What are you doing inside the agency? I mean, all of us want to make sure that people have appropriate credit availability. What are you doing inside the agency to strike that balance, because there is no question that we have passed laws here that really hurt the very people that you are trying to help in many cases, as you just mentioned, and that is the low- and moderate-income citizens.

Mr. CORDRAY. So thank you, Senator. And as I said, it is a difficult problem. It is one that we are trying to address with some new tools that we now have. So among other things, we did create, as I said, an Office of Empowerment, which is focused very specifically on these problems and taking a wide range of input and getting a wide range of perspectives from around the country about how people are trying to deal with these problems in different communities, often not always in coordination or collaboration with—

Senator CORKER. Let me just—and I do not want to spend too much time, I know you talked a little bit with Senator Akaka about this, but—

Mr. CORDRAY. Yes.

Senator CORKER. —when members of your agency are dealing with the issues that they are dealing with, are they cognizant of the fact that, many times, when they go into a certain issue, they are really making people even more unbankable? Are they aware of that? Without getting into a lot of actions, is there an awareness within the agency that that can take place?

Mr. CORDRAY. Yes, and I would say it seems to me that we are probably more aware of it than any agency has been before, because once those people—if people leave the banking system, they do not leave our jurisdiction and they are still subject to our oversight and we still feel the responsibility to try to address their problems. So if they have a short-term need and they go outside of the banking system to resolve it with a payday lender or a pawn broker or whomever it may be, that is all within our realm. So it is not just that they go out of sight, out of mind. That is relevant to us.

We are supervising both banks and nonbanks on a common basis, say, in the short-term credit market and in other ways, in the mortgage market, in the mortgage servicer market. So I do think we are pretty mindful of that, although we are always interested to hear if your staff have some issues that they are seeing that they want to raise to our attention. We get those issues through the consumer response area regularly, on a daily basis—

Senator CORKER. Let me ask you about the consumer response area.

Mr. CORDRAY. Yes.

Senator CORKER. I am glad you brought that up. I notice you all have a Web site where people make complaints against institutions and you list all of those complaints publicly, and there is a huge list of those. And I understand how you would want to have complaints registered. What is the purpose in putting those up publicly, and in putting those up publicly, do you all actually verify that they are real? I mean, all of us as elected officials have people who make claims about us that are untrue and they are on the Internet and all of that—

Mr. CORDRAY. We do, Senator—

Senator CORKER. —and it seems like to me that you are encouraging that same kind of behavior, and I am just wondering what the purpose of having that public Web site is.

Mr. CORDRAY. I am familiar with the phenomenon, as well, Senator.

[Laughter.]

Mr. CORDRAY. But the purpose—

Senator CORKER. Well, I thought all those things said about you were true, but go ahead.

[Laughter.]

Mr. CORDRAY. I am sure, in someone's mind, they are.

[Laughter.]

Mr. CORDRAY. In terms of what we are doing with the data base, we are receiving complaints by the thousands, and so that is a cer-

tain snapshot of what is going on out there for consumers. We share your concern. We do not want to be putting up garbage data.

Senator CORKER. Well, why are you putting it up, then?

Mr. CORDRAY. Well——

Senator CORKER. I guess my question is, unless—do you go out, when somebody sends a complaint and you put it up publicly, which makes it real, are you first checking out that complaint to make sure it is real, or are you just allowing it to be a gossip board for people to take out their vengeance on organizations that may well deserve it, but I am sure in some cases do not?

Mr. CORDRAY. Right. And, of course, those gossip boards now exist all over the Internet, so it is a different era than 20 years ago——

Senator CORKER. But you are validating this.

Mr. CORDRAY. That is not what we are trying to do.

Senator CORKER. Yes. Yes.

Mr. CORDRAY. So we do verify the customer relationship. We remove duplicates——

Senator CORKER. Before they go up?

Mr. CORDRAY. Oh, yes.

Senator CORKER. Before the complaints go up?

Mr. CORDRAY. Yes.

Senator CORKER. Good.

Mr. CORDRAY. And if it is not within our jurisdiction, it is something we refer to another agency, we do not report it. And the data we are reporting is aggregated data, so it is a snapshot. It is a picture. There was some concern about it when we first started to do it. It is something that other parts of the Government have done to some degree, the Highway Safety Administration and the Consumer Product Safety Commission. I think people are starting to understand what we are trying to do, which is that we find this information, and we do, very useful to trying to understand and inform our work. We think the public should have access to the information and it may well inform them in terms of customer relationships and customer service.

We do find it somewhat incentivizing for companies to think harder about how they can serve their customers better. As I said, we have gotten a tremendous response from the credit card companies thus far in terms of responsiveness to consumer problems, and, frankly, in some ways, they have showed very well in this process.

Senator CORKER. You are mentioning—you are really helping me move along here—you mentioned referring to other agencies——

Mr. CORDRAY. Yes.

Senator CORKER. ——and it made me recall that when you were in here last, one of the things that hurts consumers is bad behavior by other consumers, right? In other words——

Mr. CORDRAY. Yes.

Senator CORKER. ——when we have fraud by one consumer, it actually drives up the cost for another consumer. And you mentioned last time you were here, I remember very explicitly, that if you saw fraudulent behavior on behalf of consumers, that you were going to report that to other agencies, because you acknowledged

when you were here that that is very damaging to other consumers who play by the rules. How much of that have you done?

Mr. CORDRAY. So in terms of referring matters for potential criminal prosecution and the like, which we have the authority to do, to the Justice Department—I cannot really speak publicly about—

Senator CORKER. Just give me sort of the range of order of magnitude of those referrals.

Mr. CORDRAY. Well, I would say, first of all, there are a number of situations involving fraud being committed by individuals that we ourselves are investigating and will address, and one of our other first enforcement actions that is now public was against a few individuals that are engaged in a fraudulent foreclosure rescue scheme that is covering people in 25 or more States, a very significant problem and the kind of thing that we want to stamp out around the country. Not easy to stamp it out, but we will work to do so.

So if we see instances of wrongdoing by anyone in the course of our work, we have an obligation to report those that rise to the level of being reportable and we will do that. I do not have numbers for you and I do not think I am supposed to discuss any individual cases in that regard.

Senator CORKER. No, and certainly, I was not even asking that. But I would just say that, again, it hurts consumers that play by the rules when that activity takes place and—

Mr. CORDRAY. I agree.

Senator CORKER. —we have a situation right now where foreclosures are taking 378 days. And again, if people are not supposed to be foreclosed on, they should not. On the other hand, that delay among those who are not paying is creating issues for those consumers who play by the rules.

I know my time is up. I will say that, in closing, I do hope that—I know you have put the qualified mortgage issue off until after the election, so—agencies and politicians both put things off until after the election, I have noticed. I hope that as you look at that, I think it is important for consumers to have lenders who have safe harbors. In other words, they know that if they have done the things that they should do, they do not end up with a rebuttable presumption down the road that really ends up driving up costs. So I hope as you look at that after the election, you certainly will take that into account.

I thank the Chairman for being so generous with time.

Mr. CORDRAY. We are looking at it right now, Senator, and we will take that concern into account as we are receiving the same types of input and advice from many, many sources on the safe harbor issue.

Senator MENENDEZ [presiding]. Senator Akaka.

Senator AKAKA. Thank you very much, Mr. Chairman.

Mr. Cordray, I have been working with the Indian Tribes and many Tribal communities are concerned about the financial literacy and financial empowerment of their Tribal members, and I am so delighted to know that you are moving on empowerment, as well. For the American Indians, I am trying to get them to do more thinking about financial literacy. My question to you, Mr. Cordray,

is what could the CFPB do to promote financial literacy to Indian Country, particularly with the flow of funds from the Corbell and Keepseagle settlements that are occurring?

Mr. CORDRAY. Thank you, Senator, for the question. This is an issue that has been brought to our attention by a number of Senators and others. We regularly are engaging with Tribal representatives to understand some of the particular issues for Native Americans around the country.

We were alerted that there are issues. There are two fairly large settlements, the two you referred to, where funds are going to be flowing into Native Americans across the country and there are already some scams that are popping up around when people know that funds are flowing, they tend to try to get their hands into them. We have been engaged in consumer education and financial literacy efforts around where we know those funds are going to be flowing. We have staff who, I believe, next week are going to be in Arizona and New Mexico working on that issue. And we are coordinating with others, including others in the Federal Government and locally, to figure out how we can best help avoid what would be a tragedy of people who have fought to receive funds because they were wronged and then find that those are going to be diverted to fraudulent operators who are aggressive with their scams.

We also have been working through our Office of Intergovernmental Affairs, which I think is the appropriate level for us since Tribal Governments, that is an appropriate respect and level at which to address those issues, on the kinds of issues and problems they have raised with us that are maybe unique to the Native American community. And we will continue to listen. We will continue to try to address those issues with them.

Senator AKAKA. Thank you, also, for your earlier comment on community banks and credit unions. I would like to say that yesterday's announcement of the important appointment of Donna Tanoue of Honolulu to the Consumer Advisory Board, and Bernard Balsis of the HILO to the Credit Union Advisory Council, I am pleased that they will help share their expertise and experience. That includes years of working for Hawaii's banks and credit unions. So I want to thank you very much for moving in that direction, as well.

That is what makes me appreciate what you are doing. You are moving in, for me, in a great direction to help all kinds of consumers, and so it is growing on you and your staff, as well, and your staff has been doing an excellent job, too.

So thank you, Mr. Chairman, for the time of these questions.

Senator MENENDEZ. Thank you, Senator Akaka.

Director, let me ask you, in the Capital One case, was there about \$150 million that consumers got in some form reimbursed?

Mr. CORDRAY. Yes. There was \$140 million that was covered by the issues that we were addressing and addressing then jointly with the OCC, and then there was a different issue that the OCC had raised that was really outside of our jurisdiction where there was additional relief gained, which is the benefits of cooperation, both to address all of that together and from the standpoint of the institution, to be able to put all of that behind it at once.

Senator MENENDEZ. But for your agency, do you think that this action would have taken, consumers would have been saved the \$140, \$150 million?

Mr. CORDRAY. I do not have any way of assessing that, Senator, but I can say that I do think that——

Mr. CORDRAY. Was it your agency that pursued this in the first instance?

Mr. CORDRAY. I do think it matters greatly to have an agency whose sole focus is on consumer protection and not have to balance that against other very significant responsibilities, which is——

Senator MENENDEZ. Was it your agency that pursued this in the first instance?

Mr. CORDRAY. It was, yes.

Senator MENENDEZ. You know, in your confirmation process, your modesty is a challenge.

[Laughter.]

Mr. CORDRAY. I will have to work on that, Senator.

Senator MENENDEZ. When we do something right, it is not a problem to acknowledge it. So I raised that question simply because, for those who are detractors of the agency, here is an example of consumers being saved \$150 million by the instigation of this agency. And but for the agency, I personally doubt—I will answer the question myself—very much whether consumers would have been protected in that respect, not to mention the message it sends to the rest of the industry to do the right thing. So I appreciate that.

As you, I think, may know, I have introduced the Prepaid Card Consumer Protection Act, and I want to applaud the agency for starting the process of regulating prepaid cards and I look forward to working with the agency to enact provisions similar to those in my bill. But consumers' use of prepaid cards has exploded in the past few years, especially among underbanked consumers, and many of them—having already regulated credit cards, debit cards, and gift cards—this area is largely unregulated and many of them have incredibly excessive fees and work to the detriment of consumers, particularly as it relates to even knowledge of what they are getting in. So I would like to get a sense from you of what progress you are making at the Bureau analyzing this issue and when do you anticipate moving forward on it.

Mr. CORDRAY. Good. I am glad to have that question. Prepaid cards are actually a very actively innovative segment of the financial market. There are, as you indicated and we have seen already, a wide range of different product offerings that range from pretty responsible and very possibly an improvement for consumers over other options to pretty terrible and definitely exploitative of consumers and it is a little wild and wooly right now.

I also would say that in light of the dynamic where rules were written to protect consumers more specifically on credit cards and then Congress ended up passing the CARD Act, we are quite interested in having a dialog back and forth. We have actually taken an affirmative step. We are going to write rules about prepaid cards. We have already issued an anticipatory Notice of Proposed Rulemaking to begin to gather information on that. We recognize that these cards are becoming quite pervasive. A lot of people are

using them, particularly some of the people who are low- and moderate-income, but many people are using them and they like the safety of knowing they will not end up somehow in debt on such a card, although that is not a given with some of the products being offered, and we are going to move forward in that area.

It may be that we will implement this by rule. It may be you will choose to move forward with legislation. We welcome it all and we are glad to talk back and forth about what we are trying to accomplish, what the base of knowledge is that we are developing in terms of actual practices and concerns and have that discussion.

We do intend that people who use prepaid cards—and I think, for many people, they may not always know the difference between a debit card, a prepaid card, a credit card, or an ATM card, for that matter. They are all in their wallet. They all have a shifting set of capabilities. And we want consumers to be protected in the use of all of those.

Senator MENENDEZ. Well, we certainly want consumers to be protected and that is the focus of our legislation. And I agree with you, many consumers do not know the difference between a prepaid card and a debit card and a credit card, and so we will look forward to working with your staff at the agency. I mean, I am happy to see us achieve the goal, whether that goal can be achieved through regulatory fashion, or if it must be legislative, so be it. But we will look forward to working with you.

I also have long advocated national standards for banks that collect homeowners' mortgage payments, including, as the Subcommittee Chair on Housing, chairing a hearing on that issue about 2 years ago. What progress is the Bureau making in creating national mortgage servicing standards?

Mr. CORDRAY. We are making, Senator, good progress on that front. We have a proposed rule that is out for comment now that would provide broad protections in this area, which has been such a troubled area, and specific requirements for mortgage servicers for how they need to address the kinds of problems that we have all seen. Those rules will be finalized by January. Some portions of the rules implement things that Congress required us to do and others go beyond and are attempting to provide the kind of protections, both process-wise and substantively, that consumers need in this area. There may be scope for yet further work in this area. We are getting as much done as we can by January.

We also have begun examining mortgage servicers, sending in teams to actually examine them on the ground, both bank mortgage servicers and nonbank mortgage servicers. We have taken the occasion to actually meet face to face with a number of mortgage servicers to convey to them our seriousness about this issue, our understanding that this has been one of the major areas of consumer harm over the past 5 years and counting for people who are suffering in these difficult circumstances, and that they need to be improving their processes and coming up to snuff now, not waiting for rules to take effect, not waiting for us to come around on our examination schedule, but getting it right themselves up front, and we are trying to signal pretty specifically what kinds of things they are supposed to be doing.

But none of this should come as any surprise to people. These issues have been out there and have been surfaced for years. The settlement discussions with the State Attorneys General and the Justice Department surfaced them further. They are all the same issues. They know what they need to do. It is merely a question of whether they are going to invest the time and effort and money and attention to do it. And if they do not, we are going to be coming to look at them. They are all on notice of that. And they need to, again, get up to snuff.

Senator MENENDEZ. You are looking at this, also, in the context of the AG consent settlement agreements and the OCC and the Fed consent orders?

Mr. CORDRAY. Yes. One of the things we are mindful of is that it is a complicated area where there has been a fair amount of activity. So there is the AG—Justice Department—HUD settlement, which imposes some requirements for a specific amount of time on certain specific parts of the portfolio but does not have general applicability. There are FHFA guidance to Fannie Mae and Freddie Mac, which have been very helpful in the area. There are the OCC, Fed, and banking orders that have been very specific about improvements that need to be made and have made an enormous difference.

We are trying to harmonize all of that and not end up going in different directions, which would not be fair to servicers and would not be beneficial to deliver value for consumers if we simply create more confusion. There has been a lot of interagency discussion and coordination on this. There will continue to be. And I think we are going to have some good results come January, and I think there may be further work to be done after that, but we will see.

Senator MENENDEZ. Good. Two final questions. One is the law requires the Bureau to be cognizant of the regulatory burdens of its action, specifically when it comes to smaller institutions. And along these lines, can you tell the Committee how your agency is crafting regulations and providing regulatory guidance in a way that makes compliance simple and workable, for example, community banks and small nondepository regulated entities.

Mr. CORDRAY. So, Senator, I personally have been pushing hard on this at the Bureau. I put myself way out on a limb willingly in saying very loudly and clearly that smaller community banks and credit unions did not cause the financial crisis. They have a good, solid business model that has proved itself by tradition and by experience and we want to be mindful of that as we go about imposing, or implementing new rules.

We are trying to look at that on a rule-by-rule basis as to what an appropriate threshold might be to set for—perhaps certain institutions do not have to address the rules at all, because below a certain level, it is more burden than it is benefit to consumers. There may be ways in which we can tweak some of the rules so certain things that they alert us to as special burdens maybe can apply differently to the smaller institutions.

We have to, at the same time, be mindful of the fact that consumers deserve protection and they deserve protection across the board. So it is a balance there, but it is one that we are going to continue to take a lot of input on because of the sort of philo-

sophical approach that I just outlined that I have and I think the Bureau has toward this.

On the remittance rule, we are going to have a small provider guide that is attempting to boil this all down to sort of plain English, straightforward, easier to follow guidance than perhaps the kind of rules that get published in the *Federal Register*. We are going to be hearing from them and responding to them in terms of questions and concerns they have. We are coming out with some pieces of guidance that they have asked about.

And we are going to stay with it. We are not just going to publish rules and then forget about it and say, that is somebody else's problem now. It is our problem, too, that the rules get implemented and they actually deliver value for consumers and that they are balanced toward not providing undue burden for providers where the benefit does not correspond.

Senator MENENDEZ. I appreciate that view, I think which is in the context of what the law specifically asks for.

Finally—this may have been asked, but I may have missed it—how many complaints has the Bureau received from consumers so far about mortgages, credit cards, banks, debt collection, and other financial services?

Mr. CORDRAY. Well, as of September 3, I quoted a number in my opening statement that was 72,000—I may not have it quite right—72,297, something like that, complaints, which is, you know—I got it right—that is a significant number and it is also a number that is increasing over time. I think our annualized rate of complaints, as of this moment, is 120,000 per annum. So it has been ramping up.

We have no idea when that will level off or where it will level off. It could be several hundred thousand. It could be over a million. We just do not know. There has never before been a consumer-facing bureau like this and we are trying to be aggressive about interacting with consumers, their advocates and other stakeholders around the country. So we will see.

Right now, the most complaints are coming in on mortgages. We are getting more mortgage-related complaints, including servicing complaints, than we are credit card complaints and than we are the other products. It makes some sense. The mortgage market is the biggest consumer finance market out there and those concerns are heart and soul to people. You have the possibility they might lose their house or be in arrears on their largest single financial obligation, ruining their credit. It is obviously an urgent thing for people, so not unexpected.

But the volume we are receiving is heavy. It is getting heavier and it is hard work for us to keep up with it.

Senator MENENDEZ. And, finally, how are you ultimately—I do not know if you have a—can you describe the process when you receive that consumer complaint? What exactly happens? Is there a success rate, or can you give us the rate of when those that are verified versus those that are not—do you have any quantification of that?

Mr. CORDRAY. We have been working on how we report this and how we understand it, and actually, we have made several modifications along the way. We started off by reporting “Complaints

Closed With Relief” and “Complaints Closed Without Relief”. We got a fair amount of input from industry that they thought that was not specific enough and in some ways was somewhat unfair because there is both monetary relief, where sometimes the consumer gets dollars back, and there are other kinds of relief that can also be meaningful to people, such as clearing up the problem, removing the allegation that there is a debt, getting the credit report cleaned up, which sometimes matters a lot more to people than the \$75 or \$100, although that matters to a lot of people. So we have tweaked this and changed it a few times, including most recently June 1, and we are trying to go back and reapply those categories to what happened before.

As we go, we are getting more and more data. It is better data in the sense that it is more refined, more polished, and I will be candid about that. We are better now than we were 6 months ago. We were better then than we were 6 months before that. We will be better in 6 months than we are now. But those are the kinds of things that we are trying to do.

In terms of how we handle the complaints, we began with a very interactive back and forth between us and the institution. There are many complaints that are resolved both positively and negatively. The consumer then has an opportunity to contest that resolution, which sometimes they do, sometimes they do not, to provide more information. And we will then investigate complaints that are not resolved at that point.

And we are also finding this is helpful to us because it does identify some patterns of potential violations, which we look at both in our examination role and in our enforcement role. But we are pretty careful about that. We are not just taking unverified, raw information—anybody can say anything about anybody, as some of your colleagues identified earlier, but we are trying to be careful about what does it really mean? What does it actually tell us is going on in the marketplace?

I am told—our crack staff wanted me to tell you that we believe we have received over 3,000 consumer complaints thus far from the State of New Jersey. It is sometimes hard to tell, because if they come by email, you do not always know where they are from. But there is a robust appetite out there for people who need and want and are seeking help and we are trying to meet it.

Senator MENENDEZ. Well, there certainly is a robust appetite to sort of, like, level the playing field and have an honest and transparent system and we believe you are well on your way.

With the thanks of Chairman Johnson and the Members of the Committee, we thank you for your testimony, look forward to our continuing engagement with you.

And with that, the hearing is adjourned.

[Whereupon, at 11:30 a.m., the hearing was adjourned.]

[Prepared statements, responses to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF RICHARD CORDRAY

DIRECTOR, CONSUMER FINANCIAL PROTECTION BUREAU

SEPTEMBER 13, 2012

Chairman Johnson, Ranking Member Shelby, and Members of the Committee, thank you for inviting me to testify today about the Semi-Annual Report of the Consumer Financial Protection Bureau.

Just over 1 year ago, the Consumer Bureau became the Nation's first Federal agency focused solely on protecting consumers in the financial marketplace. The Semi-Annual Report we are discussing today covers our activities from January 1 through June 30 of this year.

As the report shows, we have been using all of the tools at our disposal to help protect consumers across this country. We pledge to continue our work to promote a fair, transparent, and competitive consumer financial marketplace.

Through our regulatory tools, we have proposed smarter rules that will help fix the broken mortgage market with commonsense solutions. We are writing rules that simplify mortgage disclosure forms and rules that make sure consumers do not receive mortgages that they do not understand or cannot afford. Our rules will also bring greater transparency and accountability to mortgage servicing. And our careful process is that before we propose a rule, a team of attorneys, economists, and market experts evaluates its potential impacts, burdens, and benefits for consumers, providers, and the market.

Our push for accountability extends beyond mortgage servicing. We are holding both banks and nonbanks accountable for following the law. Prior to my appointment, nonbanks had never been federally supervised. The financial reform law specifically authorized us to supervise nonbanks in the markets of residential mortgages, payday loans, and private student loans. We also have the authority to supervise the "larger participants" among nonbanks in other consumer finance markets as defined by rule. So far, we have added credit reporting companies to this group.

It is important for us to exercise sensible oversight of the consumer finance markets, but it is also important that we empower consumers themselves to make responsible financial decisions. Our "Know Before You Owe" campaign involves us working to make mortgages, credit cards, and student loans easier to understand. We also developed "AskCFPB," an interactive online database with answers to consumers' frequently asked questions. We also launched the first-ever database of individual complaints about financial products, starting with credit cards. Consumers can use the Web site to review and analyze information and draw their own conclusions about the customer service provided with these financial products.

We also think it is important to engage directly with consumers so we know more about the struggles and frustrations they encounter in their daily lives. The Bureau has held numerous field hearings across the country so we can talk face to face with consumers on a variety of topics. Our Web site has a feature called "Tell Your Story", which encourages consumers to share with us their personal stories to help inform our approach in addressing issues in the financial marketplace. And, perhaps most significantly, we help to resolve consumer disputes with lenders by taking complaints on our Web site at consumerfinance.gov, as well as by mail, fax, phone, and by referral from other agencies. As of September 3, we have received 72,297 consumer complaints about credit cards, mortgages, and other financial products and services, and the pace of complaints has been increasing over the past year.

All of these processes—rulemaking, supervision, enforcement, and consumer engagement—provide us with valuable information about consumer financial markets. We engage in extensive outreach to large and small institutions, including banks and nonbanks, to gather the best current information as we make policy decisions. We pride ourselves on being a 21st-century agency whose work is evidence-based. So we also conduct our own in-depth studies on consumer financial products, such as reverse mortgages and private student loans. We have issued public requests for information that seek input from consumers, industry, and other stakeholders on issues such as overdraft fees, prepaid cards, and the financial exploitation of seniors. The new Consumer Bureau has worked on all of these projects while being fully engaged in start-up activities to build a strong foundation for the future. The Bureau has worked to create an infrastructure that promotes transparency, accountability, fairness, and service to the public. Our first year has been busy and full, and this report reflects considerable hard work done by people whom I greatly admire and respect. They are of the highest caliber and they are deeply dedicated to public service. We look forward to continuing to fulfill Congress' vision of an agency that helps all Americans by improving the ways and means of their financial lives.

Thank you.

**RESPONSES TO WRITTEN QUESTIONS OF
CHAIRMAN JOHNSON FROM RICHARD CORDRAY**

Q.1. Director Cordray, the Committee is interested in your work relating to prepaid cards. On your agency's Web site, it states that "With very few exceptions, most prepaid card providers who claim to offer a way to build your credit history report your activities only to a lesser-used credit reporting agency, not one of the three major credit reporting agencies used by most lenders." Can you inform the Committee specifically who are these exceptions and are they beneficial to consumers in building their credit?

A.1. In the Advance Notice of Proposed Rulemaking (ANPR) published in May 2012, the Bureau sought public input and data concerning the efficacy of credit reporting features on prepaid cards. In the same ANPR, the Bureau also expressed an interest in understanding how such services are marketed to consumers.

In reviewing the responses to the ANPR and through meetings with industry participants, the Bureau has found no evidence of effective credit building through transactional use of a prepaid card. None of the information we reviewed points to demonstrable consumer success in building credit by transacting on a prepaid card. Issuers that had been making such claims have stopped marketing this feature completely, or caveat that the use of transactional data for credit building is a test program in pilot phase with one of the credit bureaus.

The language on our Web site reflects the nonexhaustive nature of our market review and there may be providers that we have not yet identified. However, in our analysis and review of the prepaid market to date, the Bureau has major concerns about the "credit building" service, and we remain unaware of any effective solution that enables prepaid card customers to build credit by using their prepaid card to transact in the marketplace.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SHELBY
FROM RICHARD CORDRAY**

Q.1. Mr. Cordray, during the hearing I stated that the Bureau has proposed eliminating the Dodd-Frank requirement that creditors disclose the "Total Interest Percentage" on mortgage disclosures. In its proposed rule the Bureau states that it is using its "exception and modification authority under TILA Section 105(a) and (f) and Dodd-Frank Section 1032(a)" to eliminate this requirement. Section 1032(a) does not, however, contain the "exception and modification" language that appears in TILA Section 105(a) and (f). I asked whether you believe that the Bureau has exception and modification authority under Section 1032(a) independent of TILA Section 105(a) and (f). You responded yes to my question.

Please provide a legal analysis explaining the basis for your belief that the Bureau has exception and modification authority under Section 1032(a) of Dodd-Frank, independent of any other statute, including TILA.

A.1. Section 1032(a) of the Dodd-Frank Act provides that the Bureau may prescribe rules to ensure that the features of any consumer financial product or service, both initially and over the term of the product or service, are "fully, accurately, and effectively dis-

closed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.” Thus, section 1032(a) authorizes the Bureau to prescribe rules to ensure the overall effectiveness of disclosures regarding a product or service, which may result in rules that alter, perhaps significantly, specific statutory provisions.

In the TILA-RESPA integrated mortgage proposal, the Bureau relied on a number of statutory grants of authority, including section 1032(a), to support the proposed requirements, including some that would have the effect of modifying statutory requirements. The authority granted to the Bureau under section 1032(a) is consistent with the goals of the TILA-RESPA proposal, which combines two different mortgage disclosure regimes into a single set of disclosures that fully, accurately, and effectively inform consumers of the nature and costs of mortgage loans in a manner that permits them to understand the associated costs, benefits, and risks. Of course, when prescribing rules under section 1032(a), the Bureau will consider the available, relevant evidence (such as consumer testing) about consumer awareness, understanding of, and responses to disclosures or communications.

Q.2. Mr. Cordray, recently Lt. Governor of California, Gavin Newsom, asked the U.S. Department of Justice to investigate and prosecute groups representing Wall Street investors and the mortgage industry for making statements that mortgage lending may become costlier in parts of the country where municipalities are weighing eminent domain proposals.

Do you believe that a company that refuses to make or buy loans that are secured by properties in jurisdictions that repudiate mortgage contracts has engaged in an abusive, unfair, or deceptive practice or otherwise violated any of the “Federal Consumer Financial Laws”?

A.2. Whether the refusal of a lender to make loans in a particular jurisdiction violates any Federal consumer financial law (including the prohibition on acts or practices which are unfair, deceptive, or abusive) depends on a careful and thorough assessment of all the relevant facts and circumstances as well as legal precedents.

Q.3. Mr. Cordray, in the remittance transfers rule the Bureau stated that it expects some businesses may stop offering this service as a result of this rule. Unfortunately, it appears that the Bureau’s prediction will come to fruition. The ICBA recently stated that the rule will “force many community banks to no longer offer remittance services to customers.”

Can you explain how a costly regulation that forces small banks out of this market and concentrates market share in larger financial institutions is good for consumers?

Will you consider phasing in the final rule to ensure that the industry has time to provide meaningful information to those consumers who would like to send remittances?

A.3. The Bureau is aware of concerns that the rule could lead some remittance transfer providers to choose to exit the business or significantly reduce their product offerings to consumers. That is why we continue to take steps to alleviate these concerns while main-

taining the rule's valuable new consumer protections. The Bureau addressed many institutions' concerns through the authorization for estimates contained in the original rule, as well as by the normal course of business safe harbor adopted by the Bureau in August. Additional compliance and implementation concerns were raised by industry in requests for guidance and other communications after the rule was finalized earlier this year. As a result, the Bureau expects to issue a proposal next month to refine three narrowly targeted elements of the rule. The proposal is expected to address the following three topics:

- Situations in which a sender provides an incorrect account number to a remittance transfer provider. As the Bureau announced during the Bureau's webinar on the remittance rule on October 16, 2012, the CFPB plans to propose revisions to the rule's error resolution provisions. Specifically, the proposal will address the way the rule applies to situations in which a sender provides an incorrect account number to a remittance transfer provider and that information results in a remittance transfer being deposited into the wrong account. The CFPB intends to propose that where the provider can demonstrate that the consumer provided the incorrect information, the provider would be required to attempt to recover the funds but would not be liable for the funds if those efforts are unsuccessful.
- Disclosure of third party fees and foreign taxes. The CFPB plans to propose revisions to the rule's disclosure provisions concerning foreign taxes and fees assessed by the financial institution receiving the transfer. The proposal would provide additional flexibility around these requirements, including by permitting providers to base fee disclosures on published bank fee schedules and by providing further guidance on foreign tax disclosures where certain variables may affect tax rates.
- Disclosure of regional and local taxes assessed in foreign countries. The CFPB also plans to propose that the obligation for providers to disclose foreign taxes imposed on remittance transfers is limited to taxes imposed at the national level, and does not encompass taxes that may be imposed by foreign, sub-national jurisdictions.

The Bureau expects to issue a notice of proposed rulemaking next month to explain the changes in detail and to seek public comment. After considering the public comments, the Bureau will issue a final rule as quickly as possible. The Bureau anticipates proposing to extend the effective date on the original rule until 90 days after the supplemental rule is issued. Based on current expectations, this would mean that the proposed effective date for the remittances rule will be during the spring.

The Bureau will continue to work with industry and others to facilitate preparations for implementation during the intervening period. The Bureau expects to move quickly once the proposal is issued to ensure that the new consumer protections afforded by the rule can be effectively implemented and delivered to consumers as soon as possible.

Q.4. Mr. Cordray, in the remittance transfers rule the Bureau requires the disclosure of foreign taxes, despite the fact that this is not required by the Dodd-Frank Act.

What will be the cost to a community bank to figure out all the foreign tax laws that might apply for every country around the world?

A.4. As the Bureau stated in adopting the final rule, EFTA section 919(a)(2)(A)(i) requires a remittance transfer provider covered by the rule to disclose the amount to be received by the designated recipient. Thus, the final remittance rule requires providers to disclose all fees and taxes specifically related to the remittance transfer, regardless of the entity that charges them, as these elements have a direct impact on the amount made available to the designated recipient. Many community banks—those that perform fewer than 100 such transfers per year—will qualify for the normal course of business safe harbor and will therefore not need to provide this information. For those that do not qualify for the safe harbor, the Bureau understands that some remittance transfer providers, including community banks, may face difficulties in disclosing fees assessed by a recipient's financial institution and foreign taxes applicable to a transfer. Therefore, the Bureau plans to propose revisions to the rule's disclosure provisions concerning foreign taxes and recipient institution fees. The proposal would provide additional flexibility around these requirements, including by permitting providers to base fee disclosures on published bank fee schedules and by providing further guidance on foreign tax disclosures where certain variables may affect tax rates. Under the proposal, disclosure of foreign taxes imposed on remittance transfers would be limited to taxes imposed at the national level, and would not encompass taxes that may be imposed by foreign, subnational jurisdictions.

Q.5. Mr. Cordray, a recent rule by the Bureau would mandate that loan officers offer a plain vanilla mortgage with no-points and no-fees, unless "consumers are unlikely to qualify for such a loan."

How will loan officers determine whether a consumer is likely to qualify for a plain vanilla mortgage at the time of the offer?

What are the penalties and legal liabilities for entities that fail to offer the plain vanilla mortgage?

A.5. The Dodd-Frank Act contains a provision that would generally prohibit the imposition of any upfront discount points, origination points, or fees on consumers for mortgage loans in which a creditor or loan originator organization (i.e., mortgage brokerage firm) pays a loan originator a transaction-specific commission. As an alternative to this complete prohibition, the Bureau proposed in August 2012, pursuant to authority granted by the Dodd-Frank Act, to allow loans that include such points and fees if the creditor also makes available to the consumer a comparable, alternative loan that does not include those points and fees. The purpose is to allow the consumer to compare two similar mortgage options—i.e., one with points and fees, and one without but with a higher interest rate—to see and understand the different ways to pay for the same mortgage product.

To be comparable, the alternative loan would generally have the same terms and conditions as the loan that includes points and fees; however, the alternative loan would not necessarily be “plain vanilla” because no restrictions would be imposed on, for example, the loan term, the amount of the interest rate, whether the rate is fixed or adjustable, or whether the payments are fully amortizing.

As noted, the proposal provides that the creditor would not need to make available the alternative loan if a consumer is unlikely to qualify for that loan. Under the proposal, the creditor would need to have a good faith belief that the consumer is unlikely to qualify based on its own current pricing and underwriting policy. In making this determination, the creditor could rely on information provided by the consumer, even if that information is subsequently determined to be inaccurate. We specifically sought comment on how this aspect of the proposal might be improved, and are in the process of considering and evaluating the feedback received as we develop the final rule.

If a creditor or loan originator were to fail to comply with the applicable requirements of the final rule, liability and penalties would be determined under sections 108 and 130 of TILA, 15 U.S.C. 1607, 1640.

Q.6. Mr. Cordray, last month the Bureau released a mortgage servicing rule that includes new rules on loss mitigation, even though RESPA, the underlying statute, does not cover loss mitigation. Instead, the Bureau relied upon a Dodd-Frank Act amendment to RESPA, which allows the Bureau to write rules “appropriate to carry out the consumer protection purposes of this Act.”

Given the broad language of that amendment to RESPA, what are the limits of your authority under RESPA?

Would the Bureau ever need Congress to amend RESPA in the future, or can you exercise this new authority to make any changes you deem necessary?

A.6. RESPA imposes obligations upon servicers when servicing federally related mortgage loans that are intended to protect borrowers. As amended by the Dodd-Frank Act, this includes a prohibition against failing to take timely action to respond to borrowers’ requests to correct errors relating to “avoiding foreclosure, or other standard servicer’s duties.” RESPA section 6(k)(1)(E) also states that a servicer of a federally related mortgage shall not fail to comply with any obligation found by the Bureau, by regulation, to be appropriate to carry out the consumer protection purposes of RESPA.

Each of the provisions proposed in the mortgage servicing rulemaking, including the loss mitigation procedures, addresses the consumer protection purposes of RESPA as described in the Notice of Proposed Rulemaking. The Bureau is limited to issuing regulations consistent with the authorities granted by Congress. The Legal Authority section to the Notice of Proposed Rulemaking more fully describes the scope of the Bureau’s legal authority to amend RESPA.

Q.7. Mr. Cordray, the mortgage servicing rule released by the Bureau last month expanded the obligations required for mortgage

servicers by amending RESPA. Since RESPA has a private right of action, consumers will now have a Federal private right of action against a servicer for any alleged failure to engage in proper loss mitigation.

Do you have any concerns that exposing servicers to more lawsuits will make banks less willing to lend, especially to riskier consumers?

Did you conduct any economic analysis on how much this rule will increase the cost of mortgages by exposing banks to more lawsuits?

A.7. One of the clear lessons of the mortgage crisis has been that good loss mitigation practices provide better outcomes for consumers and mortgage investors. Despite this, many servicers, who stand in between those parties, have not undertaken the work necessary to implement good loss mitigation practices to achieve those better outcomes.

To correct this problem, the Bureau proposed to establish loss mitigation procedures, which are designed to ensure that borrowers receive information about loss mitigation options available to them and the process for applying for those options. Under the proposed rule, borrowers would be evaluated for all options for which they may be eligible, have an opportunity to appeal decisions by the servicer regarding loan modification options, and be protected from foreclosure until the process of evaluating the borrower's complete loss mitigation application has ended. Further, servicers would be required to produce a record of decisions and, in the case of loss mitigation, the reasons for denial. The Bureau's proposed mortgage servicing rules would create reasonable, commonsense, and transparent procedures that would be used to hold servicers accountable. Under the proposal, a private right of action would exist for failure to follow these procedures.

The Bureau carefully considered the benefits, costs, and impacts of each significant provision of the proposed rule, including the loss mitigation procedures. As stated in the proposed rule, absent rules governing the loss mitigation process, investors and guarantors may structure loss mitigation efforts as vague discretionary activities, eliminate loss mitigation efforts altogether, or worse, significantly reduce mortgage market activity, potentially curtailing general access to credit. The Bureau recognized the benefits, costs, and impacts of the private right of action associated with the proposed loss mitigation procedures and with certain other proposed amendments to Regulation X. The Bureau notes that the regulatory analyses in the proposal generally assume that firms comply with a proposed rule and therefore incur the costs associated with compliance. Any other approach would require the Bureau to reduce the costs of compliance by a specified factor. In other words, the costs of civil liability would require the Bureau to determine the probability that a firm in compliance with the proposed rule would face additional lawsuits based on a violation of the loss mitigation procedures. This probability would have to reflect both any increase in lawsuits asserting violation of the proposed loss mitigation procedures and any reduction in lawsuits asserting violations of existing legal requirements to the extent that such reduction were to result from compliance with the proposed loss mitigation provisions.

For example, compliance with the proposed reasonable information management procedures may reduce lawsuits asserting that servicers have failed to comply with applicable law with respect to sworn affidavits and notarized documents in connection with foreclosure proceedings. Similarly, compliance with the proposed loss mitigation procedures may reduce lawsuits asserting claims based on a servicer conducting a foreclosure sale when a borrower has accepted an offer of a loss mitigation option and is performing pursuant to such option. The Bureau lacked data with which to estimate this probability at the time of the proposal, but specifically sought comment and data on issues effecting its consideration of benefits and costs and will evaluate the information received and continue its own internal analyses in preparing the final rule.

Q.8. Mr. Cordray, the recent settlement with Capital One resulted in the Bureau and the OCC collecting civil money penalties of \$25 million and \$35 million, respectively. By law, the OCC must give its entire penalty to Treasury. In contrast, the Bureau's civil money penalty will go to its own slush fund. The Bureau will then have unilateral authority to decide how to allocate the \$25 million.

Will any portion of the \$25 million obtained by the Bureau go to Treasury?

A.8. In the Dodd-Frank Act, Congress authorized the Bureau to use civil penalties only for payments to victims, and, in certain circumstances, consumer education and financial literacy programs. In particular, §1017(d)(2) provides:

Amounts in the Civil Penalty Fund shall be available to the Bureau, without fiscal year limitation, for payments to the victims of activities for which civil penalties have been imposed under the Federal consumer financial laws. To the extent that such victims cannot be located or such payments are otherwise not practicable, the Bureau may use such funds for the purpose of consumer education and financial literacy programs.

Q.9. Please provide a break-down of how the Bureau will distribute these funds and the procedures the Bureau used to decide how to allocate these funds.

A.9. The Bureau has made available on its Web site an overview of the Civil Penalty Fund: http://files.consumerfinance.gov/f/201207_cfpb_civil_penalty_fund_factsheet.pdf.

As that document notes, the Bureau has created a Civil Penalty Fund Governance Board, which is responsible for ensuring that the Civil Penalty Fund is administered in a manner that is consistent with the Dodd-Frank Wall Street Reform and Consumer Protection Act. In addition, the Civil Penalty Fund Governance Board is responsible for developing policies and procedures, including appropriate internal controls, to ensure that money deposited in the Civil Penalty Fund is distributed in a manner that:

- Supports the Bureau's mission, responsibilities, policies, and priorities;
- Complies with the Dodd-Frank Act and all other applicable laws and regulations, as well as internal CFPB policies and

procedures and legal opinions of the CFPB's Office of General Counsel;

- Protects against waste, fraud, and abuse;
- Provides appropriate transparency regarding the use of CPF monies, including the manner of distribution, any associated administrative expenses, and, where applicable, the mechanism for identifying individual victims;
- Ensures appropriate and robust oversight of contractors; and
- Enhances program efficiency through regular operational analyses and development of appropriate performance metrics.

The Bureau has also posted the criteria it will use in making available Civil Penalty Fund monies for Consumer Education and Financial Literacy programs: http://files.consumerfinance.gov/f/201207_cfpb_civil_penalty_fund_criteria.pdf. The Bureau will use the Federal procurement process for these programs.

Q.10. Mr. Cordray, in past Congressional testimony you were asked whether the CFPB is considering how several mortgage rules are going to work together and the steps you are taking to analyze and mitigate the cumulative impact of these rules on the affected small businesses. In response you stated that you have solicited for comment the potential impact of these proposed rules and have asked for data illustrating the impact on small business. Your response indicates that you believe that small businesses will have the ability to respond to each of these rulemakings. The TILA/RESPA rule alone, however, is 1,100 pages in length and contains 155 requests for comment or additional data.

Do you expect that small- and medium-size banks will have the ability to read and respond to all of these requests?

What will you infer if you do not receive a response to one of these requests?

What additional data are you obtaining on your own during the comment periods of each of these rules?

A.10. We recognized the challenge in responding to so many mortgage rulemakings at one time, and developed summaries of each proposal released this summer that were specifically designed to help small- and medium-sized businesses identify and respond to the most critical elements of each proposal. We believe these were a useful complement to the longer documents, which as required by law provide general background, a detailed discussion of each element of the proposal, and our analyses of its impacts on covered persons and consumers, in addition to the proposed regulation text and commentary.

The Bureau received hundreds of comments in response to the proposed rules that were issued over the summer, including comments from small- and medium-sized banks and their trade associations. The Bureau will base its final rules on a careful evaluation of all available information.

In all of the proposals, the Bureau explicitly requested data to support analyses regarding the impacts of the rules and of specific provisions. Some commenters have provided quantitative and qualitative information, although we have received limited firm or transaction-specific data in response to these requests. In addition,

the Bureau described its own efforts to gather additional data germane to several of the rules: loan-level data from other Federal agencies; data about closings from selected institutions; and data from a new national database. We have received some of this data and, where appropriate, the Bureau is using it to supplement other existing sources as we continue to analyze the impacts of the rules.

Q.11. Mr. Cordray, in conjunction with the Capital One settlement you issued a compliance bulletin on the marketing of credit card add-on products.

Why did the Bureau decide to issue a bulletin on the marketing of credit card add-on products instead of issuing a proposed rule?

Going forward, how will you determine whether to issue guidance (whether through a bulletin or other announcement) or a proposed rule?

A.11. The Capital One action was based on the conduct of that institution. However, complaints received by the Bureau indicate—and the Bureau’s supervisory experience confirms—that consumers have been misled by the marketing and sales practices associated with credit card add-on products offered by other institutions. Such practices violate current law. Consequently, the Bureau issued a compliance bulletin as a means of highlighting existing compliance requirements for the industry and providing insight into Bureau supervisory expectations. Notably, the bulletin does not impose any new requirements. Going forward, the Bureau will continue to use the rulemaking process for adopting new requirements, while providing guidance through bulletins and other methods regarding compliance with existing requirements.

Q.12. Mr. Cordray, the Bureau stated in a procedural rule that the Bureau will supervise a nonbank company if the Bureau determines that the company is engaging, or has engaged, in conduct that poses a risk to consumers with regard to the offering or provision of consumer financial products or services.

What conduct do you believe would constitute a “risk to consumers” that would warrant supervision by the Bureau?

What particular systems, policies or metrics have you developed to determine whether a “risk to consumers” has occurred and what are the metrics you have created to assess such risks?

A.12. As an initial matter, we note that the Bureau has published a proposed rule to establish procedures to implement section 1024(a)(1)(C) of the Dodd-Frank Act; the Bureau has not yet published a final rule establishing these procedures. Under section 1024(a)(1)(C), Congress authorized the Bureau to supervise a nonbank covered person when:

the Bureau has reasonable cause to determine, by order, after notice to the covered person and a reasonable opportunity for such covered person to respond, based on complaints collected through the system under section 1013(b)(3) or information from other sources, that such covered person is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services.

The Bureau is authorized to require reports from, and conduct examinations of, nonbank covered persons subject to supervision under section 1024.

Next, as you mentioned, the proposed rule is procedural; it is not a substantive rule. The proposed procedures relate to, *inter alia*, issuing the notice required by section 1024(a)(1)(C), providing a covered person with a reasonable opportunity to respond, and establishing a framework for the Bureau's consideration of any response. Congress did not define "risk to consumers" in the Dodd-Frank Act, thus, the Bureau set forth, by statutory guidance, the factors it employs in making 1024(a)(1)(C) determinations. This guidance includes, for example, the Bureau's key objectives under the Dodd-Frank Act, such as protecting consumers from unfair, deceptive or abusive acts or practices; ensuring consistent enforcement of Federal consumer financial law; and ensuring that markets for consumer financial products and services are fair, transparent, and competitive.¹ Thus the Bureau may consider, among other factors, whether a nonbank covered person has engaged in conduct that would pose risk to consumers because it involves unfair, deceptive, or abusive acts or practices, or because the conduct otherwise violates Federal consumer financial law.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED FROM RICHARD CORDRAY

Q.1. A recent U.S. PIRG report highlighted some troubling practices with prepaid debit cards and other third party distribution arrangements for student financial aid. Do you have plans to look at such practices in more detail? Has the CFPB received consumer complaints in this area?

A.1. The Bureau has been engaged actively in this issue on multiple fronts by working closely with other agencies, accepting consumer complaints, and producing information for consumers.

The Bureau works closely with other banking regulators and provided input to the Federal Deposit Insurance Corporation (FDIC) about their oversight activities in the student lending industry. In August, the FDIC reached a settlement with a provider of third party distributors of student financial aid.

To coincide with the announcement of the settlement, the Bureau issued a consumer advisory to all students expecting to receive scholarship and student loan proceeds onto—what appears to be—a school-endorsed debit card. For back-to-school season, the Bureau released a "Student Banking 101" guide to help newly enrolling students make smarter banking choices.

The Bureau also works closely with the Department of Education, who administers loan programs under Title IV of the Higher Education Act, on ways to enhance compliance and protect consumers. The Bureau will continue to provide technical assistance on consumer financial markets for private student lending to the Department of Education as necessary.

The Bureau receives complaints on deposit products, including student checking accounts, through our consumer response portal

¹ 12 U.S.C. §5511(b).

and we will continue to monitor these complaints to identify risks in the marketplace.

Q.2. We continue to see student loan debt rise and borrowers struggling with delinquency and default. How many borrowers have sought assistance from the CFPB's Student Loan Ombudsman? What have been the major problems for borrowers? How have they been resolved?

A.2. A few weeks ago, the Bureau released the Annual Report of the CFPB Student Loan Ombudsman detailing the problems reported by private student loan borrowers. Since March 2012, the Bureau has received approximately 2,900 complaints on private student loans. With 95 percent of the complaints about servicing, the report notes a strong resemblance to issues reported in the mortgage servicing market. A breakdown of the complaints:

- 65 percent relate to servicing, including complaints about fees, billing, deferment, forbearance, fraud, and credit reporting.
- 30 percent are about problems consumers face when they are unable to pay, including complaints about default, debt collection, and bankruptcy practices.
- 5 percent concern getting a loan, including problems with origination, marketing, and borrower confusion about loan terms and conditions.

The median amount of monetary relief awarded, for those cases in which a consumer received monetary relief, was \$1,572.

Q.3. The CFPB recently introduced the second version of its Financial Aid Comparison Shopper. What sort of feedback has the CFPB received about this tool? Have families been able to take advantage of the Shopping Sheet for this school year? If not, when will it be fully functional?

A.3. In July, Education Secretary Arne Duncan and CFPB Director Richard Cordray announced the final version of a "Financial Aid Shopping Sheet", which assists families when making comparisons between college financial aid offers. The final version reflects the Bureau's close collaboration with the Department of Education, as well as broad input provided directly by consumers on the proposed form.

To help facilitate better decision making on student loans, the Bureau developed a beta tool for testing that would allow students and families to use their Shopping Sheets to estimate their future debt burdens and other information. During the beta test, the Bureau received a substantial amount of constructive feedback from users. For example, a survey conducted by an association representing college admissions counselors found that over 80 percent of their members said the tool was "useful" and that nearly half would recommend the tool to students/families without any modifications.

Now that the final version of the Financial Aid Shopping Sheet has been released, the Bureau plans to modify the beta version of the tool to be compatible with the Shopping Sheet. The Bureau hopes to produce a new version of this tool after gathering further input from consumers and schools in the upcoming year.

Q.4. The CFPB has been working with the prudential regulators to address mortgage servicer practices that may pose risks to military homeowners who receive Permanent Change of Station (PCS) orders. Could you please provide an update on the PCS issue? Has the Interagency Guidance on Mortgage Servicing Practices Concerning Military Homeowners with PCS Orders released on June 21, 2012, had any effect so far? Please explain.

A.4. As a result of effective interagency work, the Bureau, along with other Federal regulators, issued joint guidance that addressed mortgage servicer practices that may pose risks to military homeowners. The guidance helps ensure compliance with consumer laws and regulations covering military homeowners who have received Permanent Change of Station (PCS) orders. Holly Petraeus and her staff in the CFPB's Office of Servicemember Affairs also worked with the Department of Treasury to provide more opportunities for mortgage assistance to military homeowners under the Home Affordable Modification Program (HAMP) and with the Federal Housing Finance Authority (FHFA) in connection with Fannie Mae's and Freddie Mac's announcements that Permanent Change of Station orders could be classified as a qualifying hardship for mortgage loan modification or other assistance. Additionally, the Bureau worked with the FHFA in connection with Fannie Mae's and Freddie Mac's new short sale guidelines for servicemembers with PCS orders. This policy, which went into effect on November 1, 2012, allows servicemembers who are being relocated due to PCS orders to be automatically eligible for short sales, even if they are current on their existing mortgages, and they will be under no obligation to contribute funds to cover the shortfall between the outstanding loan balance and the sale price of their primary residences, if the property was purchased on or before June 30, 2012.

Since the release of the Bureau's PCS guidance, we have seen an increase in the volume of servicemember-related mortgage complaints, possibly due to the publicity generated as a result of the release. Upon investigating these complaints, we have observed mixed results from mortgage servicers. Although most servicers initially appeared uninformed regarding this issue, once contact was made by the Bureau and the guidance was provided to them, many became much more responsive to this subset of consumers. We found that some servicers created executive-level review boards dedicated to assisting these consumers, manned by representatives who quickly became familiar with the guidance. On the other hand, some servicers continue to struggle to comply with the guidance even upon subsequent recontact with the Bureau. As the guidance notes, if the Bureau were to "determine that a servicer has engaged in any acts or practices that are unfair, deceptive, or abusive, or that otherwise violate Federal consumer financial laws and regulations, the [Bureau] will take appropriate supervisory and enforcement actions to address violations that harm consumers and seek all appropriate corrective actions, including requiring the mortgage servicer to strengthen its programs and processes."

The Bureau will continue to monitor these complaints and determine what additional steps can be taken to assist military homeowners who receive PCS orders.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR MENENDEZ FROM RICHARD CORDRAY**

Q.1. Director Cordray, I have long advocated national standards for banks that collect homeowners' mortgage payments, including chairing a hearing on that issue about 2 years ago.

Will the national standards include requiring early in-person outreach to delinquent borrowers to try to help save their homes?

A.1. As discussed in the proposed mortgage servicing rules, the Bureau agrees that early contact with delinquent borrowers is crucial to helping those borrowers understand options that may be available to retain their homes, as well as the ramifications of the foreclosure process.

The proposed rules would require servicers to provide delinquent borrowers with two notices. First, under the proposed rules, servicers would be required to notify or make good faith efforts to notify a borrower orally that the borrower's payment is late and that loss mitigation options may be available, if applicable. Servicers would be required to take this action within 30 days after the payment due date, unless the borrower satisfies the payment during that period. Second, servicers would be required to provide a written notice with information about the foreclosure process, housing counselors and the borrower's State housing finance authority, and, if applicable, information about loss mitigation options that may be available to the borrower not later than 40 days after the payment due date, unless the borrower satisfies the payment during that period. Servicers could incorporate in-person outreach procedures to comply with these proposed requirements. The Bureau continues to evaluate the proposed timing and content of these notices in light of the numerous comments it has received on the proposed rules.

The proposed notices were designed primarily to encourage delinquent borrowers to work with their servicer to identify their options for avoiding foreclosure. The Bureau recognizes that not all delinquent borrowers who were to receive such notices would respond to the servicer and pursue available loss mitigation options. However, the Bureau believes that the notices would ensure, at a minimum, that all borrowers have an opportunity to do so at the early stages of a delinquency. We believe it is generally more useful to borrowers to begin discussions with servicers early, in order to identify which options may be best for their families.

Q.2. The CFPB's draft loan origination rule includes provisions that it claims would "help level the playing field" between bank and nonbank mortgage origination employees. However, the SAFE Act requires nonbank mortgage originators to take prelicensing and continuing education courses and a licensing exam—whereas the proposed rule includes none of these requirements for people who work at banks. Why didn't the CFPB establish prelicensing course requirements and an exam for individuals that lack at least a few years of direct experience in mortgage loan origination, particularly for individuals doing substantive loan origination work? Why didn't the CFPB require all mortgage loan origination employees complete at least the 3 hours in continuing education courses in Federal laws and regulations and the 2 hours in continuing education eth-

ics courses that are required of all nonbank employees covered under the SAFE Act?

A.2. The proposed rule would require banks as well as other entities that would be subject to this portion of the rule to provide periodic training to ensure that each of its loan originators has the necessary knowledge of State and Federal legal requirements that apply to the loans that the individual loan originator will originate. The training would have to cover the particular responsibilities of the loan originator and the nature and complexity of the loans that the particular loan originator originates.

The intention of the proposed rule was to accomplish the same goals as the prelicensing and continuing education that the SAFE Act imposes for State-licensed loan originators, which are to ensure that that loan originators have adequate knowledge to perform loan origination activities, and that they continue to update and refresh that knowledge. However, it was also meant to reflect limitations in the Bureau's authority and to respond to concerns of other Federal regulators that the Bureau should not impose training requirements that are duplicative of requirements the regulators already impose for loan originators such as banks and credit unions. Accordingly, under the proposed rule continuing education classes approved for State-licensed loan originators are sufficient to meet the proposed standard, but the proposed rule also permits other training courses and methods that are tailored to the particular loan origination activities of the bank loan originator.

The proposed rule does not include a requirement for loan originators employed by banks to pass the standardized test that applicants for State licenses must pass. As the proposal discussed, the Bureau has been seeking evidence to show whether or not existing bank practices, as well as the proposed training requirements, are adequate to ensure that the knowledge of bank loan originators is comparable to that of loan originators who pass the standardized test. This is an issue the Bureau is considering as it develops the final rule.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORKER
FROM RICHARD CORDRAY**

Q.1. Dodd-Frank made a change, as you are likely aware, to the definition of "high cost loan." Under Dodd-Frank's new rules, a high cost loan is any loan where the APR exceeds the average prime rate by 6.5 percent for loans greater than \$50,000 in size, of 8.5 percent for loans under \$50,000. Unfortunately for many in the manufactured housing industry, the nature of how these loans work means that the lenders are bumping up against the triggers quickly. For example, many lenders will help a borrower roll the upfront closing costs and document costs into the underlying loan, but since these costs are fixed and the loans are for low dollar amounts, it makes the APR high and so these loans can't be made. As you know, the Bureau has significant authority to raise the HOEPA APR and the points and fees triggers. Is this something the Bureau is actively considering? What steps do you anticipate the Bureau taking to ensure that access to small balance loans, such as those needed to purchase affordable and manufactured

housing, is not diminished? Are you concerned that these high cost loan triggers are problematic for loans that are low balance? Should Congress do something about this if it is a problem from a statutory perspective?

A.1. We are carefully analyzing all of these questions as we work on the final rule. Our proposal sought comment and data on whether any adjustments should be made to the APR triggers for HOEPA coverage generally. We also sought comment specifically on whether adjustments should be made to the 8.5 percent APR trigger or \$50,000 size threshold for first-lien transactions that are secured by a dwelling that is personal property, such as certain manufactured housing loans. We note that the Bureau generally has the authority to make adjustments to the definition of “high-cost mortgage.” Additionally, the Bureau has the authority to adjust the percentage points for the APR triggers if such adjustments are consistent with the statutory consumer protections for high-cost mortgages and are warranted by the need for credit. The Bureau also has the authority to adjust the definition of points and fees for the purposes of determining whether a loan meets the points and fees threshold.

Before finalizing our proposal, we will consider the impact of the proposed triggers on various types of loans, including manufactured housing loans and small balance loans generally. We are currently reviewing all of the comments, we are aware of the concerns surrounding loans for manufactured housing and small balances, and will closely review all available data to determine whether any adjustments to the HOEPA triggers should be made.

Q.2. RESPA/TILA was a subject of conversation at the hearing. As Senator Shelby pointed out, the draft rule designed to simplify these disclosures is 1,000 pages long. Are you concerned that complying with a complex rule such as this will prove challenging for community banks? In addition, if the APR calculation is not helpful to consumers—and the CFPB has indicated it might not be—should it be eliminated as a requirement in disclosure?

A.2. We are confident that the final TILA-RESPA integrated disclosure rule will ease compliance burdens for community banks by eliminating duplicative forms and resolving long-standing uncertainties that led the Department of Housing and Urban Development (HUD) to issue hundreds of responses to frequently asked questions. In fact, much of the proposal’s length results from the Bureau’s provision of extensive guidance on how to comply, including samples of completed forms for a variety of different types of mortgage loans. Industry repeatedly requested this guidance during our outreach and the Small Business Review Panel process because knowing exactly what they need to do can save time, energy, and costs. Once the rule is finalized, we plan to publish a compliance guide and to reach out to the banks and their service providers to help them come into compliance.

The Annual Percentage Rate (APR) is intended to show consumers the total cost of credit spread out over the entire life of the loan and expressed as a percentage. Consistent with prior research by the Federal Reserve Board and HUD, however, the Bureau’s qualitative testing indicates that the APR may not be a helpful dis-

closure for many consumers because it is difficult for consumers to understand and use effectively when comparing loans. Nevertheless, the Bureau did not propose to eliminate the APR disclosure, which is critical to determining whether loans are subject to certain additional protections under Federal and State law. Further, because we know consumers face difficulties in using the APR disclosures to compare mortgages, in part because not all charges are currently required in these disclosures, the Bureau is proposing a more inclusive definition of the finance charge, which would make the APR a more accurate reflection the overall cost of credit. For example, the APR would now include title insurance, which is the largest charge for many consumers. The Bureau's intent in including all charges in an APR is to enhance consumer understanding and shopping with improved disclosures.

Q.3. I asked you about the complaints posted on the CFPB Web site, which also contain information on the financial institution that a customer is upset with. You said you verify that there is a relationship between the customer and the financial institution. Is this the only piece of information you confirm? Or do you go any deeper in terms of due diligence before posting these complaints online?

A.3. The Bureau maintains significant controls to authenticate complaints. Each complaint is checked to ensure that it is submitted by the identified consumer or from his or her specifically authorized representative. Each submission is also reviewed to determine if it is a complaint, an inquiry, or feedback. (Submissions in the latter two categories are not forwarded to companies for handling as complaints.) Further, each complaint is checked to identify duplicate submissions by a consumer who has already filed with the Bureau a complaint on the same issue. Finally, complaints are only routed to companies when they contain all the required fields, including the complaint narrative, the consumer's narrative statement of his or her fair resolution, and the consumer's contact information. Companies view and respond to complaints using their secure web portals, which they also use to notify the Bureau if a complaint has been routed incorrectly, if they suspect manipulation, etc. Companies have 15 days to provide a response.

Complaints are only posted to the Consumer Complaint Database after companies provide a response which confirms a relationship with the consumer or after they have had 15 days to review the complaint, whichever comes first.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR JOHANNIS FROM RICHARD CORDRAY

Q.1. Mister Cordray, I first want to offer thanks and an acknowledgement of a bit of work well done that many bankers in Nebraska very much appreciated. Acting in response to a question from one of my bankers, your Assistant Director David Silberman made the trek to Gothenburg, Nebraska—not a terribly convenient place to get to, mind you—and spent an entire day walking through the practices and procedures of a small community bank, speaking with account managers, loan officers, and customers to get a better feel for how a bank of that size operates.

I think that was an above-and-beyond show of humility and good faith, and the bankers in Nebraska wanted me to extend my thanks to you and Mr. Silberman. With yesterday's announcement of your Community Bank Advisory Council, I hope that more and more of this occurs, so that when rules are written by the Bureau, the operational differences between the biggest banks and the community banks are fully appreciated and accounted for. As I hope the visit to Gothenburg made clear, a one-size-fits-all approach to banking rulemaking just does not work.

A.1. The Bureau is always pleased to meet with community bankers, and we have held dozens of such meetings and roundtables with community bankers around the country to hear directly from them.

Q.2. I have concerns about the governance and quality control procedures that the Bureau has in place. Let me give you an example:

I spoke with a community banker from Alma, Nebraska, over the August recess. He relayed to me at least three occasions in the last 6 months where his bank received complaints from the Bureau that should have been directed to other institutions. Two were intended for Texas banks and another to the First State Bank of St. Clair Shores, Michigan, some 979 miles from Alma.

Even though these complains were erroneous, they still require time and resources to identify, investigate and respond to. Now, on their own, none of these are egregious, and none of them too time-consuming for the banker on the other end, but when the mistakes begin to add up, now we're wasting resources that will otherwise be used serving small Nebraska communities.

As we all know, you are growing quite rapidly and paying your employees quite a bit more than the typical Government employee. With so many people getting paid great sums of money, where are the basic quality controls? What procedures are in place to make sure that a tiny institution like the First State Bank in Alma, Nebraska, doesn't continue to get bogged down in paperwork from erroneous complaints?

Is there a process in place to ensure that a complaint is legitimate, and then that the legitimate complaints are actually forwarded to the correct institutions?

A.2. The Bureau maintains significant controls to authenticate complaints. Each complaint is checked to ensure that it is submitted by the identified consumer or from his or her specifically authorized representative. Each submission is also reviewed to determine if it is a complaint, an inquiry, or feedback. (Submissions in the latter two categories are not forwarded to companies for handling as complaints.) Further, each complaint is checked to identify duplicate submissions by a consumer who has already filed with the Bureau a complaint on the same issue. Finally, complaints are only routed to companies when they contain all the required fields, including the complaint narrative, the consumer's narrative statement of his or her suggested resolution, and the consumer's contact information.

Companies view and respond to consumers using their secure Web portals, which they also use to notify the Bureau if a complaint has been routed incorrectly. As we work to continually im-

prove our complaint routing accuracy, such notifications from companies are key to routing complaints to the correct companies and increasing routing accuracy over time.

We regret the inconvenience caused by three complaints being misdirected to First State Bank in Nebraska instead of companies with the same name in Texas and Michigan. Once notified by First State Bank in Nebraska that complaints had been misrouted, the CFPB rerouted the complaints to the correct First State Bank. We are committed to redoubling our efforts in this regard as we strive to make our complaint resolution process work for both consumers and companies.

Q.3. In June of this year, Bureau officials testified before the House Financial Services Committee on the implementation of the “ability to pay” rules for credit card lending that were mandated under the CARD Act.

As you know, mandating that a credit card issuer only take into account the applicant’s individual income and not that of a spouse or the entire household when evaluating ability to pay can have many unintended negative consequences on folks like military spouses or stay-at-home moms and dads.

While I understand that the original rules were written by the Fed, they were part of the package transferred to the Bureau. In that appearance, Associate Director Hillebrand testified that the Bureau hoped to announce next steps in reforming these harmful rules by the end of summer. I was hoping you could shed some light on the progress you’re making on this front?

A.3. The Bureau recently issued a Notice of Proposed Rulemaking in which it seeks to make it easier for spouses and partners who do not work outside the home to qualify for credit cards and establish their own credit histories. The comment period for the proposal will end 60 days after the notice is published in the *Federal Register*.

The proposal would generally eliminate the independent ability-to-pay requirement for consumers and applicants age 21 or older and instead permit credit card issuers to consider income and assets to which the consumer or applicant has a reasonable expectation of access. For spouses and partners under the age of 21 (including military spouses), the proposal seeks comment on whether to make adjustments to the existing rule in light of the statutory requirement that underage consumers without a cosigner, guarantor, or joint applicant demonstrate an independent ability to pay.

Q.4. The Bureau’s RESPA/TILA rule creates substantial uncertainty regarding who prepares and delivers the final disclosure information to the consumer. The proposed rule, by permitting the lender to deliver the final disclosure, removes the independent, third-party closing agent from the settlement process. The independent agent deals with many different lenders, giving them a glimpse of the best practices employed by a broad cross-section of the industry.

What was the intent behind removing this informed and independent check at the closing table? Is it your opinion that this will ultimately benefit the consumer?

A.4. Settlement agents provide crucial services, and we have no desire to exclude them from the closing process. Real estate closings are very complicated, and involve much more than just completing a disclosure and watching the buyer sign documents. There is a reason why an entire profession, which is over a century old, exists to perform closings. Our proposal only addresses who provides the disclosures. It will not regulate the other important functions performed by settlement agents.

The Dodd-Frank Act requires us to combine disclosures that are currently provided by lenders with disclosures that are currently provided by settlement agents. Much of the information on the combined disclosure relates to the terms of the loan and is therefore in the possession of the lender. In addition, the Dodd-Frank Act amends TILA to make the lender responsible for much of the information. For that reason, the proposal contains one alternative which makes the lender responsible for providing the combined disclosure. The proposal includes another alternative, which would allow settlement agents to provide the combined disclosure. The proposal solicited comment on other methods of dividing responsibility between creditors and settlement agents, provided that such other methods ensure that consumers are provided with prompt, accurate, and reliable disclosures.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

**SEMI-ANNUAL REPORT OF THE CONSUMER FINANCIAL PROTECTION
BUREAU**

JULY 2012

Semi-Annual Report
of the Consumer
Financial Protection
Bureau

JANUARY 1 - JUNE 30, 2012



Consumer Financial
Protection Bureau

Message from Richard Cordray

DIRECTOR OF THE CFPB



Just one year ago, the Consumer Financial Protection Bureau became the nation's first federal agency solely focused on protecting consumers in the financial marketplace. As this report shows, we have already made great strides and helped many thousands of consumers.

The markets for consumer finance are rooted in the financial and credit needs we all encounter in our daily lives. These products and services have brought broad benefits to Americans as they manage the ways and means of their lives. But, as we have seen, if these products and services are misused, they can do real damage to consumers and to the broader economy.

The Consumer Bureau is establishing evenhanded and reasonable oversight to the marketplace. We are working to root out unfair, deceptive, or abusive practices. Consumers deserve to be treated fairly, and to have someone stand on their side when they are not. Congress directed us to fix grave problems in the mortgage market, and we are well on our way to fulfilling that goal.

To achieve these objectives, we are dedicated to building an agency that is evidence-based and data-driven. Field hearings, inquiries, bulletins, rulemakings – we take an “all of the above” approach to guarantee that we have the best current information as we make policy decisions.

Our Consumer Response team is handling complaints on issues ranging from mortgages to credit cards to bank products to student loans. Our “Know Before You Owe” projects aim to make the costs and risks of financial decisions clearer and more accessible for consumers. We launched our Consumer Complaint Database to bring more transparency and efficiency to the marketplace.

We created a Financial Aid Shopping Sheet and a Financial Aid Comparison Shopper to help students and their families better understand the student loan process. We are

seeking to educate older Americans about their financial options and help servicemembers make the best financial decisions for themselves and their families.

The first year of the Consumer Bureau has been busy and full; it reflects the hard work done by people of the highest caliber and dedicated to public service. We look forward to continuing to fulfill Congress's vision of an agency that helps all Americans by improving their financial lives.

Sincerely,



Richard Cordray

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Executive Summary

The Consumer Financial Protection Bureau (CFPB or Bureau) is the nation's first federal agency focused solely on consumer financial protection.¹ The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) created the CFPB to protect consumers of financial products and services and to encourage the fair and competitive operation of consumer financial markets. The Bureau's mission is to make consumer financial markets work for American consumers, honest businesses, and the economy as a whole.

In fulfillment of its statutory responsibility and its commitment to accountability, the CFPB is pleased to present its second Semi-Annual Report to the President and Congress. This report provides an update on the Bureau's activities and accomplishments since its inaugural report in January 2012 and additional information required by the Dodd-Frank Act.²

The Dodd-Frank Act requires the CFPB to:

- Ensure that consumers have timely and understandable information to make responsible decisions about financial transactions;
- Protect consumers from unfair, deceptive, or abusive acts and practices, and from discrimination;
- Identify and address outdated, unnecessary, or unduly burdensome regulations;

¹ Previously, seven different federal agencies were responsible for rulemaking, supervision, and enforcement relating to consumer financial protection. The agencies which previously administered statutes transferred to the Bureau are the Board of Governors of the Federal Reserve System (Federal Reserve, Federal Reserve Board, or Federal Reserve Board System), Department of Housing and Urban Development (HUD), Federal Deposit Insurance Corporation (FDIC), Federal Trade Commission (FTC), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), and Office of Thrift Supervision (OTS).

² Reports cover six-month increments beginning January 1st and July 1st. Appendix B provides a guide to the Bureau's response to the reporting requirements of Section 1016(c) of the Dodd-Frank Act.

- Promote fair competition by consistent enforcement of the consumer protection laws in the Bureau's jurisdiction; and
- Ensure markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.³

Since opening its doors on July 21, 2011, the CFPB has dedicated its efforts to listening and responding to consumers and industry while laying the foundation of a great institution.

CONSUMER CHALLENGES IN OBTAINING FINANCIAL PRODUCTS AND SERVICES

Consumers' input about their experiences with financial products and services is critical to understanding the challenges that consumers face in obtaining financial products and services in the current economic climate. It is also a driving force behind the CFPB's development of resources and programs to help build American consumers' financial capability and to level the playing field.

In the past year, the CFPB has heard from consumers about their positive and negative experiences with financial products and services, including through the "Tell Your Story" feature of the CFPB's website, roundtables, town halls, and field hearings. In addition, the Bureau has launched a first-rate infrastructure to receive, process, and facilitate responses to consumer complaints. The Bureau is also gathering data and evidence about consumers' behaviors and choices when they shop for financial products and the ways that market structures and sales practices may shape such conduct.

DELIVERING FOR AMERICAN CONSUMERS AND LEVELING THE PLAYING FIELD

The CFPB has taken significant steps in the past year toward making consumer financial markets work better for consumers and responsible companies. The Bureau has launched offices to provide vital resources for consumers. For example, the CFPB's Consumer Response team receives complaints and inquiries directly from consumers. The CFPB's Division of Consumer Education and Engagement develops and implements initiatives to educate and empower consumers to make better-informed financial decisions; its initiatives include programs directed toward particular populations, such as servicemembers, older Americans, students, and consumers who traditionally have been underserved by the financial markets.

The Bureau has also:

³ See Dodd-Frank Act, Pub. L. No. 111-203, Sec. 1021(b).

- Engaged in extensive outreach to consumers and industry throughout the country;
- Initiated and developed partnerships with federal agencies, state financial regulatory entities, and state attorneys general, and begun to establish advisory groups comprised of consumer organizations, community organizations, government officials, and industry representatives;
- Implemented statutory protections for consumers who use consumer financial products and services, and begun the process of streamlining regulations that the CFPB inherited from other agencies;
- Launched programs for supervising large banks and other companies that provide consumer financial products and services to ensure that they comply with federal consumer financial protection laws;
- Investigated potential violations of laws under the Bureau's jurisdiction; and
- Used extensive outreach in its efforts to ensure fair, equitable, and nondiscriminatory access to credit for individuals and communities.

BUILDING A GREAT INSTITUTION

All of this has taken place while the Bureau has been engaged in start-up activities. As of June 30, 2012, the CFPB team now consists of 889 staff working to carry out the Bureau's mission. It has worked to build a human and physical infrastructure that promotes – and will continue to promote – transparency, accountability, fairness, and service to the public. That includes:

- Demonstrating a strong commitment to openness and utilizing the Bureau's website to share information on the operations of the Bureau;
- Recruiting highly qualified personnel;
- Providing training and engagement opportunities for CFPB staff to improve skills and knowledge and maintain excellence; and
- Launching the Bureau's Office of Minority and Women Inclusion to promote diversity in the CFPB's workforce and among its contractors.



The CFPB is proud of the accomplishments that it has achieved in its first year. But this marks only the beginning of the Bureau's work on behalf of consumers and providers of financial products and services. Over the next six months, the CFPB's efforts to make consumer financial markets work better will continue to expand. We invite you to visit the CFPB's website, ConsumerFinance.gov, for updates on the CFPB's work over the coming months.

Consumer Challenges in Obtaining Financial Products and Services

The challenges that consumers face in obtaining financial products and services are a driving force behind the CFPB's efforts to make consumer financial markets work better. Listening and responding to consumers are integral to our mission, and the Bureau provides many means through which consumers can make their voices heard.

Consumer Concerns

Financial markets are rooted in the daily lives and the financial and credit needs of individual Americans. There is no doubt that consumer financial products and services, when understood and appropriately used, can bring broad benefits to consumers. Savings accounts are a first step to help people pursue their dreams and checking accounts facilitate everyday transactions. Mortgages help people buy homes and pay for them over time. Credit cards give people convenient access to money when needed. Student loans allow people who lack means but have talent and ambition to pursue their deepest aspirations.

Over the past year, consumers have shared with the CFPB their experiences – positive and negative – with financial products and services. Consumers have the opportunity to provide the CFPB with such feedback through a variety of forums, including, among others, the “Tell Your Story” feature of the CFPB’s website, roundtables, town halls, and field hearings. This feedback is key to understanding the challenges consumers face in obtaining the financial products and services they need.

The stories consumers have shared with the Bureau through the “Tell Your Story” feature of the CFPB’s website cover a wide range of financial products and services, providing snapshots of consumers’ day-to-day experiences in the marketplace. Consumers’ stories are reviewed by CFPB staff and further the Bureau’s understanding of current issues in the financial marketplace.

Those consumers who have shared their experiences with the CFPB expressed some of their challenges and concerns with respect to obtaining a variety of financial products and services. They include:

- Inability to qualify for a mortgage loan modification, or if they qualify they are unable to obtain a viable modification that sufficiently lowers their payments;
- Inability to refinance their loans even though they report having high credit scores;
- Inability to refinance, consolidate, or pay their private student loans;
- Lack of clarity about credit scoring and the scores that creditors use versus the scores consumers are given by credit bureaus, making it difficult for consumers to understand this key measure of their creditworthiness; and
- Confusion about overdraft protection, including terms, fees, and the relationship between checking accounts and related savings accounts, lines of credit, and credit cards.

In addition to “Tell Your Story,” consumers have opportunities to voice concerns and share their experiences in person. Consumers have participated in large Bureau-sponsored public events, including town halls and field hearings focused on particular consumer finance issues, in Birmingham, Alabama; New York City; and Durham, North Carolina. Combined, these events have drawn hundreds of participants, many of whom have shared their experiences – positive and negative – with mortgages, student loans, credit cards, payday loans, checking accounts, prepaid cards, and other consumer financial products and services.

In each of these cities and others, the CFPB’s Office of Community Affairs has also hosted roundtable conversations with local leaders representing consumer, civil rights, community, housing, faith, student, and other organizations. The roundtables provided opportunities for stakeholders in the field to share their ground-level perspective on these issues with Director Richard Cordray and other key Bureau staff.

The CFPB also has hosted dozens of roundtables and meetings at its offices in Washington, DC. The Office of Community Affairs and subject-matter teams have included hundreds of policy experts and advocates and community leaders in Director-level, roundtable, and other discussions on mortgage issues, credit cards, payday loans, student loans, checking accounts and overdraft fees, prepaid cards, credit reporting and scoring, debt collection, remittances, the CFPB’s Consumer Response system, the CFPB’s

definition of “larger participants” in nonbank markets, and the CFPB’s approach to research, financial education, and new media.

Collecting, investigating, and responding to consumer complaints⁴ are integral parts of the CFPB’s work, as Congress set forth in the Dodd-Frank Act.⁵ The Bureau’s Consumer Response team hears directly from consumers about the challenges they face in the marketplace, brings their concerns to the attention of financial institutions, and assists in addressing their complaints.



The CFPB began Consumer Response operations on July 21, 2011, accepting consumer complaints about credit cards. Consumer Response began handling mortgage complaints on December 1, 2011, and it began accepting complaints about bank accounts and services, private student loans, and consumer loans on March 1, 2012. Over the next year, the CFPB expects to handle consumer complaints on other products and services under its authority. As Consumer Response continues to expand its capacity, consumers may contact the CFPB about additional products and services. The Bureau answers these inquiries and refers consumers to other regulators or additional resources where appropriate.

⁴ Consumer complaints are submissions that express dissatisfaction with, or communicate suspicion of wrongful conduct by, an identifiable entity related to a consumer’s personal experience with a financial product or service.

⁵ See Dodd-Frank Act, Pub. L. No. 111-203, Sec. 1021(c)(2).

HOME » CFPB » CONSUMER COMPLAINT DATABASES [beta]

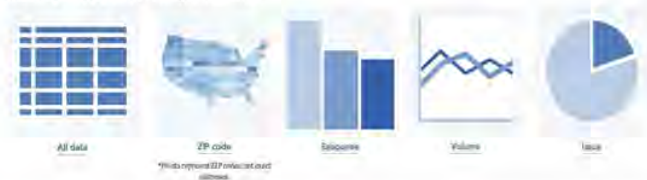


Consumer Complaint Database [beta]

This contains data from the consumer credit card complaints received by the Consumer Financial Protection Bureau. We do not verify the accuracy of these complaints, but we do take steps to confirm a commercial relationship between the consumer and the identified company.

Data is refreshed daily, starting from June 1st, 2012.

[Download, search, & visualize](#) [Example visualizations](#)



Information about consumer complaints is now available to the public, following the CFPB's launch of a public Consumer Complaint Database on June 19, 2012.⁶ The database is populated by credit card complaints received by the CFPB on and after June 1, 2012 and contains certain individual complaint-level data collected by the CFPB, including the type of complaint, the date of submission, the consumer's zip code, and the company that the complaint concerns. The database also includes information about the actions taken on a complaint – whether the company's response was timely, how the company responded, and whether the consumer disputed the company's response. The database does not include confidential information about consumers' identities. Web-based and user-friendly features of the database include the ability to: filter data based on specific search criteria; aggregate data in various ways, such as by complaint type, issuer, location, date, or any combination of available variables; and download data. Over time, the CFPB may add complaints about other consumer financial products and services under its authority to the Consumer Complaint Database.

In keeping with the CFPB's statutory responsibility and its commitment to accountability, this report provides an overview of how Consumer Response handles complaints and presents an analysis of complaints received over the period from July 21, 2011 through June 30, 2012.

⁶ In December 2011, the CFPB asked the public to comment on a proposed policy of making some credit card complaint data publicly available. After considering those comments, the CFPB finalized its policy for disclosing some of the data through its Consumer Complaint Database. See *Disclosure of Certain Credit Card Complaint Data*, 77 Fed. Reg. 37,558 (June 22, 2012).

HOW THE CFPB HANDLES COMPLAINTS

Consumer Response screens all complaints submitted by consumers based on several criteria. These criteria include whether the complaint falls within the CFPB's primary enforcement authority, whether the complaint is complete, and whether it is a duplicate of a prior submission by the same consumer. Screened complaints are sent via a secure web portal to the appropriate company.⁷ The company reviews the information, communicates with the consumer as needed, and determines what action to take in response. The company reports back to the consumer and the CFPB via the secure "company portal." The Bureau then invites the consumer to review the response. Consumer Response prioritizes for review and investigation complaints in which the consumer disputes the response or where companies fail to provide a timely response.⁸ Consumers who have filed complaints with the Bureau can log onto the secure "consumer portal" available on the CFPB's website or call a toll-free number to receive status updates, provide additional information, and review responses provided to the consumer by the company.



Throughout this process, Consumer Response is supported by CFPB colleagues who provide subject-matter expertise and help monitor complaints. For example, Consumer Response coordinates with the CFPB's Office of Servicemember Affairs on complaints filed by servicemembers or their spouses and dependents.

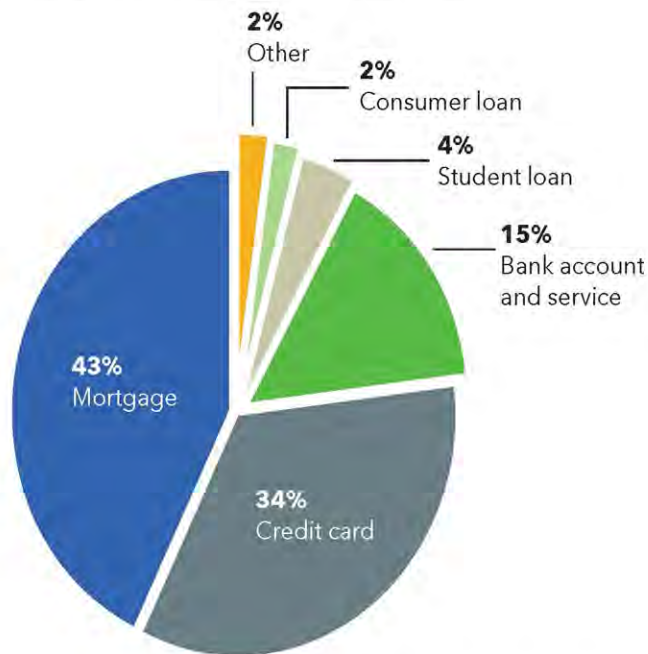
⁷ If a particular complaint does not involve a product or market that is within the Bureau's jurisdiction or that is currently being handled by the Bureau, Consumer Response refers it to the appropriate regulator.

⁸ The CFPB initially requested that companies respond to complaints within 10 calendar days, but increased the requested response time to 15 calendar days when Consumer Response began handling mortgage complaints on December 1, 2011. If a complaint cannot be closed within 15 calendar days, a company may indicate that its work on the complaint is "In progress" and provide a final response within 60 calendar days.

COMPLAINTS RECEIVED BY THE CFPB

Between July 21, 2011 and June 30, 2012, the CFPB received approximately 55,300 consumer complaints.⁹

FIGURE 1: CONSUMER COMPLAINTS BY PRODUCT



Approximately 44 percent of all complaints were submitted through the CFPB's website and 11 percent via telephone calls. Referrals accounted for 38 percent of all complaints received. The rest were submitted by mail, email, and fax.

The tables and figures presented below show complaints by type, actions taken, company responses, and consumers' reviews of company responses.¹⁰

⁹ This analysis excludes multiple complaints submitted by a given consumer on the same issue and whistleblower tips. All data are current as of July 1, 2012.

¹⁰ Percentages may not sum to 100 percent due to rounding.

Consumers' Credit Card Complaints

Table 1 shows the most common types of credit card complaints that the CFPB has received as reported by consumers. Sixty-seven percent of the approximately 18,800 credit card complaints fell into these 10 categories.

TABLE 1: MOST COMMON CREDIT CARD COMPLAINTS REPORTED BY CONSUMERS

	%
Billing disputes	14%
Annual Percentage Rate (APR) or interest rate	10%
Identity theft/Fraud/Embezzlement	9%
Other	6%
Closing/Cancelling account	6%
Credit reporting	6%
Collection practices	5%
Late fee	4%
Credit card protection/Debt protection	4%
Collection debt dispute	3%
CREDIT CARD COMPLAINTS IN TOP 10 TYPES	67%

As the table illustrates, billing disputes are the most common type of credit card complaint. Some consumers are confused and frustrated by the process and limits to challenging inaccuracies on their monthly credit card billing statements. For example, some consumers only realize after their claim has been denied that they needed to notify their credit card companies within 60 days of any billing errors. In other cases, consumers are not aware that companies typically do not stop a merchant charge once the cardholder has authorized it or do not override a merchant's "no-return policy." Other common types of credit card complaints relate to annual percentage rates or interest rates and identity theft, fraud, or embezzlement.

The CFPB generally has relied on the consumer's characterization of his or her complaint to identify its nature for analytical purposes. However, the CFPB's experience to date suggests that consumers may often have differing interpretations of what these categories mean. For example, one consumer might choose to categorize a problem as a billing dispute, while another might identify the same issue as a concern with a provider's setting

or changing of an interest rate. To improve our reporting on the data we receive, the Bureau is evaluating the use of these categories by consumers to date and developing a simplified categorization scheme to promote more consistent categorization of complaints.

Consumers' Mortgage Complaints

Figure 2 shows the types of mortgage complaints as reported by consumers for the approximately 23,800 mortgage complaints received by the CFPB.

FIGURE 2: TYPES OF MORTGAGE COMPLAINTS REPORTED BY CONSUMERS



	%
Applying for the loan (Application, originator, mortgage broker)	8%
Receiving a credit offer (Credit decision/Underwriting)	2%
Signing the agreement (Settlement process and costs)	4%
Making payments (Loan servicing, payments, escrow accounts)	25%
Problems when you are unable to pay (Loan modification, collection, foreclosure)	54%
Other	7%
TOTAL MORTGAGE COMPLAINTS	100%

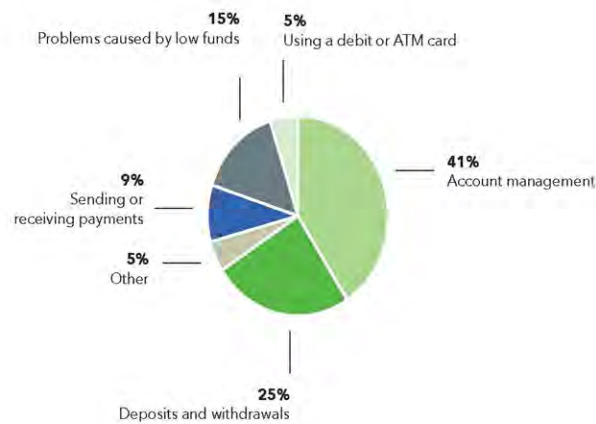
The most common type of mortgage complaint is about problems consumers have when they are unable to make payments, such as issues related to loan modifications, collection, or foreclosure. Consumers who have filed these complaints generally appear to be driven by a desire to seek agreement with their companies on foreclosure alternatives. The complaints indicate that consumer confusion persists around the process and requirements for obtaining loan modifications and refinancing, especially regarding document submission timeframes, payment trial periods, allocation of payments, treatment of income in eligibility calculations, and credit bureau reporting during the evaluation period. The shelf life of documents provided as part of the loan modification process is of particular concern to consumers. Though consumers must provide documents within short time periods and income documentation generally remains valid for up to 60 days, lengthy evaluation periods can result in consumers having to resubmit documentation – sometimes more than once. This seems to contribute to consumer fatigue and frustration with these processes.

Other common types of mortgage complaints address issues related to making payments, such as issues related to loan servicing, payments, or escrow accounts. For example, consumers express confusion about whether making timely trial period payments will guarantee placement into a permanent modification. Issues related to applying for the loan, such as the application, the originator, or the mortgage broker, are also among the most common types of mortgage complaints.

Consumers' Bank Account and Service Complaints

Figure 3 shows the types of bank account and service complaints, such as complaints about checking and savings accounts, as reported by consumers for the approximately 8,100 complaints received by the CFPB.

FIGURE 3: TYPES OF BANK ACCOUNT AND SERVICE COMPLAINTS REPORTED BY CONSUMERS



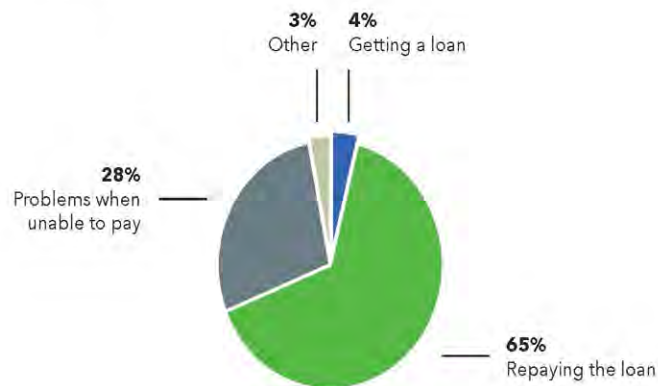
	%
Account opening, closing, or management (Confusing marketing, denial, disclosure, fees, closure, interest, statements, joint accounts)	41%
Deposits and withdrawals (Availability of deposits, withdrawal problems and penalties, unauthorized transactions, check cashing, payroll deposit problems, lost or missing funds, transaction holds)	25%
Using a debit or ATM card (Disputed transaction, unauthorized card use, ATM or debit card fees, ATM problems)	5%
Making or receiving payments, sending money to others (Problems with payments by check, card, phone or online, unauthorized or fraudulent transactions, money/wire transfers)	9%
Problems caused by my funds being low (Overdraft fees, late fees, bounced checks, credit reporting)	15%
Other	5%
TOTAL BANK ACCOUNT AND SERVICE COMPLAINTS	100%

As the table illustrates, the most common type of bank account and service complaint relates to opening, closing, or managing the account. These complaints address issues such as confusing marketing, denial, fees, statements, and joint accounts. Other common types of complaints relate to deposit and withdrawal issues, such as transaction holds and unauthorized transactions, and problems caused by the consumer's funds being low, such as bounced checks, overdraft and late fees, and credit reporting. Many consumers remain frustrated with overdraft fees and the wide discretion companies have to assess these and other fees so long as the fees are outlined in account agreements. Similarly, some consumers express frustration with the order in which companies process account withdrawals because the processing of larger transactions before smaller ones can lead to more overdraft-fee charges.

Consumers' Student Loan Complaints

Figure 4 shows the types of student loan complaints as reported by consumers for the approximately 2,000 student loan complaints received by the CFPB.

FIGURE 4: TYPES OF STUDENT LOAN COMPLAINTS REPORTED BY CONSUMERS



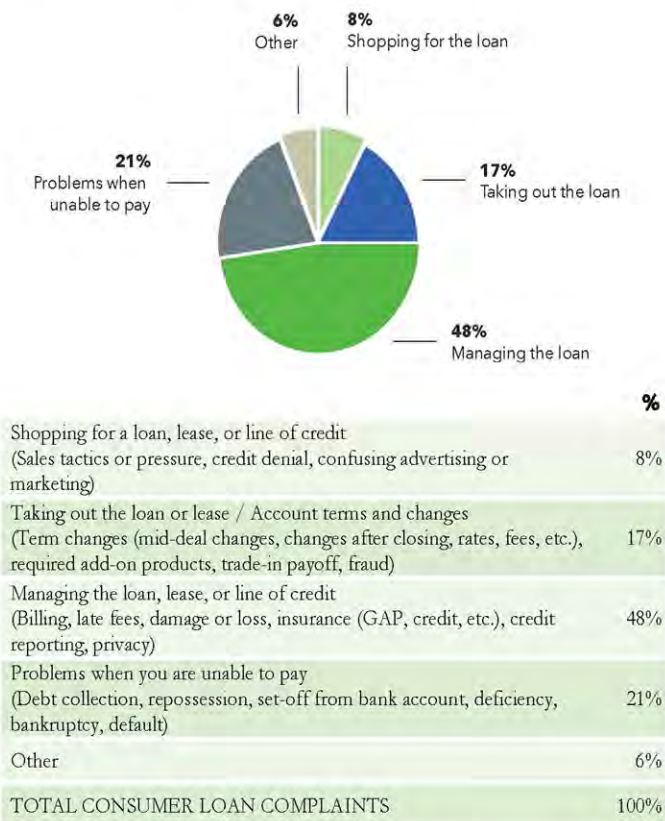
	%
Getting a loan (Confusing terms, rates, denial, confusing advertising or marketing, sales tactics or pressure, financial aid services, recruiting)	4%
Repaying your loan (Fees, billing, deferment, forbearance, fraud, credit reporting)	65%
Problems when you are unable to pay (Default, debt collection, bankruptcy)	28%
Other	3%
TOTAL STUDENT LOAN COMPLAINTS	100%

The most common type of student loan complaint relates to repaying the loan, such as fees, billing, deferment, forbearance, fraud, and credit reporting. Consumers struggle with the limited payment deferment options permitted in their loan agreements, especially when they have not found employment by the time they need to begin repaying their loans and because deferments often are limited to six months. Another common type of complaint addresses problems consumers have when they are unable to pay, such as issues related to default, debt collection, and bankruptcy.

Consumers' Consumer Loan Complaints

Figure 5 shows the types of consumer loan complaints, such as complaints about installment loans, vehicle loans and leases, and personal lines of credit, as reported by consumers for the approximately 1,400 consumer loan complaints received by the CFPB.

FIGURE 5: TYPES OF CONSUMER LOAN COMPLAINTS REPORTED BY CONSUMERS



The table illustrates that the most common type of consumer loan complaint is about managing the loan, lease, or line of credit. Another common type of complaint addresses problems consumers have when they are unable to pay, such as issues related to debt collection, bankruptcy, and default.

HOW COMPANIES RESPOND TO CONSUMER COMPLAINTS

Approximately 44,600 (or 81 percent) of all complaints received between July 21, 2011 and June 30, 2012 were sent by Consumer Response to companies for review and response.¹¹ Table 2 shows how companies responded to these complaints during this time period.

Company responses include descriptions of steps taken or that will be taken, communications received from the consumer, any follow-up actions or planned follow-up actions, and categorization of the response. Based on industry comments received about disclosure of credit card complaint data, beginning June 1, 2012, response category options included “closed with monetary relief,” “closed with non-monetary relief,” “closed with explanation,” “closed,” “in progress,” and other administrative options.¹² Monetary relief is defined as objective, measurable, and verifiable monetary relief to the consumer as a direct result of the steps taken or that will be taken in response to the complaint. “Closed with non-monetary relief” indicates that the steps taken by the company in response to the complaint did not result in monetary relief to the consumer that is objective, measurable, and verifiable, but may have addressed some or all of the consumer’s complaint involving non-monetary requests. Non-monetary relief is defined as other objective and verifiable relief to the consumer as a direct result of the steps taken or that will be taken in response to the complaint. “Closed with explanation” indicates that the steps taken by the company in response to the complaint included an explanation that was tailored to the individual consumer’s complaint. For example, this category would be used if the explanation substantively meets the consumer’s desired resolution or explains why no further action will be taken. “Closed” indicates that the company closed the complaint without relief – monetary or non-monetary – or explanation. Consumers are given the option to review and dispute all company closure responses.

¹¹ The remaining complaints have been referred to other regulatory agencies (8 percent), found to be incomplete (4 percent), or are pending with the consumer or the CFPB (1 percent and 6 percent, respectively).

¹² The CFPB initially asked companies to categorize their response as “full resolution provided,” “partial resolution provided,” “no resolution provided,” or another administrative option. From December 1, 2011 through May 31, 2012, the CFPB piloted categories of “closed with relief” and “closed without relief” in addition to other administrative options.

TABLE 2: HOW COMPANIES HAVE RESPONDED TO CONSUMER COMPLAINTS¹³

	All N≈44,600	Credit card N≈15,600	Mortgage N≈20,200	Bank account and service N≈6,400	Student loan N≈1,400	Consumer loan N≈800
Company reported closed with monetary relief	26%	47%	9%	32%	6%	19%
Company reported closed with non-monetary relief	3%	2%	5%	2%	3%	5%
Company reported closed with explanation	55%	42%	66%	48%	60%	57%
Company reported closed (without relief or explanation)	1%	0.2%	1%	1%	0.5%	1%
Company provided administrative response	3%	2%	4%	3%	1%	1%
Company reviewing	13%	7%	16%	14%	29%	16%
TOTAL COMPLAINTS	100%	100%	100%	100%	100%	100%

Companies have responded to over 40,300 of the 44,600 complaints sent to them (90 percent) and report having closed 85 percent of the complaints sent to them. Table 2 shows how companies have responded.

Beginning December 1, 2011, companies had the option to report an amount of monetary relief, where applicable. Since then companies have provided relief amounts in

¹³ While companies' responses under previous categorizations were maintained, for operational and reporting purposes, responses categorized as "full resolution provided," "partial resolution provided," and "closed with relief" are considered a subset of "closed with monetary relief," and responses categorized as "no resolution provided" and "closed without relief" are categorized as "closed with explanation." "Closed with non-monetary relief" and "closed" reflect only those responses provided by companies after June 1, 2012.

response to more than 4,800 complaints. The median amount of relief reported by companies was \$144; however, company reports of relief amounts and medians vary by product. For the approximately 2,500 credit card complaints where companies provided a relief amount, the median amount of relief reported was approximately \$130. For the approximately 800 mortgage complaints where companies provided a relief amount, the median amount of relief reported was approximately \$411. For the more than 1,400 bank account and service complaints where companies provided a relief amount, the median amount of relief reported was approximately \$105. For the approximately 70 student loan complaints where companies provided a relief amount, the median amount of relief reported was approximately \$1,597. For the approximately 80 consumer loan complaints where companies provided a relief amount, the median amount of relief reported was approximately \$136.

Consumers' Reviews of Companies' Responses

Once the company responds, the CFPB provides the company's response to the consumer for review. Where the company responds "closed with monetary relief," "closed with non-monetary relief," "closed with explanation," or "closed," consumers are given the option to dispute the response.¹⁴ Complaints with disputed company responses are among those prioritized for investigation. Table 3 shows how consumers responded to the approximately 36,600 complaints where they were given the option to dispute. Consumers are asked to notify the CFPB within 30 days if they want to dispute a company's response. Approximately 44 percent of such consumers did not dispute the responses provided. Nearly 17 percent of consumers have disputed the responses provided. The rest were pending with consumers at the end of this period.

¹⁴ Consumers were initially given the option to dispute responses from companies that indicated a resolution had been provided. With the shift to closure categories, consumers are given the option to dispute company responses regardless of closure category.

TABLE 3: CONSUMER REVIEW OF COMPANY RESPONSES

	All	Credit card	Mortgage	Bank Account and Service	Student Loan	Consumer Loan
Pending consumer review of company's response	40%	40%	39%	42%	39%	49%
Consumer did not dispute company's response	44%	46%	42%	43%	48%	35%
Consumer disputed company's response	17%	15%	19%	15%	14%	16%
TOTAL COMPLAINTS	100%	100%	100%	100%	100%	100%

Consumer Response Investigations

After requesting that companies respond to all complaints filed and giving consumers the opportunity to review and dispute company responses, Consumer Response primarily focuses its review and investigation efforts on those complaints where the consumer disputed the response or where companies failed to provide any response within 15 calendar days. Consumer Response also periodically investigates groups of complaints to survey product- and issue-specific trends. Consumer Response seeks to determine why a company failed to provide a timely response (if applicable) and whether the consumer's dispute of the company's response (if applicable) justifies additional review of the company's minimum required actions under the consumer financial protection laws within the CFPB's authority. In the course of an investigation, Consumer Response may ask companies and consumers for additional information, and once the investigation is completed, Consumer Response sends the consumer a summary. In some cases, Consumer Response has referred complaints to colleagues in the CFPB's Division of Supervision, Enforcement, and Fair Lending & Equal Opportunity for further action.

Listening and responding to consumer complaints is an integral part of the CFPB's work in understanding issues in the financial marketplace and helping the market work better for consumers.

Shopping Challenges

The challenges that consumers face in the marketplace highlight the importance of a tenet which is central to the CFPB's mission – promoting markets in which consumers can shop effectively for financial products and services. When the costs, risks, and other key features of financial products are transparent and understandable, consumers are better able to compare products and choose the best one for them. This discussion presents preliminary observations about opportunities and challenges that consumers face when shopping for checking accounts.¹⁵

CHECKING ACCOUNTS

Background

Over 92 percent of American households hold some type of transaction account for their core cash management needs.¹⁶ Most of those accounts are insured checking accounts at a bank, thrift, or credit union. According to one survey, households are switching their checking account providers at a rate of once every 11 years, and switching is on the rise.¹⁷ Consumers shopping for banks in 2011, on average, looked at no more than two institutions.¹⁸ While historically consumers may have been most likely to shop for a new bank when moving to a new city or neighborhood, increasingly consumers may be shopping in response to an unpleasant experience, such as changes in fees or other terms and conditions.¹⁹

¹⁵ For a discussion of shopping challenges in markets for mortgages, credit cards, and student loans, please see Consumer Financial Protection Bureau, "Semi-Annual Report of the Consumer Financial Protection Bureau, July 21 - December 31, 2011," January 30, 2012.

¹⁶ Jesse Bricker, Brian Bucks, Arthur Kennickell, Traci Mach, and Kevin Moore, "Surveying the Aftermath of the Storm: Changes in Family Finances from 2007 to 2009," March 2011, at 27, <http://www.federalreserve.gov/pubs/feds/2011/201117/201117pap.pdf> (last viewed July 9, 2012).

¹⁷ J.D. Power and Associates, "Shopping and Switching Rates Increase among Retail Bank Customers as Competition in the Industry Intensifies," March 1, 2011, <http://businesscenter.jdpower.com/news/pressrelease.aspx?ID=2011020> (last viewed July 9, 2012).

¹⁸ *Id.*

¹⁹ J.D. Power and Associates, "Bank Customer Switching Rates Rise Again, Fueled by Issues with Fees and Poor Service," Feb. 27, 2012, <http://businesscenter.jdpower.com/news/pressrelease.aspx?ID=2012017> (last viewed July 9, 2012).

Banks may charge a wide range of fees to holders of checking accounts.²⁰ Some fees, including monthly maintenance, are levied on a periodic basis. Others, such as fees for using the ATMs of other institutions or fees for in-person transactions with tellers, are incurred on a per-transaction basis. Depository institutions frequently also impose “penalty” fees for overdrafts, returned deposited checks, and other transactions that may impose additional risks or costs upon the institution.

Shopping Channels

While consumers have historically shopped – and continue to shop – for checking accounts at branch offices, a large portion of the population now relies upon the Internet. Use of the two primary shopping channels may not be mutually exclusive. A recent survey estimates that “76 percent of consumers view the bank branch as the primary place to open new accounts and 65 percent look there first when they *buy* banking products.”²¹ However, the survey also found that “70 percent of consumers first go online when researching banking products and services, up from 42 percent five years ago.”

The growth of online shopping promises increased access to information and development of tools with which consumers can make online comparisons. Consumers can obtain at least some information about checking account products at most financial institutions’ websites. They can also compare checking products along a limited number of dimensions at a number of third-party sites.²² Still, a number of issues present challenges for consumer shoppers.

Transparency

DISCLOSURE OF TERMS AT BRANCH OFFICES

Regulation DD, which implements the Truth in Savings Act, requires a depository institution to disclose to a consumer, among other things, the terms and fees (and conditions under which the fees will be imposed) associated with maintaining a checking account before it opens the account for or provides services to the consumer.²³ The

²⁰ Banks’ revenue from checking accounts comes through a combination of net interest margin (interest earned from lending or investing the consumers’ deposits, minus any interest paid to consumers’ account), interchange earned on consumers’ debit card transactions, and fees charged to the consumers themselves.

²¹ Sherief Meleis et al., “Reconstructing the Retail Banking Business,” Novantas Review, July 2011, at 13, <http://www.novantas.com/article.php?id=317> (last viewed July 9, 2012).

²² Examples include Bankrate.com and Findabetterbank.com.

²³ See 12 C.F.R. § 1030.4.

purpose of the regulation is to enable consumers to make informed decisions about accounts at depository institutions.²⁴

However, in 2008, the Government Accountability Office (GAO) found that consumers may not be able to obtain the required information from bank branches at all times.²⁵ GAO employees conducted “secret shopper” visits to a non-generalizable yet sizable sample: 185 branches of 154 banks, thrifts, and credit unions during 2007 and 2008. Visitors found they were “unable to obtain, upon request, a comprehensive list of all checking and savings account fees at 40 of the branches (22 percent).”²⁶ Similarly, the “secret shoppers” were “unable to obtain the account terms and conditions, including information on when deposited funds became available and how overdrafts were handled, for checking and savings accounts at 61 of the branches (33 percent).”²⁷ These findings appear to be consistent with those published by the United States Public Interest Research Group (PIRG) in 2011.²⁸

DISCLOSURE OF TERMS ONLINE

Currently, the regulation implementing the Truth in Savings Act, Regulation DD, also provides that if a consumer uses electronic means to open an account, such as through a website, the same disclosures required for opening an account in a bank branch must be provided to the consumer before the account is opened or a service is provided. However, because the regulation also provides that disclosures may be mailed to customers who request written account information when the customer is not “present,” account terms may not be immediately available for customers shopping online.²⁹ In addition, Regulation E, which implements the Electronic Fund Transfer Act, requires disclosures of fees for electronic fund transfers or the right to make such transfers at the time the consumer contracts for the electronic fund transfer service or before the first transfer is made involving the consumer’s account.³⁰ Examples of fees for electronic fund transfer services

²⁴ See *id.* § 1030.1(b).

²⁵ Government Accountability Office, “Bank Fees: Federal Banking Regulators Could Better Ensure That Consumers Have Required Disclosure Documents Prior to Opening Checking or Savings Accounts,” January 2008, <http://www.gao.gov/assets/280/271/bba.pdf> (last viewed July 9, 2012).

²⁶ *Id.* at 6.

²⁷ *Id.*

²⁸ U.S. Public Interest Research Groups, “Big Banks, Bigger Fees 2011: A National Survey of Bank Fees and Fee Disclosure Policies,” April 2011, http://www.uspirg.org/sites/pirg/files/reports/uspirgBIGBANKSRE*ORTONLY.pdf (last viewed July 9, 2012).

²⁹ See 12 C.F.R. § 1030.4.

³⁰ See *id.* § 1005.7.

include fees for ATM withdrawals or purchases made using a debit card.³¹ However, these disclosures also may be provided too late to assist shoppers.

In 2008, the GAO found that information on fees, terms, and conditions was not readily available on the websites of the institutions visited by its “secret shopper” employees. The GAO was “unable to obtain a comprehensive list of fees from 103 of the 202 [websites] (51 percent). In addition, [it was] unable to obtain the terms and conditions from 134 of the 202 (66 percent).”³²

ACCESSIBILITY AND PROMINENCE

Facilitas, Inc., a market research firm that publishes the website FindABetterBank.com and monitors checking account pricing daily at 139 institutions across the nation (including the 65 largest) has conducted additional research on disclosure of terms and pricing by depositories. The company tracks and scores the difficulty of finding information related to 24 common fees at each of the institutions the firm monitors, noting what terms are prominently posted online, what is only contained in legal disclosures, what is not posted and requires assistance from a customer service representative, and what is ostensibly not available outside of a branch. As of February 2012, the average accessibility score earned by banks and credit unions observed by Facilitas was 2.9 on a scale of 0 to 6, where a score of 3.0 indicates “persistent navigation” is required to find fee information online and a 2.0 suggests fee information is difficult to find or is not available on the bank’s website.³³

Other studies indicate that institutions that post information online often do so within complex legal disclosures. In a 2011 study of the websites of the ten largest depository institutions, the Pew Charitable Trusts was generally able to find fee information online for the institutions’ checking products. However, for many of the institutions, the study found that the fee schedules were contained within lengthy documents containing all the terms and conditions for checking and savings products, with a median length of 111 pages.³⁴

³¹ See *id.* §§ 1005.7, 1005.16.

³² Government Accountability Office, “Bank Fees: Federal Banking Regulators Could Better Ensure That Consumers Have Required Disclosure Documents Prior to Opening Checking or Savings Accounts,” at 38, January 2008, <http://www.gao.gov/assets/290/271600.pdf> (last viewed July 9, 2012).

³³ Data from Facilitas, Inc., received February 28, 2012. Scores below 2.0 indicate that the consumer had to navigate through an automated phone system to get information, which at times was difficult.

³⁴ The Pew Health Group, “Hidden Risks: The Case for Safe and Transparent Checking Accounts,” April 2011, at 6, http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Safe_Checking_in_the_Electronic_Age/Pew_Report_HiddenRisks.pdf (last viewed July 9, 2012). In the 2012 follow-up to this study, Pew observed that the median length decreased to 69 pages; however the change was largely attributed to a change in methodology rather than an industry trend. The

NOMENCLATURE AND COMPARABILITY

Even when consumers are able to obtain complete pricing information on competing products, comparing those products can be challenging due to a lack of standardized descriptions for certain types of fees, especially with respect to overdraft transactions. For example, different depository institutions may use different terms for the fee charged to transfer money from a savings account or a line of credit to a checking account to cover an overdraft and for the fee charged if an overdraft is not repaid within a specified period of time.

Product Complexity

Subtle and sometimes significant variations in product pricing structures across institutions can make comparisons between products or providers cumbersome. For example, some accounts may charge monthly fees if the minimum daily balance requirements are not met for just one day or even for part of one day during a statement period, while other accounts have a fee trigger based upon the *average* monthly balance of the account.

Some institution practices, frequently undisclosed, may make it particularly difficult to anticipate overdraft usage and costs. For example, some institutions may post check, automated clearing house (ACH), and debit transactions in order from the largest to the smallest amount, while others might employ a chronological or low-to-high posting order. These posting-order rules impact the size and number of items that generate overdraft or non-sufficient funds (NSF) fees. Because many payments do not settle on the day on which they were conducted or authorized, consumers are hard pressed to predict the precise order in which items will be processed on a given day. Importantly, many disclosures merely state that the institution reserves the right to determine the order in which to process items.

Furthermore, many institutions' policies set risk-based limits based on an individual customer's credit standing, history with the institution, past overdraft usage, and other factors. Those account underwriting policies vary from institution to institution but cannot be used as a basis for comparing providers if undisclosed.

Consumer Expectations

Finally, as when shopping for other consumer financial products, consumers enrolling in new checking accounts may often underestimate the likelihood of negative outcomes,

Pew Health Group, "Still Risky: An Update on the Safety and Transparency of Checking Accounts," June 2012, at 7, http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Safe_Checking_in_the_Electronic_Age/Pew_Safe_Checking_Still_Risky.pdf (last viewed July 9, 2012).

such as overdrawing their accounts or incurring overdraft-related fees.³⁵ Thus, consumers may pay less attention to these terms – even when they are well-disclosed – than to “front end” charges they will incur with more certainty, such as monthly maintenance fees, regardless of the fact that “back end” transaction fees may represent the majority of costs they are likely to incur.

³⁵Michael S. Barr et al., “Behaviorally Informed Financial Services Regulation,” October 2008, http://www.newamerica.net/files/naf_behavioral_v5.pdf (last viewed July 9, 2012); ROGER BUEHLER ET AL., INSIDE THE PLANNING FALLACY: THE CAUSES AND CONSEQUENCES OF OPTIMISTIC TIME PREDICTIONS (2002). Bar-Gill (2004) made similar observations with respect to the credit card markets. Oren Bar-Gill, “Seduction by Plastic,” 2004, <http://law.bepress.com/cgi/viewcontent.cgi?article=1013&context=alea> (last viewed July 9, 2012).

Delivering for American Consumers and Leveling the Playing Field

The CFPB is authorized to exercise its authorities under federal consumer financial protection laws to administer, implement, and promote compliance with those laws. To this end, the Bureau has made efforts in the past year to improve the resources available to consumers and to build the infrastructure necessary for making consumer financial markets work better.

Resources for Consumers

The CFPB has launched a variety of offices to provide assistance and information to consumers. The Bureau strives to provide individualized help to consumers based on their specific issues with financial products and services, and it works to improve financial literacy and capability—amongst the public as a whole and consumers who traditionally faced particular challenges in the financial markets.

CONSUMER RESPONSE

The Bureau's Consumer Response team receives complaints and inquiries directly from consumers. The CFPB accepts complaints through its website and by telephone, mail, email, fax, and referral. Consumers file complaints on the Bureau's website using complaint forms tailored to specific products, and can also log on to a secure consumer portal to check the status of a complaint and review a company's response. While on the website consumers can chat with a live agent to receive help completing a complaint form. Consumers can also call the Bureau's toll-free number to ask questions, file a complaint, check the status of a complaint, and more. The CFPB's U.S.-based contact centers handle calls with little-to-no wait times; they provide services to consumers in more than 180 languages and to hearing- and speech-impaired consumers via a toll-free telephone

number. Cutting-edge technology, including secure company and consumer portals, makes the process efficient and user-friendly for consumers and companies. For companies, the CFPB provides secure channels for communicating directly with dedicated staff about technical issues.

As Consumer Response processes complaints and responds to inquiries, it continues to seek new ways to improve existing processes to make them as efficient, effective, and easy-to-use as possible. Based on feedback from consumers and companies, as well as its own observations, the Consumer Response team identifies new opportunities to improve its processes and implement changes with each product launch. By applying the lessons learned through previous complaint function rollouts, the Consumer Response team has improved its intake process, enhanced communication with companies, and ensured the system's ease-of-use and effectiveness for consumers. The CFPB aims to provide services that are trusted by consumers and companies alike.

CONSUMER EDUCATION AND ENGAGEMENT

The CFPB's Division of Consumer Education and Engagement is responsible for developing and implementing initiatives to educate and empower consumers to make better-informed financial decisions. Improving financial literacy and capability encompasses many short and longer-term efforts, including education and engagement with information and tools designed to provide clear and meaningful assistance to consumers at the moment they need it.

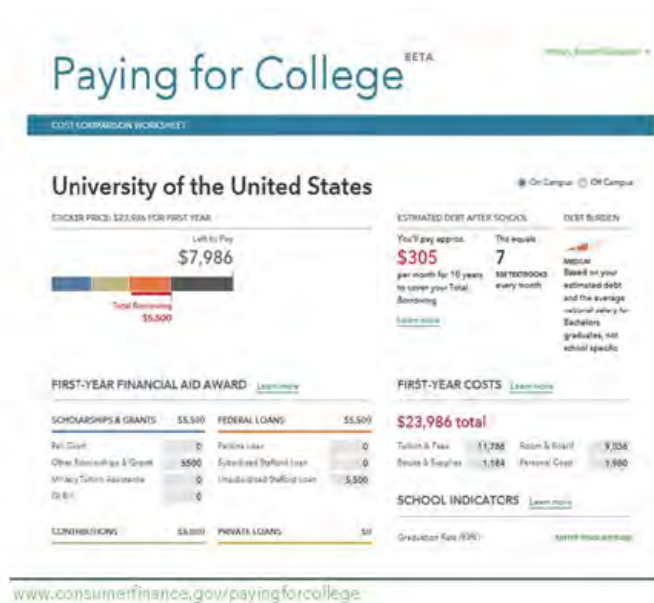
Reaching out to consumers is essential to the work of this Division. Over the past year, the Division's Offices have engaged with different groups across the country through more than 320 listening sessions, town halls and roundtables, visits to military installations, and other stakeholder events. These and other opportunities to hear directly from consumers about their financial needs, aspirations, and experiences help inform all of the Bureau's work. Through this outreach work, the CFPB has connected to more than 4,200 stakeholder organizations that were involved in these events.

As a 21st-century agency, the Consumer Engagement office has focused on bringing financial decision-making tools and information to consumers through an accessible online format. Over the past year, a steadily increasing number of consumers took advantage of these offerings. The Bureau's website received more than 5 million unique views in the past year. The CFPB estimates that more than 3,750,000 of those were to areas of the site providing consumer tools, information, and assistance.



The Division supports one of the CFPB's signature campaigns, *Know Before You Owe*, which has begun to make the costs and risks of financial products and services easier to understand. Although consumers expect to be held responsible for their purchases and debts, they also deserve to be able to make informed choices based on long-term costs and risks of those products and services. *Know Before You Owe* encourages personal responsibility and smart decision-making through fair and effective representations of the key elements of the costs and risks of financial products and services. In 2011, the Bureau published prototype forms, tools, and contracts for mortgages, student loans, and credit cards that are designed to make important information easier to find.

The Office of Consumer Engagement and Office for Students recently entered the second phase of its *Know Before You Owe: Student Loans* project by releasing a beta version of a financial aid comparison tool for public comment. This online tool is designed to help students and families make better-informed decisions about student loans. The beta version drew upon publicly available data provided by government statistical agencies, including information on more than 7,500 schools and institutions, including vocational schools and community, state, and private colleges.



The tool also included a “Military Benefits Calculator” that can estimate education benefits for servicemembers, veterans, and their families. The calculator includes military tuition assistance and Post-9/11 GI Bill benefits. The Bureau is currently evaluating the feedback from the public to inform the development of the final version of the tool.

In addition, in February, the CFPB’s Consumer Engagement and Technology & Innovation teams released a new design for ConsumerFinance.gov, which streamlined the site’s information architecture. This new design has increased the ability of visitors to find information about the CFPB’s regulations, requests for information, and guidance for supervised entities within one click of the homepage.



In March, the Bureau released *Ask CFPB*, an interactive online tool that helps consumers find clear, unbiased answers to their financial questions. *Ask CFPB* currently contains more than 420 easy-to-read, plain-language entries written by the Bureau's subject-matter experts. Consumers can view entries organized by "most helpful," "most viewed," or "recently updated." The majority of the entries are focused on credit card and mortgage questions. In the coming months, the Bureau will expand the database to answer questions about a range of financial products and services, including student loans, vehicle loans, and checking and savings accounts. With this expansion, the *Ask CFPB* content will mirror the Consumer Response system, which is already answering consumer questions and taking complaints on these products and services.

The Bureau also helped bring attention to Financial Capability Month in April with a series of events throughout the country. Through events on Capitol Hill; in Chicago, Illinois; New York City; and Amarillo, Texas, Director Cordray and Bureau leadership engaged financial educators and leaders in the field, rural and community groups, consumers, and bankers about how to improve consumers' financial literacy. In addition, the Assistant Director for the Office of Financial Education testified before Congress about financial capability.

As Vice-Chair of the Financial Literacy and Education Commission (FLEC), Director Cordray helped bring attention to the issue by emphasizing how important it is for consumers to have the ability to understand and control their finances and that this ability creates a path to economic independence and mobility.

The Bureau is committed to education that builds financial capability and that engages consumers at the right moment with information, tools, and skills to help them achieve their own financial goals. In keeping with that commitment, the Office of Financial Education helped educate people during tax time about opportunities to save a portion of their tax refund by providing useful materials to Volunteer Income Tax Assistance (VITA) sites nationwide. The results of that initiative will help focus and inform future efforts to help consumers reach their savings goals.

Servicemembers

The CFPB's Office of Servicemember Affairs continues to reach out to servicemembers where they are, by visiting 27 military installations and National Guard units and participating in 18 town halls and 14 roundtables since October 2011. At these outreach events, Servicemember Affairs leadership and staff listened to servicemembers discuss the financial challenges they face, observed financial education training, and provided educational materials. In addition to the military units/installations visited, the Office participated in fifteen outreach events sponsored by external organizations seeking additional educational information about the Office and the CFPB. The Office used Military Saves Week in February as an opportunity to distribute a video message to all military units about the importance of saving for goals. Also in February, Assistant Director Holly Petraeus met with Pentagon officials, who asked the Office to assist in the creation of financial planning materials for all servicemembers leaving the military, an

often difficult time of transition when such materials are particularly useful. The Office staff has delivered consumer financial education information to over 14,000 people since October 2011.

Building on its prior work with the U.S. Department of the Treasury (Treasury) and others to address the particular challenges that servicemembers often face in the mortgage markets, the Office continued its efforts to address the unique challenges presented by Permanent Change of Station (PCS) orders. In April and May, the Office worked with Treasury to secure changes to the Home Affordable Modification Program (HAMP) that will provide more opportunities for mortgage assistance to military homeowners. Under the announced changes to HAMP, as of June 1, military homeowners and other families who are permanently displaced by a move due to PCS orders may still qualify as owner-occupants for a HAMP mortgage modification. In June, the Bureau, along with the prudential regulators – the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (Federal Reserve, Federal Reserve Board, or Federal Reserve System), the Office of the Comptroller of the Currency (OCC), and the National Credit Union Administration (NCUA) – issued joint guidance to address mortgage servicer practices that may pose risks to homeowners who are serving in the military. The guidance is to ensure compliance with applicable consumer laws and regulations as they pertain to military homeowners who have received PCS orders.

Older Americans

The Division of Consumer Education and Engagement's Office for Older Americans has continued its outreach efforts around the country with its core constituency, key public officials, financial institutions, industry, advocates, and other stakeholders – including 81 events with more than 2,700 participants since October 2011. The Office's outreach work is helping to raise awareness of growing consumer financial challenges faced by older Americans and to bring various interests together to develop solutions on the local, state, and national level. To assist with this work, the Office issued a Request for Information (RFI) about elder financial exploitation and other issues impacting seniors in June 2012. The Office also worked with the CFPB's Research, Markets and Regulations Division to issue a report and consumer guide about reverse mortgages, a loan product sold to homeowners aged 62 and older.

Students

Last fall, the Bureau launched its *Know Before You Own: Student Loans* project to help students make informed decisions about the level of debt associated with choosing a college. The Bureau also continues to offer the Student Debt Repayment Assistant tool for graduates to help them better understand the existing programs to manage their student debt repayment options.



In cooperation with the U.S. Department of Education, the Bureau collected additional comment on a draft financial aid comparison tool. The final model format, to be prescribed by the Secretary of Education, will help students and families receive clear information on grants and loans when enrolling in an institution of higher education. In April, the President of the United States issued an Executive Order outlining principles that would require schools to provide the final version of the shopping sheet – to be prescribed by the Secretary of Education – to provide better information to recipients of military and veteran education benefits.

In March, the Bureau began to accept complaints from the public on student loans. The CFPB's Student Loan Ombudsman works with Consumer Response, the U.S. Department of Education, and institutions of higher education, lenders, and others to assist borrowers with complaints on private education loans and to address challenges in the student lending marketplace. The Student Loan Ombudsman will submit a report to Congress later this year. In preparation for this report, the Bureau published a Notice and Request for Information in June to collect comments on the nature of private student loan complaints received by institutions of higher education, state agencies, industry, non-profit organizations, and other interested parties.

Financial Empowerment

The Bureau launched its Office of Financial Empowerment in June 2012 to address the needs of consumers who traditionally have been underserved by the financial market. The Office began reaching out to community and asset building groups, cities and counties, and financial service providers. Since its inception, the Office has met with more than 25 stakeholder groups. These meetings helped inform the Office's goal to develop and

provide innovative approaches that will help respond to lower-income and economically vulnerable consumers' immediate needs for transaction accounts and credit, as well as their longer-term needs for emergency savings and wealth building. In addition, on June 25, Director Cordray and Office leadership held a conference call to introduce the Office's work to more than 400 participants representing community organizations, banks and credit unions, academics and researchers, representatives from local and state government, coalitions, and others.

Outreach

In addition to the Bureau's work engaging and educating particular populations, the Bureau has hosted events all over the country to inform and receive input about its work on issues related to consumer financial products and services. More than 1,000 consumers have made their voices heard by participating in town halls and field hearings convened by the CFPB. The Bureau hosted two field hearings – on payday loans in Birmingham, Alabama and on prepaid cards in Durham, North Carolina – to actively solicit public input on key policy initiatives. In New York City, the CFPB convened a town hall meeting to learn from the public's experiences with consumer financial products and services. While in Sioux Falls, South Dakota the Bureau unveiled its Financial Aid Comparison Shopper at a gathering of high school seniors embarking on the college selection process.



In conjunction with field events, Director Cordray and Deputy Director Raj Date have held roundtables with community banks, credit unions, and other members of the

financial services industry as part of our continuing commitment to engage with financial service providers. Since January 2012, Bureau representatives have met with hundreds of industry representatives and senior CFPB leadership has delivered several speeches at widely-attended industry conferences. The Bureau also has convened its first three small business panels in January, April, and May 2012. These panels, which are required whenever a rule that the CFPB is writing may have a significant economic impact on small businesses, provided vital insight from financial service providers as the Bureau strives to issue thoughtful, research-based rules.

The Bureau has also actively solicited the perspective of consumer and civil rights groups. In conjunction with field events, Director Cordray and Deputy Director Date have held roundtables with community-based organizations across the country. Since January 2012, the CFPB's Office of Community Affairs has engaged over 3,500 community group representatives through more than 100 meetings, roundtables, and public appearances in Washington, DC and throughout the country. Since January 2012, senior CFPB leadership delivered speeches at four national nonprofit conferences. As with industry outreach, the Bureau has ensured that consumer groups' perspectives inform its internal deliberations on policy initiatives.

Partnerships

The Bureau has furthered many existing partnerships and formalized several new ones. The CFPB received over 700 completed applications to serve on its Consumer Advisory Board. This Board, mandated by Section 1014 of the Dodd-Frank Act, will comprise a varied group of consumers, community organizations, governmental officials, and industry representatives who will provide Director Cordray with advice and consultation on consumer financial issues. The CFPB will be establishing community bank and credit union advisory groups to help ensure that the agency's rules do not unduly harm entities that we do not supervise.

To date, the Bureau has signed numerous memoranda of understanding (MOUs) with intergovernmental partners, including federal agencies, state financial regulatory entities, and state attorneys general. The CFPB has conducted meetings with over 200 intergovernmental stakeholders such as mayors, state legislators, and international officials to help ensure that consumer financial protection remains coordinated among these entities.

Regulations and Guidance

The Bureau is focusing intensively on implementing consumer protections required by the Dodd-Frank Act in anticipation of statutory deadlines in 2012 and 2013. In addition, the Bureau has issued a number of bulletins to provide guidance on regulatory matters and is analyzing public comments on potential projects to streamline regulations that it has inherited from other federal agencies.

IMPLEMENTING STATUTORY PROTECTIONS

As contemplated by the Dodd-Frank Act, the CFPB is in the process of issuing a comprehensive set of regulations to address deep flaws in the mortgage market that were revealed by the financial crisis. After months of preparation and outreach, including conducting several small business review panels, the Bureau expects over summer 2012 to issue proposed rules to address the following topics:

- Streamlining and integrating federal mortgage disclosures to ensure that consumers who have applied for a mortgage loan understand the terms of the transaction and to facilitate compliance by lenders and other financial services providers.
- Addressing widespread problems in the mortgage servicing industry by implementing Dodd-Frank Act requirements regarding periodic statements, force-placed insurance, prompt crediting of payments, responses to requests for pay-off amounts, and error resolutions. In addition, the Bureau plans to propose basic requirements to ensure that servicers maintain reasonable information management systems and reach out early to work with borrowers who are having trouble paying their loans.
- Refining existing rules regarding the compensation and qualification of mortgage loan originators, including brokers and loan officers, as well as simplifying the structure of upfront points and fees on certain loans.
- Implementing Dodd-Frank Act amendments to existing rules governing high-cost mortgage loans to apply the requirements to a broader group of mortgages and to increase consumer protections.
- Ensuring that consumers receive a copy of the appraisals conducted in connection with their mortgage loan applications.

The Bureau is also working on an interagency basis to implement certain other Dodd-Frank Act requirements regarding appraisals.



After the public comment periods end, the Bureau will work to finalize these proposals as well as two additional mortgage-related proposals that were issued by the Federal Reserve Board in 2011 to implement additional Dodd-Frank Act requirements regarding escrow accounts and lenders' obligations to assess borrowers' ability to repay mortgage loans, including certain protections from liability for "qualified mortgages." In May 2012, the Bureau reopened the comment period on the ability-to-repay rule to seek public feedback on certain information that the Bureau has received in connection with that rulemaking, as well as to request additional data.

The Bureau expects to finalize most of the mortgage rules by January 21, 2013, in accordance with certain statutory deadlines. Due to additional consumer testing and other factors, final rules regarding the integration of federal mortgage disclosures are expected to be issued later in 2013.

The Bureau is also working to implement other Dodd-Frank Act protections. In 2012, the Bureau issued new rules governing foreign money transfers (remittances), which previously have been largely excluded from federal consumer financial protection laws. Those rules, including new disclosures and error resolution procedures, will take effect in February 2013. The Bureau expects to issue a supplemental rule on remittances in summer 2012 to address certain issues on which it had sought additional public comment, in advance of the February 2013 implementation date. Additional rulemakings are contemplated concerning reporting of data regarding mortgage lending, lending to small businesses and women- and minority-owned businesses, and consumer access to their own transaction data.

In addition, the Bureau has begun to issue rules that relate to its supervisory authority.

It has proposed a rule that defines “larger participants” in the debt collection and consumer reporting markets, which will bring within the scope of the CFPB’s supervisory authority debt collectors and consumer reporting agencies that meet certain annual receipt thresholds. This would be the CFPB’s initial rule defining larger participants in nonbank markets and will be followed by a series of subsequent rulemakings to define larger participants in other markets.

The Bureau has also proposed a rule to establish procedures by which the CFPB may make any nonbank entity that the CFPB has reasonable cause to determine is posing a risk to consumers subject to its supervisory authority. The proposed rule would establish a process for the CFPB to give notice to the nonbank entities of such determinations and would provide them with a reasonable opportunity to respond. The proposed rule would not impose new substantive consumer protection requirements on any nonbank entity.

INTERPRETING AND STREAMLINING INHERITED REGULATIONS

The Bureau is working with consumer and industry stakeholders on interpreting and streamlining regulations to implement existing federal consumer financial protection laws. These regulations were issued previously by other federal financial services regulators and transferred to the Bureau in July 2011.

In 2012, the Bureau issued interpretive guidance on a variety of topics, including interpretation of regulations concerning mortgage loan originator compensation, licensing requirements for loan originators under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act), and analysis of disparate impact under fair lending law.

In addition, the Bureau has been exploring possible initiatives to update, modify, or eliminate inherited regulatory requirements that may be outdated, unduly burdensome, or unnecessary. At the request of various stakeholders, the CFPB extended the comment period covering potential streamlining initiatives from March to June 2012. The Bureau is currently reviewing the comments received to plan follow-up action.

Finally, the CFPB has begun issuing updated housekeeping rules that establish procedures for the public to obtain information from the Bureau under the Freedom of Information Act, the Privacy Act of 1974, and in legal proceedings, and that provide for the confidential treatment of information that the Bureau generates and obtains in connection with the exercise of its authorities. The CFPB also promulgated supplemental ethics regulations for Bureau employees establishing restrictions on outside employment and business activities; prohibitions on the ownership of certain financial interests; restrictions on seeking, obtaining or renegotiating credit and indebtedness; prohibitions on recommendations concerning debt and equity interests; disqualification requirements based on credit or indebtedness; prohibitions on purchasing certain assets; and restrictions on participating in particular matters involving outside entities.

Supervision

The CFPB's supervision program seeks to ensure that large banks and other companies that provide financial products and services to consumers comply with federal consumer financial laws. The CFPB's supervision program has two parts. The large bank supervision program focuses on compliance with consumer protection laws and regulations by insured banks, thrifts, and credit unions with assets over \$10 billion, their affiliates, and service providers. The nonbank supervision program focuses on compliance with the same laws and regulations by thousands of other "nonbank" companies, including mortgage lenders and brokers, credit bureaus, payday lenders, and their service providers.

SUPERVISORY ACTIVITIES

The CFPB has launched its nonbank supervision program, the first federal program to supervise nonbank providers of consumer financial products and services. The CFPB commenced examinations of mortgage lenders, brokers and servicers as well as short-term, small dollar lenders, commonly referred to as payday lenders. These nonbank entities have cooperated in the examinations, which include information requests and on-site reviews. CFPB examiners continue to actively examine large banks in each of its four regions throughout the country.

The CFPB will soon issue a policy that gives supervised entities an opportunity to request review of a final, less than satisfactory, rating and the underlying supervisory determinations. The review would be conducted by CFPB officials from headquarters and from a CFPB region that was not involved in assigning the rating. This policy will support the goal of maintaining a supervisory program that is fair, data-driven and consistent.

The Director of the CFPB is a member of the Federal Financial Institutions Examination Council (FFIEC), a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of insured depository institutions. Additionally, employees of the CFPB actively participate in nine FFIEC task forces, committees, and working groups. The CFPB currently provides leadership for the FFIEC's Consumer Compliance Task Force.

EXAMINATION MANUAL, PROCEDURES, AND OTHER SUPERVISORY GUIDANCE

The CFPB originally issued its *Supervision and Examination Manual* on October 13, 2011. In January 2012, the CFPB issued two additions to the *Manual*. The *Mortgage Origination Examination Procedures* describe the types of information the Bureau's examiners will seek in order to review key mortgage originator activities, from initial advertisements and marketing practices to closing practices. The *Short-Term, Small-Dollar Lending Examination*

Procedures address the types of information necessary to review key payday lending activities, from initial advertisements and marketing to collection practices.

The SAFE Act mandates a nationwide licensing and registration system for residential mortgage loan originators. On March 7, 2012, the CFPB issued interagency SAFE Act examination procedures for insured depository institutions. These procedures describe the types of information that the Bureau's examiners will gather to evaluate compliance by depository institutions with the SAFE Act's registration system requirements.

The CFPB will soon issue the second version of its *Supervision and Examination Manual*. Version 2.0 will replace outdated regulatory citations with the new CFPB citations, reflecting the fact that authority for federal consumer financial laws was transferred to the CFPB by the Dodd-Frank Act.

In addition, the CFPB issued bulletins in the past six months that provide supervised entities with guidance on a variety of issues. These include:

- Confidentiality protections that are provided to entities during the examination process;
- The CFPB's expectation that supervised entities will oversee their business relationships with service providers in a manner that ensures compliance with federal consumer financial laws; and
- Clarification that under the SAFE Act a state may grant a transitional loan originator license to an individual who holds a valid loan originator license from another state, as discussed further below.

INFRASTRUCTURE AND TECHNOLOGY

The CFPB has fully implemented its Supervisory Examination System (SES) 1.0, which records, tracks, and provides current information and data about its supervision and examination activities. Because this system was originally designed for the Office of Thrift Supervision, it is not fully capable of addressing all aspects of the CFPB's consumer financial protection mandate. As a result, the CFPB is planning and moving forward with development of SES 2.0, a more technologically sophisticated program that will have enhanced capabilities that focus on the unique needs and functions of the CFPB's consumer compliance supervisory program.

THE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2008

Related to our Supervision mission is the CFPB's responsibility to administer the SAFE Act.³⁶ Enacted on July 30, 2008, the SAFE Act mandates a nationwide licensing and registration system for residential mortgage loan originators (MLOs).³⁷ The SAFE Act authorities transferred to the CFPB pursuant to the Dodd-Frank Act.³⁸

To accomplish the goal of national licensing and registration, the SAFE Act prohibits individuals from engaging in the business of MLOs without first obtaining and maintaining annually a particular type of registration. Individuals who are MLOs employed by depository, and certain subsidiary, institutions regulated by the federal banking agencies³⁹ or the Farm Credit Administration (FCA) must federally register as a registered loan originator and obtain a unique identifier. All other individuals who are MLOs must be licensed by a state, register as a state-licensed loan originator, and obtain a unique identifier. The SAFE Act requires that federal registration and state licensing and registration be accomplished through the Nationwide Mortgage Licensing System and Registry (NMLSR), an online registration system.

The federal agencies previously charged with SAFE Act responsibilities had issued regulations to implement the Act.⁴⁰ In light of the transfer to the CFPB of the SAFE Act rulemaking authority of the federal banking agencies, the FCA, the Office of Thrift Supervision (OTS), and the U.S. Department of Housing and Urban Development

³⁶ The SAFE Act requires an annual summary of the CFPB's activities under the Act. 12 U.S.C. § 5115(a). This section of the CFPB's Semi-Annual Report constitutes the annual SAFE Act Report for 2012.

³⁷ More specifically, the SAFE Act as enacted required the OCC, the FDIC, the OTS, and the NCUA, with the Farm Credit Administration (FCA), and through the FFIEC, to develop and maintain a federal system for registering MLOs employed by certain of their regulated institutions. In addition, the SAFE Act as enacted charged HUD with oversight of the states' compliance with systems for licensing and registering other MLOs in accordance with minimum standards established in the SAFE Act.

³⁸ With this transfer of authorities, the CFPB assumed: (1) responsibility for developing and maintaining the federal registration system (including rulemaking authority); (2) supervisory and enforcement authority for SAFE Act compliance for entities under the CFPB's jurisdiction; (3) oversight and related authority relating to states' compliance with SAFE Act standards for MLO licensing systems; and (4) related rulemaking authority.

³⁹ Defined in the SAFE Act as the Federal Reserve Board, the OCC, the NCUA, and the FDIC, collectively.

⁴⁰ In 2010, the Federal banking agencies, the OTS (subsequently eliminated by the Dodd-Frank Act) and the FCA published a combined final rule establishing similar requirements for federal registration. 75 Fed. Reg. 44,656 (July 28, 2010). In 2011, HUD published a final rule setting minimum standards for state licensing and registration. 76 Fed. Reg. 38,464 (June 30, 2011).

(HUD), the CFPB published an interim final rule establishing a new Regulation G (SAFE Mortgage Licensing Act-Federal Registration of Residential Mortgage Loan Originators) and a new Regulation H (SAFE Mortgage Licensing Act-State Compliance and Bureau Registration System).⁴¹ This interim final rule became effective on December 30, 2011, and does not impose any new substantive obligations on persons subject to the existing SAFE Act regulations.

Since the transfer to the CFPB of the SAFE Act authorities, the Bureau has fielded questions regarding the validity of transitional licenses for MLOs subject to state-licensing requirements. The CFPB issued a bulletin on April 19, 2012, that clarified the questions of whether: (1) a transitional license would allow a MLO who is licensed in one state to act as a MLO in another state; and (2) a transitional license would allow a federally registered loan originator to act as a state-licensed MLO. As stated in that bulletin, the SAFE Act and Regulation H generally require that a state prohibit an individual subject to state MLO-licensing requirements from engaging in the business of a MLO in the state unless the individual first: (1) registers as a loan originator through and obtains a unique identifier from the NMLSR; and (2) meets certain minimum standards. The Bulletin clarifies that the SAFE Act and Regulation H allow a state, if it chooses, to provide a transitional MLO license to an individual who holds a valid MLO license from another state. This guidance, therefore, has the potential to increase employment mobility for state-licensed MLOs who move from one state to another. Because these MLOs are already licensed, issuance of such a transitional license is consistent with the protection provided to the public by the SAFE Act. However, states cannot permit a registered, but unlicensed, loan originator who is no longer employed by a federally regulated institution to act as a MLO while pursuing a state license. Recognizing that this may create impediments to job changes by MLOs, the Bureau will work with the states, industry, and the NMLSR to minimize these impediments going forward, consistent with the SAFE Act.

⁴¹ 76 Fed. Reg. 78,483 (Dec. 19, 2011).

Enforcement

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

CONDUCTING INVESTIGATIONS

Since the CFPB's launch, the Office of Enforcement has been conducting research and investigations of potential violations of federal consumer financial laws identified by CFPB staff, transferred to the Bureau by the prudential regulators and HUD, or referred to the Bureau by consumers and others. Enforcement has endeavored to focus its investigative resources on the violations of law that cause the greatest harm to consumers. The investigations currently underway span the full breadth of the Bureau's enforcement jurisdiction. Further detail about ongoing investigations will not generally be made public by the Bureau until a public enforcement action is filed.

JOINT TASK FORCE ON FORECLOSURE SCAMS

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

RESIDENTIAL MORTGAGE-BACKED SECURITIES WORKING GROUP

In January 2012, the CFPB joined the Residential Mortgage-Backed Securities (RMBS) Working Group, a group established by the Attorney General as a part of the Financial Fraud Enforcement Task Force (FFETF). The RMBS Working Group consists of a broad coalition of state and federal officials, including the U.S. Department of Justice, the U.S. Attorneys' Offices, the U.S. Securities and Exchange Commission, the New York State Attorney General's Office, HUD, HUD's Office of Inspector General, the Federal Bureau of Investigation, the Federal Housing Finance Agency's Office of Inspector General, and other State Attorneys General. The working group and its members are focused on investigating potential false or misleading statements, deception, or other misconduct by market participants in the creation, packaging, and sale of mortgage-

backed securities. The working group also collaborates on future and current investigations, pools resources, and streamlines processes to ensure that if fraud or misconduct has occurred justice is achieved for the victims. Within the working group, the CFPB is focusing its efforts on obtaining relief for consumers and promoting healthy consumer finance markets.

WHISTLEBLOWER HOTLINE

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

Fair Lending

The CFPB's Fair Lending and Equal Opportunity Office leads the Bureau's efforts to ensure fair, equitable, and nondiscriminatory access to credit for individuals and communities. The Bureau's inaugural Semi-Annual Report described the tools Fair Lending uses to work toward this goal. This discussion will focus on one of those tools: outreach to consumers, industry, and federal and state agencies.⁴²

OUTREACH AND COLLABORATION

The Fair Lending Office engaged in numerous outreach events from January to June 2012 in locations throughout the country, reaching consumers, consumer advocates, and industry representatives who are interested in promoting fair lending compliance.

April 2012 was Fair Lending and Fair Housing Month, and the Bureau hosted several activities to focus attention on these issues. On April 18, 2012, Director Cordray announced at an outreach event held at the National Community Reinvestment Coalition annual conference that the Bureau is "giving fair notice on fair lending" by issuing CFPB Bulletin 2012-04 which provides guidance on compliance with the Equal Credit

⁴² Separately, and pursuant to the Dodd-Frank Act's requirement in Section 1013(c)(2)(d) that the Bureau report to Congress annually on its efforts to fulfill its fair lending mission, the Office of Fair Lending will submit a single report in fall 2012 in satisfaction of this requirement, and the Bureau's reporting requirements under 15 U.S.C. § 1691f of the Equal Credit Opportunity Act and 12 U.S.C. § 2807 of the Home Mortgage Disclosure Act.

Opportunity Act and Regulation B.⁴³ The Fair Lending Office also issued a pamphlet aimed at educating consumers about credit discrimination and their rights.⁴⁴

Fair Lending also has engaged in a variety of efforts to coordinate with other federal supervisory and enforcement agencies, and has begun outreach to state agencies. Those efforts include joining the U.S. Department of Justice, HUD, and the Federal Reserve as a co-chair of the Federal Financial Fraud Enforcement Task Force's Non-Discrimination Working Group. The Task Force brings together representatives from law enforcement agencies, regulatory authorities, inspectors general, state attorneys general, and local law enforcement in order to coordinate and increase effective enforcement in the lending discrimination and mortgage fraud areas. The Fair Lending Office also participates in the Federal Interagency Task Force on Fair Lending which brings together various federal regulatory agencies⁴⁵ to discuss and coordinate fair lending activities.

⁴³ See 15 U.S.C. § 1691(a)(1); 12 C.F.R. § 1002.4. The Bulletin is posted on the Bureau's website at http://files.ConsumerFinance.gov/1201404_ctpb_bulletin_lending_discrimination.pdf.

⁴⁴ The pamphlet is available on the Bureau's website at http://files.ConsumerFinance.gov/1201204_ctpb_Credit_Discrimination_Brochure.pdf.

⁴⁵ The following agencies participate in the Federal Interagency Task Force on Fair Lending: HUD, the U.S. Department of Justice, the OCC, the Federal Reserve, the FDIC, the Federal Housing Finance Agency, the NCUA, and the FTC.

Building a Great Institution: Update

The CFPB strives to promote transparency, accountability, and fairness. Built on these values, the CFPB is better able to make consumer financial markets work for consumers, honest businesses, and the economy.

Open Government

A key mission of the CFPB is to make consumer financial products and services more transparent in the consumer marketplace. The CFPB believes it should demonstrate that same level of commitment to transparency in its own activities. To accomplish this, the Bureau utilizes its website as the primary vehicle to share information on the operations and decisions that the CFPB undertakes every day.

Recent examples over the last few months that illustrate the Bureau's commitment to openness include:

- Freedom of Information Act (FOIA)

The FOIA is a fundamental transparency law that gives consumers the statutory right to request information owned by the CFPB. A FOIA and Privacy Act Request Guidebook was created to provide specific information about submitting requests, fees, appeals, and more. The CFPB has also created an Index of Major Information Systems. This list highlights specific "systems" that may contain information sought under the FOIA and Privacy Act, and thus makes it easier for requestors to understand what information CFPB maintains.

- Leadership Calendars

The CFPB is committed to letting consumers know the daily schedules of its senior leadership. The monthly calendars of Director Richard Cordray, Deputy Director Raj Date, and the past Special Advisor to the Secretary of the Treasury

Elizabeth Warren have been posted to the Bureau's website. The Bureau provides the calendars in multiple formats on a monthly basis in order to enhance their usefulness.

- Budget Updates

The CFPB publishes quarterly budget updates on its website at ConsumerFinance.gov/budget to keep Congress and the public informed about how the Bureau's funds are being spent. In addition, the Bureau has also published on its website a Fiscal Year (FY) 2013 budget in brief and budget justification, in addition to the Bureau's funding requests.

- Procurement

The CFPB posted the FY2011 Service Contract Inventory to its website. Website updates include a summary report of the CFPB's ten largest service contract obligations and special interest functions, as well as a worksheet that includes the inventory of awarded service contract transactions in excess of \$25,000.

- General Reports

The CFPB posts a variety of reports to illustrate the progress in specific areas of the Bureau's operations. Recent reports include the Bureau's compliance with the Plain Writing Act, a comprehensive update on Consumer Response from July through December 2011, and a summary of activities related to the administration of the Fair Debt Collection Practices Act.

- Guidance Updates

From time to time, the CFPB will post letters and other materials that provide guidance to industry and members of the public. The Bureau has provided additional guidance on its website about mortgage origination examination procedures; short-term, small-dollar lending examination procedures; and an interagency SAFE Act examination procedure for federally regulated depository institutions. Bulletins on transitional licensing of mortgage loan originators under the SAFE Act, lending discrimination, service providers, and payment of compensation to loan originators were also posted to the website.

Budget

The Bureau is committed to fulfilling its statutory responsibilities and delivering value to American consumers. This means being accountable and using our resources wisely and carefully.

HOW THE CFPB IS FUNDED

The CFPB is funded principally by transfers from the Federal Reserve System, up to limits set forth in the Dodd-Frank Act. The Director of the CFPB requests transfers from the Federal Reserve System in amounts that are reasonably necessary to carry out the Bureau's mission. Annual funding from the Federal Reserve System is capped at a fixed percentage of the total 2009 operating expenses of the Federal Reserve System, equal to:

- 10 percent of these Federal Reserve System expenses (or approximately \$498 million) in FY2011;
- 11 percent of these expenses (or approximately \$547.8 million) in FY2012; and
- 12 percent of these expenses (or approximately \$597.6 million) in FY2013 and each year thereafter, subject to annual inflation adjustments.⁴⁶

During FY2012, to date, the CFPB has requested transfers from the Federal Reserve totaling \$257.7 million to fund Bureau operations and activities as described in this report.⁴⁷

These funds are held in an account for the Bureau at the Federal Reserve Bank of New York. Bureau funds that are not funding current needs of the CFPB are invested in Treasury securities. Earnings from those investments are also deposited into the Bureau's account.⁴⁸

If the authorized transfers from the Federal Reserve are not sufficient in FY2010-2014, the CFPB can ask Congress for up to \$200 million, subject to the appropriations process.⁴⁹ The CFPB did not request an appropriation in FY2011 and does not plan on doing so in FY2012 or FY2013.

⁴⁶ See Dodd-Frank Act, Pub. L. No. 111-203, Sec. 1017(a)(2).

⁴⁷ The Bureau posts all of its funding request letters on its website at ConsumerFinance.gov/budget.

⁴⁸ See Dodd-Frank Act, Pub. L. No. 111-203, Sec. 1017(b).

⁴⁹ See *id.* § 1017(e).

Pursuant to the Dodd-Frank Act, the CFPB is also authorized to collect and retain for specified purposes civil penalties collected against any person in any judicial or administrative action under federal consumer financial laws.⁵⁰ The CFPB generally is authorized to use these funds for payment of restitution to victims, but may also use the funds for purposes of consumer education and financial literacy programs under certain circumstances. The CFPB maintains a separate account for these funds at the Federal Reserve Bank of New York. The CFPB did not collect any civil penalties during the first three quarters in FY2012.

KEY CFPB EXPENDITURES IN FISCAL YEAR 2012

Through June 30, 2012, the CFPB has spent \$247 million⁵¹ in FY2012, and has incurred \$208.3 million in obligations, including \$101.1 million in salary and benefits, \$91.0 million in contract and support services, and \$16.1 million in travel and other expenses.⁵²

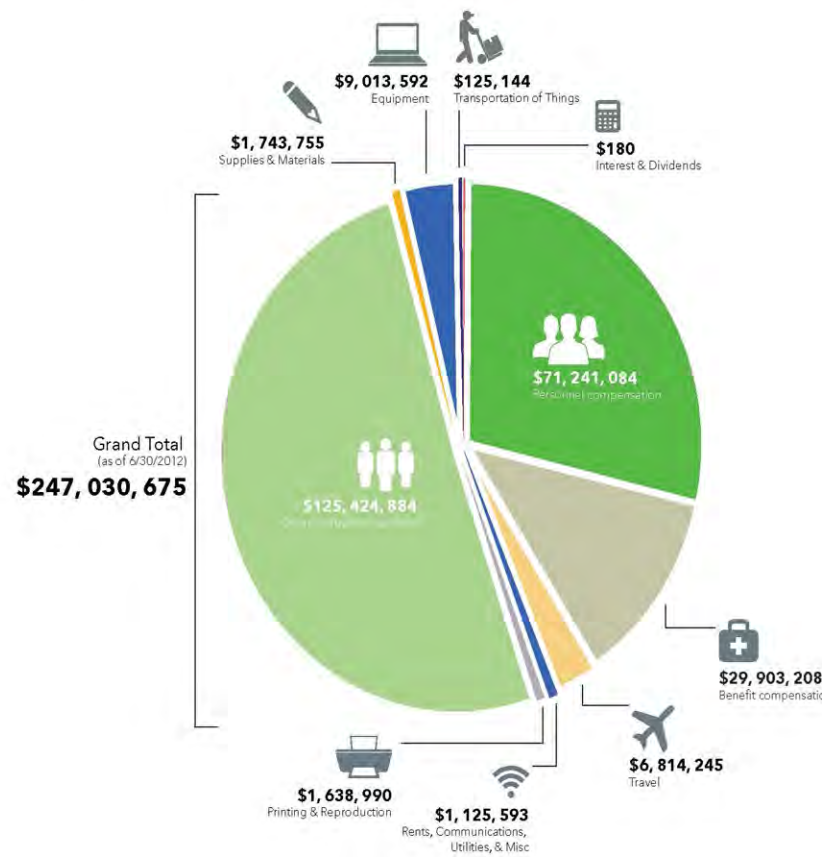
Approximately half of the Bureau's spending was related to employee compensation and benefits and travel for employees on board. Over 70 percent of the amounts obligated in contracts and support services were for the acquisition of general administrative and support services from other government agencies and for the development and maintenance of the Consumer Response and additional information technology systems.

⁵⁰ See *id.* § 1017(d).

⁵¹ This amount includes commitments for new procurements expected to be awarded and obligated in subsequent FY2012 quarters.

⁵² Budget and spending information is made available at ConsumerFinance.gov/budget.

FIGURE 6: FY2012 YEAR-TO-DATE SPENDING BY EXPENSE CATEGORY



* Includes open commitments for procurements for which a vendor has not yet been determined and funds have not yet been obligated.

⁵³ "Other Contractual Services" includes the cost of operating the Bureau's Consumer Response call centers in Iowa and New Mexico.

TABLE 4: 2012 YEAR-TO-DATE SPENDING BY DIVISION/PROGRAM AREA

Division/Program Area	FY2012 Spending to Date
Director	2,237,031
Chief Operating Officer	54,536,696
Consumer Education & Engagement	12,365,155
Research, Markets & Regulations	21,547,487
Supervision, Enforcement, Fair Lending	62,839,444
General Counsel	5,606,288
External Affairs	2,453,989
Centralized Services	85,444,585
Grand Total (as of 6/30/12)	\$ 247,030,675

The Bureau's significant FY2012 obligations through June 2012 include:

- \$19.7 million to Treasury for various administrative support services, including information technology and human resource support, temporary office space, and detailees;
- \$11.8 million to Treasury's Office of the Comptroller of the Currency for office space;
- \$7.6 million to Treasury's Bureau of the Public Debt for cross-servicing of various human resource and financial management services, such as core financial accounting, transaction processing and travel;
- \$4.0 million to a contractor for the development and operations of the Consumer Response System;
- \$3.7 million to a contractor for human resource support services;
- \$3.7 million to an information technology contractor for project management support services;
- \$3.1 million to a contractor for hosting, cloud infrastructure, and system administration services; and
- \$2.9 million for collection and analysis of credit card data to assist the Bureau.

KEY CFPB EXPENDITURES IN FISCAL YEAR 2011

During FY2011, the majority of CFPB spending was related to essential, one-time costs related to standing up the Bureau, such as information technology and mission-specific and human capital support. The CFPB incurred \$123.3 million in obligations, including \$68.7 million in contract and support services, \$48.4 million in salary and benefits, and \$6.2 million in other expenses.

Implementation Activities

The Bureau's significant start-up expenditures in FY2011 included:

- \$18.6 million to Treasury for various administrative support services, including information technology and human resource support, office space, and detailees;
- \$6.7 million to Treasury's Office of the Comptroller of the Currency for office space and support services for complaint processing;
- \$6 million to Treasury's Bureau of the Public Debt for cross-servicing of various human resource and financial management services, such as core financial accounting, transaction processing and travel;
- \$4.4 million to a contractor for human capital policies and assistance in developing salary and benefits packages consistent with statutory requirements;
- \$4.3 million to an information technology contractor for project management support services; and
- \$4.3 million to a contractor for the development of Consumer Response.

THE CFPB'S BUDGET PROCESS

The Bureau's Chief Operating Officer (COO) is responsible for coordinating activities related to the development of the CFPB's annual budget. The Office of the Chief Financial Officer within the COO has responsibility for developing the budget, and works in close partnership with the Office of the Human Capital, the Office of Procurement, the Technology and Innovation team, and other program offices to develop budget and staffing estimates in consideration of statutory requirements, performance goals, and priorities of the Bureau. The CFPB Director ultimately approves the CFPB budget. A discussion of the Bureau's goals and priorities, an updated set of performance measures, spending and staffing (FTE) estimates for FY2013 and projections for FY2014 will be included in the next CFPB Budget Justification, which is expected to be published in February 2013, in conjunction with the FY2014 President's Budget.

Diversity and Excellence

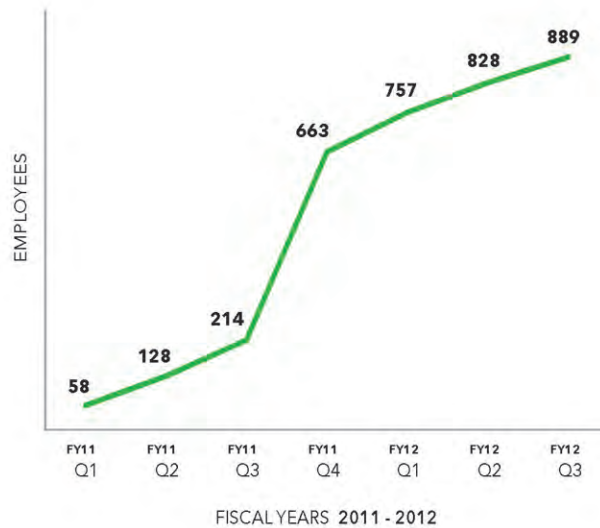
RECRUITING AND HIRING

Over the past year, the CFPB has endeavored to recruit and hire highly qualified individuals. These efforts have focused on filling vacancies at its headquarters in Washington, DC, and in its examiner workforce distributed across the country. The Bureau's examiners are organized by regions and anchored by key strategic satellite offices in three of the nation's financial hubs – Chicago, Illinois; New York City; and San Francisco, California. As of June 30, 2012, we have 889 staff on-board and working to carry out the CFPB's mission. These include approximately 230 highly qualified regulators, researchers, lawyers, and market practitioners who transferred from the consumer protection divisions of the prudential regulators and other federal agencies.

To continue this momentum, the CFPB is implementing a strategic plan to develop a sustainable pipeline of diverse candidates for occupations across the Bureau. This strategy includes:

- Leveraging existing staff to be the CFPB's most vocal and effective recruiters;
- Using social media and web 2.0 technology to connect people and get the word out about employment opportunities at the Bureau;
- Conducting outreach events that feature our senior leadership and attract people to an agency that we hope they will view as a "best place to serve;" and
- Creating development programs for incoming staff such as the Presidential Management Fellow program and our Honors Analysts.

FIGURE 7: QUARTERLY GROWTH OF CFPB POSITIONS FILLED THROUGH JUNE 30, 2012



EDUCATION, TRAINING AND ENGAGEMENT

Since its creation, the CFPB has focused on strong engagement with existing and potential Bureau staff. It has accomplished this through education, training, and engagement programs. As the Bureau matures, the CFPB continues to build and offer:

- Robust programs that aim to keep its employees current on the latest skills they need to conduct their work and be successful;
- Vehicles for full participation in a vibrant culture that adheres to the Bureau's values of Serve, Lead, and Innovate, and that fosters the successful achievement of its mission; and
- Programs and methods to ensure that the CFPB attracts the best, brightest, and most diverse group possible to carry out its mission.

The CFPB is developing a learning environment tailored to meet the specific needs of the Bureau's divisions and the individuals within them.

In addition, the Bureau's Office of Human Capital (OHC) is working to identify, cultivate, and sustain a diverse workforce and inclusive work environment to further the CFPB's success. The OHC is making efforts to develop a culture that encourages collaboration, flexibility, and fairness, and that leverages diversity throughout the organization so that all individuals are equipped to Serve, Lead, and Innovate.

DIVERSITY

Diversity has been a cornerstone of the Bureau's foundation, its strategic workforce planning programs, and its contracting since its establishment.⁵⁴ In January 2012, the Bureau formally established an Office of Minority and Women Inclusion (OMWI) to ensure that inclusion continues to inform its work, and in April 2012 hired the first Director for this office.

The OMWI focuses on developing and refining standards for:

- Equal employment opportunity, workforce diversity, and inclusion at all levels of the Bureau;
- Increased participation of minority-owned and women-owned businesses in the CFPB's programs and contracts; and
- Assessing the diversity policies and practices of companies that the CFPB supervises.

⁵⁴ This discussion presents an overview of the Bureau's effort to promote diversity across its workforce and contractor support community. A more complete analysis will be presented in the Bureau's required annual Human Capital report, which will be published later in 2012. In July 2011, the Bureau published a report on its goals for recruitment and retention, training and workforce development, and workforce flexibilities. That report is available on CFPB's website: ConsumerFinance.gov.



The CFPB has met with representatives from the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) agencies⁵⁵ and other stakeholders to assess how best to structure and staff the OMWI and to help identify best practices for workforce supplier diversity.

⁵⁵ These agencies include the OCC, the OTS, the FDIC, the NCUA, the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the Federal Reserve Board. See 12 U.S.C. § 1833b; 15 U.S.C. § 78d.

DIVERSITY IN THE CFPB'S WORKFORCE

As of June 30 2012, the CFPB's workforce is 49 percent women and 51 percent men. The CFPB workforce is comprised of 33 percent minorities.

FIGURE 8: BUREAU-WIDE GENDER AND MINORITY STATISTICS TO FIRREA COMPARISONS

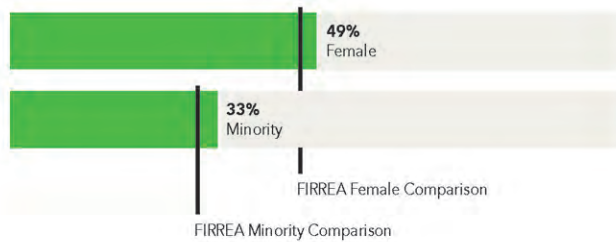


Figure 8 compares CFPB's workforce to the FIRREA community with respect to diversity by gender, race, and national origin.

OMWI'S ROLE AT THE CFPB

The OMWI will help all parts of the Bureau bring diverse perspectives to bear on its work and promote inclusive hiring and contracting practices.

Recruitment

As the CFPB continues to grow, the OMWI will work with the federal OMWI community, local and national media, and varied stakeholders to broaden awareness of job opportunities at the Bureau in order to promote the opportunities for women and minorities in its workforce and to diversify its applicant pool. In addition to promoting diverse applicant pools for immediate openings, the OMWI will work with the OHC to develop long-term plans that focus on active participation at recruitment and outreach events for all levels of candidates. The aim is to continually support the capacity to attract diverse applicants and ensure that the CFPB has the benefit of a diverse and qualified pool of candidates for all job openings.

Regulatory Oversight

Under the Dodd-Frank Act, the OMWI must assess and monitor the diversity policies and practices of the entities that the CFPB supervises. The OMWI will continue to support the Bureau's efforts to define procedures for conducting this oversight, working with other regulatory agencies and consulting with appropriate stakeholders.

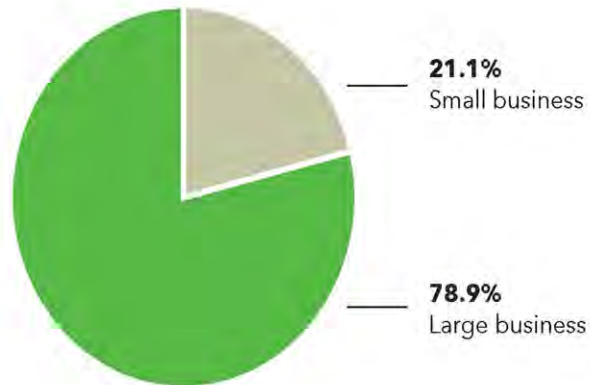
DIVERSIFYING PROCUREMENT PARTICIPANTS

The CFPB continues to promote diversity among the companies that compete to receive its contracts. The Bureau's Procurement Office is measuring obligations for certain small business contracts awarded to minority-owned small disadvantaged businesses and women-owned small businesses against goals based on the percentage of total dollars spent or obligated on contract actions.⁵⁶ As shown in Figure 9 for FY2012 through June 30, 2012, 10.57 percent of CFPB contract dollars went to small disadvantaged businesses. Of that amount, 80 percent or roughly \$4.1 million was awarded to certified 8(a) firms. Additionally, 5.30 percent of contract dollars went to women-owned small businesses.⁵⁷

⁵⁶ Obligations are measured for contract awards valued above \$3,000.

⁵⁷ Final FY2012 results will be validated in an annual data certification due to OMB in January 2013.

FIGURE 9: FY12 SOCIOECONOMIC OBLIGATIONS THROUGH JUNE 30, 2012



	Obligated Dollars
Small disadvantaged business	\$5.1 M
Women owned small business	\$2.6 M
Service disabled veteran owned small business	\$1.2 M
HubZone small business	\$0.9 M
Other small business	\$0.4 M

The CFPB Procurement Office will work along with the OMWI to research and develop strategies to increase the levels at which minority and women-owned enterprises – both large and small – participate in the CFPB’s contracting opportunities. The OMWI will also develop procedures to promote opportunities for fair inclusion of women and minorities within the population of contractor staff and, as applicable, subcontractor staff in accordance with the Dodd-Frank Act.

APPENDIX A:

More about the CFPB



GENERAL INFORMATION:

Email Address: info@consumerfinance.gov

Phone Number: 202-435-7000

Mailing Address:

Consumer Financial Protection Bureau
ATTN: Employee Name, Division, and/or Office Number
1700 G Street NW
Washington, DC 20552



CONSUMER RESPONSE/ COMPLAINTS:

Hours of Operation: 8 am - 8 pm EST

Toll Free #: 855-411-CFPB (2372)

Español: 855-411-CFPB (2372)

TTY/TDD: 855-729-CFPB (2372)

Fax #: 855-237-2392



Consumer Response/Complaint Mailing Address:

Consumer Financial Protection Bureau
PO Box 4503
Iowa City, Iowa 52244



WHISTLEBLOWERS:

Email: whistleblower@consumerfinance.gov

Toll Free #: 855-695-7974



PRESS & MEDIA REQUESTS:

Email: press@consumerfinance.gov



OFFICE OF LEGISLATIVE AFFAIRS:

Legislative Affairs: 202-435-7960



CFPB OMBUDSMAN'S OFFICE:

Email: CFPBOmbudsman@cfpb.gov

Webpage: www.ConsumerFinance.gov/ombudsman

Toll Free #: 855-830-7880

Fax Number: 202-435-7888

APPENDIX B:

Statutory Reporting Requirements

This Appendix provides a guide to the Bureau's response to the reporting requirements of Section 1016(c) of the Dodd-Frank Act. The sections of the report identified below respond to Section 1016(c)'s requirements.

Statutory Subsection	Reporting Requirement	Section	Page
1	A discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services	Consumer Challenges in Obtaining Financial Products and Services – Shopping Challenges	25-30
2	A justification of the Bureau's budget request for the previous year	Building a Great Institution: Update – Budget; Appendix H – Financial and Budget Reports	52-56 78-79
3	A list of significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period	Appendix C – Significant Rules, Orders, and Initiatives	68-70
4	An analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year	Consumer Challenges in Obtaining Financial Products and Services – Consumer Concerns	8-24
5	A list, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year	N/A ⁵⁸	N/A
6	The actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions	Appendix D – Actions Taken Regarding Rules, Orders, and Supervisory Actions with Respect to Covered Persons Which Are Not Credit Unions or Depository Institutions	71

⁵⁸ The Bureau has been a party to no such actions during the preceding year.

7	An assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law	N/A ⁵⁹	N/A
8	An analysis of the Bureau's efforts to fulfill its fair lending mission	Delivering for American Consumers and Leveling the Playing Field – Fair Lending	48-49
9	An analysis of the Bureau's efforts to increase workforce and contracting diversity consistent with the procedures established by OMWI	Building a Great Institution: Update – Diversity and Excellence	59-63

⁵⁹ The Bureau has not learned of any such actions that have been filed since July 21, 2011.

APPENDIX C:

Significant Rules, Orders, and Initiatives

Section 1016(c)(3) requires “a list of significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders or other initiatives to be undertaken during the upcoming period.”

In the past year, the Bureau adopted the following significant rules and orders and conducted the following significant initiatives:

- Targeted review of inherited regulations and restatement of inherited regulations via interim final rules;
- Issuance of rules to implement Dodd-Frank Act protections concerning consumer remittance transfers to foreign countries;
- Interim final rules defining procedures for investigations, rules of practice for adjudication proceedings, and procedures for disclosure of records and information;
- Proposed Rule regarding defining “larger participants” in certain markets;
- Issued the Bureau’s *Supervision and Examination Manual*;
- Issued the *Short-Term, Small-Dollar Lending Examination Procedures*;
- Issued the *Mortgage Origination Examination Procedures*;
- Issued the *Mortgage Servicing Examination Procedures*;
- Notice and Opportunity to Respond and Advise process;
- Notice and Request for Information on checking account overdraft programs;
- Formal solicitation for nominations for CFPB’s Consumer Advisory Board;
- Release and testing of a draft periodic mortgage statement;

- With the U.S. Department of Defense, the FTC, and the National Association of Attorneys General, the development of a database to combat consumer financial fraud directed at military members, veterans, and their families;
- With the FDIC, the Federal Reserve, the OCC, and the NCUA, issued joint guidance to address mortgage servicer practices that may pose risks to homeowners who are serving in the military;
- MOU with the FTC to protect consumers and avoid duplication of federal law enforcement and regulatory efforts;
- Began to take complaints on credit cards, bank products and services, private student loans, and consumer loans, through the Consumer Response function;
- Launched *Ask CFPB*, an interactive online tool that helps consumers find clear, unbiased answers to their financial questions;
- Released a beta version of the *Financial Aid Comparison Shopper* as part of *Know Before You Owe: Student Loans*, an interactive, online tool designed to help families plan for the costs of post-secondary education;
- Released a bulletin on third-party service providers to supervised entities;
- Released a compliance bulletin regarding the enforcement of Equal Credit Opportunity Act, and recognizing the disparate impact doctrine;
- Launched a public inquiry into how consumers and financial services companies are affected by arbitration and arbitration clauses;
- MOU with the prudential regulators to ensure the coordination of important aspects of the supervision of insured depository institutions with more than \$10 billion in assets and their affiliates;
- Released a report and consumer guide about reverse mortgages;
- Interim Final Rule providing for confidential treatment of information generated and obtained by the Bureau, and establishing procedures for obtaining information from the Bureau as permitted by law;
- Final Rule regarding confidential treatment of privileged information;
- Supplemental ethics regulations for CFPB employees; and
- Interim Final Rule ensuring nondiscrimination on the basis of disability in programs and activities undertaken by the Bureau.

In the next six months, the Bureau plans the following significant rules, orders, and other initiatives:

- Final rules to implement Dodd-Frank Act requirements defining lenders' obligations to assess borrowers' ability to repay mortgage loans, including certain protections from liability for "qualified mortgages;"
- Final rules to implement Dodd-Frank Act escrow requirements;
- Additional rules to provide further guidance to remittance transfer providers;
- Proposed integrated disclosures and accompanying rules for mortgage loans that satisfy the requirements of both the Truth in Lending Act and the Real Estate Settlement Procedures Act;
- Proposed rules to implement Dodd-Frank Act protections for the mortgage market, including provisions on loan originator compensation and qualification, restrictions on high-cost loans, servicing practices, provision of appraisal documentation to consumers, and (on an interagency basis) other appraisal practices;
- Participation in interagency processes to consider mortgage servicing standards;
- Propose rules to define the scope of the Bureau's nonbank supervision program;
- Final regulations based on certain interim final rules issued since July 21, 2011 including those that establish procedures for investigations and rules of practice for adjudication proceedings among others;
- Reports on private student loans and recommendations on best practices concerning financial advisors who work with older Americans, as contemplated in the Dodd-Frank Act;
- Continued expansion of the Bureau's capacity to handle consumer complaints with respect to all products and services within its authority;
- A pilot program to evaluate certain financial education programs in the field;
- Reports on various aspects of the Bureau's work and operations, including reports on Consumer Response, Financial Education, Fair Lending, and Human Capital among others, as contemplated in the Dodd-Frank Act; and
- First meeting of the Consumer Advisory Board.

APPENDIX D:

Actions Taken Regarding Rules, Orders, And Supervisory Actions With Respect To Covered Persons Which Are Not Credit Unions Or Depository Institutions

Section 1016(c)(6) requires a report on “the actions taken regarding rules, orders and supervisory actions with respect to covered persons which are not credit unions or depository institutions.” In 2012, the Bureau has taken the following actions with respect to such companies:

- Proposed Rule regarding defining “larger participants” in certain markets; and
- Proposed Rule regarding procedures for supervising nonbanks that pose risks to consumers.

In addition to these items, other Bureau rules apply to both depository institutions and non-depository institutions.

APPENDIX E:

Reports

The CFPB has published the following reports:

- **July 21, 2011:** Developing Our Human Capital;
- **November 30, 2011:** Consumer Response interim report on CFPB's credit card complaint data;
- **December 9, 2011:** Financial Report of the CFPB – Fiscal Year 2011;
- **January 31, 2012:** Semi-Annual Report of the CFPB;
- **March 20, 2012:** Fair Debt Collection Practices Act;
- **March 31, 2012:** Consumer Response Annual Report;
- **April 13, 2012:** Plain Writing Compliance Report; and
- **June 28, 2012:** Reverse Mortgage Report.

APPENDIX F:

Congressional Testimony

Senior CFPB staff have testified before Congress on the following 21 occasions:

- **February 9, 2011:** Holly Petraeus before the House Committee on Veterans Affairs;
- **March 16, 2011:** Elizabeth Warren before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit;
- **April 12, 2011:** Holly Petraeus before the Senate Homeland Security & Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia;
- **May 24, 2011:** Elizabeth Warren before the House Oversight and Government Reform Subcommittee on TARP, Financial Services and Bailouts of Public and Private Programs;
- **July 7, 2011:** Raj Date before the House Financial Services Subcommittees on Financial Institutions and Consumer Credit and Oversight and Investigations;
- **July 13, 2011:** Kelly Cochran before the House Financial Services Subcommittee on Insurance, Housing and Community Opportunity;
- **July 14, 2011:** Elizabeth Warren before the House Oversight and Government Reform Committee;
- **July 28, 2011:** Dan Sokolov before the House Small Business Subcommittee on Investigations, Oversight and Regulations;
- **September 6, 2011:** Richard Cordray Nomination Hearing before the Senate Banking Committee;
- **November 2, 2011:** Raj Date before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit;
- **November 3, 2011:** Holly Petraeus before the Senate Banking Committee;

- **November 15, 2011:** Skip Humphrey before the Senate Banking Subcommittee on Financial Institutions and Consumer Protection;
- **January 24, 2012:** Richard Cordray before the House Oversight and Government Reform Subcommittee on TARP, Financial Services and Bailouts of Public and Private Programs;
- **January 31, 2012:** Richard Cordray before the Senate Banking Committee;
- **February 15, 2012:** Richard Cordray before the House Financial Services Subcommittee on Oversight and Investigations;
- **March 29, 2012:** Richard Cordray before the House Financial Services Committee;
- **April 26, 2012:** Camille Busette before the Senate Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia;
- **June 6, 2012:** Richard Cordray before the Senate Banking Committee;
- **June 6, 2012:** Gail Hillebrand before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit;
- **June 20, 2012:** Raj Date before the House Financial Services Subcommittee on Insurance, Housing, and Community Opportunity; and
- **June 26, 2012:** Holly Petraeus before the Senate Committee on Banking, Housing and Urban Affairs.

Written testimony submitted in connection with these appearances can be found on ConsumerFinance.gov.

APPENDIX G:

Speeches

Director Richard Cordray and Deputy Director Raj Date spoke at the following public events:

- **September 15, 2011:** Remarks by Raj Date at National Constitution Center in Philadelphia, PA;
- **September 20, 2011:** Remarks by Raj Date at American Banker's Regulatory Symposium in Washington, DC;
- **October 10, 2011:** Remarks by Raj Date at the Mortgage Bankers Association's 98th Annual Conference in Chicago, IL;
- **October 26, 2011:** Remarks by Raj Date in Minneapolis, MN;
- **December 1, 2011:** Remarks by Raj Date at Consumer Federation of America's Financial Services Conference in Washington, DC;
- **December 7, 2011:** Remarks by Raj Date in Cleveland, OH;
- **January 5, 2012:** Remarks by Richard Cordray at The Brookings Institution in Washington, DC;
- **January 17, 2012:** Remarks by Richard Cordray at FDIC Board of Directors in Washington, DC;
- **January 18, 2012:** Remarks by Richard Cordray at U.S. Conference of Mayors in Washington, DC;
- **January 19, 2012:** Remarks by Richard Cordray at Payday Loan Field Hearing in Birmingham, AL;
- **February 15, 2012:** Remarks by Richard Cordray at League of United Latin American Citizens Conference in Washington, DC;
- **February 22, 2012:** Remarks by Richard Cordray at CFPB Roundtable on Overdraft Practices in New York, NY;

- **March 6, 2012:** Remarks by Richard Cordray at National Association of Attorneys General in Washington, DC;
- **March 14, 2012:** Remarks by Richard Cordray at Independent Community Bankers of America National Convention in Nashville, TN;
- **March 16, 2012:** Remarks by Richard Cordray at Society of American Business Editors and Writers in Indianapolis, IN;
- **March 19, 2012:** Remarks by Richard Cordray at Credit Union National Association Governmental Affairs Conference in Washington, DC;
- **March 21, 2012:** Remarks by Richard Cordray at Consumer Bankers Association in Austin, TX;
- **March 28, 2012:** Remarks by Richard Cordray at U.S. Chamber of Commerce in Washington, DC;
- **April 10, 2012:** Remarks by Richard Cordray at Operation Hope in Washington, DC;
- **April 11, 2012:** Remarks by Richard Cordray on launch of the Financial Aid Comparison Shopper in Sioux Falls, SD;
- **April 18, 2012:** Remarks by Richard Cordray at the National Community Reinvestment Coalition in Washington, DC;
- **April 18, 2012:** Remarks by Richard Cordray at Jump\$tart in Washington, DC;
- **April 20, 2012:** Remarks by Raj Date at Greenlining Institute Conference in Los Angeles, CA;
- **May 3, 2012:** Remarks by Richard Cordray at 2012 Simon New York City Conference in New York, NY;
- **May 7, 2012:** Remarks by Raj Date at Mortgage Bankers Association National Secondary Market Conference in New York, NY;
- **May 10, 2012:** Remarks by Richard Cordray at White House Financial Summit in Washington, DC;
- **May 11, 2012:** Remarks by Richard Cordray at Michigan State University College of Law Commencement in East Lansing, MI;

- **May 23, 2012:** Remarks by Richard Cordray at CFPB Prepaid Cards Field Hearing in Durham, NC;
- **June 5, 2012:** Remarks by Richard Cordray at White House press briefing on student loan transparency in Washington, DC;
- **June 11, 2012:** Remarks by Raj Date at American Bankers Association Conference in Orlando, FL;
- **June 11, 2012:** Remarks by Richard Cordray at World Elder Abuse Awareness Day Event in Washington, DC;
- **June 15, 2012:** Remarks by Richard Cordray at American Constitution Society Conference in Washington, DC;
- **June 21, 2012:** Remarks by Richard Cordray at press conference on Military Permanent Change of Station (PCS) Guidance for Mortgage Servicers in Washington, DC; and
- **June 27, 2012:** Remarks by Richard Cordray on Reverse Mortgages Study in Washington, DC.

Remarks can be found on ConsumerFinance.gov.

APPENDIX H:

Financial And Budget Reports

The CFPB has published the following financial reports, which are all available at ConsumerFinance.gov/budget:

- **August 3, 2011:** CFO update for the third quarter of fiscal year 2011;
- **December 9, 2011:** Financial Report of the CFPB – Fiscal Year 2011;
- **December 30, 2011:** CFO update for the fourth quarter of fiscal year 2011;
- **January 20, 2012:** CFO update for the first quarter of fiscal year 2012; and
- **May 11, 2012:** CFO update for the second quarter of fiscal year 2012.⁶⁰

The CFPB has published the following Budget Documents, which are all available at ConsumerFinance.gov/budget:

- **Fiscal Year 2013 Budget Justification;**
- **Fiscal Year 2013 Budget in Brief;**
- **Fiscal Year 2012 Congressional Budget Justification; and**
- **Fiscal Year 2012 Budget in Brief.**

The CFPB has published the following funding requests to the Federal Reserve Board, which are all available at ConsumerFinance.gov/budget:

- **September 28, 2011:** Funding Request to the Federal Reserve Board;
- **October 21, 2011:** Funding Acknowledgement from the Federal Reserve Board;

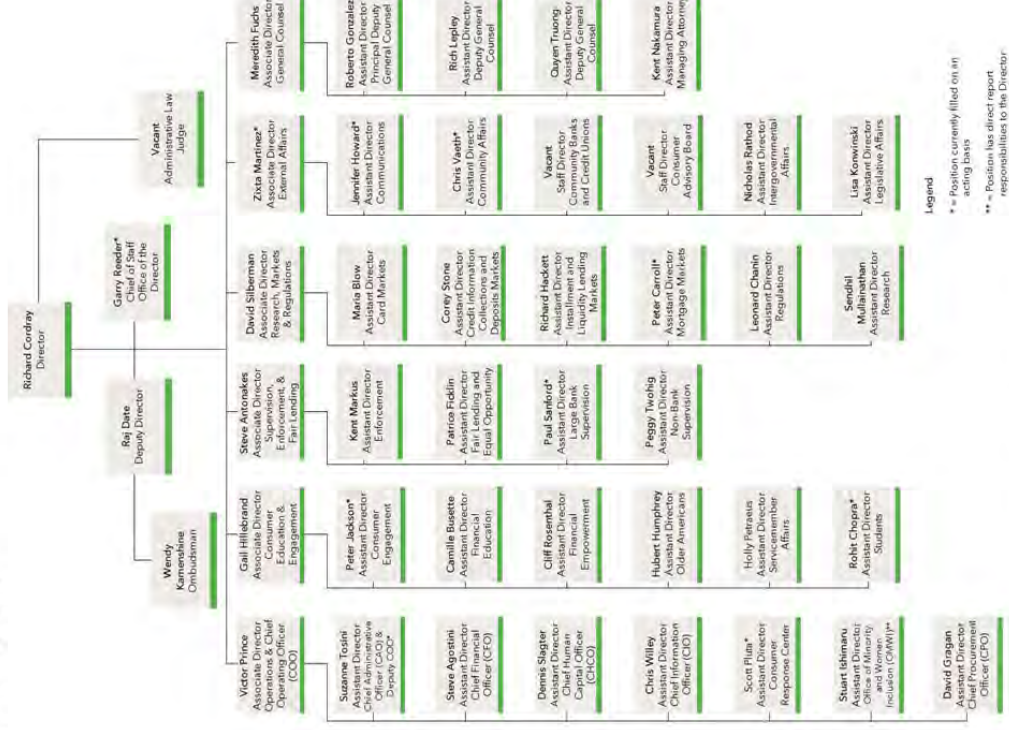
⁶⁰ In addition, the CFO update for the third quarter of fiscal year 2012 will be made available at ConsumerFinance.gov/budget.

- **December 23, 2011:** Funding Request to the Federal Reserve Board;
- **January 6, 2012:** Funding Acknowledgement from the Federal Reserve Board;
- **March 30, 2012** Funding Request to the Federal Reserve Board; and
- **April 5, 2012:** Funding Acknowledgement from the Federal Reserve Board.⁶¹

⁶¹ Additional quarterly funding requests to the Federal Reserve Board and the corresponding funding acknowledgements from the Federal Reserve Board will be made available at ConsumerFinance.gov/budget.

APPENDIX I:

CFPB Organizational Chart



Legend
* = Position currently filled on an acting basis
** = Position has direct report responsibilities to the Director

APPENDIX J:

Defined Terms

DEFINED TERM

ACH	Automated clearing house
APR	Annual Percentage Rate
BUREAU	The Consumer Financial Protection Bureau
CFPB	The Consumer Financial Protection Bureau
COO	Chief Operating Officer
DODD-FRANK ACT	The Dodd-Frank Wall Street Reform and Consumer Protection Act
FCA	Farm Credit Administration
FDIC	The Federal Deposit Insurance Corporation
FEDERAL RESERVE	The Board of Governors of the Federal Reserve System
FEDERAL RESERVE BOARD	The Board of Governors of the Federal Reserve System
FEDERAL RESERVE SYSTEM	The Board of Governors of the Federal Reserve System
FFETF	Financial Fraud Enforcement Task Force
FFIEC	Federal Financial Institutions Examination Council
FIRREA	The Financial Institutions Reform, Recovery, and Enforcement Act
FLEC	Financial Literacy and Education Commission
FOIA	Freedom of Information Act
FTC	The Federal Trade Commission

FY	Fiscal year
GAO	Government Accountability Office
HAMP	Home Affordable Modification Program
HUD	The U.S. Department of Housing and Urban Development
MLO	Mortgage Loan Originators
MOU	Memorandum of understanding
NCUA	The National Credit Union Administration
NMLSR	Nationwide Mortgage Licensing System and Registry
NSF	Non-sufficient funds
OCC	The Office of the Comptroller of the Currency
OHC	Office of Human Capital
OMWI	Office of Minority and Women Inclusion
OTS	The Office of Thrift Supervision
PCS	Permanent change of station
PIRG	United States Public Interest Research Group
RFI	Request for Information
RMS	Residential mortgage-backed securities
SAFE ACT	The Secure and Fair Enforcement for Mortgage Licensing Act
SES	Supervisory Examination System
SIGTARP	Special Inspector General for the Troubled Asset Relief Program
TREASURY	The Department of the Treasury
VITA	Volunteer Income Tax Assistance